

State of Iowa  
1984

# ACTS AND JOINT RESOLUTIONS

PASSED AT THE

**1984 REGULAR SESSION**

OF THE

**Seventieth General Assembly**

OF THE

**STATE OF IOWA**



**SERGE H. GARRISON**  
ACTING CODE EDITOR

**PHYLLIS BARRY**  
DEPUTY CODE EDITOR

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# CERTIFICATE

STATE OF IOWA  
Office of Code Editor

We, Serge H. Garrison, Acting Code Editor, and Phyllis Barry, Deputy Code Editor, of the Code of Iowa, certify that the Acts, laws, joint resolutions and the certificates by the Secretary of State of their publication or filing contained in this volume have been prepared from the original enrolled Acts on file in the office of the Secretary of State, are correct copies of those Acts published under the authority of the statutes of this state, and constitute the Acts, laws and joint resolutions of the 1984 Regular Session of the Seventieth General Assembly of the State of Iowa.

*Serge H. Garrison*      *Phyllis Barry*

April, 1984

Section 622.59 of the 1983 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 1984 Regular Session of the Seventieth 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.**

## CONTENTS

State Roster .....	vi
Judicial Department .....	vii
Congressional Directory .....	viii
Members of the Senate .....	ix
Members of the House .....	xiv
Condition of State Treasury .....	xxi
General Laws — Special, Legalizing Acts, Joint Resolutions .....	page 1
Appropriation Acts .....	Ch. 1300
Rules of Civil Procedure .....	Ch. 1325
Rules of Criminal Procedure .....	Ch. 1326
Rules and Forms For Involuntary Commitment or Treatment of Substance Abusers .....	Ch. 1327
House Concurrent Resolution 117 .....	page 750
Senate Concurrent Resolutions .....	page 751
House Concurrent Resolutions .....	page 752
Senate Resolutions .....	page 754
House Resolutions .....	page 755
Tables	
Senate Files and Joint Resolutions .....	page 756
House Files and Joint Resolution .....	page 758
Chapters and Sections Repealed or Amended Code and Supplement 1983 .....	page 760
Chapters and Sections Referred to Code and Supplement 1983 .....	page 769
Session Laws Repealed or Amended in Acts of the Seventieth General Assembly, 1984 Session .....	page 774
Session Laws Referred To in Acts of the Seventieth General Assembly, 1984 Session .....	page 775
Iowa Constitution Referred To .....	page 776
United States Constitution Referred To .....	page 776
Acts of Congress Referred To .....	page 776
United States Code Referred To .....	page 777
Code of Federal Regulations .....	page 777
Rules of Civil Procedure Reported by the Iowa Supreme Court, 1984 .....	page 778
Rules of Civil Procedure Amended by Acts of the Seventieth General Assembly, 1984 Session .....	page 778
Rules of Civil Procedure Referred To in Acts of the Seventieth General Assembly, 1984 Session and Report of the Supreme Court .....	page 778
Rules of Criminal Procedure Reported by the Iowa Supreme Court, 1984 .....	page 778
Rules of Criminal Procedure Amended by the Seventieth General Assembly, 1984 Session .....	page 779
Rules of Criminal Procedure Referred To in Report of the Supreme Court, 1984 .....	page 779

Tables - Continued

Forms and Rules for Involuntary Commitment  
or Treatment of Substance Abusers Reported by  
the Iowa Supreme Court, 1984 .....page 779

Rules for Involuntary Commitment or Treatment  
of Substance Abusers Referred to in Report of  
the Iowa Supreme Court, 1984 .....page 779

Proposed Amendments to the Constitution  
of the State of Iowa in Acts of the Seventieth General Assembly,  
1984 Session .....page 779

Proposed Amendment to the Constitution  
of the United States in Acts of the Seventieth General Assembly,  
1984 Session .....page 779

Vetoed Bills .....page 780

Item Veto .....page 780

Iowa Codes Referred To in Acts of the  
Seventieth General Assembly, 1984 Session .....page 780

Governor's Executive Order Referred To in Acts  
of the Seventieth General Assembly, 1984 Session .....page 780

Iowa Administrative Code Referred To in Acts  
of the Seventieth General Assembly, 1984 Session .....page 780

Index .....page 781

## 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 1984 Session Laws for the Seventieth General Assembly in accordance with the requirements of Iowa Code section 14.10(4), 1983.

### ELECTIVE OFFICERS

Name and Office

County from which  
originally chosen

#### GOVERNOR

TERRY E. BRANSTAD ..... Winnebago  
David A. Oman, Executive Assistant ..... Polk

#### LIEUTENANT GOVERNOR

ROBERT T. ANDERSON ..... Jasper

#### 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  
William A. Hawthorne, Acting Director -  
Financial Institutions Division ..... Polk  
Gregg A. Barcus, Executive Assistant ..... Polk

#### TREASURER OF STATE

MICHAEL L. FITZGERALD ..... Polk  
Michael Tramontina, Deputy Treasurer ..... Polk  
Steven F. Miller, Deputy Treasurer ..... Polk

#### SECRETARY OF AGRICULTURE

ROBERT H. LOUNSBERRY ..... Story  
Thatcher Johnson, Deputy Secretary ..... Boone  
Elizabeth Duncan, Deputy-Regulatory ..... Dallas

#### ATTORNEY GENERAL

THOMAS J. MILLER ..... Clayton  
Earl Willits, Deputy Attorney General ..... Polk  
Brent Appel, Deputy Attorney General ..... Dubuque  
Elizabeth Osenbaugh, Deputy Attorney General ..... Polk

## JUDICIAL DEPARTMENT

### JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
Harvey Uhlenhopp .....	Hampton .....	Dec. 31, 1988
W. Ward Reynoldson, C.J. ....	Des Moines .....	Dec. 31, 1988
David Harris .....	Jefferson .....	Dec. 31, 1990
Mark McCormick .....	Des Moines .....	Dec. 31, 1990
A. A. McGiverin .....	Ottumwa .....	Dec. 31, 1988
Jerry L. Larson .....	Harlan .....	Dec. 31, 1988
Louis W. Schultz .....	Iowa City .....	Dec. 31, 1990
James H. Carter .....	Cedar Rapids .....	Dec. 31, 1984
Charles R. Wolle .....	Sioux City .....	Dec. 31, 1984

### JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Allen L. Donielson .....	Des Moines .....	Dec. 31, 1989
Bruce M. Snell, Jr. ....	Ida Grove .....	Dec. 31, 1984
Leo E. Oxberger, C.J. ....	Des Moines .....	Dec. 31, 1989
Dick Schlegel .....	Ottumwa .....	Dec. 31, 1984
Maynard Hayden .....	Indianola .....	Dec. 31, 1984
Rosemary Shaw Sackett .....	Spencer .....	Dec. 31, 1984

# CONGRESSIONAL DIRECTORY

## UNITED STATES SENATORS

Roger W. Jepsen, Davenport ..... Jan. 3, 1985  
Charles E. Grassley, New Hartford ..... Jan. 3, 1987

## UNITED STATES REPRESENTATIVES

### District

1 James Leach, Davenport ..... Jan. 3, 1985  
2 Tom Tauke, Dubuque ..... Jan. 3, 1985  
3 Cooper Evans, Grundy Center ..... Jan. 3, 1985  
4 Neal Smith, Altoona ..... Jan. 3, 1985  
5 Tom Harkin, Cumming ..... Jan. 3, 1985  
6 Berkley Bedell, Spirit Lake ..... Jan. 3, 1985



GENERAL ASSEMBLY

MEMBERS OF THE SENATE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Anderson, Ted	Waterloo	40	Factory Worker- Deere & Company	12th—Black Hawk	69, 69X, 69XX, 70(1st)
Briles, James E.	Corning	57	Auctioneer- Real Estate	46th—Adair, Adams, Cass Clarke, Decatur, Ringgold, Taylor, Union	56, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Brown, Joe	Montezuma	32	Public Sector Analyst —Sperry Computer Corp.	27th—Iowa, Johnson, Poweshiek	68, 69, 69X, 69XX, 70(1st)
Bruner, Charles H.	Ames	35	Legislator	37th—Story	68, 69, 69X, 69XX, 70(1st)
Carr, Bob	Dubuque	46	Securities Broker	18th—Dubuque	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Coleman, C. Joseph	Clare	60	Farmer-Businessman	7th—Hamilton, Webster	57, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Colton, Milo	Sioux City	40	Educator	1st—Woodbury	70(1st)
Deluhery, Patrick J.	Davenport	41	College Teacher	21st—Scott	68, 69, 69X, 69XX, 70(1st)
Dieleman, William W. (Bill)	Pella	52	Life Insurance Underwriter	35th—Jasper, Marion, Polk, Warren	66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Doyle, Donald V.	Sioux City	58	Lawyer	2nd—Ida, Monona, Woodbury	57, 58, 61, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)

GENERAL ASSEMBLY

MEMBERS OF THE SENATE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Drake, Richard F.	Muscatine	56	Farming	28th—Des Moines, Louisa, Muscatine, Washington	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Gallagher, James V.	Jesup	50	Northwestern Bell Telephone Company	14th—Black Hawk, Buchanan, Chickasaw, Fayette	61, 62, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Gentleman, Julia B.	Des Moines	52	Housewife	41st—Polk	66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Gettings, Donald E.	Ottumwa	60	Retired-Deere & Co.	33rd—Appanoose, Davis, Wapello	67(2nd), 67X, 68, 69, 69X, 69XX, 70(1st)
Goodwin, Norman J.	DeWitt	70	Retired County Extension Director	19th—Cedar, Clinton	68, 69, 69X, 69XX, 70(1st)
Gratias, Arthur L.	Nora Springs	63	Farmer-Educator	15th—Cerro Gordo, Chickasaw, Floyd, Howard, Mitchell	68, 69, 69X, 69XX, 70(1st)
Hall, Hurley W.	Marion	48	Telephone Engineer	24th—Buchanan, Delaware, Linn	68, 69, 69X, 69XX, 70(1st)
Hester, Jack W.	Honey Creek	54	Farmer	49th—Cass, Harrison, Pottawattamie, Shelby	68, 69, 69X, 69XX, 70(1st)
Holden, Edgar H.	Davenport	69	Entrepreneur	20th—Scott	62, 63, 64, 65, 67(2nd), 68, 69, 69X, 69XX, 70(1st)
Holt, Lee W.	Spencer	74	Automobile Dealer	6th—Clay, Dickinson, Emmet, Palo Alto	68, 69, 69X, 69XX, 70(1st)
Horn, Wally E.	Cedar Rapids	50	Teacher	25th—Linn	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)

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GENERAL ASSEMBLY—Continued

MEMBERS OF THE SENATE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Hulse, Merlin D.	Clarence	60	Farmer	22nd—Cedar, Jones, Linn	67, 67X, 68, 69, 69X, 69XX, 70(1st)
Hultman, Calvin O.	Red Oak	42	Businessman	47th—Fremont, Mills, Montgomery, Page, Pottawattamie	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Husak, Emil J.	Toledo	53	Farmer	38th—Benton, Black Hawk, Marshall, Tama	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Hutchins, C. W. Bill	Audubon	52	Businessman	48th—Audubon, Carroll, Crawford, Shelby	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Jensen, John W.	Plainfield	57	Farmer	11th—Black Hawk, Bremer, Butler, Grundy	68, 69, 69X, 69XX, 70(1st)
Junkins, Lowell L.	Montrose	39	Small Businessman-Farmer	31st—Des Moines, Lee, Van Buren	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Kinley, George R.	Des Moines	46	Owner-Driving Range & Golf Sales	40th—Polk	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Lind, Thomas A.	Waterloo	65	Businessman	13th—Black Hawk	67(2nd), 68, 69, 69X, 69XX, 70(1st)
Mann, Thomas, Jr.	Des Moines	34	Attorney	43rd—Polk	70(1st)
Miller, Alvin V.	Ventura	62	Insurance Agency-Retail Merchant	10th—Cerro Gordo, Winnebago, Worth	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)

## MEMBERS OF THE SENATE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Miller, Charles P.	Burlington	65	Doctor of Chiropractic	30th— <i>Des Moines, Henry</i>	60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Nystrom, John N.	Boone	50	Legislator	44th— <i>Boone, Carroll, Greene, Story</i>	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Palmer, William D.	Des Moines	48	Insurance Executive	39th— <i>Polk</i>	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Priebe, Berl E.	Algona	65	Farmer-Businessman	8th— <i>Hancock, Humboldt, Kossuth, Palo Alto, Pocahontas, Winnebago</i>	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Readinger, David M.	Des Moines	48	Sales	42nd— <i>Polk</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Rife, Jack	Moscow	40	Farmer	29th— <i>Muscatine, Scott</i>	70(1st)
Ritsema, Douglas	Orange City	31	Lawyer	3rd— <i>Plymouth, Sioux, Woodbury</i>	68, 69, 69X, 69XX, 70(1st)
Rodgers, Norman	Adel	56	Farmer	45th— <i>Adair, Dallas, Guthrie, Madison</i>	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Schwengels, Forrest V.	Fairfield	68	Real Estate Salesman	32nd— <i>Jefferson, Keokuk, Mahaska, Wapello</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Slater, Tom	Council Bluffs	38	Media Consultant	50th— <i>Pottawattamie</i>	67, 67X, 68, 69, 69X, 69XX, 70(1st)
Small, Arthur A., Jr.	Iowa City	50	Attorney	23rd— <i>Johnson</i>	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)

MEMBERS OF THE SENATE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Soorholtz, John E.	Melbourne	54	Farmer-Pork Producer	36th—Jasper, Marshall	None
Taylor, Ray	Steamboat Rock	60	Farming-Business	9th—Franklin, Hamilton, Hancock, Hardin, Wright	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Tieden, Dale L.	Elkader	61	Farmer	16th—Allamakee, Clayton, Winneshiek	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Vande Hoef, Richard	Harris	58	Farming	4th—Cherokee, Clay, Lyon, O'Brien, Osceola, Sioux	69, 69X, 69XX, 70(1st)
Van Gilst, Bass	Indianola	72	Farming	34th—Clarke, Lucas, Monroe, Warren, Wayne	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Waldstein, Arne	Storm Lake	58	Professional Farm Manager-Appraiser	5th—Buena Vista, Calhoun, Pocahontas, Sac, Webster	68, 69, 69X, 69XX, 70(1st)
Wells, James D.	Cedar Rapids	55	Cereal Company Employee	26th—Linn	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Welsh, Joseph J. (Joe)	Dubuque	28	Legislator	17th—Dubuque, Jackson, Jones	68, 69, 69X, 69XX, 70(1st)

## MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Anderson, James O.	Brayton	55	Farmer	95th— <i>Audubon, Carroll, Shelby</i>	68, 69, 69X, 69XX, 70(1st)
Arnould, Robert C.	Davenport	30	Legislator	42nd— <i>Scott</i>	67(2nd), 67X, 68, 69, 69X, 69XX, 70(1st)
Avenson, Donald D.	Oelwein	39	Tool & Die Maker	28th— <i>Chickasaw, Fayette</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Baxter, Elaine *	Burlington	50	Economic Development Consultant	60th— <i>Des Moines</i>	69(2nd), 70(1st)
Bennett, Wayne	Galva	56	Farmer	4th— <i>Ida, Monona, Woodbury</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Black, Dennis H.	Grinnell	44	County Conservation Board Director	71st— <i>Jasper, Marshall</i>	70(1st)
Blanshan, Eugene	Scranton	35	Farmer	88th— <i>Boone, Carroll, Greene</i>	70(1st)
Brammer, Philip E.	Cedar Rapids	51	Insurance Executive President	50th— <i>Linn</i>	70(1st)
Branstad, Clifford O.	Thompson	59	Farmer	16th— <i>Hancock, Kossuth, Winnebago</i>	68, 69, 69X, 69XX, 70(1st)
Buhr, Florence D.	Des Moines	50	Homemaker	85th— <i>Polk</i>	70(1st)
Carl, Janet	Grinnell	35	Consultant	53rd— <i>Iowa, Poweshiek</i>	69, 69X, 69XX, 70(1st)
Carpenter, Dorothy F.	West Des Moines	50	Homemaker-Legislator	82nd— <i>Polk</i>	69, 69X, 69XX, 70(1st)
Carter, Brian	Mt. Pleasant	35	Teacher	59th— <i>Des Moines, Henry</i>	70(1st)
Chapman, Kay	Cedar Rapids	46	Attorney	49th— <i>Linn</i>	70(1st)
Chiodo, Ned F.	Des Moines	41	Small Businessman	81st— <i>Polk</i>	67, 67X, 68, 69, 69X, 69XX, 70(1st)

MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Clark, Betty Jean	Rockwell	63	Christian Education Director	29th—Cerro Gordo, Floyd, Mitchell	67, 67X, 68, 69, 69X, 69XX, 70(1st)
Cochran, Dale M.	Eagle Grove	55	Farmer	14th—Hamilton, Webster	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Connolly, Michael W.	Dubuque	38	Teacher	35th—Dubuque	68, 69, 69X, 69XX, 70(1st)
Connors, John H.	Des Moines	61	Insurance Representative and Labor Arbitrator	79th—Polk	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Cooper, James J.	Russell	59	Farmer	67th—Clarke, Monroe, Lucas, Wayne	70(1st)
Copenhaver, Paul †	Independence	42	Farmer	27th—Black Hawk, Buchanan	69(2nd), 70(1st)
Corey, Virgil E.	Morning Sun	67	Farmer	55th—Des Moines, Louisa, Washington	68, 69, 69X, 69XX, 70(1st)
Daggett, Horace	Lenox	52	Farmer	92nd—Adams, Decatur, Ringgold, Taylor	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Davitt, Philip A.	St. Charles	52	Farmer	68th—Warren	67, 67X, 68, 69, 69X, 69XX, 70(1st)
De Groot, Kenneth R.	Doon	54	Farmer	8th—Lyon, O'Brien, Osceola, Sioux	68, 69, 69X, 69XX, 70(1st)
Diemer, Marvin E.	Cedar Falls	59	Business Consultant	23rd—Black Hawk	68, 69, 69X, 69XX, 70(1st)
Doderer, Minnette	Iowa City	60	Legislator	45th—Johnson	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70(1st)
Fey, Thomas H.	Davenport	29	Legislator	41st—Scott	69(2nd), 70(1st)

GENERAL ASSEMBLY—Continued

## MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Fogarty, Daniel P.	Cylinder	59	Farmer	11th—Clay, Palo Alto	70(1st)
Grandia, Robert J.	Pella	69	Retired meat processor	69th—Marion	70(1st)
Groninga, John	Mason City	38	Sales Manager	20th—Cerro Gordo	70(1st)
Gronstal, Michael E.	Council Bluffs	33	Shipping Clerk	99th—Pottawattamie	70(1st)
Groth, Richard	Albert City	37	Educator	10th—Buena Vista, Pocahontas	68, 69, 69X, 69XX, 70(1st)
Gruhn, Josephine	Spirit Lake	56	Educator and Farmer	12th—Dickinson, Emmet	70(1st)
Halvorson, Rod	Fort Dodge	34	Real Estate Salesman	13th—Webster	68, 69, 69X, 69XX, 70(1st)
Halvorson, Roger A.	Monona	49	Insurance-Real Estate Broker	32nd—Allamakee, Clayton	66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Hammond, Johnie	Ames	51	Legislator	74th—Story	70(1st)
Handorf, Ward	Gladbrook	69	Farmer	75th—Black Hawk, Marshall, Tama	70(1st)
Hanson, Darrell R.	Manchester	29	Insurance Adjuster	48th—Buchanan, Delaware, Linn	68, 69, 69X, 69XX, 70(1st)
Harbor, William H.	Henderson	63	Grain Elevator Owner-Operator	94th—Mills, Montgomery, Pottawattamie	56, 57, 58, 62, 63, 64, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Haverland, Mark A.	Polk City	37	Minister	77th—Polk	70(1st)
Hermann, Donald F.	Bettendorf	62	Retired Industrial Relations Manager	40th—Scott	70(1st)
Hoffmann-Bright, Betty	Muscatine	62	Legislator	56th—Louisa, Muscatine	67, 67X, 68, 69, 69X, 69XX, 70(1st)
Holveck, Jack	Des Moines	40	Attorney	84th—Polk	70(1st)



MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Hughes, Randy	Creston	35	Teacher	91st—Adair, Adams, Cass, Clarke, <i>Union</i>	70(1st)
Hummel, Kyle	Vinton	48	Contractor-Realtor	76th—Benton, Black Hawk	68, 69, 69X, 69XX, 70(1st)
Jay, Daniel J.	Centerville	29	Lawyer	66th—Appanoose, Davis, Wapello	68, 69, 69X, 69XX, 70(1st)
Jochum, Thomas J.	Dubuque	32	Legislator	36th— <i>Dubuque</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Knapp, Donald J.	Cascade	51	Corrections	33rd— <i>Dubuque</i> , Jones	69(2nd), 70(1st)
Koenigs, Deo A.	McIntire	48	Farmer	30th—Chickasaw, Howard, Mitchell	70(1st)
Krewson, Lyle R.	Urbandale	40	Legislator, Self-employed	83rd— <i>Polk</i>	67, 67X, 68, 69, 69X, 69XX, 70(1st)
Lageschulte, Raymond	Waverly	61	Farmer-Insurance Adjuster-Legislator	22nd—Black Hawk, Bremer, Butler	66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Lloyd-Jones, Jean	Iowa City	54	Legislator	46th— <i>Johnson</i>	68, 69, 69X, 69XX, 70(1st)
Lonergan, Joyce	Boone	49	Book Store Owner	87th—Boone, Story	66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Maulsby, Ruhl	Rockwell City	60	Farmer	9th— <i>Calhoun</i> , Sac, Webster	68, 69, 69X, 69XX, 70(1st)
McIntee, John E.	Waterloo	33	Home Builder-Attorney	26th— <i>Black Hawk</i>	70(1st)
McKean, Andy	Morley	34	Lawyer-College Instructor- Square Dance Caller	44th—Jones, Linn	68, 69, 69X, 69XX, 70(1st)
Menke, Lester D.	Calumet	65	Farmer-Insurance	7th—Cherokee, Clay, O'Brien	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Miller, Leo P.	Sioux City	40	Retired Police Officer	3rd— <i>Woodbury</i>	70(1st)
Muhlbauer, Louis J.	Manilla	54	Farmer	96th— <i>Crawford</i> , Shelby	70(1st)

GENERAL ASSEMBLY—Continued

## MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Mullins, Sue	Corwith	47	Farmer	15th—Humboldt, Kossuth, Palo Alto, Pocahontas	68, 69, 69X, 69XX, 70(1st)
Norland, Lowell E.	Kensett	52	Farmer	19th—Cerro Gordo, Winnebago, Worth	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
O'Kane, James D.	Sioux City	32	Legislator	1st—Woodbury	68, 69, 69X, 69XX, 70(1st)
Ollie, C. Arthur	Clinton	42	Teacher	38th—Clinton	70(1st)
Osterberg, David	Mt. Vernon	40	Economic Consultant	43rd—Cedar, Linn	70(1st)
Oxley, Myron B.	Marion	61	Farmer	47th—Linn	61, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Parker, Edward G.	Mingo	24	Contractor	70th—Jasper, Marion, Polk Warren	70(1st)
Paulin, Donald J.	Le Mars	50	Kitchen Cabinet Retailer	5th—Plymouth, Woodbury	70(1st)
Pavich, Emil S.	Council Bluffs	52	Cereal Company Employee	100th—Pottawattamie	66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Peick, Doris A.	Cedar Rapids	50	Quality Control Inspector	52nd—Linn	70(1st)
Pellett, Wendell C.	Atlantic	66	Farmer	97th—Cass, Harrison, Pottawattamie, Shelby	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Poncy, Charles N.	Ottumwa	61	School Employee	65th—Wapello	62, 63, 65, 66, 67, 67X, 69, 69X, 69XX, 70(1st)
Renaud, Dennis L.	Altoona	41	D.M. Fire Department-Businessman	78th—Polk	69, 69X, 69XX, 70(1st)
Renken, Robert H.	Aplington	61	Farmer	21st—Butler, Grundy	68(2nd), 69, 69X, 69XX, 70(1st)
Rensink, Wilmer	Sioux Center	50	Farmer	6th—Plymouth, Sioux	70(1st)

MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Rosenberg, Ralph	Ames	32	Attorney	73rd— <i>Story</i>	69(2nd), 70(1st)
Royer, Bill D.	Essex	54	Realtor	93rd—Fremont, Mills, <i>Page</i>	70(1st)
Running, Richard V.	Cedar Rapids	37	Quality Assurance Technologist	51st— <i>Linn</i>	69, 69X, 69XX, 70(1st)
Schnekloth, Hugo	Eldridge	60	Farmer	39th— <i>Scott</i>	67, 67X, 68, 69, 69X, 69XX, 70(1st)
Schroeder, Laverne W.	McClelland	50	Self-Employed	98th—Harrison, <i>Pottawattamie</i>	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Sherzan, Gary	Des Moines	39	Correctional Service Worker	86th— <i>Polk</i>	70(1st)
Shoultz, Don	Waterloo	47	Teacher	25th— <i>Black Hawk</i>	70(1st)
Skow, Bob	Guthrie Center	31	Insurance-Real Estate Broker	90th—Adair, Dallas, <i>Guthrie</i> , Madison	70(1st)
Spear, Clay	Burlington	67	Retired Postal Service Employee	61st— <i>Des Moines</i> , Lee	66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Stromer, Delwyn	Garner	53	Farmer	17th—Franklin, <i>Hancock</i> , Wright	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Stueland, Vic	Grand Mound	63	Farmer	37th—Cedar, <i>Clinton</i>	69, 69X, 69XX, 70(1st)
Sturgeon, Al	Sioux City	27	Public Relations Consultant	2nd— <i>Woodbury</i>	69, 69X, 69XX, 70(1st)
Sullivan, William R.	Cantril	38	Heavy Equipment Operator	62nd—Lee, <i>Van Buren</i>	69, 69X, 69XX, 70(1st)
Swartz, Thomas E.	Marshalltown	37	Real Estate Broker	72nd— <i>Marshall</i>	69, 69X, 69XX, 70(1st)

MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1984 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Swearingen, George R.	Sigourney	60	Retired Teacher-Legislator	63rd—Jefferson, Keokuk, Wapello	68, 69, 69X, 69XX, 70(1st)
Tabor, David M.	Baldwin	28	Farmer	34th—Dubuque, Jackson	70(1st)
Tofte, Semor C.	Decorah	72	Retired	31st—Allamakee, Winneshiek	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Torrence, Janis I.	Atalissa	57	Former County Supervisor	57th—Muscatine, Scott	70(1st)
Van Camp, Mike	Davenport	42	Union Electrician	58th—Scott	70(1st)
Van Gerpen, Harlan W.	Cedar Falls	59	Consulting Engineer	24th—Black Hawk	70(1st)
Van Maanen, Harold	Oskaloosa	54	Farmer	64th—Keokuk, Mahaska, Wapello	68, 69, 69X, 69XX, 70(1st)
Varn, Richard J.	Solon	25	Baking Company Employee-Law Student	54th—Iowa, Johnson	70(1st)
Welden, Richard W.	Iowa Falls	75	Retired Contractor	18th—Franklin, Hardin, Hamilton	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Woods, Jack E.	Des Moines	47	Self-Employed	80th—Polk	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70(1st)
Zimmerman, Jo Ann	Waukee	47	Registered Nurse	89th—Dallas	70(1st)

District 60 \*Elected in Special Election January 26, 1982

District 27 †Elected in Special Election March 23, 1982 due to death of Kenneth Miller February 23, 1982

## CONDITION OF STATE TREASURY

### Receipts, Disbursements, and Balances in the Several Funds For the Fiscal Period Ending June 30, 1983

	Balance July 1, 1982	Total Receipts and Transfers	Total Available	Total Warrants Redeemed Treasurer's Checks Issued, and Transfers	Balance June 30, 1983
General Revenue .....	\$ 107,445,558	\$ 1,676,271,710	\$ 1,783,717,268	\$ 1,561,358,429	\$ 73,010,199
Transfers .....				149,348,640	
Trust Funds .....	89,581,771	229,619,580	319,201,351	75,624,826	97,983,506
Transfers .....				145,593,019	
Special Funds .....					
(Comptroller's Warrants)	1,866,651,522	2,505,855,551	4,667,448,732	2,555,975,935	2,111,472,797
Transfers .....		294,941,659			
Special Funds .....					
(Treasurer's Checks)	393,021	3,208,738	3,601,759	525,086	3,076,673
<b>TOTALS .....</b>	<b><u>\$2,064,071,872</u></b>	<b><u>\$4,709,897,238</u></b>	<b><u>\$6,773,969,110</u></b>	<b><u>\$4,488,425,935</u></b>	<b><u>\$2,285,543,175</u></b>
Balance July 1, 1982 .....				\$2,064,071,872	
Receipts and Transfers .....				4,709,897,238	
Total .....				\$6,773,969,110	
Disbursements and Transfers .....				4,488,425,935	
Balance June 30, 1983 .....				\$2,285,543,175	

**OFFICE OF THE STATE COMPTROLLER  
JULY 6, 1984**

**LAWS**  
OF THE  
**1984 Regular Session**  
OF THE  
**Seventieth General Assembly**  
OF THE  
**STATE OF IOWA**

PASSED AT DES MOINES, THE CAPITAL OF THE STATE, BEGUN ON THE NINTH  
DAY OF JANUARY, AND ENDED ON THE TWENTIETH DAY OF APRIL, A.D. 1984  
IN THE ONE HUNDRED THIRTY-EIGHTH YEAR OF THE STATE

**CHAPTER 1001**  
**TERMINATION OF SPECIAL EDUCATION**  
*H.F. 162*

**AN ACT** relating to the age of termination of education for children requiring special education.

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

Section 1. Section 281.8, unnumbered paragraph 2, Code 1983, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

An area education agency director of special education may request approval from the department of public instruction to continue the special education program of a person beyond the person's twenty-first birthday if the person had an accident or prolonged illness that resulted in delays in the initiation of or interruptions in that person's special education program. Approval may be granted by the department to continue the special education program of that person for up to three years or until the person's twenty-fourth birthday.

Approved February 2, 1984

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**CHAPTER 1002**  
**LIABILITY REGARDING PUBLIC PLACES IN CITIES**  
*H.F. 359*

**AN ACT** relating to the duties and liabilities of persons with respect to public places located within cities.

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

Section 1. Section 364.12, subsection 2, Code 1983, is amended to read as follows:

2. A city is ~~responsible for the care, supervision, and control of~~ shall keep all public grounds, streets, sidewalks, alleys, bridges, culverts, overpasses, underpasses, grade crossing separations and approaches, ~~except those lawfully required to be maintained by a railway company, and the city shall keep all~~ public ways, squares, and commons open, in repair, and free from nuisance, with the following exceptions:

- a. Public ways and grounds may be temporarily closed by resolution. Following notice as provided in section 362.3, such public ways and grounds may be vacated by ordinance.
- b. The abutting property owner is responsible for the ~~prompt~~ removal of snow, ice, and

accumulations the natural accumulations of snow and ice from the sidewalks within a reasonable amount of time and may be liable for damages caused by the failure of the abutting property owner to use reasonable care in the removal of the snow or ice. If damages are to be awarded under this section against the abutting property owner, the claimant has the burden of proving the amount of the damages. To authorize recovery of more than a nominal amount, facts must exist and be shown by the evidence which afford a reasonable basis for measuring the amount of the claimant's actual damages, and the amount of actual damages shall not be determined by speculation, conjecture, or surmise. All legal or equitable defenses are available to the abutting property owner in an action brought pursuant to this paragraph. The city's general duty under this subsection does not include a duty to remove natural accumulations of snow or ice from the sidewalks. However, when the city is the abutting property owner it has the specific duty of the abutting property owner set forth in this paragraph.

c. The abutting property owner may be required by ordinance to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right of way.

d. A city may serve notice on the abutting property owner, by certified mail to the property owner as shown by the records of the county auditor, requiring him the abutting property owner to repair, replace, or reconstruct sidewalks.

e. If the abutting property owner does not perform an action required under this subsection within a reasonable time, a city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax. This power does not relieve the abutting property owner of liability imposed under paragraph b.

f. A city has no duty under this subsection with respect to property that is required by law to be maintained by a railway company.

Approved February 2, 1984

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## CHAPTER 1003

### DIRECT DEPOSITS OF REVENUE AND SPECIAL ASSESSMENTS

*H.F. 658*

AN ACT relating to the direct deposits of revenue and special assessments collected by the county treasurer.

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

Section 1. Section 331.552, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION.** Send, before the fifteenth day of each month, the amount of tax revenue, special assessments, and other moneys collected for each tax-certifying or tax-levying public agency in the county for direct deposit into the depository or financial institution and account designated by the governing body of the public agency. The treasurer shall



send notice to the chairperson or other designated officer of the public agency 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 280A.17, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The board of directors of each merged area shall prepare an annual budget designating the proposed expenditures for operation of the area vocational school or area community college. The board shall further designate the amounts which are to be raised by local taxation and the amounts which are to be raised by other sources of revenue for such the operation. The budget of each merged area shall be submitted to the state board no later than May 1 preceding the next fiscal year for approval. The state board shall review the proposed budget and shall, prior to June 1, either grant its approval or return the budget without approval with the comments of the state board attached thereto to it. Any unapproved budget shall be resubmitted to the state board for final approval. Upon approval of the budget by the state board, the board of directors shall certify the amount to the respective county auditors and the boards of supervisors annually shall levy a tax of twenty and one-fourth cents per thousand dollars of assessed value on taxable property in a merged area for the operation of an area vocational school or area community college. Taxes collected pursuant to such the levy shall be paid by the respective county treasurers to the treasurer of the merged area in the same manner that other school taxes are paid to local school districts as provided in section 1 of this Act.

Sec. 3. Section 280A.22, subsection 1, paragraph a, Code 1983, is amended to read as follows:

a. In addition to the tax authorized under section 280A.17, the voters in any merged area may at the annual school election vote a tax not exceeding twenty and one-fourth cents per thousand dollars of assessed value in any one year for a period not to exceed ten years for the purchase of grounds, construction of buildings, payment of debts contracted for the construction of buildings, purchase of buildings and equipment for buildings, and the acquisition of libraries, and for the purpose of maintaining, remodeling, improving, or expanding the area vocational school or area community college of the merged area which. The tax shall be collected by the county treasurers and remitted to the treasurer of the merged area as other taxes are collected and remitted, and the provided in section 1 of this Act. The proceeds of said the tax shall be deposited in a separate and distinct fund to be known as the voted tax fund, to be paid out upon warrants drawn by the president and secretary of the board of directors of the merged area district for the payment of costs incurred in providing the school facilities for which the tax was voted.

Sec. 4. 1983 Iowa Acts, House File 628, section 78, is amended to read as follows:

SEC. 78. NEW SECTION. 176A.12 COUNTY AGRICULTURAL EXTENSION FUND. A county agricultural extension education fund shall be established in each county and the county treasurer of each county shall keep the amount of tax levied under this chapter in that fund. Before the fifteenth day of each month, the treasurer shall notify the chairperson of the county extension council of the amount collected for this fund to the first day of that month, and the chairperson shall draw a draft for that amount, countersigned by the secretary, upon the treasurer who shall pay that amount to the treasurer of the extension council upon receipt of the draft as provided in section 1 of this Act.

Sec. 5. Section 331.559, subsection 10, Code 1983, is amended to read as follows:

10. Send the amounts of each city's tax revenue and special assessments collected on its behalf for direct deposit into the depository and account designated as provided in section 384.11.

Sec. 6. Section 347.12, unnumbered paragraph 4, Code 1983, is amended to read as follows:

Before the ~~third Monday~~ fifteenth day of each month in each year, the county treasurer shall give notice to the ~~chairman~~ chairperson of the board of hospital trustees of the amount of revenue collected for each fund of the hospital to the first day of ~~such~~ that month, and the ~~chairman~~ shall draw his draft therefor countersigned by the secretary, upon the county treasurer, ~~who~~ shall pay ~~such~~ the taxes to the treasurer of the hospital, ~~only on such draft as provided in section 1 of this Act.~~

Sec. 7. Section 347A.1, unnumbered paragraph 3, Code 1983, is amended to read as follows:

The treasurer of the county hospital shall receive and disburse all funds. Warrants shall be drawn by the secretary and countersigned by the chairperson of the board after the claim has been certified by the board. The treasurer of the county hospital shall keep an accurate account of all receipts and disbursements and shall register all orders drawn and reported by the secretary, showing the number, date, to whom drawn, the fund upon which drawn, the purpose, and amount. The secretary of the board of trustees shall file with the board on or before the tenth day of each month, a complete statement of all receipts and disbursements from all funds during the preceding month, and also the balance remaining on hand in all funds at the close of the period covered by the statement. Before the ~~third Monday~~ fifteenth day of each month, the county treasurer shall give notice to the chairperson of the board of trustees of the amount of revenue collected for each fund of the hospital to the first day of that month, and the ~~chairperson~~ shall draw a draft therefor countersigned by the secretary, upon the county treasurer, ~~who~~ shall pay the taxes to the treasurer of the hospital ~~upon receipt of the draft as provided in section 1 of this Act.~~

Sec. 8. Section 359.21, Code 1983, is amended to read as follows:

**359.21 RECEIPT AND CUSTODY OF FUNDS.**

1. Each township clerk shall receive, collect, and disburse, under the orders of the township trustees, all funds belonging to ~~his~~ the township, including the cemetery fund, ~~and those which are now or may hereafter be by law created or authorized.~~ No ~~A~~ claim shall not be paid until it has been duly audited by the trustees.

2. Before the fifteenth day of each month, the county treasurer shall notify the chairperson of the board of trustees of the amount collected for each fund to the first day of that month and shall pay that amount to the clerk as provided in section 1 of this Act.

Sec. 9. Section 384.11, Code 1983, is amended to read as follows:

**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. This section shall also apply to the collection of special assessments assessed under section 364.12 or division IV of this chapter.

Approved February 6, 1984

**CHAPTER 1004****VISITATIONS AT STATE CORRECTIONAL INSTITUTIONS***H.F. 74*

**AN ACT** relating to visitation at state correctional institutions by certain public officials and leaders of a religious community.

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

Section 1. Chapter 218, Code 1983, is amended by adding the following new section:

**NEW SECTION. VISITATIONS.** Members of the executive council, the attorney general, the lieutenant governor, members of the general assembly, judges of the supreme and district court and court of appeals, judicial magistrates, county attorneys and persons ordained or designated as regular leaders of a religious community are authorized to visit all institutions under the control of the division of adult corrections and the state training school at reasonable times. No other person shall be granted admission except by permission of the warden or superintendent.

Sec. 2. Section 246.46, Code 1983, is repealed.

Approved February 9, 1984

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**CHAPTER 1005****TAX STUDY COMMITTEE MEMBERSHIP***S.F. 2045*

**AN ACT** to increase the membership of the tax study committee from nine to eleven members.

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

Section 1. Acts of the Seventieth General Assembly, 1983 Session, chapter 211, section 2, is amended to read as follows:

**SEC. 2. STUDY COMMITTEE CREATED.** There is established a tax study committee which shall consist of ~~nine~~ eleven members. The members shall be appointed as follows:

1. The majority and minority leaders of the house of representatives shall each appoint one member.
2. The majority and minority leaders of the senate shall each appoint one member.
3. The governor shall appoint four members, two of whom shall be registered democrats

and two of whom shall be registered republicans, subject to confirmation by the senate.

4. The majority leaders of the senate and the house of representatives shall jointly appoint one member.

5. The minority leaders of the senate and the house of representatives shall jointly appoint one member.

4 6. One additional member who shall be appointed and approved unanimously by the governor and the majority and minority leaders of the senate and the house of representatives and this member shall chair the committee.

All members of the tax study committee shall be appointed not later than thirty days from the effective date of this Act. The tax study committee shall hold its organizational meeting not more than thirty days following the appointment of its membership.

Sec. 2. The two additional members of the tax study committee provided for in section 1 shall be appointed not later than five days from the effective date of section 1.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Daily Gate City, a newspaper published in Keokuk, Iowa, and in The Red Oak Express, a newspaper published in Red Oak, Iowa.

Approved February 9, 1984

I hereby certify that the foregoing Act, Senate File 2045 was published in The Red Oak Express, Red Oak, Iowa on February 15, 1984 and in the Daily Gate City, Keokuk, Iowa on February 27, 1984.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 1006

### DISPENSING DRUGS AND DELEGATED FUNCTIONS

S.F. 345

**AN ACT** authorizing specified professionals to dispense and issue prescription drugs and controlled substances and to delegate nonjudgmental dispensing functions and providing a penalty.

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

Section 1. **NEW SECTION. 147.104A DRUG DISPENSING.**

1. A person, other than a pharmacist, physician, dentist, podiatrist, or veterinarian who dispenses as an incident to the practice of the practitioner's profession, shall not dispense prescription drugs or controlled substances.

2. A pharmacist, physician, dentist, or podiatrist who dispenses prescription drugs, including but not limited to controlled substances, for human use, may delegate nonjudgmental dispensing functions to staff assistants only when verification of the accuracy and completeness of the prescription is determined by the pharmacist or practitioner in the pharmacist's or practitioner's physical presence.

3. A physician's assistant or registered nurse may supply when pharmacist services are not reasonably available or when it is in the best interests of the patient, on the direct order of the supervising physician, a quantity of properly packaged and labeled prescription drugs, controlled substances, or contraceptive devices necessary to complete a course of therapy. However, a remote clinic, staffed by a physician's assistant or registered nurse, where pharmacy services are not reasonably available, shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage, and appropriate use of such drugs, substances, and devices.

4. Notwithstanding subsection 1, a family planning clinic may dispense birth control drugs and devices upon the order of a physician. Subsections 2 and 3 do not apply to a family planning clinic under this subsection.

5. Notwithstanding section 147.86, a person, including a pharmacist, who violates this section is guilty of a simple misdemeanor.

Sec. 2. Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1036, section 33, subsection 1, is repealed.

Approved February 21, 1984

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**CHAPTER 1007**  
**REGULATORY FLEXIBILITY ANALYSIS**  
*S.F. 475*

**AN ACT** to provide for a regulatory flexibility analysis in the promulgation of administrative rules.

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

Section 1. Chapter 17A, Code 1983, is amended by adding the following new section:

**NEW SECTION. SMALL BUSINESS REGULATORY FLEXIBILITY ANALYSIS.**

1. For the purpose of this section, "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.

2. If an agency proposes a rule which may have an impact on small business, the agency shall comply with the additional notice provisions of subsection 3 and the analysis requirements of subsection 4.

3. The agency shall include in its notice in the Iowa administrative bulletin that the proposed rule-making may have an impact on small business. The agency shall notify those small businesses or organizations of small businesses who have registered with the agency requesting notification. An agency shall issue a regulatory flexibility analysis of a proposed rule if, within twenty days after the published notice of proposed rule adoption, a written request for the analysis is filed with the appropriate agency by the administrative rules review committee, the governor, a political subdivision, at least twenty-five persons signing the request, who qualify as a small business, or a registered organization representing at least twenty-five persons.

4. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small business:

- a. Establishing less stringent compliance or reporting requirements in the rule for small business.
- b. Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.
- c. Consolidating or simplifying the rule's compliance or reporting requirements for small business.
- d. Establishing performance standards to replace design or operational standards in the rule for small business.
- e. Exempting small business from any or all requirements of the rule.
- f. The nature of any reports and the estimated cost of their preparation by small businesses which would be required to comply with the rule.
- g. The nature and estimated cost of other measures or investments that would be required by small businesses to comply with the rule.
- h. The nature and estimated cost of any professional, legal, consulting or accounting services which small businesses would incur to comply with the rule.
- i. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue.
- j. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.
- k. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.
- l. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons they were rejected in favor of the proposed rule.

A concise summary of the regulatory flexibility analysis must be published in the Iowa administrative bulletin twenty days prior to the adoption of the proposed rule. The summary shall contain the place where and the time when interested persons may make an oral presentation on the analysis; and where persons may obtain a full text of the analysis for the cost of reproduction. If the agency has made a good faith effort to comply with the requirements of subsections 3 and 4, the rule may not be invalidated on the ground that the contents of the regulatory flexibility analysis are insufficient or inaccurate.

5. The agency shall reduce the impact by using a method provided or requested under subsection 4 if it finds that the methods are legal and feasible in meeting the statutory objectives which are the basis of the proposed rule.

Sec. 2. NEW SECTION. A rule of an emergency nature adopted under section 17A.4, subsection 2, or made effective under the provisions of section 17A.5, subsection 2, paragraph b, is not subject to the provisions of this Act until ninety days have elapsed from the day of the emergency rule's publication. If subsections 3 and 4 of section 1 of this Act have not been complied with within this ninety day period, the rule is void.

Sec. 3. NEW SECTION. The administrative rules review committee shall review existing rules, as time permits, to determine if there are adverse or beneficial effects from these rules. The committee shall give a high priority to rules that are referred to it by small business as defined in this Act. The review of these rules shall be forwarded to the appropriate standing committees of the house and senate.

Approved February 21, 1984

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**CHAPTER 1008**  
**TOWNSHIP EMERGENCY WARNING SYSTEM**  
*S.F. 159*

**AN ACT** authorizing the establishment and maintenance of an emergency warning system within townships 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 359.42, Code 1983, is amended to read as follows:

359.42 TOWNSHIP FIRE PROTECTION SERVICE, EMERGENCY WARNING SYSTEM, AND AMBULANCE SERVICE. The trustees of each township shall provide fire protection service for the township, exclusive of any part of the township within a benefited fire district and, in counties not providing ambulance services, may provide ambulance service. The trustees may purchase, own, rent or maintain fire protection service or ambulance service apparatus or equipment or both kinds of apparatus or equipment and provide housing for the equipment. The trustees of a township which has a common boundary with a city having a population of one hundred eighty thousand or more may also establish and maintain an emergency warning system within the township. The trustees may contract with any public or private agency under chapter 28E for the purpose of providing ~~fire protection service or ambulance service or both services~~ any service or system required or authorized under this section.

Sec. 2. Section 359.43, Code 1983, is amended to read as follows:

359.43 TAX LEVY.

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 and duties specified 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 the services authorized or required under section 359.42 and in any township which has a common boundary with a city having a population of 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 the services authorized or required under section 359.42.

2. If the levy authorized under subsection 1 ~~of this section~~ is insufficient to provide ~~fire protection service and ambulance service~~ the services authorized or required under section 359.42, the township trustees may levy an additional annual tax not exceeding twenty and one-fourth cents per thousand dollars of assessed value of the taxable property in the township, excluding any property within the corporate limits of a city, to provide the ~~ambulance service services.~~ The township trustees may divide the township into districts for the purpose of providing the ambulance service and fire service and may levy a different tax rate in each district, but the tax levy to provide ambulance service shall not exceed twenty and one-fourth cents per thousand dollars of taxable assessed value in a district.

3. The township trustees may divide the township into tax districts for the purpose of providing ~~fire protection service~~ the services authorized or required under section 359.42 and may levy a different tax rate in each district, but the tax levied in a tax district for ~~fire protection~~ the authorized or required services shall not exceed the tax levy limitation limitations for that township as provided in this section.

Approved February 24, 1984

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**CHAPTER 1009**  
**SANITARY DISTRICT TRUSTEES**  
*S.F. 2050*

**AN ACT** relating to the election and terms of office of sanitary district trustees.

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

Section 1. Section 358.9, unnumbered paragraph 1, Code 1983, is amended to read as follows:

At the election provided for in section 358.7, the names of candidates for trustee of the district shall be written by the voters on blank ballots without formal nomination, and the board of supervisors which had jurisdiction of the proceedings for establishment of the



sanitary district, together with the board of supervisors of any other county in which any part of the district is located, shall appoint three trustees from among the five persons receiving the greatest number of votes as trustees of the district. One of the trustees shall be designated to serve a term expiring one year from the next succeeding June 30 on the first day of January which is not a Sunday or legal holiday following the next general election, one to serve a term of expiring on the first day of January which is not a Sunday or legal holiday two years from that date later, and one to serve a term of three expiring on the first day of January which is not a Sunday or legal holiday four years from that date later. ~~Their successors shall each serve terms of three years commencing July 1 of the year in which they are chosen.~~ Thereafter, each term shall be six years. Successors to the initial trustees may be chosen by appointment by the same board or boards of supervisors which made the initial appointments or by election, at the option of the remaining trustees. If election is chosen, a successor shall be elected at the general election preceding the expiration of the term to be filled.

Sec. 2. TRANSITION TERMS EXTENDED. Notwithstanding section 1 of this Act, for the purpose of transition from three-year terms to six-year terms for trustees of sanitary districts in existence immediately before the effective date of this Act, the terms of the trustees elected or appointed in those districts shall expire as follows:

1. The terms of trustees elected or appointed for a three-year term beginning July 1, 1981, shall expire January 2, 1985.

2. The terms of trustees elected or appointed for a three-year term beginning July 1, 1982, shall expire on January 2, 1987.

3. The terms of trustees elected or appointed for a three-year term beginning July 1, 1983, shall expire on January 3, 1989.

4. The terms of trustees elected or appointed for a three-year term beginning July 1, 1984, shall expire on January 2, 1991.

Thereafter, the trustees of sanitary districts shall be elected or appointed to six-year terms of office as provided in section 358.9.

Approved February 24, 1984

## CHAPTER 1010

### AREA EDUCATION AGENCY WARRANTS

*H.F. 2101*

**AN ACT** authorizing an area education agency to issue warrants and anticipatory warrants and providing for the payment of interest.

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

Section 1. Section 74.1, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION. 5.** The procedures of this chapter also apply to the issuance of warrants or the issuance of anticipatory warrants of an area education agency established under chapter 273.

Sec. 2. Section 273.3, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 18. Be authorized to issue warrants and anticipatory warrants pursuant to chapter 74. The applicable rate of interest shall be determined pursuant to sections 74A.2, 74A.3, and 74A.7. This subsection shall not be construed to authorize a board to levy a tax.

Approved March 1, 1984

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**CHAPTER 1011**  
**SEX DISCRIMINATION IN RETIREMENT PROGRAMS**  
*H.F. 323*

**AN ACT** relating to sex discrimination in retirement programs.

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

Section 1. Section 601A.13, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The provisions of this chapter relating to discrimination because of ~~sex or age~~ shall do not be construed to apply to any a retirement plan or benefit system of any an employer unless such the plan or system is a mere subterfuge adopted for the purpose of evading the provisions of this chapter.

Approved March 1, 1984

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**CHAPTER 1012**  
**MARINE FUEL TAX FUND STUDY**  
*H.F. 602*

**AN ACT** repealing the requirement for a study to determine the percentage of motor fuel tax collected that derives from motor fuel used in watercraft.

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

Section 1. Section 324.84, Code 1983, is amended to read as follows:

**324.84 TRANSFER TO MARINE FUEL TAX FUND.** Pursuant to ~~section 324.83~~, there

~~shall be transferred~~ The treasurer of state shall transfer from the motor fuel tax fund to the marine fuel tax fund ~~a created in section 324.79 that portion of moneys collected under this chapter which is attributable to motor fuel used in watercraft which portion shall be computed~~ as follows:

1. Determine monthly the total amount of motor fuel tax collected under this chapter and multiply ~~sueh~~ the amount by nine-tenths of one percent.

2. Subtract from the figure computed pursuant to subsection 1 of this section three percent of ~~sueh~~ the figure for administrative costs and further subtract from ~~sueh~~ the figure the amounts refunded to commercial fishermen pursuant to subsection 14 of section 324.17. All moneys remaining after ~~all~~ claims for refund and the cost of administration have been made shall be transferred to the marine fuel tax fund.

Sec. 2. Section 324.83, Code 1983, is repealed.

Approved March 6, 1984

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## CHAPTER 1013

### CONTROLLED SUBSTANCES SCHEDULES AND DEFINITIONS

*H.F. 2229*

**AN ACT** modifying the definitions and schedules of controlled substances and providing a penalty.

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

Section 1. Section 204.101, Code 1983, is amended by adding the following new subsection as subsection 15, and renumbering the subsequent subsections:

NEW SUBSECTION. 15. "Isomer" means, except as otherwise designated, the optical isomer.

Sec. 2. Section 204.101, subsection 16, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

16. "Marijuana" means all parts of the plants of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinols. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

Sec. 3. Section 204.101, subsection 17, paragraph d, Code 1983, is amended by striking the paragraph.

Sec. 4. Section 204.204, subsection 2, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Any OPIATES. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

Sec. 5. Section 204.204, subsection 3, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Any OPIUM DERIVATIVES. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Sec. 6. Section 204.204, subsection 3, paragraph i, Code 1983, is amended to read as follows:

i. Etorphine (except hydrochloride salt).

Sec. 7. Section 204.204, subsection 4, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

4. HALLUCINOGENIC SUBSTANCES. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

a. 4-bromo-2,5-dimethoxy-amphetamine. Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA.

b. 2,5-dimethoxyamphetamine. Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA.

c. 4-methoxyamphetamine. Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA.

d. 5-methoxy-3,4-methylenedioxy-amphetamine.

e. 4-methyl-2,5-dimethoxy-amphetamine. Some trade or other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP".

f. 3,4-methylenedioxy amphetamine, also known as MDA.

g. 3,4,5-trimethoxy amphetamine.

h. Bufotenine. Some trade or other names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine.

i. Diethyltryptamine. Some trade and other names: N, N-Diethyltryptamine; DET.

j. Dimethyltryptamine. Some trade or other names: DMT.

k. Ibogaine. Some trade or other names: 7-Ethyl-6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido (1', 2':1,2) azepino (5,4-b) indole; Tabernanthe iboga.

l. Lysergic acid diethylamide.

m. Marijuana, except as otherwise provided by rules of the board of pharmacy examiners for medicinal purposes.

n. Mescaline.

o. Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo (b,d) pyran; synhexyl.

p. Peyote, except as otherwise provided in subsection 8. Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparations of such plant, its seeds or extracts.

- q. N-ethyl-3-piperidyl benzilate.
- r. N-methyl-3-piperidyl benzilate.
- s. Psilocybin.
- t. Psilocyn.

u. Tetrahydrocannabinols, except as otherwise provided by rules of the board of pharmacy examiners for medicinal purposes. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:  $\Delta 1$  cis or trans tetrahydrocannabinol, and their optical isomers  $\Delta 6$  cis or trans tetrahydrocannabinol, and their optical isomers  $\Delta 3,4$  cis or trans tetrahydrocannabinol, and their optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

v. Ethylamine analog of phencyclidine. Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

w. Pyrrolidine analog of phencyclidine. Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.

x. Thiophene analog of phencyclidine. Some trade or other names: 1-(1-(2-thienyl)cyclohexyl)-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP.

Sec. 8. Section 204.204, subsection 6, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. b. N-ethylamphetamine.

Sec. 9. Section 204.206, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

204.206 SCHEDULE II—SUBSTANCES INCLUDED.

1. Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

2. SUBSTANCES, VEGETABLE ORIGIN OR CHEMICAL SYNTHESIS. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrophan, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

- (1) Raw opium.
- (2) Opium extracts.
- (3) Opium fluid extracts.
- (4) Powdered opium.
- (5) Granulated opium.
- (6) Tincture of opium.
- (7) Codeine.
- (8) Ethylmorphine.

- (9) Etorphine hydrochloride.
- (10) Hydrocodone, also known as dihydrocodeinone.
- (11) Hydromorphone, also known as dihydromorphinone.
- (12) Metopon.
- (13) Morphine.
- (14) Oxycodone.
- (15) Oxymorphone.
- (16) Thebaine.

b. Any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph "a", subparagraph (1), except that these substances shall not include the isoquinoline alkaloids\* of opium.

c. Opium poppy and poppy straw.

d. Coca leaves and any salt, compound, derivative or preparation of coca leaves. Decocainized coca leaves or extractions which do not contain cocaine or ecgonine are excluded from this paragraph. The following substances and their salts, isomers and salts of isomers, if salts, isomers or salts of isomers exist under the specific chemical designation, are included in this paragraph:

- (1) Cocaine.
- (2) Ecgonine.

e. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy).

3. OPIATES. Unless specifically excepted or unless listed in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

- a. Alphaprodine.
  - b. Anileridine.
  - c. Bezitramide.
  - d. Bulk dextropropoxyphene (nondosage forms).
  - e. Dihydrocodeine.
  - f. Diphenoxylate.
  - g. Fentanyl.
  - h. Isomethadone.
  - i. Levomethorphan.
  - j. Levorphanol.
  - k. Metazocine.
  - l. Methadone.
  - m. Methadone — intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane.
  - n. Moramide — intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid.
  - o. Pethidine (meperidine).
  - p. Pethidine intermediate A,\* 4-cyano-1-methyl-4-phenylpiperidine.
  - q. Pethidine — intermediate-B, ethyl-4-phenylpiperidine-4- carboxylate.
  - r. Pethidine — intermediate-C, 1-methyl-4-phenylpiperidine-4- carboxylic acid.
  - s. Phenazocine.
  - t. Piminodine.
  - u. Racemethorphan.
  - v. Racemorphan.
4. STIMULANTS. Unless specifically excepted or unless listed in another schedule, any

\*According to enrolled Act

material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- a. Amphetamine, its salts, isomers, and salts of its isomers.
- b. Methamphetamine, its salts, isomers, and salts of its isomers.
- c. Phenmetrazine and its salts.
- d. Methylphenidate and its salts.

5. **DEPRESSANTS.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- a. Amobarbital.
- b. Methaqualone.
- c. Pentobarbital.
- d. Phencyclidine.
- e. Secobarbital.

6. **IMMEDIATE PRECURSORS.** 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. Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.
- b. Immediate precursors to phencyclidine (PCP):
  - (1) 1-phenylcyclohexylamine.
  - (2) 1-piperidinocyclohexanecarbonitrile (PCC).

7. Marijuana, tetrahydrocannabinol and chemical derivatives of tetrahydrocannabinol shall be deemed to be schedule II substances, but only when used for medicinal purposes pursuant to rules of the board of pharmacy examiners.

Sec. 10. Section 204.208, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**204.208 SCHEDULE III—SUBSTANCES INCLUDED.**

1. The controlled substances listed in this section are included in schedule III.

2. **STIMULANTS.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- a. Benzphetamine.
- b. Chlorphentermine.
- c. Clortermine.
- d. Phendimetrazine.

3. **DEPRESSANTS.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- a. Any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedules.

b. Any suppository dosage form containing amobarbital, secobarbital, pentobarbital or any salt of any of these drugs and approved by the federal food and drug administration for marketing only as a suppository.

c. Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof.

d. Chlorhexadol.

e. Glutethimide.

f. Lysergic acid.

g. Lysergic acid amide.

h. Methyprylon.

i. Sulfondiethylmethane.

j. Sulfonethylmethane.

k. Sulfonmethane.

4. NALORPHINE.

5. NARCOTIC DRUGS. 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 point eight grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

b. Not more than one point eight grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

c. Not more than three hundred milligrams of dihydrocodeinone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

d. Not more than three hundred milligrams of dihydrocodeinone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

e. Not more than one point eight grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

f. Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

g. Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

h. Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

6. The board by rule may except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections 2 and 3 of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.



Sec. 11. Section 204.210, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**204.210 SCHEDULE IV—SUBSTANCES INCLUDED.**

1. The controlled substances listed in this section are included in schedule IV.

2. **NARCOTIC DRUGS.** 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).

3. **DEPRESSANTS.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- a. Alprazolam.
- b. Barbital.
- c. Chloral betaine.
- d. Chloral hydrate.
- e. Chlordiazepoxide.
- f. Clonazepam.
- g. Clorazepate.
- h. Diazepam.
- i. Ethchlorvynol.
- j. Ethinamate.
- k. Flurazepam.
- l. Halazepam.
- m. Lorazepam.
- n. Mebutamate.
- o. Meprobamate.
- p. Methohexital.
- q. Methylphenobarbital (mephobarbital).
- r. Oxazepam.
- s. Paraldehyde.
- t. Petrichloral.
- u. Phenobarbital.
- v. Prazepam.
- w. Temazepam.
- x. Triazolam.

4. **FENFLURAMINE.** Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

- a. Fenfluramine.

5. **STIMULANTS.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- a. Diethylpropion.
  - b. Mazindol.
  - c. Pemoline (including organometallic complexes and chelates thereof).
  - d. Phentermine.
  - e. Pipradrol.
  - f. SPA ((-)-1-dimethylamino-1,2-diphenylethane).
6. OTHER SUBSTANCES. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

- a. Pentazocine.

Sec. 12. Section 204.212, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**204.212 SCHEDULE V—SUBSTANCES INCLUDED.**

1. The controlled substances listed in this section are included in schedule V.
2. Narcotic drugs containing nonnarcotic active medicinal ingredients. Any 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, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:
  - a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams.
  - b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams.
  - c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams.
  - d. Not more than two point five milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit.
  - e. Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams.
  - f. Not more than point five milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

Sec. 13. Section 204.401, subsection 1, paragraph a, Code 1983, is amended to read as follows:

- a. A substance classified in schedule I or II which is a narcotic drug or cocaine, is guilty of a class "C" felony.

Sec. 14. Section 204.401, subsection 2, paragraph a, Code 1983, is amended to read as follows:

- a. A counterfeit substance classified in schedule I or II which is a narcotic drug or cocaine, or a simulated controlled substance represented to be a narcotic drug or cocaine classified in schedule I or II, is guilty of a class "C" felony.

Sec. 15. Section 204.406, Code 1983, is amended to read as follows:

**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 or cocaine, 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 cocaine, or a simulated controlled substance represented to be a narcotic drug or cocaine 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. 16. Section 204.409, subsection 1, Code 1983, is amended to read as follows:

1. Whenever ~~any~~ a person who has not previously been convicted of ~~any~~ an offense under this chapter or ~~any~~ an offense under ~~any~~ a state or federal statute relating to narcotic drugs or cocaine, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under section 204.401, subsection 3, or is sentenced pursuant to section 204.410, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place ~~him~~ the accused on probation upon terms and conditions as it requires. When a person is placed on probation under this subsection, ~~his~~ the person's appearance bond may be discharged at the discretion of the court. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against ~~him~~ the person. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under section 204.410. Discharge and dismissal under this section may occur only once with respect to any person.

Sec. 17. Section 204.411, subsection 2, Code 1983, is amended to read as follows:

2. For purposes of this section, an offense is considered a second or subsequent offense, if, prior to ~~his~~ the person's having been convicted of the offense, the offender has ever been convicted under this chapter or under any state or federal statute relating to narcotic drugs or cocaine, marijuana, depressant, stimulant, or hallucinogenic drugs.

Approved March 6, 1984

**CHAPTER 1014**  
**ACCESS TO LIBRARY RECORDS**  
*S.F. 442*

**AN ACT** relating to access to library records by criminal justice agencies.

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

Section 1. Section 68A.7, subsection 13, Code Supplement 1983, is amended to read as follows:

13. The records of a library which, by themselves or when examined with other public records, would reveal the identity of the library patron checking out or requesting an item from the library. The records shall be released to a criminal justice agency only pursuant to an investigation of a particular person or organization suspected of committing a known crime. The records shall be released only upon a judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling.

Approved March 12, 1984

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**CHAPTER 1015**  
**MERIT SYSTEM EMPLOYEES PROTECTION**  
*H.F. 2019*

**AN ACT** to protect state employees from personnel actions as reprisals for providing information to legislators or disclosing waste, mismanagement, or violations of law, and subjecting violators to a penalty.

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

Section 1. Section 19A.19, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a merit system administered by, or subject to approval of, the Iowa merit employment commission as a

reprisal for a disclosure of information by that employee to a member of the general assembly, the legislative service bureau, the legislative fiscal bureau, or the respective caucus staffs of the general assembly, or a disclosure of information which the employee reasonably believes evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. This subsection does not apply if the disclosure of that information is prohibited by statute.

Approved March 16, 1984

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**CHAPTER 1016**  
**CHILD RESTRAINT SYSTEMS REQUIRED**  
*S.F. 2089*

**AN ACT** requiring children under the age of six being transported in certain motor vehicles to be secured by child restraint systems, seat belts, or harnesses and providing a penalty and effective date.

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

Section 1. NEW SECTION. 321.446 CHILD RESTRAINT DEVICES.

1. A child under three years of age who is being transported in a motor vehicle subject to registration which has a gross weight of ten thousand pounds or less as specified by the manufacturer, except a school bus or motorcycle, shall be secured during transit by a child restraint system which meets federal motor vehicle safety standards and the system shall be used in accordance with the manufacturer's instructions.

2. A child at least three years of age but under six years of age who is being transported in a motor vehicle subject to registration which has a gross weight of ten thousand pounds or less as specified by the manufacturer, except a school bus or motorcycle, shall be secured during transit by either a child restraint system that meets federal motor vehicle safety standards and is used in accordance with the manufacturer's instructions, or by a safety belt or safety harness of a type approved under section 321.445.

3. This section does not apply to nonresidents of Iowa or to peace officers acting on official duty. This section also does not apply to the transportation of children in 1965 model year or older vehicles. This section does not apply to the transportation of a child who has been certified by a physician licensed under chapter 148, 150, or 150A as having a medical, physical, or mental condition which prevents or makes inadvisable securing the child in a child restraint system, safety belt or safety harness.

4. The operator who violates subsection 1 or 2 is guilty of a misdemeanor and subject only to the penalty provisions of section 5 of this Act.

5. A person who is first charged for a violation of subsection 1 and who has not purchased or otherwise acquired a child restraint system shall not be convicted if the person produces in court, within a reasonable time, proof that the person has purchased or otherwise acquired a

child restraint system which meets federal motor vehicle safety standards.

6. Failure to use a child restraint system, safety belts, or safety harnesses as required by this section does not constitute negligence nor is the failure admissible as evidence in a civil action.

Sec. 2. Section 321.210, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall not consider or assess any points for violations of section 321.446, in determining a license suspension under this section.

Sec. 3. Section 321.445, unnumbered paragraph 5, Code 1983, is amended to read as follows:

Failure to use seat belts installed in a motor vehicle shall is not be a crime or a public offense except as provided in section 321.446.

Sec. 4. Section 321.555, subsection 2, Code 1983, is amended to read as follows:

2. Six or more of any separate and distinct offenses within a two-year period in the operation of a motor vehicle which are required to be reported to the department by section 321.207 or chapter 321C, except equipment violations, violations of parking regulations of cities, violations of registration laws, violations of section 321.446, operating a vehicle with an expired license or permit, failure to appear, and weights and measures violations and speeding violations of less than fifteen miles per hour over the legal speed limit.

Sec. 5. Section 805.8, subsection 2, Code Supplement 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. For failing to secure a child with a child restraint system, safety belt, or harness in violation of section 321.446, the scheduled fine is ten dollars.

Sec. 6. This Act takes effect January 1, 1985.

Approved March 16, 1984

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## CHAPTER 1017

### INTEREST ON LIFE INSURANCE POLICY LOANS

H.F. 2263

**AN ACT** to regulate interest rates on life insurance policy loans.

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

Section 1. NEW SECTION.

1. Life insurance policies issued after July 1, 1984 may provide interest rates on policy loans in accordance with either of the following:

- a. A maximum interest rate of not more than eight percent per annum.
- b. An adjustable maximum interest rate established as permitted under this section.

2. The rate of interest charged on a policy loan made under subsection 1, paragraph "b", shall not exceed the greater of the following:

a. The published monthly average for the calendar month ending two months before the date on which the rate is determined. For purposes of this subsection, "published monthly average" means one of the following:

(1) Moody's corporate bond yield average-monthly average corporates as published in Moody's investors service, inc., or any successor to the investors service.

(2) If Moody's corporate bond yield average-monthly average corporates is no longer published, a substantially similar average established by rule issued by the commissioner of insurance.

(3) On or before the first day of each month, the commissioner of insurance shall determine the "published monthly average" for the calendar month ending one month before the date on which the monthly average is determined, and publish the rate, as a notice in the Iowa administrative bulletin or as a legal notice in a newspaper of general circulation published in Polk county prior to the first day of the following calendar month. This published monthly average is effective on the first day of the following calendar month. The determination of this published monthly average by the commissioner of insurance is exempt from chapter 17A.

b. The rate used to compute the cash surrender values under the policy during the applicable period plus one percent per annum.

3. If the maximum rate of interest is determined under subsection 1, paragraph "b", the policy shall state the frequency at which the rate is to be determined for that policy.

4. The maximum rate for the policy shall be determined at established intervals at least once every twelve months, but not more frequently than once every three months. At the intervals established in the policy the rate:

a. May be increased when an increase as determined under subsection 2 would increase the charged rate by one-half percent or more per annum.

b. Shall be reduced when a reduction as determined under subsection 2 would decrease the charged rate by one-half percent or more per annum.

5. When a cash loan is made, the insurer shall notify the policyholder of the initial interest rate on the loan. With respect to premium loans, the insurer shall notify the policyholder of the initial interest rate as soon as the insurer can reasonably do so after making the loan. An insurer need not inform the policyholder of the interest rate when an additional premium loan is made unless the interest rate increases. However, policyholders with either cash or premium loans shall receive reasonable advance notice of any increase in the interest rate. Notices required under this subsection shall also contain the following information:

a. The maximum interest rate on the loan if the loan is a fixed rate loan.

b. The fact that the interest rate is adjustable if the loan is an adjustable rate loan.

c. The frequency at which the rate is to be determined for that policy or if an adjustable interest rate, the established intervals at which the rate may be adjusted.

6. A policy shall not terminate in a policy year solely as the result of change in the interest rate during that year. The life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

7. Policies of insurance upon which a loan can be made shall state the following:

a. Whether fixed rate loans or adjustable rate loans are permitted.

b. If fixed rate loans are permitted, the maximum rate of interest on those loans.

c. If adjustable rate loans are permitted, the established intervals at which the rate may be adjusted.

8. Unless the context otherwise requires, for purposes of this section:

a. The rate of interest on policy loans includes the interest rate charged on reinstatement of policy loans for the period during and after a lapse of the policy.

b. "Policy loan" includes a premium loan made under a policy to pay a premium that was not paid to the insurer when due.

c. "Policyholder" includes the owner of the policy or the person designated, on the records of the insurer, to pay premiums.

d. "Policy" includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

9. Other provisions of law do not apply to policy loan interest rates unless made specifically applicable to the rates.

Sec. 2. This Act applies to all insurance contracts issued on or after the effective date of this Act, but this Act does not apply to an insurance contract issued before the effective date of this Act unless the policyholder agrees in writing to its applicability.

Approved March 16, 1984

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**CHAPTER 1018**  
**NOTICE OF ZONING ACTIONS BY CITIES**  
*H.F. 2184*

**AN ACT** relating to publication of notice for zoning actions taken under chapter 414.

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

Section 1. Section 414.4, Code 1983, is amended to read as follows:

414.4 REGULATIONS AND BOUNDARIES. The council of ~~such~~ the city shall provide for the manner in which ~~such~~ the regulations and restrictions and the boundaries of ~~such~~ the districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, ~~no such~~ the regulation, restriction, or boundary shall not become effective until after a public hearing ~~in relation thereto~~, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' The notice of the time and place of such the hearing shall be published in a paper of general circulation in such city as provided in section 362.3, except that at least seven days notice must be given and in no case shall the public hearing be held earlier than the next regularly scheduled city council meeting following the published notice.

Sec. 2. Section 414.24, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A city may, and upon petition of sixty percent of the owners of the real estate in the district sought to be affected who are residents of the city shall, designate and establish, after notice and hearing as provided in section 414.4, restricted residence districts within the city limits.

Approved March 16, 1984



**CHAPTER 1019**  
**PROBATION OFFICERS**

*H.F. 2170*

**AN ACT** relating to duties and responsibilities of probation officers.

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

Section 1. Section 801.4, subsection 7, paragraph d, Code Supplement 1983, is amended to read as follows:

d. ~~Probation and parole~~ Parole agents acting pursuant to section 906.2.

Sec. 2. Section 801.4, subsection 7, paragraph e, Code Supplement 1983, is amended to read as follows:

e. Probation officers acting pursuant to section 602.7202, subsection 4, and section 907.2.

Sec. 3. Section 906.2, Code 1983, is amended to read as follows:

**906.2 PAROLE OFFICERS AND PROBATION OFFICERS.** Parole officers and probation officers, while performing their duties as such parole officers, are peace officers and have all the powers and authority of peace officers. Parole officers and probation officers shall investigate all persons referred to them for investigation by the chief parole officer ~~or by any court~~ to which they may be assigned or by the director of a judicial district department of correctional services. They shall furnish to each person released under their supervision a written statement of conditions. They shall keep informed of each person's conduct and condition and shall use all suitable methods to aid and encourage the person to bring about improvement in ~~his or her~~ the person's conduct or condition. Parole officers and probation officers shall keep records of their work, ~~shall make reports as required by the court,~~ and shall perform other ~~such~~ duties as may be assigned to them by the chief parole officer ~~or the court~~ or the director of a judicial district department of correctional services. They shall co-ordinate their work with that of other social welfare agencies which offer services of a corrective nature operating in the area to which they are assigned.

Sec. 4. Section 907.2, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**907.2 PROBATION SERVICE – PROBATION OFFICERS.** Pursuant to designation by the court, probation services shall be provided by the judicial district department of correctional services. Probation officers shall perform the duties assigned to them by law and by the director of the judicial district department of correctional services.

Probation officers employed by the judicial district department of correctional services, while performing the duties prescribed by that department, are peace officers. Probation officers shall investigate all persons referred to them for investigation by the director of the judicial district department of correctional services which employs them. They shall furnish to each person released under their supervision or committed to a community corrections residential facility operated by the judicial district department of correctional services, a written statement of the conditions of probation or commitment. They shall keep informed of each person's conduct and condition and shall use all suitable methods prescribed by the judicial

district department of correctional services to aid and encourage the person to bring about improvements in the person's conduct and condition. Probation officers shall keep records of their work and shall make reports to the court when alleged violations occur and within no less than thirty days before the period of probation will expire. Probation officers shall coordinate their work with other social welfare agencies which offer services of a corrective nature operating in the area to which they are assigned.

Approved March 16, 1984

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**CHAPTER 1020**  
**LIABILITY UNDER THE IOWA COMPETITION LAW**  
*H.F. 2335*

**AN ACT** relating to the liability of a county or city, or an administrative or legal entity created by a county or city, under the Iowa competition law.

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

Section 1. Section 553.6, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION. 5.** The activities of a city or county, or an administrative or legal entity created by a city or county, when acting within its statutory or constitutional home rule powers and to the same extent that the activities would not be prohibited if undertaken by the state.

Sec. 2. Section 553.12, subsection 3, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Recover, at the court's discretion, exemplary damages which do not exceed twice the actual damages awarded under subsection 2, from a person other than a city or county or legal entity created by a city or county, if:

Approved March 22, 1984

**CHAPTER 1021**  
**PUBLIC BONDS AND OBLIGATIONS**  
*S.F. 2244*

**AN ACT** relating to public bonds and obligations by correcting references and providing for payment of the costs of registration.

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

Section 1. Section 76.5, Code 1983, is amended to read as follows:

76.5 **EXCEPTIONS APPLICATION.** The provisions of this chapter shall not Sections 76.1 through 76.4 apply only to bonds, the interest or principal of which are or other obligations payable from taxation, other than bonds which are payable out of the primary road fund or out of special assessments against benefited property.

Sec. 2. Section 76.10, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 6.** An issuer of public bonds or obligations may provide for the payment of the costs of registration of its public bonds or obligations by the levy of additional taxes for the payment from the fund for the payment of the principal and interest of general obligation bonds or from any revenue source from which the principal and interest of the public bonds or obligations are payable.

Approved March 26, 1984

**CHAPTER 1022**  
**PARKING VIOLATIONS**  
*H.F. 2330*

**AN ACT** relating to parking violations and providing, with certain exceptions, that parking violations not be considered for license suspensions or revocations.

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

Section 1. Section 321.210, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The department shall not consider or assess points for a parking violation in determining a license suspension under this section and a parking violation is not a moving traffic violation. For purposes of this section, a "parking violation" means a violation of a parking ordinance by local authorities, a violation of section 601E.6, section 321.366, subsection 6, or sections 321.354 through 321.361 except section 321.354, subsection 1.

Sec. 2. Section 321.354, Code 1983, is amended to read as follows:

**321.354 STOPPING ON TRAVELED WAY.** Upon any highway outside of a business or residence district ~~no~~ a person shall not stop, park, or leave standing any a vehicle, whether attended or unattended, ~~upon:~~

1. Upon the paved or improved or main traveled part of the highway when it is practical to stop, park, or so leave such the vehicle off such that part of said the highway, but in every event however, a clear and unobstructed width of at least twenty feet of such the paved part of the highway opposite such the standing vehicle shall be left for the free passage of other vehicles and a. As used in this subsection, "paved highway" includes an asphalt surfaced highway.

2. Upon the main traveled part of a highway other than a paved highway when it is practical to stop, park, or leave the vehicle off that part of the highway. However, a clear and unobstructed width of that part of the highway opposite the standing vehicle shall be left to allow for the free passage of other vehicles.

**PARAGRAPH DIVIDED.** A clear view of such the stopped vehicle shall be available from a distance of two hundred feet in each direction upon such highway; provided, however the highway. However, school buses may stop on the highway for receiving and discharging pupils and all other vehicles shall stop for school buses which are stopped to receive or discharge pupils, as provided in section 321.372. This section shall does not apply to a vehicle making a turn as provided in section 321.311.

Sec. 3. Section 321.178, subsection 2, paragraph b, Code 1983, is amended to read as follows:

b. The department may suspend a restricted license 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 a law of this state or a city ordinance, ~~other than parking regulations, regulating the operation of motor vehicles on~~

highways ~~and after~~, other than parking violations as defined in section 321.210. After revoking a license under this section the department shall not grant an application for any a new license or permit until the expiration of one year or until the person attains his or her eighteenth birthday the age of eighteen whichever is the longer period.

Sec. 4. Section 321.189, subsection 2, paragraph c, Code 1983, is amended to read as follows:

c. As used in this section, "moving traffic violation" does not include ~~any a parking violation as defined in section 321.210 or a violation of any a section of the Code or any municipal ordinance pertaining to the standards to be maintained for motor vehicle equipment except sections 321.430 and 321.431, or any except a municipal ordinance pertaining to motor vehicle brake requirements as applicable to motorized bicycles.~~

Sec. 5. Section 321.194, unnumbered paragraph 3, Code Supplement 1983, is amended to read as follows:

A license issued under this section is subject to suspension or revocation in like manner as any other license or permit issued under a law of this state. The department may also suspend a 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 a 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 a law of this state or a city ordinance, ~~other than parking regulations, regulating the operation of motor vehicles on highways other than parking violations as defined in section 321.210.~~ After revoking a license under this section the department shall not grant an application for a new license or permit until the expiration of one year or until the licensee's sixteenth birthday whichever is the longer period.

Sec. 6. Section 321.215, subsection 3, Code 1983, is amended to read as follows:

3. A temporary restricted permit ~~shall be~~ is valid only if the department is in receipt of records required by this section. The permit shall be canceled upon conviction of a moving traffic violation ~~as defined in section 321.181,~~ or upon any violation of the terms of the permit. A "moving traffic violation" does not include a parking violation as defined in section 321.210.

Sec. 7. Section 321.283, subsection 13, Code 1983, is amended to read as follows:

13. FEE FOR TEMPORARY PERMIT. The fee for a temporary driving permit under subsection 6 ~~shall be~~ is three dollars. The temporary driving permit must be in the permittee's immediate possession while operating a motor vehicle and ~~shall be~~ becomes invalid when the permittee is issued a drivers license. The temporary driving permit shall be canceled upon conviction for a moving traffic violation. A "moving traffic violation" does not include a parking violation as defined in section 321.210.

Sec. 8. Section 321.366, unnumbered paragraph 1 and subsection 5, Code 1983, are amended to read as follows:

It is unlawful for ~~any a~~ person, except a person operating highway maintenance equipment or an authorized emergency vehicle, to do any of the following on a fully controlled-access facility:

5. Stop, park, or leave standing ~~any a~~ vehicle, whether attended or unattended, upon the paved portion.

6. Stop, park, or leave standing a vehicle, whether attended or unattended, upon the shoulders, or the right of way except at designated rest areas or in case of an emergency or other dire necessity.

Sec. 9. Section 321.555, subsection 2, Code 1983, is amended to read as follows:

2. Six or more of any separate and distinct offenses within a two-year period in the operation of a motor vehicle which are required to be reported to the department by section 321.207 or chapter 321C, except equipment violations, ~~violations of parking regulations of cities~~ violations as defined in section 321.210, violations of registration laws, operating a vehicle with an expired license or permit, failure to appear, and weights and measures violations and speeding violations of less than fifteen miles per hour over the legal speed limit.

Approved March 27, 1984

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## CHAPTER 1023

### TELEPHONE DIRECTORY ASSISTANCE CHARGES

*H.F. 2338*

**AN ACT** requiring telephone companies to provide a listing of directory assistance charges and striking a prohibition against directory assistance charges for telephone numbers which do not appear in the most recent telephone directory.

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

Section 1. Section 476.6, subsection 2, Code Supplement 1983, is amended by striking the subsection and inserting in lieu thereof the following:

2. **TELEPHONE DIRECTORY ASSISTANCE CHARGES—RECORD PROVIDED.** The Iowa state commerce commission shall not approve a schedule of directory assistance charges unless the schedule provides that residential customers be provided a record of the date and time of each directory assistance call made from their residence.

Sec. 2. This Act applies to applications for new or changed rates, charges, schedules, or regulations filed on or after its effective date.

Approved March 27, 1984

**CHAPTER 1024**  
**JURISDICTION OVER NATIONAL PARK LANDS AND WATERS**  
*H.F. 2480*

**AN ACT** ceding to the United States concurrent legislative jurisdiction over and within certain lands and waters dedicated to national park purposes.

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

**Section 1. NEW SECTION. 1.16 CONCURRENT JURISDICTION OVER LANDS AND WATERS DEDICATED TO NATIONAL PARK PURPOSES.**

1. Concurrent legislative jurisdiction over crimes and offenses under the laws of the state of Iowa is ceded to the United States over and within all lands and waters within the state dedicated to national park purposes.

2. The concurrent jurisdiction ceded by subsection 1 is vested upon acceptance by the United States by and through its appropriate officials and shall continue *so long* as the lands and waters within the designated areas are dedicated to national park purposes.

3. The governor of the state of Iowa is authorized and empowered to execute all proper conveyances in the cession granted by this section, upon request of the United States by and through its appropriate officials.

4. The state of Iowa retains concurrent jurisdiction, both civil and criminal, with the United States over all lands and waters affected by this section.

Approved April 6, 1984

**CHAPTER 1025**  
**INTEREST ON CERTAIN TAX OVERPAYMENTS**  
*S.F. 2318*

**AN ACT** relating to the computation of interest on overpayments arising from the carryback of a net operating loss or net capital loss for individual and corporate income and franchise tax purposes.

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

Section 1. Section 422.25, subsection 3, Code Supplement 1983, is amended to read as follows:

3. If the amount of the tax as determined by the department is less than the amount paid, the excess shall be refunded 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 in effect under section 421.7 counting each fraction of a month as an entire month under the rules prescribed by the director. If an overpayment of tax results from a net operating loss or net capital loss which is carried back to a prior year, the overpayment, for purposes of computing interest on refunds, shall be considered as having been made ~~at the close of the taxable year in which the net operating loss or net capital loss occurred~~ on the date a claim for refund or amended return carrying back the net operating loss or net capital loss is filed with the department or on the first day of the second calendar month following the date of the actual payment of the tax, whichever is later. However, when the net operating loss or net capital loss carryback to a prior year eliminates or reduces an underpayment of tax due for an earlier year, the full amount of the underpayment of tax shall bear interest at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month from the due date of the tax for the earlier year to the last day of the taxable year in which the net operating loss or net capital loss occurred.

Sec. 2. This Act applies to claims for refund or amended returns resulting from the carryback of net operating losses and net capital losses filed thirty days after the effective date of this Act.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Union-Republican, a newspaper published in Albia, Iowa, and in the Pella Chronicle, a newspaper published in Pella, Iowa.

Approved May 4, 1984

I hereby certify that the foregoing Act was published in the Union-Republican, Albia, Iowa on May 10, 1984 and in the Pella Chronicle, Pella, Iowa on May 9, 1984.

MARY JANE ODELL *Secretary of State*



**CHAPTER 1026**  
**LEGISLATIVE VISITATION COMMITTEES**  
*H.F. 2126*

**AN ACT** relating to the membership of legislative visitation committees.

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

Section 1. Section 2.51, Code 1983, is amended to read as follows:

2.51 VISITATIONS. The legislative fiscal committee, with the approval of the legislative council, may direct a subcommittee, which shall be composed of the chairpersons and minority party ranking members of the appropriate subcommittees of the committees on budget of the senate and the house of representatives and the chairpersons of the appropriate standing committees of the general assembly, to visit the offices and facilities of any state office, department, agency, board, bureau, or commission to review programs authorized by the general assembly and the administration of the programs. When the legislative fiscal committee visits the offices and facilities of any state office, department, agency, board, bureau, or commission to review programs authorized by the general assembly and the administration of the programs, there shall be included the chairpersons and minority party ranking members of the appropriate subcommittees of the committees on budget of the senate and the house of representatives. The legislative council may appoint a member of the subcommittee or standing committee to serve in place of that subcommittee's or standing committee's chairperson or minority party ranking member on the legislative fiscal visitation committee or subcommittee if that person will be absent. The subcommittee and the legislative fiscal committee shall be provided with information by the legislative fiscal bureau concerning budgets, programs, and legislation authorizing programs prior to any visitation. Members of a committee shall be compensated pursuant to section 2.10, subsection 6. The subcommittee shall make reports and recommendations as required by the legislative fiscal committee.

Approved April 6, 1984

**CHAPTER 1027**  
**PLACEMENT OF MOTOR VEHICLE STICKERS**  
*H.F. 2212*

**AN ACT** to provide for the placement of validation stickers on only the rear registration plate for certain motor vehicles.

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

Section 1. Section 321.34, subsection 2, unnumbered paragraph 1, Code Supplement 1983, 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 the vehicle and may adopt and prescribe annual validation stickers indicating payment of registration fees. The department shall issue two validation stickers for each set of registration plate plates. 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 and need not be reissued annually. The month of registration shall not be required on registration plates or validation stickers issued for vehicles registered under chapter 326. The stickers shall be displayed only on the rear registration plate, except that the stickers shall be displayed on the front registration plate of a truck-tractor.

Sec. 2. This Act takes effect December 1 following enactment.

Approved April 6, 1984

**CHAPTER 1028**  
**PAYMENT OF SPECIAL DRAINAGE ASSESSMENTS**  
*H.F. 2323*

**AN ACT** relating to the payment of special assessments of drainage districts.

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

Section 1. Section 455.63, Code 1983, is amended to read as follows:

455.63 PAYMENT BEFORE BONDS OR CERTIFICATES ISSUED. All assessments for benefits, as corrected and approved by the board, shall be levied at one time against the property benefited, and when levied and certified by the board, shall be are payable at the office of the county treasurer. ~~Each person or corporation shall have the right, within twenty~~ Within thirty days after the levy of assessments, ~~to a person may pay his or its~~ the assessment in full without interest, and before any warrants against assessments, improvement certificate or drainage bond is issued ~~therefor~~ for it, and may pay any certificate at any time after issue, with accrued interest.

Approved April 6, 1984

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**CHAPTER 1029**  
**EARNINGS OF PERSONS IN RESIDENTIAL TREATMENT CENTERS**  
*H.F. 2375*

**AN ACT** providing for the surrender and disposition of earnings of persons committed to residential treatment centers operated by judicial district departments of correctional services.

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

Section 1. NEW SECTION. 905.12 SURRENDER OF EARNINGS. Persons committed to a residential treatment center operated by a judicial district department of correctional services by the court or upon order of the director of the Iowa department of corrections shall surrender to the judicial district department of correctional services their total earnings less payroll deductions required by law. The judicial district department of correctional services shall deduct from the earnings in the following order of priority:

1. An amount determined to be the cost to the judicial district department of correctional services for food, lodging and other expenses incurred by or on behalf of the resident.

2. An amount the resident may be legally obligated to pay for the support of dependents, which shall be paid to the dependents directly or through the department of human services in the county in which the dependents reside.

3. Any other financial obligations which are admitted to by the resident or any judgment granted by the court to another person to whom the resident owes money, but no earnings of a resident are subject to garnishment while the person is committed to the center.

4. Restitution ordered by the court under chapter 910.

Any balance remaining after deductions and payments shall be credited to the resident's personal account at the judicial district department of correctional services and shall be paid to the resident upon release.

Approved April 6, 1984

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## CHAPTER 1030

### APPLICATIONS FOR COMMUNITY MENTAL HEALTH FUNDING

*H.F. 2379*

**AN ACT** extending the dates for application and approval of community mental health and mental retardation funding.

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

Section 1. Section 225C.10, subsection 1, paragraph b, Code 1983, is amended to read as follows:

b. Submits or joins other counties in submitting, prior to ~~September~~ October 15 of each year, an application for a share of the general allocation for the succeeding fiscal year which is in conformity with subsection 2.

Sec. 2. Section 225C.10, subsection 3, Code 1983, is amended to read as follows:

3. Each application shall be for a period of at least one year and shall be acted upon as soon as reasonably possible by the director, who shall notify the applicant county or counties of the action on the application no later than ~~November~~ December 1 of the year in which the application is submitted. Money from the general allocation shall be disbursed on a quarterly basis to the counties entitled to the money under section 225C.9 and this section. Counties receiving the money shall submit quarterly financial and plan status reports in the manner prescribed by the director.

Approved April 6, 1984

**CHAPTER 1031**  
**TELEPHONE COMPANY REGULATION**  
*H.F. 2404*

**AN ACT** relating to the definition of telephone companies not generally subject to rate regulation.

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

Section 1. Section 476.1, unnumbered paragraph 4, Code Supplement 1983, is amended to read as follows:

Mutual telephone companies in which at least fifty percent of the users are owners, cooperative telephone corporations or associations, telephone companies having less than fifteen thousand stations customers and less than fifteen thousand access lines, municipally owned utilities, and unincorporated villages which own their own distribution system are not subject to the rate regulation provided for in this chapter.

Approved April 6, 1984

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**CHAPTER 1032**  
**MEETING AND LOANS OF STATE BANKS**  
*H.F. 2405*

**AN ACT** relating to the annual meetings of shareholders and the loans to officers of state banks.

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

Section 1. Section 524.302, subsection 10, Code 1983, is amended by striking the subsection.

Sec. 2. Section 524.508, Code 1983, is amended to read as follows:

**524.508 MEETINGS OF SHAREHOLDERS.** Meetings of shareholders may be held at ~~such~~ a place, within this state, as ~~may be~~ provided in the articles of incorporation or the bylaws, or as ~~may be fixed from time to time~~ in accordance with ~~the their~~ their provisions thereof. In the absence of any such provision, all meetings shall be held at the principal place of business of the state bank. An annual meeting of the shareholders shall be held ~~on~~ during the specific ~~and~~ named day month as shall be provided in the articles of incorporation, at the date and time as

stated in or fixed in accordance with the bylaws. Failure to hold the annual meeting ~~on the designated day during the month~~ shall not work a forfeiture or dissolution of the state bank. Special meetings of the shareholders may be called by the president, the board of directors, the holders of not less than one-tenth of all the shares entitled to vote at the meeting, or such other officers or persons as ~~may be provided in the articles of incorporation or the bylaws.~~

Sec. 3. Section 524.706, subsection 1, paragraph a, subparagraphs (2) and (3), Code Supplement 1983, are amended to read as follows:

(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.

(3) Any other loans or extensions of credit which in the aggregate do not at any one time exceed ~~ten thousand dollars~~ the higher of twenty-five thousand or two point five percent of the bank's capital and surplus, but in no event more than one hundred thousand dollars.

Approved April 6, 1984

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## CHAPTER 1033

### MORTGAGE PRIORITY ON COOPERATIVE HOUSING

*H.F. 2409*

**AN ACT** removing the priority of a mortgage given by the trustees of a cooperative housing association over any mortgage, lien, or encumbrance against an individual apartment or room or the owner's interest in an individual apartment or room.

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

Section 1. Section 499A.13, Code 1983, is amended to read as follows:

499A.13 SALE AND ENCUMBRANCE OF THE PREMISES. Neither the premises nor the real estate shall be sold by the trustees unless a three-fourths majority of the owners and the board of directors authorize ~~such the sale.~~ No A mortgage shall not be given by the trustees unless such mortgage it is authorized by a resolution of three-fourths of the owners and the board of directors of the apartment apartments or rooms in said the building and the board of directors, and no such a mortgage shall not be given by the trustees unless it is given for the purchase of, or repair and maintenance of, such the building. Any mortgage executed by the trustees as above provided shall be prior and superior to any mortgage, lien or encumbrance of any individual against any individual apartment or room or the owners interest therein.

Approved April 6, 1984

**CHAPTER 1034**  
**SKILLED NURSING CARE COVERAGE**  
*S.F. 324*

**AN ACT** relating to skilled nursing care coverage provided by insurers and hospital and medical service corporations to hospitalized insureds and subscribers.

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

Section 1. **NEW SECTION. SKILLED NURSING CARE COVERED IN HOSPITALS.** An insurer, a hospital service corporation, or a medical service corporation, which covers the costs of skilled nursing care under an individual or group policy of accident and health insurance regulated under chapter 509 or 514A or under a nonprofit hospital or medical and surgical service plan regulated under chapter 514, shall also cover the costs of skilled nursing care in a hospital if the level of care needed by the insured or subscriber has been reclassified from acute care to skilled nursing care and no designated skilled nursing care beds or swing beds are available in the hospital or in another hospital or health care facility within a thirty-mile radius of the hospital. The insurer or corporation shall reimburse the insured or subscriber based on the skilled nursing care rate.

Approved April 9, 1984

**CHAPTER 1035**  
**COUNCIL ON CHILD ABUSE INFORMATION ABOLISHED**  
*S.F. 2042*

**AN ACT** abolishing the council on child abuse information.

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

Section 1. Section 235A.12, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The purposes of this section and sections 235A.13 to ~~235A.24~~ 235A.23 are to facilitate the identification of victims or potential victims of child abuse by making available a single, state-wide statewide source of child abuse data; to facilitate research on child abuse by making available a single, state-wide statewide source of child abuse data; and to provide maximum safeguards against the unwarranted invasions of privacy which such a registry might otherwise entail.

Sec. 2. Section 235A.13, unnumbered paragraph 1, Code 1983, is amended to read as follows:

As used in sections 235A.12 to ~~235A.24~~ 235A.23, unless the context otherwise requires:

Sec. 3. Section 235A.24, Code Supplement 1983, is repealed.

Approved April 9, 1984

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**CHAPTER 1036**  
**SCHOOL BOND MEETING REPEALED**  
*S.F. 2167*

**AN ACT** to repeal the requirement that a meeting be called upon request by the area education agency board or a contiguous school district concerning a proposal by a school district board to issue general obligation bonds for construction or renovation of a school building.

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

Section 1. Section 297.7, subsection 3, Code 1983, is amended by striking the subsection.

Approved April 9, 1984



**CHAPTER 1037**  
**SCHOOL DROPOUT PROGRAMS**  
*S.F. 2168*

**AN ACT** relating to programs for returning dropouts and dropout prevention by a local school district.

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

Section 1. Section 442.51, Code Supplement 1983, is amended to read as follows:

**442.51 PROGRAMS FOR RETURNING DROPOUTS AND DROPOUT PREVENTION.** For the school year beginning July 1, 1984 and succeeding school years, boards of school districts, individually or jointly with boards of other school districts, requesting to use additional allowable growth for programs for returning dropouts and dropout prevention, may annually submit comprehensive program plans for the programs and budget costs, including requests for additional allowable growth for funding the programs, to the department of public instruction as provided in this chapter. In addition to the requirements for program plans listed in section 442.32, the program plans shall include:

1. A provision for dropout prevention and integration of dropouts into the educational program of the district.
2. A provision for identifying dropouts.
3. A program for returning dropouts.

Program plans for dropouts shall identify the parts of the plan that will be implemented first upon approval of the application. If a district is requesting to use additional allowable growth to finance the program, it shall not identify more than five percent of its budget enrollment for the budget year as returning dropouts and potential dropouts.

Sec. 2. Section 442.52, Code Supplement 1983, is amended to read as follows:

**442.52 DEFINED DEFINITIONS.**

1. "Returning dropouts" are resident pupils who have been enrolled in a public or nonpublic school in any of grades seven through twelve who withdrew from school for a reason other than transfer to another school or school district and who subsequently enrolled in public school in the district.

2. "Potential dropouts" are resident pupils who are enrolled in a public or nonpublic school in any of grades seven through twelve who demonstrate poor school adjustment and are expected to terminate school before graduation. Poor school adjustment is demonstrated by two or more of the following:

- a. High rate of absenteeism, truancy, or frequent tardiness.
- b. Limited or no extracurricular participation or lack of identification with school, including but not limited to, expressed feelings of not belonging.
- c. Poor grades, including but not limited to, failing in one or more school subjects or grade levels.
- d. Low achievement scores in reading or mathematics which reflect achievement at two years or more below grade level.

Sec. 3. Section 442.53, Code Supplement 1983, is amended to read as follows:

**442.53 PLANS FOR RETURNING DROPOUTS AND DROPOUT PREVENTION.** The board of directors of a school district requesting to use additional allowable growth for programs for returning dropouts and dropout prevention shall submit applications for approval for the programs to the department not later than November 1 preceding the fiscal year during which the program will be offered. 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. An 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 the 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.

Sec. 4. Section 442.54, Code Supplement 1983, is amended to read as follows:

**442.54 FUNDING FOR PROGRAMS FOR RETURNING DROPOUTS AND DROPOUT PREVENTION.** The budget of an approved program for returning dropouts and dropout prevention for a school district, after subtracting funds received from other sources for that purpose, shall be funded annually on a basis of one-fourth or more from the district cost of the school district and up to three-fourths by an increase in allowable growth as defined in section 442.7. Annually, the state comptroller shall establish a modified allowable growth for each such district equal to the difference between the approved budget for the program for returning dropouts and dropout prevention for that district and the sum of the amount funded from the district cost of the school district plus funds received from other sources.

Approved April 9, 1984

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## CHAPTER 1038

### DISPENSING OF GENERICALLY EQUIVALENT DRUGS

S.F. 2175

**AN ACT** relating to dispensing of generically equivalent drugs.

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

Section 1. Section 155.37, subsection 2, paragraph c, Code Supplement 1983, is amended by striking the paragraph.

Approved April 9, 1984

**CHAPTER 1039**  
**AGREEMENTS FOR DISPOSAL OF SOLID WASTE**  
*H.F. 2421*

**AN ACT** relating to the collection, transportation, storage, and disposal of solid waste.

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

Section 1. NEW SECTION. 28H.1 PURPOSE. The purpose of this chapter is to allow two or more local governments to form a public service monopoly when they find that a public service monopoly is an effective means to protect the public health and welfare through adequate solid waste collection, transportation, storage and disposal practices and is the only effective means of allowing the construction and utilization of a resource recovery facility for the recycling of solid waste for use as an energy source.

Sec. 2. NEW SECTION. 28H.2 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Recyclable materials" means those materials separated by a person from solid waste incidental to the collection of the solid waste for utilization as raw materials to be manufactured into a new product.

2. "Private agency" means a private agency as defined in section 28E.2.

Sec. 3. NEW SECTION. 28H.3 CREATION OF PUBLIC SERVICE MONOPOLY. If two or more local governments find that the only effective means of allowing the construction and utilization of a resource recovery facility for the recycling of solid waste for use as an energy source is to create a public service monopoly, a legal entity shall be created pursuant to chapter 28E by agreement of two or more local governments to displace competition with regulation and monopoly of a public service for the collection, transportation, storage, and disposal, or diversion of solid waste to the extent reasonably necessary to carry out these functions. The agreement is subject to approval of the water, air and waste management commission before it becomes effective.

Sec. 4. NEW SECTION. 28H.4 POWERS OF ENTITY. A legal entity created pursuant to chapter 28E and operating under this chapter has all the rights, powers, privileges, and immunities of local governments relating to the purpose for which it is created. A legal entity operating under this chapter may:

1. Engage in, manage, own, operate, and regulate the collection, transportation, storage, and disposal or diversion of solid waste including, but not limited to, the designation of a specific facility which must be used for the collection, transportation, storage, and disposal or diversion of solid waste within its jurisdiction or geographic area.

2. Grant permits, licenses, or franchises, exclusive or nonexclusive, or a combination of exclusive or nonexclusive franchises, to solid waste management services.

3. Enter into contracts for construction and may contract, license, or permit the construction of resource recovery facilities for recycling of solid waste for an energy source.

4. Require the use of the resource recovery facilities by any person who can be effectively served by the facilities. However, this subsection does not prohibit a private agency from

dumping or depositing solid waste resulting from its own residential, farming, manufacturing, mining or commercial activities on land owned or leased by it if the action does not violate any statute of this state or rules promulgated by the water, air and waste management commission or local boards of health or local ordinances.

Sec. 5. NEW SECTION. 28H.5 REVENUE BONDS. A legal entity operating under this chapter may issue bonds as provided under chapter 28F for the planning, design, acquisition, construction, reconstruction, improvement, equipping, and furnishing of a solid waste management project as authorized under this chapter.

Sec. 6. NEW SECTION. 28H.6 ANNUAL REPORT. A legal entity created pursuant to chapter 28E and operating under this chapter shall report annually to the department of water, air and waste management. The report shall include information on permits, licenses or franchises granted by the legal entity, contracts entered into, and other information requested by the water, air and waste management commission.

Sec. 7. NEW SECTION. 28H.7 OBLIGATIONS NOT EXCUSED. This chapter does not exempt a legal entity from obtaining any approval, permit or license otherwise required by ordinance or state law.

Sec. 8. NEW SECTION. 28H.8 LIMITATION ON POWERS. A legal entity operating under this chapter shall not require the incineration of recyclable materials.

Sec. 9. NEW SECTION. 28H.9 NONAPPLICABILITY. Chapter 553 does not apply to a legal entity operating under this chapter.

Approved April 10, 1984

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## CHAPTER 1040

### LEVEE OR DRAINAGE DISTRICT TRUSTEES

H.F. 80

**AN ACT** relating to eligibility to serve on the board of trustees of a levee or drainage district.

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

Section 1. NEW SECTION. 459.13 TRUSTEE CONTROL. A district formed pursuant to this chapter, under the control of a city council, may be placed under the control and management of a board of trustees as provided in chapter 462. Each trustee shall be a citizen of the United States not less than eighteen years of age and a bona fide owner of benefited land in the district for which the trustee is elected. If the owner is a family farm corporation as defined by section 172C.1, subsection 8, a business corporation organized and existing under chapter 491, 494, or 496A, or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

Approved April 10, 1984

**CHAPTER 1041****TIME FOR SETTING AMOUNT OF RESTITUTION***H.F. 245*

**AN ACT** relating to the time by which a court shall set out the amount of restitution in a criminal case.

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

Section 1. Section 910.3, Code 1983, is amended to read as follows:

910.3 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 or at a later date to be determined by the court, 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.

Approved April 10, 1984

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**CHAPTER 1042****DIFFERENTIAL TREATMENT BASED ON GENDER***H.F. 591*

**AN ACT** prohibiting the general assembly from passing any bill that uses gender as the basis for differential treatment.

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

Section 1. **NEW SECTION. 2.33 DIFFERENTIAL TREATMENT.** The general assembly shall not pass a bill that uses gender as the basis for differential treatment unless there is a compelling reason for the differential treatment and no reasonable alternatives exist by which the treatment could be mitigated or avoided.

Approved April 10, 1984

**CHAPTER 1043**  
**QUADRENNIAL TRANSPORTATION NEEDS STUDY**  
*H.F. 2071*

**AN ACT** to provide for the transportation commission to submit the results of the quadrennial need study to the general assembly by January 1 of the year in which the quadrennial need study becomes effective.

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

Section 1. Section 307A.2, subsection 14, Code 1983, is amended to read as follows:

14. For the four-year period beginning July 1, 1979, and for each subsequent four-year period, prepare, adopt and cause to be published the results of a study of all roads and streets in the state. The study shall be so designed to investigate present deficiencies and future twenty-year maintenance and construction needs of the roads and the ability of each applicable authority to meet the needs for the planning, construction, repair and maintenance of roads within their jurisdiction. The commission ~~shall have the authority to~~ may gather information necessary to complete this study and shall be furnished ~~such~~ assistance from any state agency as necessary to prepare, update and publish a report to be referred to as the "quadrennial need study" for the purposes of this chapter and chapter 312. The commission shall report the results of the study to the general assembly by January 1 of the last year in each four-year period and the study shall take effect the following July 1. This subsection ~~shall~~ does not preclude the commission from updating the quadrennial need study when necessary to reflect changes in road and street needs in the state.

Approved April 10, 1984

**CHAPTER 1044**  
**REPAYMENT OF SCIENCE AND MATHEMATICS LOANS**  
*H.F. 2438*

**AN ACT** relating to the repayment of loans made under the science and mathematics loan program.

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

Section 1. Section 261.54, unnumbered paragraphs 1, 2, and 3, Code Supplement 1983, are amended to read as follows:

Repayment of the loan shall begin one year after the teacher completes the educational program for which tuition and fees are received except as otherwise provided in this section. If a teacher submits evidence to the commission that the teacher was employed as a teacher of one or more science or mathematics courses or as an elementary teacher teaching science and mathematics in a public school district or nonpublic school in this state during that year, fifty percent of the amount of the loan is canceled. If the teacher continues employment as a teacher of science or mathematics courses or as an elementary teacher teaching science and mathematics during the next succeeding school year and submits evidence to the commission of the continuation of teaching employment, the teacher is not required to commence repayment during that school year and at the end of that school year the remaining fifty percent of the loan is canceled.

At the end of the second year, if the teaching requirements are met, the remainder of the loan is forgiven and payments made by that teacher during the year shall be refunded to the teacher.

There is created a science and mathematics loan repayment fund for deposit of payments made by teachers recipients. Refunds of payments by teachers shall be paid by the commission to the teachers from the fund created in this section. Payments made by teachers that are not refunded recipients of the loans shall be transferred on each June 30 from the fund created in this section to the general fund of the state.

Approved April 10, 1984

**CHAPTER 1045**  
**RESIDENT PREFERENCE IN CERTAIN CONTRACTS**  
*S.F. 2160*

**AN ACT** to provide a preference for residents in awarding of public contracts in certain situations.

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

Section 1. Chapter 23, Code 1983, is amended by adding the following new section:

**NEW SECTION. 23.21 BID PREFERENCE UNDER CERTAIN CONDITIONS.** Notwithstanding this chapter, chapter 73, chapter 309, chapter 310, chapter 331, or chapter 384, when a contract for a public improvement is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference as against a nonresident bidder from a state or foreign country which gives or requires a preference to bidders from that state or foreign country. The preference is equal to the preference given or required by the state or foreign country in which the nonresident bidder is a resident. "Resident bidder" means a person authorized to transact business in this state and having a place of business for transacting business within the state at which it is and has conducted business for at least six months prior to the first advertisement for the public improvement and in the case of a corporation, at least fifty percent of the common stock is owned by residents of this state. If another state or foreign country has a more stringent definition of a resident bidder, the more stringent definition is applicable as to bidders from that state or foreign country.

For purposes of this section, "public improvement" means public improvements as defined in section 23.1 and includes road construction, reconstruction, and maintenance projects.

This section applies to the state, its agencies, and any political subdivisions of the state.

If it is determined that this may cause denial of federal funds which would otherwise be available, or would otherwise be inconsistent with requirements of federal law, this section shall be suspended, but only to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.

Sec. 2. Section 1 applies to contracts for public improvements for which requests for bids are published or requested after the effective date of this Act.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Waterloo Courier Record, a newspaper published in Waterloo, Iowa, and in The Red Oak Express, a newspaper published in Red Oak, Iowa.

Approved April 3, 1984

Pursuant to the authority vested in the undersigned, Secretary of State of the State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1983, there being no newspaper by the name of Waterloo Courier Record, published in Waterloo, Iowa, I hereby designate the Waterloo Courier Cedar Falls Record published in Waterloo, Iowa to publish the foregoing Act, Senate File 2160.

I hereby certify that the foregoing Act, Senate File 2160 was published in The Red Oak Express, Red Oak, Iowa on April 6, 1984 and in the Waterloo Courier Cedar Falls Record, Waterloo, Iowa on April 9, 1984.

MARY JANE ODELL, *Secretary of State*



**CHAPTER 1046**  
**ACTIVITIES OF CITIZENS' AIDE**  
*S.F. 497*

**AN ACT** relating to activities of the citizens' aide and members of the citizens' aide staff.

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

Section 1. Section 601G.6, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The citizens' aide shall appoint an assistant who shall be primarily responsible for investigating complaints relating only to penal or correctional agencies.

Sec. 2. Section 601G.7, subsection 2, Code 1983, is amended to read as follows:

2. Engage in any other employment for remuneration with an agency against which a complaint may be filed under this chapter or that could create a conflict of interest or interfere in the performance of the person's duties under this chapter.

Approved April 10, 1984

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**CHAPTER 1047**  
**STATUTE OF LIMITATIONS TOLLED**  
*S.F. 2021*

**AN ACT** relating to the tolling of a statute of limitations when restitution is ordered.

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

Section 1. Section 910.8, Code 1983, is amended to read as follows:

910.8 CIVIL LIABILITY. This chapter and proceedings under this chapter shall do not limit or impair the rights of victims to sue and recover damages from the offender in a civil action. The institution of a restitution plan shall toll the applicable statute of limitations for a civil action arising out of the same facts or event for the period of time that the restitution plan is effective. 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.

Approved April 10, 1984

**CHAPTER 1048**  
**CERTIFICATION OF DOCUMENTS**  
*S.F. 2137*

**AN ACT** relating to the certification of documents and providing a penalty.

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

**Section 1. NEW SECTION. 622.107 CERTIFICATION UNDER PENALTY OF PERJURY.**

1. When the laws of this state or any lawful requirement made under them requires or permits a matter to be supported by a sworn statement written by the person attesting the matter, the person may attest the matter by an unsworn written statement if that statement recites that the person certifies the matter to be true under penalty of perjury under the laws of this state, states the date of the statement's execution and is subscribed by that person. This section does not apply to acknowledgments where execution is required by law, to a document which is to be recorded under chapter 558 or to a self-proved will under section 633.279, subsection 2.

2. The certification described in subsection 1 may be in substantially the following form:

"I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

Date

Signature"

Sec. 2. Section 714.8, subsection 3, Code 1983, is amended to read as follows:

3. Knowingly executes or tenders any a certification under penalty of perjury, false affidavit, or certificate, which is required by law, or which is given in support of any a claim for compensation, indemnification, restitution, or other payment.

Approved April 10, 1984

**CHAPTER 1049**  
**COMMUNITY ACTION AGENCIES CONTINUED**  
*S.F. 2154*

**AN ACT** to extend the sunset provision on community action agencies to July 1, 1986.

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

Section 1. Sections 7A.21 through 7A.28 as temporarily enacted by 1982 Iowa Acts, chapter 1241, sections 3 through 12, are temporarily reenacted effective July 1, 1984 until July 1, 1986.

Sec. 2. 1982 Iowa Acts, chapter 1241, section 12, is amended to read as follows:

SEC. 12. NEW SECTION. REPEAL AND REVIEW. Sections 2 through 11 of this Act are repealed effective July 1, 1984 1986. The second session of the Seventieth Seventy-first General Assembly meeting in the year 1984 1986 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 1986 make a determination concerning the status and duties of the department.

Approved April 10, 1984

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**CHAPTER 1050**  
**CHILD FOSTER CARE FACILITY LICENSE**  
*S.F. 2176*

**AN ACT** eliminating the requirement that a facility licensed by the department of substance abuse providing child foster care be licensed by the department of human services.

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

Section 1. Section 237.4, Code 1983, is amended by adding the following new subsection 6 and renumbering the subsequent subsection:

NEW SUBSECTION. 6. A facility licensed under chapter 125.

Approved April 10, 1984

**CHAPTER 1051**  
**ESTABLISHMENT AND DISSOLUTION OF SANITARY DISTRICTS**  
*S.F. 2197*

**AN ACT** relating to the establishment and dissolution of a sanitary district.

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

Section 1. Section 358.4, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**358.4 DATE AND NOTICE OF HEARING.**

1. The board of supervisors to which the petition is addressed, at its next meeting, shall set the time and place for a hearing on the petition. The board shall direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it may concern, without naming them, of the pendency and content of the petition, by publication of a notice once each week for two consecutive weeks in a newspaper of general circulation published in the county in which the proposed district is located, the last of which publications shall not be less than twenty days prior to the date set for the hearing of the petition. Proof of giving the notice shall be made by affidavit of the publisher and the proof shall be on file with the county auditor at the time the hearing begins. The notice of hearing shall be directed to all persons it may concern, and shall state:

a. That a petition has been filed with the county auditor of the county, naming it, for establishment of a proposed sanitary district, and the name of the proposed district.

b. An intelligible description of the boundaries of the territory to be embraced in the district.

c. The date, hour, and the place where the petition will come on for hearing before the board of supervisors of the named county.

d. That the board of supervisors will fix and determine the boundaries of the proposed district as described in the petition or otherwise, and for that purpose may alter and amend the petition. At the hearing all interested persons shall have an opportunity to be heard on the location and boundaries of the proposed district and to make suggestions regarding the location and boundaries.

2. For a district which does not include land within a city, copy of the notice shall also be sent by mail to each owner, without naming them, of each tract of land or lot within the proposed district as shown by the transfer books of the auditor's office. The mailings shall be to the last known mailing address unless there is on file an affidavit of the auditor or of a person designated by the board to make the necessary investigation, stating that a mailing address is not known and that diligent inquiry has been made to ascertain it. The copy of notice shall be mailed no less than twenty days before the day set for hearing and proof of service shall be by affidavit of the auditor. The proofs of service required by this subsection shall be on file at the time the hearing begins.

3. In lieu of the mailing to the last known address a person owning land affected by a proposed district may file with the county auditor an instrument in writing designating the

address for the mailing. This designation when filed is effective for five years and applies to all proceedings under this chapter. The person making the designation may change the address in the same manner as the original designation is made.

4. In lieu of publication, personal service of the notice may be made upon an owner of land in the proposed district in the manner and for the time required for service of original notices in the district court. Proof of the service shall be on file with the auditor on the date of the hearing.

Sec. 2. Section 358.5, Code 1983, is amended to read as follows:

358.5 HEARING OF PETITION AND ORDER. The board of supervisors to whom the petition is addressed shall preside at the hearing provided for in section 358.4 and shall continue the same hearing in session, with adjournments from day to day, if necessary, until completed, without being required to give any further notice thereof of the hearing. Proof of the residence residences and qualification qualifications of the petitioners as eligible electors shall be made by affidavit or otherwise as the board may direct. ~~Said~~ The board shall have power and authority to may consider the boundaries of any such a proposed sanitary district, whether the same they shall be as described in such the petition or otherwise, and for that purpose may alter and amend such the petition and limit or change the boundaries of the proposed district as stated in the petition. The board shall adjust the boundaries of a proposed district as needed to exclude land that has no reasonable likelihood of benefit from inclusion in the proposed district. The boundaries of any a proposed district shall not be changed to incorporate therein any property not included in the original petition and published notice until the owner ~~or owners~~ of said the property shall be is given notice thereof of inclusion as on the original hearing. All persons in such the proposed district shall have an opportunity to be heard touching regarding the location and boundaries of the proposed district and to make suggestions regarding the same location and boundaries, and said the board of supervisors, after hearing the statements, evidence and suggestions made and offered at the hearing, shall enter an order fixing and determining the limits and boundaries of such the proposed district and directing that an election be held for the purpose of submitting to the qualified electors resident owning land within the boundaries of the proposed district the question of organization and establishment of the proposed sanitary district as determined by said board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order, establish voting precincts within the proposed district and define their boundaries and specify the polling places therein as in the board's judgment will best serve the convenience of the voters, and shall appoint from residents of the proposed district three judges and two clerks of election for each voting precinct established. It shall not be mandatory for the county commissioner of elections to conduct an election held pursuant to this section, but it shall be conducted in accordance with the provisions of chapter 49 where not in conflict with this chapter.

However, a majority of the landowners, owning in the aggregate more than seventy percent of the total land in the proposed district, may file a written remonstrance against the proposed district at or before the time fixed for the hearing on the proposed district with the county auditor. If the remonstrance is filed, the board of supervisors shall discontinue all further proceedings on the proposed district and charge the costs incurred to date relating to the establishment of the proposed district.

Sec. 3. Section 358.9, Code 1983, is amended by adding after unnumbered paragraph 2 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, for districts formed after July 1, 1984, successors to the initial trustees shall be elected at the next general election or at an annual meeting of the board of trustees called for that purpose. Upon petition of a majority of the landowners owning more than fifty percent of the total land in the district, the board of trustees shall call an annual meeting of the residents of the district to elect successors to trustees of the board. Vacancies shall be filled by the remaining trustees in the same manner as city council members as provided in section 372.13, subsection 2.

Sec. 4. NEW SECTION. 358.40 DISSOLUTION.

1. After three years from the establishment of a sanitary sewer district, a petition may be filed in the office of the county auditor, addressed to the board of supervisors, signed by a majority of persons owning land in the district and who in aggregate own at least sixty percent of the land in the district. The petition shall include the above facts and recite each of the following:

a. That more than three years has passed since the date of the election which established the district.

b. That there are no bonds or other evidences of indebtedness outstanding against the district, or if there is indebtedness, the petition shall contain a plan of dissolution which makes adequate provisions for payment of the indebtedness.

c. That a construction contract has not been let or work done on any improvements in the district or if either has occurred, the petition shall contain a plan of dissolution which makes adequate provisions for payment of the contract price or for the work.

2. All costs and expenses of the district shall be assessed against the district before dissolution by the levy of an annual tax necessary to accomplish payment, but the levy shall not exceed the rate provided in this section.

3. The board shall examine the petition at its next meeting after its filing or within twenty days of the filing, whichever date is earlier. Within ten days of the meeting, the board shall publish notice of the petition and the date, time, and place of the meeting at which time the board proposes to take action on the petition. The notice shall be published in a newspaper of general circulation published in the district and, if no newspaper is published within the district, in a newspaper published in the county in which the major part of the district is located. At the board's meeting, or subsequent meetings as necessary, if the petition is found to comply with the requirements of this section and the board of trustees consents by majority vote, the board of supervisors may provide for payment as requested or modify the method of payment of costs and expenses.

4. If the board decides that dissolution is warranted for the best interest of the public, it shall publish a notice in a newspaper of general circulation published in the district or, if no newspaper is published in the district, in a newspaper published in the county in which the major part of the district is located and give notice by mail to all known claimants or creditors of the district that it will receive and adjudicate claims against the district for four months from the date the notice is published and shall levy an annual tax as necessary against all property in the district for the number of years required to pay all claims allowed. However, the annual tax levied under this subsection shall not exceed four dollars per thousand dollars of assessed valuation of the taxable property within the district at the time of dissolution. The levy shall be made in the same manner as provided in section 76.2. After the board makes a specific finding that all indebtedness, costs, and expenses have been paid or levies approved for their payment, the board shall dissolve the district by resolution entered upon its records. The dissolution order shall be noted by the auditor on the county records, showing the date when the dissolution became effective.

5. The records of a dissolved district including, but not limited to, copies of all engineering files and work undertaken by engineers of a dissolved district, shall be deposited with the county auditor of the county designated by the board. Any remaining balances shall be deposited in the general fund of the county designated by the board. All other assets of the dissolved district shall become, by dissolution, assets of the county.

6. An action shall not be commenced to contest action of the board of supervisors under this section in adjudicating claims, providing for the levy of a tax, or dissolving the district unless it is brought within thirty days of the entry of the dissolution order on the county record.

Approved April 10, 1984

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**CHAPTER 1052**  
**CITY PRECINCT LINES REDRAWN**  
*S.F. 2222*

**AN ACT** allowing a city to redraw precinct lines when adopting a system which provides for election of council members from wards or when changing the number of council members who are elected from wards.

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

Section 1. Section 49.8, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** When a city is changing its form of government from one which has council members elected at large to one which has council members elected from wards, or is changing its number of council members elected from wards, the city council may redraw the precinct boundaries in accordance with sections 49.3 and 49.5 to coincide with the new ward boundaries.

Approved April 10, 1984

**CHAPTER 1053**  
**BENEFITS FOR PNEUMOCONIOSIS**  
*S.F. 2297*

**AN ACT** relating to the payment of workers' compensation benefits in pneumoconiosis cases.

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

Section 1. Section 85A.13, subsection 3, Code 1983, is amended by striking the subsection.

Sec. 2. This Act applies to claims for workers' compensation benefits in pneumoconiosis cases filed on or after the effective date of this Act.

Approved April 10, 1984

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**CHAPTER 1054**  
**NOTICE TO QUIT TO MOBILE HOME TENANTS**  
*S.F. 2119*

**AN ACT** making the three-day notice to quit given by mobile/manufactured home landlords concurrent with the three-day notice for failure to pay rent.

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

Section 1. Section 648.3, Code 1983, is amended to read as follows:

648.3 NOTICE TO QUIT. Before action can be brought in any except the first of the above classes, three days' notice to quit must be given to the defendant in writing. However, a landlord who has given a tenant three days' notice to pay rent and has terminated the tenancy as provided in section 562A.27, subsection 2, or section 562B.25, subsection 2, if the tenant is renting the mobile home or the land from the landlord may commence the action without giving a three-day notice to quit.

Approved April 10, 1984



**CHAPTER 1055****SHARE DRAFT AS SECURITY ON BID***S.F. 2285*

**AN ACT** permitting the deposit of a credit union certified share draft as security on a bid for a contract for a public improvement.

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

Section 1. Section 18.37, Code 1983, is amended to read as follows:

18.37 DEPOSIT WITH BID OR YEARLY BOND. ~~Each~~ A bidder ~~must shall~~ deposit with the director at the time ~~he~~ the bidder files his a bid, a certified check or credit union certified share draft payable to the state treasurer for an amount to be fixed in the specifications, either covering all classes or items, or separate checks or drafts for each bid in case ~~he~~ the bidder makes more than one bid; ~~or in.~~ In lieu of checks or share drafts the bidder may furnish a yearly bond in an amount to be established by the director. Checks or share drafts deposited by unsuccessful bidders, and by successful bidders when they have entered into the contract, shall be returned to them.

Sec. 2. Section 18.43, Code 1983, is amended to read as follows:

18.43 DUTY TO ENTER INTO CONTRACT—FORFEITURE. ~~Each~~ A successful bidder ~~must shall~~ within ten days after the award, enter into a contract in accordance with ~~his~~ the bid, ~~and unless.~~ Unless this is done, or the delay is for reasons satisfactory to the director, the certified check or credit union certified share draft submitted with the bid shall be forfeited to the state. The specifications on which the bid is made ~~shall~~ constitute a part of the contract.

Sec. 3. Section 23.18, Code 1983, is amended to read as follows:

23.18 BIDS REQUIRED—PROCEDURE. When the estimated total cost of construction, erection, demolition, alteration or repair of ~~any~~ a public improvement exceeds twenty-five thousand dollars, the municipality shall advertise for bids on the proposed improvement by two publications in a newspaper published in the county in which the work is to be done, ~~the first of which.~~ The first advertisement for bids shall be not less than fifteen days prior to the date set for receiving bids; ~~and.~~ The municipality shall let the work to the lowest responsible bidder submitting a sealed proposal. However, if in the judgment of the municipality bids received are not acceptable, all bids may be rejected and new bids requested. ~~All bids must~~ A bid shall be accompanied, in a separate envelope, by a deposit of money or a certified check or credit union certified share draft in an amount to be named in the advertisement for bids as security that the bidder will enter into a contract for the doing of the work. The municipality shall fix the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The checks, share drafts or deposits of money of the unsuccessful bidders shall be returned as soon as the successful bidder is determined, and the check, share draft or deposit of money of the successful bidder shall be returned upon execution of the contract documents. This section ~~shall~~ does not apply to the construction, erection, demolition, alteration or repair of ~~any~~ a public improvement when the contracting procedure for the doing of the work is provided for in another provision of law.

Sec. 4. Section 218.61, Code Supplement 1983, is amended to read as follows:

218.61 PRELIMINARY DEPOSIT. A preliminary deposit of money, ~~or a certified check~~ upon a solvent bank or a credit union certified share draft in ~~such the~~ amount as the commissioner of the department of human services may prescribe, shall be required as an evidence of good faith, upon all proposals for the construction of said improvements, ~~which.~~ The deposit, or certified check or certified share draft shall be held under the direction of such the commissioner.

Sec. 5. Section 262.34, Code 1983, is amended to read as follows:

262.34 IMPROVEMENTS—ADVERTISEMENT FOR BIDS. When the estimated cost of construction, repairs, or improvement of buildings or grounds under charge of the state board of regents exceeds twenty-five thousand dollars, the board shall advertise for bids for the contemplated improvement or construction and shall let the work to the lowest responsible bidder. However, if in the judgment of the board bids received are not acceptable, the board may reject all bids and proceed with the construction, repair, or improvement by ~~such a~~ method as the board may determine. All plans and specifications for repairs or construction, together with bids ~~thereon~~ on the plans or specifications, shall be filed by the board and be open for public inspection. All bids submitted under this section shall be accompanied by a deposit of money, ~~or a certified check or a credit union certified share draft~~ in an amount as the board may prescribe.

Sec. 6. Section 357.14, unnumbered paragraph 2, Code 1983, is amended to read as follows:

When the completed plans and specifications are on file with the county auditor, the board of supervisors shall advertise for bids and shall ~~cause notice to be given by publication~~ publish a notice once each week for two consecutive weeks in some newspaper published in the county ~~wherein in which~~ the improvement is to be constructed, setting forth the location and nature of the improvement and the date and place where bids will be received by the board. The last published notice to bidders shall be at least seven days before the time set for receiving bids. Bidders ~~will~~ shall be required to submit certified checks or credit union certified share drafts for five percent of the amount of the bid.

Sec. 7. Section 357A.2, unnumbered paragraph 2, Code 1983, is amended to read as follows:

There shall be filed with the petition a bond, certified check, credit union certified share draft or cash in an amount and with sureties approved by the auditor, sufficient for the payment of all costs and expenses incurred in the proceedings if the district is not finally established.

Sec. 8. Section 358.2, unnumbered paragraph 3, Code 1983, is amended to read as follows:

There shall be filed with the petition a bond, certified check, credit union certified share draft or cash in an amount and with sureties approved by the auditor, sufficient for the payment of all costs and expenses incurred in the proceedings if the district is not finally established.

Sec. 9. Section 384.97, subsection 5, Code 1983, is amended to read as follows:

5. That each bidder shall accompany ~~his~~ the bid with a bid security as defined ~~herein in this~~ subsection and as specified by the governing body, as security that the successful bidder will enter into a contract for the work bid upon and will furnish after the award of contract a corporate surety bond, acceptable to the governing body, for the faithful performance of the contract, in an amount equal to one hundred percent of the amount of the contract. The bidder's security ~~must~~ shall be in an amount fixed by the governing body, and ~~must~~ shall be in the form of a cashier's or certified check drawn on a bank in Iowa or a bank chartered under the laws of the United States, or a certified share draft drawn on a credit union in Iowa or chartered under the law of the United States, or the governing body may provide for a bidder's bond with corporate surety satisfactory to the governing body, ~~which.~~ The bid bond shall contain no condition except as provided in this section.

Sec. 10. Section 455.40, Code 1983, is amended to read as follows:

455.40 ADVERTISEMENT FOR BIDS. The board shall ~~cause notice to be given by publication~~ publish notice once each week for two consecutive weeks in ~~some a~~ a newspaper published in the county ~~wherein such in which the~~ in which the improvement is located, and ~~such~~ publish additional advertisement and publication elsewhere as ~~it the board may direct, of.~~ the board may direct, of. The notice shall state the time and place of letting the work of construction of ~~said the~~ said improvement, specifying the approximate amount of work to be done in each numbered section of the district, the time fixed for the commencement, and the time of the completion ~~thereof of the~~ of the work, that bids will be received on the entire work and in sections or divisions ~~thereof of the~~ of the entire work, and that ~~each a~~ a bidder will be required to deposit with ~~his the~~ his bid cash, or a certified check on and certified by a bank in Iowa, or a certified share draft from a credit union in Iowa payable to the auditor or ~~his the~~ his auditor's order, at ~~his the~~ his auditor's office, in an amount equal to ten percent of ~~his the~~ his bid, in no case to exceed ten thousand dollars. When the estimated cost of the improvement exceeds fifteen thousand dollars, the board may make additional publication for two consecutive weeks in ~~some a~~ a contractors journal of general circulation, giving only the type of proposed construction or repairs, estimated amount, date of letting, amount of bidder's bond, and the name and address of the county auditor. All notices shall fix the date to which bids will be received and upon which ~~said the~~ said work will be let. ~~Except, however~~ However, when the estimated cost of the improvement is less than twenty-five hundred dollars, the board may let the contract for ~~such the~~ such construction without taking bids ~~therefor~~ and without publishing any notice as above provided.

Sec. 11. Section 455.42, Code 1983, is amended to read as follows:

455.42 MANNER OF MAKING BIDS - DEPOSIT. ~~Each A~~ Each A bid shall be in writing, specifying the portion of the work upon which the bid is made, and filed with the auditor, ~~accompanied.~~ accompanied. The bid shall be accompanied with a deposit of cash, or a certified check on and certified by a bank in Iowa or a certified share draft drawn on a credit union in Iowa, payable to the auditor or ~~his the~~ his auditor's order at ~~his the~~ his auditor's office in a sum equal to ten percent of the amount of the bid, but in any event not to exceed ten thousand dollars. However, if the maximum limit on bid deposits would cause a denial of funds or services from the federal government which would otherwise be available, or if the maximum limit would otherwise be inconsistent with the requirements of federal law, the maximum limit may be suspended to the extent necessary to prevent denial of federal funds or services or to eliminate the inconsistency with federal requirements. The checks or share drafts of unsuccessful bidders shall be returned to them, but the checks of successful bidders shall be held as a guarantee that they will enter into contract in accordance with their bids.

Sec. 12. Section 455.43, Code 1983, is amended to read as follows:

455.43 PERFORMANCE BOND - RETURN OF CHECK. ~~Each A~~ Each A successful bidder shall be ~~is~~ is required to execute a bond with sureties approved by the auditor in favor of the county for the use and benefit of the levee or drainage district and all persons entitled to liens for labor or material in an amount not less than seventy-five percent of the contract price of the work to be done, conditioned for the timely, efficient, and complete performance of ~~his the~~ his contract, and the payment, as they become due, of all just claims for labor performed and material used in carrying out ~~said the~~ said contract. When ~~such a~~ a contract is executed and bond approved by the board, the certified check or certified share draft deposited with the bid shall be returned to the bidder.

Sec. 13. Section 467D.20, Code 1983, is amended to read as follows:

467D.20 BIDS ON WORK. When the estimated total cost of construction, enlargement, alteration or repair of ~~any~~ an internal improvement exceeds five thousand dollars, the conservancy district shall advertise for bids on the proposed improvement by two publications in at least one newspaper of general circulation in the conservancy district; ~~the first of which.~~ The first advertisement shall be not less than fifteen days prior to the date set for receiving bids, and shall let the work to the lowest responsible bidder submitting a sealed proposal; provided that if, However, if in the judgment of the board, the bids received are not acceptable, all bids may be rejected and new bids requested. All bids ~~must~~ shall be accompanied, in a separate envelope, by a deposit of money, credit union certified share draft or certified check, in an amount to be named in the advertisement for bids, as security that the bidder will enter into a contract in accordance with the terms of ~~his~~ the bid. The board shall fix the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The checks or deposits of money of the unsuccessful bidders shall be returned as soon as the successful bidder is determined, and the share draft, check or deposit of money of the successful bidder shall be returned upon execution of the contract documents.

Sec. 14. Section 573.4, Code 1983, is amended to read as follows:

573.4 DEPOSIT IN LIEU OF BOND. A deposit of money, ~~or~~ a certified check on a solvent bank of the county in which the improvement is to be located, a credit union certified share draft, ~~or~~ state or federal bonds, ~~or~~ bonds issued by ~~any~~ a city, school corporation, or county of this state, or bonds issued on behalf of ~~any~~ a drainage or highway paving district of this state, may be received in an amount equal to the amount of the bond and held in lieu of a surety on ~~such~~ the bond, and when so received ~~such~~ the securities shall be held on the terms and conditions applicable to a surety.

Approved April 10, 1984

**CHAPTER 1056**  
**AUTHORITY OF OCCUPATIONAL LICENSING BOARDS**  
*H.F. 580*

**AN ACT** relating to the authority of licensing boards under the continuing education chapter.

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

Section 1. Section 258A.3, subsection 1, paragraph a, Code 1983, is amended to read as follows:

a. Administer and enforce the laws and administrative rules relating to the practice of the profession whose members are examined for licensure by the board provided for in this chapter and any other statute to which the licensing board is subject;

Approved April 11, 1984

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**CHAPTER 1057**  
**BUILDINGS NOT REQUIRING ARCHITECTS**  
*H.F. 590*

**AN ACT** relating to the requirements that certain buildings be designed by registered architects.

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

Section 1. Section 118.18, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

118.18 **EXCEPTIONS.** Notwithstanding the other provisions of this chapter, persons who are not registered architects may perform planning and design services in connection with any of the following:

1. Detached residential buildings containing twelve or fewer family dwelling units of not more than three stories and outbuildings in connection with the buildings.
2. Buildings used primarily for agricultural purposes including grain elevators and feed mills.
3. Nonstructural alterations to existing buildings which do not change the use of a building:
  - a. From any other use to a place of assembly of people or public gathering.

- b. From any other use to a place of residence not exempted by subsection 1.
- c. From an industrial or warehouse use to a commercial or office use not exempted by subsection 4.
4. Warehouses and commercial buildings not more than one story in height, and not exceeding ten thousand square feet in gross floor area; commercial buildings not more than two stories in height and not exceeding six thousand square feet in gross floor area and light industrial buildings.
5. Factory built buildings which are not more than two stories in height and not exceeding twenty thousand square feet in gross floor area or which are certified by a professional engineer registered under chapter 114.
6. Churches and accessory buildings, whether attached or separate, not more than two stories in height and not exceeding two thousand square feet in gross floor area.

Approved April 11, 1984

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**CHAPTER 1058**  
**REFUNDING CITY GENERAL OBLIGATION BONDS**  
*H.F. 2111*

**AN ACT** authorizing cities to issue revenue bonds or pledge orders to refund general obligation bonds if they were issued or the proceeds were expended for certain city projects.

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

Section 1. Section 384.82, subsection 2, Code 1983, is amended to read as follows:

2. A city may issue revenue bonds or pledge orders to refund revenue bonds, pledge orders, and other obligations which are by their terms payable from the net revenues of the same city utility, combined utility system, city enterprise, or combined city enterprise, or from a city utility comprising a part of the combined utility system or a city enterprise comprising a part of the combined city enterprise, at lower, the same, or higher rates of interest. Upon a finding of necessity by the governing body, a city may issue revenue bonds or pledge orders to refund general obligation bonds to the extent the general obligation bonds were issued or the proceeds of them were expended for a city utility, city enterprise, or a portion of a combined city utility or city enterprise. These revenue bonds or pledge orders may be issued at lower, the same, or at higher rates of interest than the rates of the general obligation bonds being refunded. A city may sell refunding revenue bonds or pledge orders at public or private sale in the manner prescribed by chapter 75 and apply the proceeds to the payment of the obligations being refunded, and may exchange refunding revenue bonds or pledge orders in payment and discharge of the obligations being refunded. The principal amount of any refunding revenue bonds or pledge orders may exceed the principal amount of the obligations being refunded to the extent necessary to pay a premium due on the call of the obligations being refunded and, to

fund interest accrued and to accrue on the obligations being refunded, to pay the costs of issuance of the refunding revenue bonds or pledge orders, and to fund such reserve funds as the governing body may deem advisable in connection with the issuance of the refunding revenue bonds or pledge orders.

Approved April 11, 1984

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**CHAPTER 1059**  
**LIABILITY FOR HAZARDOUS CONDITION ASSISTANCE**  
*H.F. 2243*

**AN ACT** providing that a person who provides assistance or advice in the abatement or attempted abatement or cleanup of a hazardous condition is not liable for damages resulting from the assistance or advice.

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

**Section 1. NEW SECTION. 455B.392 CLEANUP ASSISTANCE— LIABILITY.**

1. A person who provides assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened hazardous condition or in preventing, cleaning up or disposing of or in attempting to prevent, clean up or dispose of a hazardous condition is not liable for damages resulting from the assistance or advice.

2. Subsection 1 does not apply to a person who receives compensation other than reimbursement for out-of-pocket expenses for services in rendering the assistance or advice.

3. This section does not limit the liability of a person for damages resulting from the person's gross negligence or reckless, wanton or intentional misconduct.

Approved April 11, 1984

**CHAPTER 1060****REPAYMENT OF LOANS BY TEACHERS AT CERTAIN STATE SCHOOLS***H.F. 2265*

**AN ACT** permitting certain teachers at the Iowa school for the deaf and Iowa braille and sight-saving school to be eligible for certain repayment criteria for loan programs.

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

Section 1. Section 261.45, subsection 1, Code Supplement 1983, is amended to read as follows:

1. Is a teacher employed on a full-time basis under sections 279.13 through 279.19 in a school district in this state ~~or~~, is a teacher in an approved nonpublic school in this state, or is a certified teacher at the Iowa braille and sight-saving school or the Iowa school for the deaf.

Sec. 2. Section 261.54, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Repayment of the loan shall begin one year after the teacher completes the educational program for which tuition and fees are received. If a teacher submits evidence to the commission that the teacher was employed as a teacher of one or more science or mathematics courses or as an elementary teacher teaching science and mathematics in a public school district or nonpublic school in this state or at the Iowa braille and sight-saving school or the Iowa school for the deaf during that year, fifty percent of the amount of the loan is canceled.

Approved April 11, 1984



**CHAPTER 1061****ACCESS TO CRIMINAL HISTORY DATA BY YOUTH SERVICE AGENCIES***H.F. 2380*

**AN ACT** authorizing the dissemination of criminal history data to certain youth service agencies.

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

Section 1. Section 692.2, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 5.** Notwithstanding other provisions of this section, the department and bureau may provide copies or communicate information from criminal history data to any youth service agency approved by the confidential records council. The department shall adopt rules to provide for the qualification and approval of youth service agencies to receive criminal history data.

The department may charge a fee to any nonlaw enforcement agency to conduct criminal history record checks and otherwise administer this section and other sections of the Code providing access to criminal history records. The fee shall be set by the commissioner of public safety equal to the cost incurred not to exceed twenty dollars for each individual check requested.

The criminal history data to be provided by the department and bureau to authorized youth service agencies shall be limited to information on applicants for paid or voluntary positions, where those positions would place the applicant in direct contact with children.

Approved April 11, 1984

**CHAPTER 1062**  
**REMOVAL AND ENCAPSULATION OF ASBESTOS**  
*H.F. 2183*

**AN ACT** relating to the regulation of business entities and workers engaging in the removal or encapsulation of asbestos and providing penalties.

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

Section 1. **NEW SECTION. 88B.1 DEFINITIONS.** As used in this chapter, unless the context otherwise requires:

1. "Asbestos project" means an activity involving the removal or encapsulation of asbestos.
2. "Bureau" means the bureau of labor.
3. "Business entity" means a partnership, firm, association, corporation, sole proprietorship, or other business concern.
4. "Certificate" means an authorization issued by the bureau permitting an individual person to work on an asbestos project.
5. "Commissioner" means the labor commissioner or the commissioner's designee.
6. "License" means an authorization issued by the bureau permitting a business entity to remove or encapsulate asbestos.

Sec. 2. **NEW SECTION. 88B.2 LICENSE REQUIRED.** Except as otherwise provided in this chapter, a business entity shall not engage in the removal or encapsulation of asbestos unless the entity holds a license for that purpose. This chapter does not apply to a business entity which uses its own employees in removing or encapsulating asbestos for the purpose of renovating, maintaining or repairing its own facilities, except that a business entity exempted from this chapter who assigns an employee to remove or encapsulate asbestos shall provide training on the health and safety aspects of the removal or encapsulation including the federal and state standards applicable to the asbestos project. The training program shall be available for review and approval upon inspection by the bureau.

Sec. 3. **NEW SECTION. 88B.3 ADMINISTRATION – RULES – INSPECTIONS.**

1. The bureau of labor shall administer this chapter.
2. The commissioner shall adopt, in accordance with chapter 17A, rules necessary to carry out the provisions of this chapter.
3. The commissioner shall prescribe fees for the issuance and renewal of licenses and certificates. The fees shall be based on the costs of licensing, certification and other costs of administering this chapter.
4. At least once a year, during an actual asbestos project, the bureau shall conduct an on-site inspection of each licensee's procedures for removing and encapsulating asbestos.

Sec. 4. **NEW SECTION. 88B.4 QUALIFICATIONS FOR LICENSE.** To qualify for a license, a business entity shall:

1. Ensure that each employee or agent of the business entity who will come into contact with asbestos or who will be responsible for an asbestos project is certified to work on an asbestos project.

2. Demonstrate to the satisfaction of the commissioner that the business entity is capable of complying with all applicable requirements, procedures and standards of the United States environmental protection agency, the United States occupational safety and health administration and the state bureau of labor under chapter 88.

3. Have access to at least one approved asbestos disposal site for deposit of all asbestos waste that the business entity will generate during the term of the license.

4. Meet other standards established by the commissioner under this chapter.

Sec. 5. NEW SECTION. 88B.5 APPLICATION FOR LICENSE.

1. To apply for a license, a business entity shall submit an application to the bureau in the form required by the bureau and shall pay the fee prescribed by the bureau.

2. The application shall include:

a. The name and address of the business entity.

b. A description of the protective clothing and respirators that the business entity will use.

c. The name and address of each asbestos disposal site that the business entity will use.

d. A description of the site decontamination procedures that the business entity will use.

e. A description of the removal and encapsulation methods that the business entity will use.

f. A description of the procedures that the business entity will use for handling waste containing asbestos.

g. A description of the air monitoring procedures that the business entity will use.

h. A description of the procedures that the business entity will use in cleaning up after completion of the project.

i. The signature of the chief executive officer of the business entity or the chief executive officer's designee.

j. Other information required by the bureau.

Sec. 6. NEW SECTION. 88B.6 TERM AND RENEWAL.

1. A license expires on the first anniversary of its effective date, unless it is renewed for a one-year term as provided in this section.

2. At least one month before the license expires, the bureau shall send to the licensee, at the last known address of the licensee, a renewal notice that states:

a. The date on which the current license expires.

b. The date by which the renewal application must be received by the bureau for the renewal to be issued and mailed before the license expires.

c. The amount of the renewal fee.

3. Before the license expires, the licensee periodically may renew it for an additional one-year term, if the business entity:

a. Otherwise is entitled to be licensed.

b. Submits a renewal application to the bureau in the form required by the bureau.

c. Pays the renewal fee prescribed by the bureau.

Sec. 7. NEW SECTION. 88B.7 REQUIRED RECORDS. The licensee shall keep a record of each asbestos project it performs and shall make the record available to the bureau at any reasonable time. Records required by this section shall be kept for at least six years. The record must include:

1. The name, address and certificate number of the individual who supervised the asbestos project and of each employee or agent who worked on the project.

2. The location of and a description of the project and the amount of asbestos material that was removed.

3. The starting and completion dates of each instance of removal or encapsulation.

4. A summary of the procedures that were used to comply with all applicable standards.

5. The name and address of each asbestos disposal site where the waste containing asbestos was deposited.

6. Other information required by the bureau.

Sec. 8. NEW SECTION. 88B.8 REPRIMANDS, SUSPENSIONS AND REVOCATIONS. The bureau may reprimand a licensee or suspend or revoke a license, in accordance with chapter 17A, if the licensee:

1. Fraudulently or deceptively obtains or attempts to obtain a license.
2. Fails at any time to meet the qualifications for a license or to comply with a rule adopted by the commissioner under this chapter.
3. Fails to meet any applicable federal or state standard for removal or encapsulation of asbestos.
4. Employs or permits an uncertified person to work on an asbestos project.

Sec. 9. NEW SECTION. 88B.9 EXCEPTIONS.

1. In an emergency that results from a sudden, unexpected event that is not a planned renovation or demolition, the commissioner may waive the requirement for a license.
2. The commissioner may, on a case-by-case basis, approve an alternative to a specific worker protection requirement for an asbestos project if the business entity submits a written description of the alternative procedure and demonstrates to the commissioner's satisfaction that the proposed alternative procedure provides equivalent worker protection.
3. If the business entity is not primarily engaged in the removal or encapsulation of asbestos, the commissioner may waive the requirement for a license if worker protection requirements are met or an alternative procedure is approved pursuant to subsection 2.

Sec. 10. NEW SECTION. 88B.10 CERTIFICATION OF WORKERS.

1. An individual person is not eligible to work on an asbestos project unless the person holds a certificate issued by the bureau.
2. To qualify for a certificate, a person must have successfully completed a basic course, approved by the commissioner, on the health and safety aspects of the removal and encapsulation of asbestos including the federal and state standards applicable to asbestos projects, and must have been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator. The duration of a certificate is one year. To qualify for a renewal, a person must have successfully completed an annual review course approved by the commissioner and have been reexamined and approved by a physician for renewal of the certificate. The duration of each renewal is one year.
3. Applications for certificates and renewals shall be submitted to the bureau on forms prescribed by the bureau and shall be accompanied by the prescribed fee.
4. The bureau may suspend or revoke a certificate, in accordance with chapter 17A, for failure of the holder to comply with applicable health and safety standards and regulations.

Sec. 11. NEW SECTION. 88B.11 BIDS FOR GOVERNMENTAL PROJECTS. A state agency or political subdivision shall not accept a bid in connection with any asbestos project from a business entity which does not hold a license from the bureau at the time the bid is submitted.

Sec. 12. NEW SECTION. 88B.12 PENALTIES.

1. A person or business entity who willfully violates a provision of this chapter or a rule adopted pursuant to this chapter shall be assessed a civil penalty of not more than five thousand dollars for each violation.

2. A person or business entity who previously has been assessed a civil penalty under this section, and who willfully violates a provision of this chapter or a rule adopted pursuant to this chapter:

a. For a first offense, is guilty of a simple misdemeanor and shall be fined not to exceed twenty thousand dollars.

b. For a second or subsequent offense, is guilty of an aggravated misdemeanor and shall be fined not to exceed twenty-five thousand dollars or imprisoned for not to exceed two years, or both.

Approved May 17, 1984

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### CHAPTER 1063

#### DEFENDANT INFORMED OF MANDATORY MINIMUM SENTENCE

*H.F. 2412*

**AN ACT** relating to informing defendants of an applicable mandatory minimum sentence.

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

Section 1. Section 901.5, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** 7. The court shall inform the defendant of the mandatory minimum sentence, if one is applicable.

Approved April 11, 1984

**CHAPTER 1064**  
**ARSON CAUSING DEATH OF FIRE FIGHTER**  
*S.F. 2283*

**AN ACT** relating to the death of a fire fighter during an arson and providing a penalty.

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

Section 1. Section 712.2, Code 1983, is amended to read as follows:

712.2 **ARSON IN THE FIRST DEGREE.** Arson is arson in the first degree when the property which the defendant intends to destroy or damage, or which the defendant knowingly endangers, is property in which the presence of one or more persons can be reasonably anticipated, or the arson results in the death of a fire fighter, whether paid or volunteer.

Arson in the first degree is a class "B" felony.

Approved April 11, 1984

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**CHAPTER 1065**  
**EMINENT DOMAIN PROCEDURES**  
*S.F. 441*

**AN ACT** relating to eminent domain procedures by providing constructive notice to possible purchasers that land is subject to condemnation proceedings, clarifying responsibilities for recording condemnation proceedings, and specifying the time at which title to property or an interest in property passes following condemnation.

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

Section 1. Section 472.3, subsection 1, Code 1983, is amended to read as follows:

1. A description of all the property in the county, affected or sought to be condemned, by its congressional numbers, in tracts not exceeding one-sixteenth of a section, or, if the land consists of lots in a city, by the numbers of the lot and block, and plat designation.

Sec. 2. Section 472.3, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 7.** The applicant shall promptly certify that its application for condemnation has been approved by the chief judge and shall file the original approved application with the county recorder in the manner required under section 472.37. The county recorder shall file and index the application in the record of deeds and preserve the application

as required by sections 472.38 and 558.55. The filing and indexing constitute constructive notice to all parties that a proceeding to condemn the property is pending and that the applicant has the right to acquire the property from all owners, lienholders, and encumbrancers whose interests are of record at the time of the filing. When indexed, the proceeding is considered pending so as to charge all persons not having an interest in the property with notice of its pendency, and while pending no interest can be acquired by the third parties in the property against the rights of the applicant. If the appraisal of damages is not made within one hundred twenty days, the proceedings instituted under this section are terminated and all rights and interests of the applicant arising out of the application for condemnation terminate. The applicant may reinstitute a new condemnation proceeding at any time. The reinstated proceedings are entirely new proceedings and not a revival of the terminated proceeding.

Sec. 3. Section 472.20, Code 1983, is amended to read as follows:

472.20 SHERIFF TO FILE CERTIFIED COPY. ~~The~~ When an appeal is taken, the sheriff, when an appeal is taken, shall at once file with the clerk of the district court a certified copy of ~~so~~ as much of the assessment as applies to the part appealed from for which the appeal is taken. ~~In case of such appeal the sheriff shall, as soon as all other unappealed assessments are disposed of, file with the clerk all papers pertaining to the proceedings and remaining in his hands.~~

Sec. 4. Section 472.25, Code 1983, is amended to read as follows:

472.25 RIGHT TO TAKE POSSESSION OF LANDS. Upon the filing of the commissioners' report with the sheriff, the applicant may deposit with the sheriff the amount assessed in favor of a claimant, and ~~thereupon~~ the applicant shall, except as otherwise provided, ~~have the right to~~ may take possession of the land condemned and proceed with the improvement. No ~~An appeal from said the assessment shall does not affect such the right, except as otherwise provided. Upon appeal from the commissioners' award of damages the district court, wherein said appeal is pending, may direct that such the part of the amount of damages deposited with the sheriff, as it finds just and proper, be paid to persons entitled thereto the claimant. If upon trial of said the appeal a lesser amount is awarded the difference between the amount so awarded and the amount paid as above provided shall be repaid by the person or persons to whom the same it was paid and upon failure to make such the repayment the party entitled thereto shall have judgment entered against the person or persons who received such the excess payment. Title to the property or the interests in property passes to the applicant when damages have been finally determined and paid.~~

Sec. 5. Section 472.35, Code 1983, is amended to read as follows:

472.35 SHERIFF TO FILE RECORD. ~~The sheriff, in case no appeal is taken, shall, immediately after the final determination of condemnation proceedings, and after the acquiring of the property by the condemner, Thirty days after the date of mailing the notice of appraisal of damages, the sheriff shall file, with the county recorder of the county in which the condemned land is situated, the following papers:~~

1. ~~The~~ A certified copy of the application for condemnation.
2. All notices, together with all returns of service endorsed ~~thereon~~ on the returns or attached thereto to the returns.
3. The report of the commissioners.
4. All other papers filed ~~with the sheriff in said the proceedings.~~
5. A written statement by the sheriff of all money received in payment of damages, from whom received, to whom paid, and the amount paid to each claimant and reference to the

application for condemnation by book and page or instrument number and the date the application was filed with the county recorder.

Sec. 6. Section 472.36, Code 1983, is amended to read as follows:

472.36 CLERK TO FILE RECORD. The clerk of the district court, in case an appeal is taken in condemnation proceedings, shall file with the county recorder ~~the records which the sheriff is required to file in case no appeal is taken, and in addition thereto the following:~~

1. A copy of the ~~record~~ final judgment entry of the court showing the amount of damages determined on appeal.

2. A written statement by the clerk of all money received by ~~him~~ the clerk in payment of damages, from whom received, to whom paid, and the amount paid to each claimant.

3. A copy of the description of the property condemned and the interest acquired in the property.

Approved April 11, 1984

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**CHAPTER 1066**  
OWNERSHIP OF DIES, MOLDS, AND FORMS  
*S.F. 2002*

**AN ACT** relating to ownership rights to dies, molds, and forms.

*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 requires otherwise:

1. "Customer" means a person who causes a molder to fabricate, cast, or otherwise make a die, mold, or form to be used for the manufacture of plastic products.

2. "Molder" means a person, including but not limited to a tool or die maker, who fabricates, casts, or otherwise makes a die, mold, or form to be used for the manufacture of plastic products.

Sec. 2. NEW SECTION. RIGHTS TO DIE, MOLD, OR FORM.

1. In the absence of an agreement to the contrary, the customer has all rights and title to a die, mold, or form in the possession of the molder as provided in this section.

2. If a customer does not claim possession from a molder of a die, mold, or form within three years following the last use of the die, mold, or form, all rights and title to the die, mold, or form are transferred to the molder for the purpose of destroying or disposing of the die, mold, or form.

3. The molder shall notify the customer by certified mail sent to the customer's last known address at least ninety days prior to the transfer provided in subsection 2. The notice shall indicate that all rights and title to the die, mold, or form will be transferred pursuant to this section.



4. If the customer does not respond in person or by mail within ninety days following the date the notice was sent or does not make other contractual arrangements with the molder for storage of the die, mold, or form the rights and title of the customer to the die, mold, or form shall transfer to the molder. After a transfer has occurred the molder may destroy or otherwise dispose of the particular die, mold, or form as the molder's own property without liability to the customer. This section does not affect the right of the customer under federal patent or copyright law or a state or federal law relating to unfair competition.

Sec. 3. The three-year waiting period provided in this Act shall begin on the effective date of this Act in the case of dies, molds, and forms in the possession of the molder on the effective date of this Act.

Approved April 11, 1984

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## CHAPTER 1067

### NONSUBSTANTIVE CODE, CORRECTIONS

*S.F. 2129*

**AN ACT** to make nonsubstantive corrections to the Code.

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

Section 1. Section 2.42, subsection 16, Code Supplement 1983, is amended to read as follows:

16. Authority to review proposed rules and forms submitted by the supreme court pursuant to section ~~684.18~~ 602.4202.

Sec. 2. Section 3.1, subsections 2 and 3, Code 1983, are amended to read as follows:

2. Shall refer to the ~~number and~~ session of the general assembly and of the sections and chapters of the Acts ~~thereof~~ to be amended ~~in case if~~ the bill relates to a section or sections of an Act not appearing in the Code or codified in a supplement to the Code.

3. All references to statutes shall be expressed in ~~words, followed by the numerals in parentheses when specified in the bill drafting instructions promulgated by the legislative council,~~ and if omitted the Code editor in preparing Acts for publication in the session laws shall supply the same numerals.

Sec. 3. Section 8.6, subsection 20, Code Supplement 1983, is amended to read as follows:

20. **WORKERS' COMPENSATION CLAIMS.** To employ appropriate staff to handle and adjust claims of state employees for workers' compensation benefits pursuant to chapters 85, 85A, 85B, and 86, or with the approval of the executive council contract for ~~such~~ the services or purchase workers' compensation insurance coverage for state employees or selected groups of state employees. The state comptroller shall quarterly determine an appropriate amount, based upon the cost of workers' compensation insurance, that shall be collected from the agencies, departments or divisions which have not received an appropriation for the payment of workers' compensation insurance and which operate from moneys other than from the general fund and ~~such~~ the payments shall be deposited in the general fund.

Sec. 4. Section 8.41, subsection 2, Code 1983, is amended to read as follows:

2. Federal funds deposited in the state treasury as provided in subsection 1 shall either be included as part of the governor's budget required by section 8.22 or shall be included in a separate recommendation made by the governor to the general assembly. If federal funds received in the form of block grants or categorical grants have not been included in the governor's budget for the current fiscal biennium because of time constraints or because a budget is not being submitted for the second year of a biennium, the governor shall submit a supplemental statement to the general assembly listing the federal funds received and including the same information for the federal funds required by section 2 8.22, part I, subsection 2, paragraph "e" for the statement of federal funds in the governor's budget.

Sec. 5. Section 17.23, Code 1983, is amended to read as follows:

17.23 PRICE OF DEPARTMENTAL REPORTS. The state superintendent of printing shall establish and fix a selling price for all ~~other~~ state departmental reports and any other state publications ~~it~~ the superintendent may designate, which price per volume shall be the amount charged any person, other than public officials, who ~~may desire to purchase~~ purchases the same; such publication. The price shall cover the cost of printing and distribution. The superintendent may distribute gratis to such state or local public officials, or offices, he may deem as the superintendent deems necessary, copies of departmental annual reports.

Sec. 6. Section 19A.9, subsection 2, Code 1983, is amended to read as follows:

2. For a pay plan within the purview of an appropriation made by the general assembly and not otherwise provided by law for all employees in the merit system, after consultation with appointing authorities with due regard to the results of a collective bargaining agreement negotiated under the provisions of chapter 20 and after a public hearing held by the commission. ~~Such~~ The pay plan shall become becomes effective only after it has been approved by the executive council after submission from the commission. Review of the pay plan for revisions shall be made in the same manner at the discretion of the director, but not less than annually. The annual review by the director shall be made available to the governor a sufficient time in advance of collective bargaining negotiations to permit its recommendations to be considered during ~~such~~ the negotiations. Each employee shall be paid at one of the rates set forth in the pay plan for the class of position in which employed and, unless otherwise designated by the commission, shall begin employment at the first step of the established range for the employee's class. Unless otherwise established by law, the governor, with the approval of the executive council, shall establish a pay plan for all exempt positions in the executive branch of government except for employees of the governor, the board of regents, the state educational radio and television facility board Iowa department of public broadcasting, the superintendent of public instruction and members of the professional staff of the department of public instruction, appointed under the provisions of section 257.24, who possess a current, valid teacher's certificate or who are assigned to vocational activities or programs, the commission for the blind, members of the Iowa highway safety patrol and other peace officers, as defined in section 97A.1, employed by the department of public safety, and officers and enlisted personnel of the armed services under state jurisdiction.

Sec. 7. Section 25A.14, subsection 4, Code Supplement 1983, is amended to read as follows:

4. Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse ~~or~~ of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

Sec. 8. Section 28.89, Code Supplement 1983, is amended to read as follows:

28.89 IOWA PRODUCT DEVELOPMENT CORPORATION FUND. There is created an

"Iowa product development corporation fund". All funds of the corporation including the proceeds from the issuance of notes or sale of bonds under this division, any funds appropriated from the general fund to the corporation, and other income derived from the exercise of authority granted to the corporation under this division shall be paid to the treasurer of state as an agent of the corporation and the treasurer shall deposit the amounts in the Iowa product development corporation fund. The money in the Iowa product development corporation fund shall be paid out by warrants signed by the ~~treasurer of state~~ comptroller on requisition of the president of the corporation. The money in the Iowa product development corporation fund shall be used for repayment of notes and bonds issued under this division, and the extension of financial aid granted by the corporation under this division, and the amount remaining may be used for the payment of the administrative and overhead costs of the corporation to the extent required.

Sec. 9. Section 28.90, Code Supplement 1983, is amended to read as follows:

28.90 PRODUCT DEVELOPMENT CORPORATION NOTES. The corporation may issue Iowa product development corporation fund notes, the principal and interest of which shall be payable solely from the Iowa product development corporation fund established by this division. The fund notes of each issue shall be dated, shall mature at times not exceeding ten years from their dates of issue, and may be made redeemable before maturity, at the option of the corporation, at prices and under terms and conditions as determined by the corporation. The corporation shall determine the form and manner of execution of the fund notes, including any interest coupons to be attached, and shall fix the denominations and the places of payment of principal and interest, which may be any financial institution within or without the state or any agent, including the lender. If an officer whose signature or a facsimile of whose signature appears on fund notes or coupons ceases to be that officer before the delivery of the notes or coupons, the signature or facsimile is valid and sufficient for all purposes the same as if the officer had remained in office until delivery. The fund notes may be issued in coupon or in registered form, or both, as the corporation determines, and provision may be made for the registration of coupon fund notes as to principal alone and also as to both principal and interest, and for the conversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the interchange of registered and coupon fund notes. Fund notes shall bear interest at rates as determined by the corporation and may be sold in a manner, either at public or private sale, and for a price as the corporation determines to be best to effectuate the purposes of the ~~housing assistance~~ Iowa product development corporation fund. The proceeds of fund notes shall be used solely for the purposes for which issued and shall be disbursed in a manner and under restrictions as provided in this division and in the resolution of the corporation providing for their issuance. The corporation may provide for the replacement of fund notes which become mutilated or are destroyed or lost.

Sec. 10. Section 28E.19, Code Supplement 1983, is amended to read as follows:

28E.19 JOINT COUNTY INDIGENT DEFENSE FUND. 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~~ 815.10 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.

Sec. 11. Section 48.3, Code 1983, is amended to read as follows:

48.3 REGISTRATION BY MAIL. As an alternative to the method of registration prescribed by section 48.2, any a person entitled to register under that section may submit a completed voter registration form to the commissioner of registration in the person's county of residence by postage paid United States mail. A registration form or the envelope containing one or more registration forms for the use of individual registrants who are related to each other within the first degree of consanguinity or affinity and who reside at the same address shall be postmarked by the twenty-fifth day prior to an election or the registration will not take effect for that election. A separate registration form shall be signed by each individual registrant. Within five working days after receiving a registration by mail, the commissioner shall send the registrant a receipt of the registration by first class mail marked "do not forward". If the receipt is returned by the postal service the commissioner shall treat the registration as prescribed by section 48.31, subsection 7 6. An improperly addressed or delivered registration form shall be forwarded to the appropriate county commissioner of registration within two working days after it is received by any other official.

Sec. 12. Section 48.6, subsection 9, Code Supplement 1983, is amended to read as follows:

9. A statement in substantially the following form:

"I state that I am or will be an eligible elector at any election at which I attempt to vote and that all of the information I have given upon this voter registration form is true. I hereby authorize cancellation of any prior registration to vote in this or any other jurisdiction and my eligibility to vote in any jurisdiction where voter registration is not required. I am aware that fraudulently registering, or attempting to do so, is a felony an aggravated misdemeanor under Iowa law." At the time the registration is signed by the eligible elector it shall also be signed by a mobile registrar, employee of the commissioner's office, or other eligible elector.

Sec. 13. Section 68B.2, unnumbered paragraph 2, Code Supplement 1983, is amended to read as follows:

~~Whenever~~ When the terms "legislative employee", "member of the general assembly", "employee", or "official" are used in this chapter, ~~the term shall be interpreted to they include~~ they include any a firm or association of which any of the above those persons is a member or partner and any a corporation of which any of the above those persons holds ten percent or more of the stock either directly or indirectly. ~~The use of the above terms shall also include wives, and the spouse and unemancipated minor children of any of those persons.~~

Sec. 14. Section 85.1, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Except as provided in subsection 5 6 of this section, this chapter ~~shall~~ does not apply to:

Sec. 15. Section 85.26, subsection 3, Code Supplement 1983, is amended to read as follows:

3. Notwithstanding the terms of chapter 17A, the filing with the industrial commissioner of the original notice or petition for an original proceeding or an original notice or petition to reopen an award or agreement of settlement provided by section 86.13, for benefits under the workers' compensation or occupational disease law or the Iowa occupational hearing loss Act ~~chapter 85B shall be this chapter or chapter 85A or 85B is the only Act act~~ constituting "commencement" for purposes of this ~~statutory~~ section.

Sec. 16. Section 86.9, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The commissioner shall, at the time provided by law, make a biennial report to the governor setting forth in appropriate form the business and expense of the office for the two preceding years, the number of arbitrations claims before the agency and the results thereof disposition of the claims, and ~~such~~ other matters pertaining to his the office as may be of public interest,

together with any recommendations for change or amendment of the laws as found in this chapter and chapters 85, 85A, 85B, and 87, and such the recommendations, if any, shall be transmitted by the governor to the first general assembly in session thereafter after the report is filed.

Sec. 17. Section 96.3, subsection 5, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

The maximum total amount of benefits payable to any an eligible individual during any a benefit year shall not exceed the total of the wage credits accrued to the individual's account during the individual's base period, or twenty-six times the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by crediting the individual's account with one-third of the wages for insured work paid to the individual during the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in the individual's account which have not been previously charged hereunder, in the inverse chronological order as the wages on which such the wage credits are based were paid. However if the state and national "off indicators" are "off indicator" is in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

Sec. 18. Section 96.8, subsection 2, Code 1983, is amended to read as follows:

2. VOLUNTARY TERMINATION. Except as otherwise provided in subsection 3 of this section, an employing unit shall cease ceases to be an employer subject to this chapter, as of the first day of January of any calendar year, if it files with the department, prior to the fifteenth day of February of such that year, a written application for termination of coverage, and the department finds that such the employing unit did not meet any of the qualifying liability requirements as provided under section 96.19, subsection 5, paragraphs "a," "b," "c," "d," "e," "f," or "g," and paragraphs "l" and "m" and section 96.19, subsection 6, paragraphs "h" or "i" in the preceding calendar year.

Sec. 19. Section 103A.11, subsections 3 and 4, Code 1983, are amended to read as follows:

3. Every rule adopted by the commissioner shall state the date on which it takes effect.

4. 3. Every rule shall, immediately after adoption, be certified by the commissioner and transmitted to the secretary of state for filing in his office and shall then become a part of the state building code. Copies of every rule shall be sent by the commissioner to all governmental subdivisions which have adopted the state building code.

Sec. 20. Section 104.9, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Operating permits shall be issued by the commissioner to the owner of every facility when the inspection report indicates compliance with the applicable provisions of this chapter. However, no permits shall be issued if the fees required by section 104.14 104.13 have not been paid. Permits shall be issued within thirty days after filing of the inspection report required by section 104.6, unless the time is extended for cause by the division. No facility shall be operated after the thirty days or after any an extension granted by the commissioner has expired, unless an operating permit has been issued.

Sec. 21. Section 125.43, Code Supplement 1983, is amended to read as follows:

125.43 FUNDING AT MENTAL HEALTH INSTITUTES. Chapter 230 shall govern ~~governs~~ the determination of the costs and payment for treatment provided to substance abusers in a mental health institute under the department of human services, except that the charges shall ~~are not constitute~~ a lien on any real estate owned by persons legally liable for support of the substance abuser and the daily per diem shall be billed at twenty-five percent. ~~Beginning July 1, 1977, the~~ The superintendent of a state hospital shall total only those expenditures which can be attributed to the cost of providing inpatient treatment to substance abusers for purposes of determining the daily per diem. ~~The provisions of section 125.48 shall govern~~ Sections 125.44 and 125.45 govern the determination of who is legally liable for the cost of care, maintenance, and treatment of a substance abuser and of the amount for which the person is liable.

Sec. 22. Section 159.5, subsections 4 and 7, Code Supplement 1983, are amended to read as follows:

4. Maintain a weather division which shall, in co-operation with the United States national weather bureau service, collect and disseminate weather and phenological statistics and meteorological data, and promote knowledge of meteorology, phenology and climatology of the state. ~~Said~~ The division shall be in charge of a director headed by the state climatologist who shall be appointed by the secretary of agriculture, and shall be an officer of the United States national weather bureau service, if one be is detailed for that purpose by the federal government.

7. Maintain a division of agricultural statistics, which shall, in co-operation with the United States bureau of agricultural economics department of agriculture statistical reporting service, gather, compile, and publish statistical information concerning the condition and progress of crops, the production of crops, livestock, livestock products, poultry, and other such related agricultural statistics, as will generally promote knowledge of the agricultural industry in the state of Iowa. ~~Such~~ The statistics, when published, shall constitute official agricultural statistics for the state of Iowa. ~~Said~~ The division shall be in charge of a director who shall be appointed by the secretary of agriculture and who shall be an officer of the United States bureau of agricultural economics department of agriculture statistical reporting service, if one be is detailed for that purpose by the federal government.

Sec. 23. Section 169.5, subsection 8, paragraph i, Code Supplement 1983, is amended to read as follows:

i. Adopt, amend, or repeal rules relating to the standards of conduct for, testing of, and revocation or suspension of certificates issued to veterinary ~~lay~~ assistants; ~~providing that no.~~ ~~However,~~ a certificate ~~can~~ shall not be suspended or revoked by less than a two-thirds vote of the entire board in a proceeding conducted in compliance with section 17A.12.

Sec. 24. Section 239.12, Code Supplement 1983, is amended to read as follows:

239.12 AID TO DEPENDENT CHILDREN ACCOUNT. There is established in the state treasury an account to be known as the "Aid to Dependent Children Account" to which shall be credited all funds appropriated by the state for the payment of assistance and benefits under this chapter, and all other moneys received at any time for such purposes. Moneys assigned to the department under section ~~239.12~~ 239.3 and received by the child support recovery unit pursuant to section 252B.5 and 42 U.S.C. sec. 664 shall be credited to the account in the fiscal year in which the moneys are received. All assistance and benefits under this chapter shall be paid from the account.

Sec. 25. Section 255.28, Code Supplement 1983, is amended to read as follows:

255.28 TRANSFER OF PATIENTS FROM STATE INSTITUTIONS. The commissioner of the department of human services, in respect to institutions under the commissioner's control, the director of any of the divisions of the department, in respect to the institutions under the director's control, the director of the Iowa department of corrections, in respect to the institutions under the department's control, and the state board of regents in respect to the Iowa braille and sight-saving school and the Iowa school for the deaf, may send any inmate, student, or patient of ~~any institutions~~ an institution, or any person committed or applying for admission ~~thereto to an institution~~, to the hospital of the medical college of the state university for treatment and care as provided in this chapter, without securing the order of court required in other cases. The department of human services, the Iowa department of corrections and the state board of regents, shall respectively pay the traveling expenses of a patient thus committed, and when necessary the traveling expenses of an attendant for the patient, out of funds appropriated for the use of the institution from which the patient is sent.

Sec. 26. Section 258A.1, subsection 1, paragraph g, Code Supplement 1983, is amended by striking the paragraph.

Sec. 27. Section 258A.3, subsection 2, paragraph a, Code Supplement 1983, is amended to read as follows:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in ~~sections~~ section 114.21, 116.21, 117.29, 118.13, 118A.15, ~~120.10~~, 147.55, 148B.7, 153.34, 154A.24, 169.13, 455B.219 ~~and or~~ 602.3203 ~~and chapters or chapter~~ 135E, 151, 507B ~~and or~~ 522, as applicable, or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;

Sec. 28. Section 258A.4, subsection 1, paragraph f, Code Supplement 1983, is amended to read as follows:

f. Define by rule acts or omissions which are grounds for revocation or suspension of a license under ~~sections~~ section 114.21, 116.21, 117.29, 118.13, 118A.15, ~~120.10~~, 147.55, 148B.7, 153.34, 154A.24, 169.13, 455B.187 ~~and or~~ 602.3203 ~~and chapters or chapter~~ 135E, 151, 507B ~~and or~~ 522, as applicable, and to define by rule acts or omissions which constitute negligence, careless acts or omissions within the meaning of section 258A.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 258A.9, subsection 2;

Sec. 29. Section 283.1, Code 1983, is amended to read as follows:

283.1 FEDERAL FUNDS ACCEPTED. The state board of public instruction is ~~hereby designated as the "state educational authority" for the purpose of accepting and administering such funds as may be appropriated by Congress~~ congress for educational purposes and ~~all such the funds shall be deposited with the treasurer of state and disbursed through the office of state comptroller on vouchers audited as provided by law. When state matching funds are required as a condition to the acceptance of such federal funds, the state board of public instruction is authorized to may make expenditures for matching only from funds provided by the legislature for such that purpose; provided, however, that. However,~~ when federal funds may be matched with expenditures from funds appropriated for the general operation of the department of public instruction ~~such, this may be done with the approval of the budget and financial control committee~~ legislative council.

Sec. 30. Section 303A.10, Code 1983, is amended to read as follows:

303A.10 AGREEMENTS. The compact administrator and the chief executive of any a county, city, ~~village, town~~ or library board is hereby authorized and empowered to may enter into agreements with other states or their political subdivisions pursuant to the compact. ~~Such~~ The agreements as may be made pursuant to this compact on behalf of the state of Iowa shall be made by the compact administrator. ~~Such~~ The agreements as ~~may~~ be made on behalf of a political subdivision shall be made after due notice to and consultation with the compact administrator ~~and consultation with him~~.

Sec. 31. Section 321.43, Code 1983, is amended to read as follows:

321.43 NEW IDENTIFYING NUMBERS. The department is authorized to may assign a distinguishing number to a vehicle ~~or auxiliary axle whenever~~ when the serial number ~~thereon~~ on the vehicle is destroyed or obliterated and to issue to the owner a special plate bearing ~~such~~ the distinguishing number which shall be affixed to the vehicle ~~or auxiliary axle~~ in a position to be determined by the director. ~~Such~~ The vehicle ~~or auxiliary axle~~ shall be registered and titled under ~~such~~ the distinguishing number in lieu of the former serial number.

Sec. 32. Section 321.116, Code Supplement 1983, is amended to read as follows:

321.116 ELECTRIC AUTOMOBILES. For all an electric motor ~~vehicles~~ vehicle the annual fee shall be is twenty-five dollars. ~~When any~~ However, if an electric motor vehicle which is more than five model years old the annual registration fee shall be is fifteen dollars.

Sec. 33. Section 321.482, Code 1983, is amended to read as follows:

321.482 PENALTIES FOR SIMPLE MISDEMEANOR. It is a simple misdemeanor for ~~any~~ a person to do any an act forbidden or to fail to perform any an act required by any of the provisions of this chapter unless any such the violation is by this chapter or other law of this state declared to be a serious or aggravated misdemeanor or a felony. Chapter 232 shall ~~have~~ has no application in the prosecution of offenses committed in violation of this chapter which are simple misdemeanors.

Sec. 34. Section 327G.78, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Subject to sections 327G.77 and 471.16 when a railroad corporation, its trustee, or successor in interest ~~have~~ has 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 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.

Sec. 35. Section 331.321, subsection 1, paragraph h, Code Supplement 1983, is amended to read as follows:

h. A county commission of veteran affairs in accordance with sections 250.3 and 250.4, and a person to provide for the burial of indigent veterans in accordance with section 250.13.



Sec. 36. Section 390.3, unnumbered paragraph 2, Code 1983, is amended to read as follows:

However, in the performance of a joint agreement, the governing body ~~shall~~ is not be subject to statutes generally applicable to public contracts, including hearings on plans, specifications, form of contracts, costs, notice and competitive bidding required under ~~chapter 23 or chapter 397 of the 1973 Code or sections 384.95 to through 384.103~~, unless all parties to the joint agreement are cities located within the state of Iowa.

Sec. 37. Section 422.100, unnumbered paragraph 2, Code Supplement 1983, is amended by striking the unnumbered paragraph.

Sec. 38. Section 422A.2, subsection 4, paragraph d, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

The provisions of division III of chapter 384 relating to the issuance of ~~essential~~ corporate purpose bonds apply to the issuance by a city of bonds payable as provided in this section and the provisions of chapter ~~23~~ 331, ~~division IV, part 3~~, relating to the issuance of county ~~purpose~~ bonds apply to the issuance by a county of bonds payable as provided in this section. The provisions of chapter 76 apply to the bonds payable as provided in this section except that the mandatory levy to be assessed pursuant to section 76.2 shall be at a rate to generate an amount which together with the receipts from the pledged portion of the hotel and motel tax is sufficient to pay the interest and principal on the bonds. All amounts collected as a result of the levy assessed pursuant to section 76.2 and paid out in the first instance for bond principal and interest shall be repaid to the city or county which levied the tax from the first available hotel and motel tax collections received in excess of the requirement for the payment of the principal and interest of the bonds and when repaid shall be applied in reduction of property taxes.

Sec. 39. Section 467D.17, Code Supplement 1983, is amended to read as follows:

467D.17 PLAN PRESENTED TO COMMITTEE, DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT, AND SOIL CONSERVATION DISTRICTS. The board shall tentatively adopt the plan by resolution and shall present the plan to the committee and the department of water, air and waste management for review. The department of water, air and waste management shall within ninety days review the plan as presented and make recommendations it deems necessary to bring the conservancy district's plan into conformity with the comprehensive water allocation plan established by the department of water, air and waste management pursuant to section 455B.263. The recommendations of the department of water, air and waste management 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~~ votes 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 its 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. 40. Section 511.8, subsection 10, paragraph a, Code 1983, is amended to read as follows:

a. ~~Any such real~~ Real estate in this state as which is necessary for the accommodation of the company or association as a home office or in the transaction of its business. In the erection of

any buildings for such purposes, there may be added thereto rooms for rent. Before the company or association shall invest invests any of its funds in accordance with the provisions of this paragraph it shall first obtain the consent of the executive council of this state. The maximum amount which any such a company or association shall be permitted to invest in accordance with these provisions shall not exceed ten percent of the legal reserve; provided, however, that. However, a stock company may invest such portion of its paid-up capital, in addition to said ten percent of the legal reserve, as is not held to constitute a part of its legal reserve, under section 508.12; provided, further, that 508.36, and the total legal reserve of such the company shall be equal to or exceed the amount of its paid-up capital stock.

Sec. 41. Section 524.101, Code 1983, is amended to read as follows:

524.101 SHORT TITLE. This chapter shall be known and may be cited as the Iowa Banking Act of 1969.

Sec. 42. Section 524.1602, subsection 1, Code 1983, is amended by striking the subsection.

Sec. 43. Section 533.6, subsection 4, unnumbered paragraph 1, Code 1983, is amended to read as follows:

If after notice and opportunity for hearing the administrator determines that a credit union has violated any of the provisions of this chapter, the administrator shall, except when the credit union is insolvent, order the credit union to correct the condition. The administrator may grant the credit union not more than sixty days within which to comply with the order. Failure to comply shall afford gives the administrator grounds to revoke the certificate of approval and shall afford gives the administrator the authority to apply to the district court of the county in which this credit union is located for the appointment of a receiver for the credit union. Notwithstanding any other provision of this chapter, upon a determination by the administrator that a credit union's assets, if made immediately available, would not be sufficient to discharge the credit union's liabilities, the administrator shall take control of the credit union, and if the administrator determines that the condition cannot be corrected, the administrator shall revoke the certificate of approval and shall apply to the district court in the county in which the main office of the credit union is located for the appointment of a receiver for the credit union. The district court shall appoint the administrator of the credit union department as receiver unless the administrator of the credit union department has tendered the appointment to the administrator of the plan by which the accounts of the credit union are insured. Either administrator as receiver shall possess the rights, powers, and privileges granted by state law to a receiver of a state credit union. Neither administrator shall be required to furnish bond as receiver of a state credit union. This subsection does not apply to violations of section 533.44 or 533.45, except in the event of insolvency of the credit union.

Sec. 44. Section 534.48, subsection 8, Code 1983, is amended to read as follows:

8. The requirements of section 534.3, subsection 3, paragraph "a," for a domestic association desiring to establish an office and any other Other matters of fact which the council may require requires.

Sec. 45. Section 534.92, subsection 5, paragraph e, Code 1983, is amended to read as follows:

e. The organization will not have sufficient personnel with adequate knowledge and experience to conduct its business and administer any fiduciary accounts which it proposes to handle.

Sec. 46. Section 558.6, Code 1983, is amended to read as follows:

558.6 CHRISTIAN GIVEN NAMES—VARIATION—EFFECT. When there is a difference between the christian given names or initials in which title is taken, and the christian

given names or initials of the grantor in a succeeding conveyance, and the surnames in both instances are written the same or sound the same, ~~such the~~ conveyances or the record thereof shall be of them is presumptive evidence that the surname in the several conveyances and instruments refers to the same person.

Sec. 47. Section 633.213, Code 1983, is amended to read as follows:

633.213 APPRAISAL. Prior to the settlement of every intestate estate in which there is a surviving spouse, and in which appraisal has not been waived by the surviving spouse and all the heirs of the decedent, it shall be the duty of the court, upon application of the personal representative, the surviving spouse, or any of the heirs of the decedent, to shall appoint three competent disinterested appraisers to appraise ~~such the~~ estate and to make their report to the court, at ~~such the~~ time as the court may direct by order, unless the court, after notice, finds further appraisal unnecessary. In ~~such the~~ appraisal, the homestead, if any, shall be appraised separately.

Sec. 48. Section 633.574, Code 1983, is amended to read as follows:

633.574 PROCEDURE IN LIEU OF CONSERVATORSHIP. If a conservator has not been appointed, money due a minor or other property to which a minor is entitled, not exceeding in the aggregate four thousand dollars in value, may be paid or delivered to the parent or other person entitled to the custody of the minor, for the use of the minor, upon written statement verified by the oath of the parent or other person that all money or property of the minor does not exceed in the aggregate four thousand dollars. The written receipt of the parent shall constitute or other person entitled to the custody of the minor constitutes an acquittance of the person making the payment of money or delivery of property.

Sec. 49. Section 657.9, unnumbered paragraph 2, Code 1983, is amended to read as follows:

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 a substantial change in the nature of the use of the range. This section shall does not be in any way construed to enjoin prohibit actions for negligence or recklessness in the operation of the range or by any a person using the range.

Sec. 50. Section 805.10, subsection 1, Code Supplement 1983, is amended to read as follows:

1. When the violation charged involved or resulted in an accident or injury to property, and the total damages are two hundred fifty dollars or more, or in an injury to person.

Sec. 51. Sections 18.137, 24.39 through 24.47, 49.108, 49.112, 49.122, 148A.5, 422.87, 511.6, 524.1901, 615.4, and 904.3, Code 1983, are repealed.

Approved April 11, 1984

**CHAPTER 1068**  
**SUPERINTENDENT OF PUBLIC INSTRUCTION**  
*S.F. 2184*

**AN ACT** relating to the qualifications of the superintendent of public instruction.

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

Section 1. Section 257.12, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

257.12 **QUALIFICATIONS OF SUPERINTENDENT.** The superintendent shall possess an Iowa certificate issued under chapter 260 with an administrator's endorsement. The deputy superintendent shall possess the same qualifications.

Approved April 11, 1984

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**CHAPTER 1069**  
**PUBLICATION OF COUNTY EMPLOYEE CLAIMS**  
*S.F. 2243*

**AN ACT** specifying which claims paid to county employees must be published in official newspapers.

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

Section 1. Section 349.18, Code Supplement 1983, is amended to read as follows:

349.18 **SUPERVISORS' PROCEEDINGS—EACH PAYEE LISTED—PUBLICATION.** All proceedings of each regular, adjourned, or special meeting of ~~boards~~ a board of supervisors, including the schedule of bills allowed, shall be published immediately after the adjournment of the meeting of the boards, and the publication of the schedule of the bills allowed shall show the name of each individual to whom the allowance is made and for what purpose the bill is filed and the amount allowed, include a list of all claims allowed, including salary claims for services performed, showing the name of the person or firm making the claim and the amount of the claim, except that names of persons receiving relief shall not be published and salaries paid to persons regularly employed by the county shall only be published annually showing the total amount of the annual salary. The county auditor shall furnish a copy of the proceedings to be published, within one week following the adjournment of the board.

Approved April 11, 1984

**CHAPTER 1070**  
**SPECIAL EDUCATION PROGRAM RULES**  
*S.F. 2263*

**AN ACT** requiring the department of public instruction to adopt rules relating to the review of an action or omission relating to special education programs by state or local authorities.

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

Section 1. Section 281.6, unnumbered paragraph 2 and subsections 1, 2, 3, 4, and 5, Code 1983, are amended to read as follows:

A child, or his the parent or guardian of the child, or the school district in which the child resides, may obtain a review of any an action or omission of state or local authorities pursuant to the procedures established in chapter 290 by the state board of public instruction on the ground that the child has been or is about to be:

1. Denied entry or continuance in a program of special education appropriate to his the child's condition and needs.
2. Placed in a special education program which is inappropriate to his the child's condition and needs.
3. Denied educational services because no suitable program of education or related services is maintained.
4. Provided with special education which is insufficient in quantity to satisfy the requirements of law.
5. Assigned to a program of special education when he the child is not handicapped.

Notwithstanding section 17A.11, the state board of public instruction shall adopt rules for the appointment of an impartial administrative hearing officer for special education appeals. The rules shall comply with federal statutes and regulations.

Approved April 11, 1984

**CHAPTER 1071****DEPOSIT OF INTEREST EARNINGS IN CERTAIN INSURANCE FUNDS***S.F. 2312*

**AN ACT** relating to the deposit of interest earnings in designated employee insurance funds.

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

Section 1. Section 509A.5, Code 1983, is amended to read as follows:

509A.5 FUND UNDER CONTROL OF GOVERNING BODY. The fund for each plan shall be under the control and shall be expended under the directions of the governing body and shall be used solely for the purpose of administering and carrying out the provisions of the plan adopted by the governing body. Any interest earnings from investments or time deposits of the funds under the control of the state executive council and deposited in the health insurance premium operating fund, the health insurance premium reserve fund, and the life insurance premium operating fund used for the payment of health and life insurance premiums shall be deposited to the credit of these funds.

Approved April 11, 1984

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**CHAPTER 1072****LIENS FOR AGRICULTURAL CHEMICALS, SEED, FEED  
AND PETROLEUM PRODUCTS***S.F. 510*

**AN ACT** relating to liens against crops and livestock to secure payment for agricultural chemicals, seed, petroleum products, and feed used in the production of growing crops and livestock and providing for the perfection, enforcement, assignment, and satisfaction of these liens, and providing for statutory damages.

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

Section 1. NEW SECTION. 570A.1 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Agricultural chemical" means a fertilizer or agricultural chemical which is applied to crops or land which is used for the raising of crops, including but not limited to fertilizer as defined in section 200.3, and pesticide as defined in section 206.2.

2. "Agricultural purpose" means a purpose related to the production, harvest, marketing, or transportation of agricultural products by a person who cultivates, plants, propagates or nurtures the agricultural products including agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any other products raised or produced on farms.

3. "Agricultural supply dealer" means a person engaged in the retail sale of agricultural chemicals, seed, feed, or petroleum products used for an agricultural purpose.

4. "Certified request" means a request delivered by registered or certified mail, or a request delivered in person in writing signed and dated by the respective parties.

5. "Farmer" means a person engaged in a business which has an agricultural purpose.

6. "Feed" means a commercial feed, feed ingredient, mineral feed, drug, animal health product, or customer-formula feed which is used for the feeding of livestock, including but not limited to feed as defined in section 198.3.

7. "Financial history" means the record of a person's current loans, the date of a person's loans, the amount of the loans, the person's payment record on the loans, current liens against the person's property, and the person's most recent financial statement.

8. "Financial institution" means a bank, credit union, insurance company, mortgage banking company or savings and loan association, industrial loan company, production credit association, farmer's home administration, or like institution which operates or has a place of business in this state.

9. "Labor" means labor performed in the application, delivery, or preparation of a product defined in subsections 1, 6, 11, and 13.

10. "Letter of credit" means an engagement by a financial institution to honor drafts or other demands for payment.

11. "Petroleum product" means a motor fuel or special fuel which is used in the production of crops and livestock, including but not limited to motor fuel as defined in section 324.2.

12. "Sale on a credit basis" means a transaction in which the purchase price is due on a date after the date of the sale.

13. "Seed" means agricultural seeds which are used in the production of crops, including but not limited to agricultural seed as defined in section 199.1.

**Sec. 2. NEW SECTION. 570A.2 FINANCIAL INSTITUTION MEMORANDUM TO AGRICULTURAL SUPPLY DEALERS.**

1. Upon the receipt of a certified request of an agricultural supply dealer, prior to or upon a sale on a credit basis of agricultural chemicals, seed, feed, or petroleum products to a farmer, a financial institution which has either a security interest in collateral owned by the farmer or an outstanding loan to the farmer for an agricultural purpose shall issue within two business days a memorandum which states whether or not the farmer has a sufficient net worth or line of credit to assure payment of the purchase price on the terms of the sale. The certified request submitted by the agricultural supply dealer shall state the amount of the purchase and the terms of sale, and be accompanied by a waiver of confidentiality signed by the farmer, and a fifteen dollar fee. If the financial institution states in its memorandum that the farmer has a sufficient net worth or line of credit to assure payment of the purchase price, the memorandum is an irrevocable and unconditional letter of credit to the benefit of the agricultural supply dealer for a period of thirty days following the date on which the final payment is due for the amount of the purchase price which remains unpaid. If the financial institution does not state in its memorandum that the farmer has a sufficient net worth or line of credit to assure payment of the purchase price, the financial institution shall transmit the relevant financial history which it holds on the person. This financial history shall remain confidential between the financial institution, the agricultural supply dealer, and the farmer.

2. If within two business days of receipt of a certified request a financial institution fails to issue a memorandum upon the request of an agricultural supply dealer and the request from the agricultural supply dealer was proper under subsection 1, or if the memorandum from the financial institution is incomplete, or if the memorandum from the financial institution states that the farmer does not have a sufficient net worth or line of credit to assure payment of the purchase price, the agricultural supply dealer may decide to make the sale and secure the lien provided in section 570A.3.

3. Upon an action to enforce a lien secured under section 570A.3 against the interest of a financial institution secured to the same collateral as that of the lien, it shall be an affirmative defense to a financial institution and complete proof of the superior priority of the financial institution's lien that the financial institution either did not receive a certified request and a waiver signed by the farmer, or received the request and a waiver signed by the farmer and provided the full and complete relevant financial history which it held on the farmer making the purchase from the agricultural supply dealer on which the lien is based and that financial history reasonably indicated that the farmer did not have a sufficient net worth or line of credit to assure payment of the purchase price.

**Sec. 3. NEW SECTION. 570A.3 LIEN CREATED.**

1. An agricultural supply dealer furnishing an agricultural chemical, seed, or a petroleum product to a farmer has a lien for the retail cost of the agricultural chemical, seed, or petroleum product, including labor furnished. The lien attaches to all crops which are produced upon the land to which the agricultural chemical was applied within sixteen months following the last date on which the agricultural chemical was applied, or produced from seed furnished, or produced using the petroleum product furnished. However, the lien does not attach to that portion of the crops of a farmer who has paid all amounts due from the farmer for the retail cost, including labor, of the agricultural chemical, seed, or petroleum product provided.

2. An agricultural supply dealer furnishing feed to a farmer has a lien for the unpaid amount of the retail cost of the feed, including labor. The lien attaches to all livestock consuming the feed. However, the lien does not attach to that portion of the livestock of a farmer who has paid all amounts due from the farmer for the retail cost, including labor, of the feed.

**Sec. 4. NEW SECTION. 570A.4 PERFECTION OF LIEN.**

1. In order to perfect the lien created by section 570A.3, the agricultural supply dealer entitled to the lien shall file a verified lien statement with the office of the secretary of state. The lien statement must be filed either within thirty-one days after the first date on which payment is due from the farmer, or for an agricultural chemical, seed, or feed on or before September 1 of the current crop year and for a petroleum product on or before December 1 of the current crop year, whichever is earlier, except that lien statements related to feed may be filed at the time the feed is purchased or delivered. The lien statement shall disclose all of the following:

- a. The name and address of the agricultural supply dealer claiming the lien.
- b. An itemized declaration of the nature and retail cost of the agricultural chemical, seed, feed, or petroleum product which was furnished.
- c. The last date on which the agricultural supply dealer claiming the lien furnished the agricultural chemical, seed, feed, or petroleum product for which the lien is claimed.
- d. The first date on which payment was due from the farmer for whom the agricultural chemical, seed, feed, or petroleum product was furnished.
- e. The name and address of the farmer for whom the agricultural chemical, seed, feed, or petroleum product was furnished.
- f. The legal description of the real property on which the crops to which the lien attaches are growing or are to be grown or the description of the livestock or animals to which the lien attaches.

2. The secretary of state shall enter on the lien statement the time of day and date of filing.



3. If an agricultural supply dealer fails to file the lien statement within the time required by subsection 1, the lien and all benefits under this chapter are forfeited.

4. The secretary of state shall note the filing of a lien statement under this section in the manner provided by chapter 554, the uniform commercial code, and shall charge a four dollar filing fee if the statement is the standard form prescribed by the secretary of state, and otherwise a fee of five dollars.

5. An agricultural supply dealer filing a verified lien statement shall request from the secretary of state a certificate showing any effective financing statement or verified lien statements naming the debtor and the crops or livestock to which the lien attaches. The agricultural supply dealer shall notify by registered mail any other creditor who holds a lien or security interest which is subordinate or equal to the agricultural supply dealer's lien.

**Sec. 5. NEW SECTION. 570A.5 PRIORITY OF LIEN.**

1. A lien perfected under this chapter is superior to a lien or security interest which attaches subsequent to the time the lien statement is filed with the secretary of state, except liens which arise under this chapter or under chapters 570 and 571.

2. A lien perfected under this chapter is equal to a lien or security interest which is of record or which is perfected prior to the time the lien statement is filed with the secretary of state except as provided in section 570A.2, subsection 3.

3. A lien perfected under this chapter for the purposes of feed will continue to be perfected in the livestock and takes priority over an earlier perfected lien or security interest to the extent of the difference between the acquisition price of the livestock and the fair market value of the livestock at the time the lien attaches or the sale price of the livestock, whichever is greater.

**Sec. 6. NEW SECTION. 570A.6 ENFORCEMENT OF LIEN.**

1. The holder of a lien perfected under this chapter may enforce the lien in the manner provided in chapter 554, article 9, part 5, for the enforcement of security interests. For purposes of enforcement of the lien, the lienholder is deemed to be the secured party, and the farmer for whom the agricultural chemical, seed, feed, or petroleum product was furnished is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part 5. Where a right or duty under chapter 554, article 9, part 5 is contingent upon the existence of express language in a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this chapter.

**Sec. 7. NEW SECTION. 570A.7 ENFORCEMENT ACTIONS.** An action to enforce a lien arising under this chapter may be commenced in the district court after the lien is perfected. The action may be brought in any county in which some part of the crop and livestock or animals is located. The action shall be by equitable proceedings, and no other cause of action shall be joined with it. A lien statement may be amended by leave of the court in furtherance of justice, except as to the amount demanded. An action to enforce a lien under this chapter may be brought within one year after the date the lien statement is filed and not afterward.

**Sec. 8. NEW SECTION. 570A.8 DEMAND FOR BRINGING SUIT.**

1. A person who has an interest in crops or livestock to which a lien has attached under this chapter may serve upon the lienholder a written demand that the lienholder commence an action to enforce the lien within thirty days after the date of service. The written demand shall be served in the same manner provided for service of an original notice. If the lienholder fails to commence an action within thirty days after being served with the written demand, the lien and all benefits of the lien are extinguished.

2. Return of service of the written demand specified in subsection 1 shall be filed with the secretary of state.

3. The lienholder shall file with the secretary of state a file stamped copy of the petition to enforce the lien within thirty days of commencing the action. Failure to file the copy of the petition will cause the verified lien statement to lapse.

Sec. 9. NEW SECTION. 570A.9 ASSIGNMENT OF LIEN. A lien which has been perfected under this chapter is assignable, and follows the assignment of the debt for which it is claimed.

Sec. 10. NEW SECTION. 570A.10 ACKNOWLEDGMENT OF SATISFACTION. When a lien under this chapter is satisfied by payment of the claim, the lienholder shall acknowledge the satisfaction of the claim in writing to the secretary of state. If the lienholder failed to file an acknowledgment of satisfaction with the secretary of state within thirty days after written demand by a person having an interest in the crop or livestock, the lienholder is liable to the person for a penalty of twenty-five dollars, plus actual damages incurred as a result of the failure, plus attorney fees and court costs.

Sec. 11. NEW SECTION. 570A.11 RIGHTS AND REMEDIES. The rights and remedies provided for in this chapter are in addition to and not in lieu of the rights and remedies provided for in chapter 572.

Sec. 12. Section 554.9407, subsection 3, Code Supplement 1983, is amended to read as follows:

3. Upon written request of any person, the filing officer shall issue a certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement or verified lien statement under chapter 570A naming a particular debtor and any financing statement or verified lien statement changes and if there is are, giving the date and hour of filing of each such filing and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be four dollars if the request for the certificate is on a form conforming to standards prescribed by the secretary of state; otherwise, five dollars. Upon request and the payment of the appropriate fee the filing officer shall furnish a certified copy of any filed financing statement or financing statement changes or verified lien statement or lien statement changes for a uniform fee of one dollar per page.

Approved April 12, 1984

**CHAPTER 1073**  
**INDEMNIFICATION FOR ART OBJECTS**  
*H.F. 2284*

**AN ACT** relating to agreements for indemnification by the state in the event of loss of or damage to certain art objects and artifacts borrowed by nonprofit organizations or governmental entities for special exhibits.

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

Section 1. Section 304A.5, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION.** Administer the program of agreements for indemnification by the state in the event of loss of or damage to special exhibit items established by sections 304A.15 through 304A.24.

Sec. 2. **NEW SECTION.** 304A.15 DEFINITIONS. When used in sections 304A.15 through 304A.24, unless the context otherwise requires:

1. "Council" means the Iowa state arts council.
2. "Director" means the director of the council.
3. "Division" means the division of risk management of the department of general services.
4. "Indemnity agreement" means an agreement authorized by section 304A.16.
5. "Nonprofit organization" means a corporation organized under chapter 504 or 504A or which holds a permit or certificate under chapter 504 or 504A to do business or conduct affairs in this state.

Sec. 3. **NEW SECTION.** 304A.16 AGREEMENTS TO INDEMNIFY AGAINST LOSS OF OR DAMAGE TO SPECIAL EXHIBIT ITEMS.

1. The director of the Iowa state arts council, after receiving the advice and recommendations of the council, may make agreements on behalf of the state to indemnify against loss of or damage to eligible special exhibit items of public educational, cultural, artistic, historical or scientific significance borrowed from outside the state by nonprofit organizations or governmental entities as provided in sections 304A.15 through 304A.24.

2. The director, after consultation with the council, shall adopt rules for the administration of sections 304A.15 through 304A.24.

Sec. 4. **NEW SECTION.** 304A.17 ITEMS ELIGIBLE FOR INDEMNITY AGREEMENTS.

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

- a. Works of art, including tapestries, paintings, sculpture, folk art, graphics and craft arts.
- b. Manuscripts, rare documents, books and other printed or published material.
- c. Photographs, motion pictures, video tapes and audio tapes.
- d. Other artifacts.

2. Items which are eligible for a federal indemnity agreement under the Arts and Artifacts

Indemnity Act, 20 U.S.C. sec. 971 to 977, and regulations under that Act, are not eligible for inclusion in a state indemnity agreement.

Sec. 5. NEW SECTION. 304A.18 APPLICATIONS. A nonprofit organization or governmental entity desiring to obtain an indemnification agreement for special exhibit items it proposes to borrow from outside this state may submit an application to the director. The application shall:

1. Describe each item to be covered by the indemnity agreement, including the estimated value of the item.
2. Show evidence that the items are eligible under section 304A.17.
3. Set forth policies, procedures, techniques and methods with respect to preparations for and the conduct of the exhibition, including arrangements for transportation of the items.

Sec. 6. NEW SECTION. 304A.19 REVIEW AND DETERMINATION AS TO QUALIFICATION FOR INDEMNITY COVERAGE.

1. Every application received by the director shall be submitted to the department of general services which, through its division of risk management, shall review the application and determine whether the applicant qualifies for indemnity coverage under sections 304A.15 through 304A.24. The criteria for qualification shall be prescribed by rule of the department and shall include but not limited to:

- a. Physical security of the applicant's exhibition facilities and of the means of transportation of the items.
- b. Experience and qualifications of the applicant's director, curator, registrar or other staff.
- c. Eligibility of the applicant's exhibition facilities for commercial insurance coverage of art objects and artifacts exhibited there.
- d. Availability of proper equipment to protect art objects and artifacts from damage from extremes of temperature or humidity or exposure to glare, dust or corrosion.

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

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

Sec. 7. NEW SECTION. 304A.20 REVIEW AND DETERMINATION AS TO ELIGIBILITY AND ESTIMATED VALUE OF ITEMS.

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

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

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

Sec. 8. NEW SECTION. 304A.21 APPROVAL—TERMS. If the director determines that the application meets all requirements for approval, the director shall approve the application and on behalf of the state enter into an indemnity agreement with the lender and the applicant whereby the state becomes liable to indemnify against loss of or damage to the items specified in the agreement. The agreement shall cover the specified items from the time they leave the premises of the lender, or other place designated in writing by the lender, until the time the items are returned to the premises of the lender or other designated place.

Sec. 9. NEW SECTION. 304A.22 LIMITATIONS.

1. Coverage under sections 304A.15 through 304A.24 shall extend only to loss or damage in excess of the first twenty-five thousand dollars in connection with a single exhibition.

2. Indemnity agreements entered into by the director shall not exceed an aggregate value of one million dollars at any one time. The agreements, together with the claims paid to date, shall not exceed one million dollars at any one time.

Sec. 10. NEW SECTION. 304A.23 CLAIMS.

1. Claims for losses covered by indemnity agreements under sections 304A.15 through 304A.24 shall be submitted to the department of general services which, through its division of risk management, shall review the claims. If the division determines that the loss is covered by the agreement, the division shall certify the validity of the claim and authorize payment of the amount of loss, less any deductible portion, to the lender.

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

3. The authorization for payment shall be forwarded to the comptroller, who shall issue a warrant for payment of the claim from the state general fund out of any funds not otherwise appropriated.

Sec. 11. NEW SECTION. 304A.24 ANNUAL REPORT. The director shall report annually to the legislature concerning:

1. Claims, if any, actually paid pursuant to sections 304A.15 through 304A.24, during the preceding fiscal year.

2. Claims pending as of the close of the preceding fiscal year.

3. The aggregate face value of indemnity agreements entered into which are outstanding at the close of the preceding fiscal year.

Approved April 12, 1984

**CHAPTER 1074**  
**REGULATION OF EXPLOSIVES**  
*H.F. 2301*

**AN ACT** relating to transferring responsibility for issuing commercial licenses and permits for the sale, use, purchase, possession and transportation, reporting of theft or loss, and regulation of disposal of explosives, to the state fire marshal, and the sale, possession, or use of the explosive nitroglycerin, providing a penalty, and transferring the responsibility for the inspection of explosive storage facilities from county sheriffs to the state fire marshal while reducing the number of inspections per year.

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

Section 1. Section 101A.2, subsections 1 and 2, Code 1983, are amended to read as follows:

1. The ~~commissioner of public safety~~ state fire marshal shall issue commercial licenses for the manufacture, importation, distribution, sale, and commercial use of explosives to persons who, in the ~~commissioner's~~ state fire marshal's discretion are of good character and sound judgment, and have sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety. Licenses shall be issued for a period of one year, but may be issued for shorter periods, and may be revoked or suspended by the ~~commissioner of public safety~~ state fire marshal for any of the following reasons:

a. Falsification of information submitted in the application for a license.

b. Proof that the licensee has violated any provisions of this chapter or any rules prescribed by the ~~commissioner of public safety~~ state fire marshal pursuant to the provisions of this chapter.

2. Licenses shall be issued by the ~~commissioner of public safety~~ state fire marshal upon payment to him of a fee of sixty dollars, valid for a period of one calendar year, commencing on January 1 and terminating on December 31; however, an initial license may be issued during any calendar year for the number of months remaining in such calendar year, computed to the first day of the month when the application for the license is approved. The license fee shall be charged on a pro rata basis for the number of months remaining in the year of issue. Applications for renewal of licenses shall be submitted within thirty days prior to the license expiration date and shall be accompanied by payment of the prescribed annual fee.

Sec. 2. Section 101A.3, subsections 1 and 2, Code Supplement 1983, is amended to read as follows:

1. User's permits to purchase, possess, transport, store, and detonate explosive materials shall be issued by the sheriff of the county or the chief of police of a city of ten thousand population or more where the possession and detonation will occur. If the possession and detonation are to occur in more than one county or city, then such permits must be issued by the sheriff or chief of police of each of such counties or cities, except in counties and cities in which the explosives are possessed for the sole purpose of transporting them through such counties and cities. A permit shall not be issued unless the sheriff or chief of police having jurisdiction is satisfied that possession and detonation of explosive materials is necessary to

the applicant's business or to improve his property. Permits shall be issued only to persons who, in the discretion of the sheriff or chief of police, are of good character and sound judgment, and have sufficient knowledge of the use and handling of explosive materials to protect the public safety. The commissioner of public safety state fire marshal shall prescribe, have printed, and distribute permit application forms to all local permit issuing authorities.

2. The user's permit shall state the quantity of explosive materials which the permittee may purchase, the amount he the permittee may have in his possession at any one time, the amount he the permittee may detonate at any one time, and the period of time during which the purchase, possession, and detonation of explosive materials is authorized. The permit shall also specify the place where detonation may occur, the location and description of the place where the explosive materials will be stored, if such be the case, and shall contain such other information as may be required under the rules and regulations of the commissioner of public safety state fire marshal. The permit shall not authorize purchase, possession, and detonation of a quantity of explosive materials in excess of that which is necessary in the pursuit of the applicant's business or the improvement of his the permittee's property, nor shall such purchase, possession, and detonation be authorized for a period longer than is necessary for the specified purpose. In no event shall the permit be valid for more than thirty days from date of issuance but it may be renewed upon proper showing of necessity.

Sec. 3. Section 101A.4, subsection 1, Code 1983, is amended to read as follows:

1. Judicial review of the action of the commissioner state fire marshal may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 4. Section 101A.5, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The commissioner of public safety state fire marshal shall prepare, adopt, and distribute to permit issuing authorities and other interested persons, without cost, rules in accordance with provisions of chapter 17A, pertaining to the manufacture, transportation, storage, possession, and use of explosive materials. Rules adopted by the commissioner of public safety state fire marshal shall be compatible with, but not limited to the National Fire Protection Association's pamphlet number 495 and federal rules pertaining to commerce, possession, storage, and use of explosive materials. Such rules shall:

Sec. 5. Section 101A.7, Code Supplement 1983, is amended to read as follows:

101A.7 INSPECTION OF STORAGE FACILITY. The licensee's or permittee's explosive storage facility shall be inspected at least once every six months a year by either a representative of the sheriff of the county where the facility is located or by the local police authority if the facility is located within a city of over ten thousand population state fire marshal's office. The state fire marshal shall notify the appropriate city or county governing board of licenses to be issued in their respective jurisdictions pursuant to this chapter. The notification shall contain the name of the applicant to be licensed, the location of the facilities to be used in storing explosives, the types and quantities of explosive materials to be stored, and other information deemed necessary by either the governing boards or the state fire marshal. The facility may be examined at other times by the sheriff of the county where the facility is located or by the local police authority if the facility is located within a city of over ten thousand population and if he the sheriff or city council considers it necessary.

If the sheriff or local police authority find state fire marshal finds the facility to be improperly secured, the licensee or permittee shall immediately correct the improper security and, if not so corrected, the sheriff or local police authority state fire marshal shall immediately confiscate the stored explosives. Explosives may be confiscated by the county sheriff or local police authority only if a situation that is discovered during an examination by those authorities is deemed to present an immediate danger. If the explosives are confiscated by

the county sheriff or local police authority, they shall be delivered to the sheriff state fire marshal. The sheriff state fire marshal shall hold confiscated explosives for a period of thirty days under proper security unless the period of holding is shortened pursuant to this section.

If the licensee or permittee corrects the improper security within the thirty-day period, the explosives shall be returned to the licensee or permittee after correction and after the licensee or permittee has paid to the county state an amount equal to the expense incurred by the county state in storing the explosives during the period of confiscation. The amount of expense shall be determined by the sheriff state fire marshal.

If the improper security is not corrected during the thirty-day period, the sheriff state fire marshal shall deliver the explosives to the fire marshal for disposal ~~dispose of the explosives~~ and the license or permit shall be canceled. Such ~~A~~ canceled license or permit shall not be reissued for a period of two years from the date of cancellation.

~~The licensee or permittee may obtain possession of the explosives from the sheriff during the thirty-day period for the purpose of disposing of them. The disposal procedure shall conform to the provisions of section 101A.9. The licensee or permittee shall first pay to the county an amount equal to the expense incurred by the county in storing the explosives during the period of confiscation. The amount of the expense shall be determined by the sheriff.~~

Sec. 6. Section 101A.8, Code 1983, is amended to read as follows:

101A.8 REPORT OF THEFT OR LOSS REQUIRED. Any theft or loss of explosive materials, whether from a storage magazine, a vehicle in which they are being transported, or from a site on which they are being used, or from any other location, shall immediately be reported by the person authorized to possess such explosives to the local police or county sheriff. The local police or county sheriff shall immediately transmit a report of such theft or loss of explosive materials to the commissioner of public safety state fire marshal.

Sec. 7. Section 101A.9, Code 1983, is amended to read as follows:

101A.9 DISPOSAL REGULATED. No person shall abandon or otherwise dispose of any explosives in any manner which might, as the result of such abandonment or disposal, create any danger or threat of danger to life or property. Any person in possession or control of explosives shall, when the need for such explosives no longer exists, dispose of them in accordance with rules prescribed by the commissioner of public safety state fire marshal.

Sec. 8. Section 101A.14, subsection 2, Code 1983, is amended to read as follows:

2. Any person who violates the provisions of sections 101A.6, 101A.8 or 101A.9 or any of the rules adopted by the commissioner of public safety state fire marshal pursuant to the provisions of this chapter, commits a simple misdemeanor.

Approved April 13, 1984



**CHAPTER 1075**  
**LICENSING OF SOCIAL WORKERS**  
*H.F. 2136*

**AN ACT** relating to the licensing and regulation of social workers, the deposit of license fees for the purpose of administration, and providing penalties for violations.

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

Section 1. **NEW SECTION. DEFINITIONS.** As used in sections 1 through 12 of the Act unless the context otherwise requires:

1. "Board" means the board of social work examiners.
2. "Licensed social worker" or "licensee" means a person licensed to practice social work.
3. "Practice of licensed social work" means the professional activity of licensed social workers which is directed at enhancing, protecting, or restoring people's capacity for social functioning and includes the application of social work methods and values in evaluating personal and family problems and relationships, assisting persons and families with adjustment problems and reaching appropriate decisions about their lives, and counseling emotionally distressed individuals and families.
4. "Private practice of licensed social work" means the autonomous professional activity of a licensed social worker which is not under the auspices of a public or private non-profit corporation.

Sec. 2. **NEW SECTION. APPLICABILITY.** After January 1, 1985 a person shall not hold oneself forth as a licensed social worker unless the person has obtained a license pursuant to sections 1 through 12 of this Act.

Sections 1 through 12 of this Act do not prevent individuals not licensed as social workers from working within their respective professions or occupations if they do not hold themselves out to the public as being licensed social workers. Section 147.83 does not apply to persons who are not licensed as social workers and do not hold themselves out as licensed social workers.

Sec. 3. **NEW SECTION. REQUIREMENTS FOR LICENSE AS A LICENSED SOCIAL WORKER.** Each applicant for a license as a licensed social worker shall meet the following requirements:

1. Possess a master's or doctoral degree in social work from an accredited college or university approved by the board.
2. Pass an examination approved by the board for this purpose.
3. Have two years experience in the activities of the practice of social work.

Sec. 4. **NEW SECTION. RULE-MAKING AUTHORITY.** In addition to duties and responsibilities provided in chapters 147 and 258A, the board shall adopt rules relating to:

1. Standards required for licensees engaging in the private practice of licensed social work.
2. Standards for professional conduct of persons licensed under sections 1 through 12 of this Act.
3. The administration of sections 1 through 13 of this Act.
4. The status of active and inactive licensure and guidelines for inactive licensure reentry.

5. Educational activities which fulfill continuing education requirements for renewal of licenses.

Sec. 5. NEW SECTION. CONFIDENTIALITY OF INFORMATION. A licensed social worker or a person working under supervision of a licensee shall not disclose or be compelled to disclose information acquired from persons consulting that person in a professional capacity except:

1. If the information reveals the contemplation or commission of a crime.
2. If the person waives the privilege by bringing charges against the licensee.
3. With the written consent of the client, or in the case of death or disability with the consent of the client's personal representative, another person authorized to sue, or the beneficiary of an insurance policy on the client's life, health, or physical condition.
4. To testify in a court hearing concerning matters pertaining to the welfare of children.
5. To seek collaboration or consultation with professional colleagues or administrative superiors on behalf of the client.

Sec. 6. Section 147.1, subsections 2 and 3, Code 1983, are amended to read as follows:

2. "Licensed" or "certified" when applied to a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, occupational therapist, practitioner of cosmetology, practitioner of barbering, ~~or~~ funeral director or social worker means a person licensed under this title.

3. "Profession" means medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, cosmetology, barbering, ~~or~~ mortuary science or social work.

Sec. 7. Section 147.3, Code 1983, is amended to read as follows:

147.3 QUALIFICATIONS. An applicant for a license to practice a profession under this title is not ineligible because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. Any board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of medicine, podiatry, osteopathy, osteopathy and surgery, chiropractic, nursing, psychology, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, cosmetology, barbering, ~~or~~ mortuary science or social work for which the applicant requests to be licensed. Character references may be required, but shall not be obtained from licensed members of the profession.

Sec. 8. Section 147.13, Code 1983, is amended to read as follows:

147.13 DESIGNATION OF BOARDS. The examining boards provided in section 147.12 shall be designated as follows: For medicine and surgery, and osteopathy, and osteopathic medicine and surgery, medical examiners; for psychology, psychology examiners; for podiatry, podiatry examiners; for chiropractic, chiropractic examiners; for physical therapists and occupational therapists, physical and occupational therapy examiners; for nursing, board of nursing; for dentistry and dental hygiene, dental examiners; for optometry, optometry examiners; for speech pathology and audiology, speech pathology and audiology examiners; for cosmetology, cosmetology examiners; for barbering, barber examiners; for pharmacy, pharmacy examiners; for mortuary science, mortuary science examiners; for social workers, social work examiners.

Sec. 9. Section 147.14, subsection 1, Code 1983, is amended to read as follows:

1. For podiatry, cosmetology, barbering, ~~and~~ mortuary science, and social work, three members each, licensed to practice the profession for which the board conducts examinations, and two members who are not licensed to practice the profession for which the board conducts examinations and who shall represent the general public. A quorum shall consist of a majority of the members of the board.

Sec. 10. Section 147.25, unnumbered paragraph 4, Code 1983, is amended to read as follows:

In addition to any other fee provided by law, a fee may be set by the respective examining boards for each license and renewal of a license to practice medicine, surgery, podiatry, osteopathy, osteopathic medicine and surgery, chiropractic, nursing, dentistry, dental hygiene, optometry, pharmacy, physical therapy, occupational therapy, social work, and veterinary medicine, which fee shall be based on the annual cost of collecting information for use by the department of health in the administration of the system of health manpower statistics established by this section. The fee shall be collected, transmitted to the treasurer of state and deposited in the general fund of the state in the manner in which license and renewal fees of the respective professions are collected, transmitted, and deposited in the general fund.

Sec. 11. Section 147.74, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A social worker licensed under sections 1 through 13 of this Act may use the words "licensed social worker" after the person's name or to signify the same by the use of the letters "L.S.W." after the person's name.

Sec. 12. Section 147.80, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. License to practice social work issued on the basis of an examination by the board of social work examiners, or license to practice social work issued under a reciprocity agreement, or renewal of a license to practice social work.

Sec. 13. IMPLEMENTATION.

1. For the initial terms of members of the board of social work examiners, the governor shall appoint one member to serve a term of one year, two members to serve a term of two years and two members to serve a term of three years. The time from the appointment of the members until May 1, 1985 shall not be included in the computation of the initial term. For two years after the effective date of this Act, the professional members of the board shall only be required to possess a master's or doctoral degree in social work from an accredited college or university. The members of the board may be appointed upon the enactment of this Act and may meet, organize, and adopt rules to become effective January 1, 1985. The board may receive compensation and expenses at the rates authorized by chapter 147 for meetings held prior to January 1, 1985, as well as after that date.

2. Sections 1 through 12 of this Act become effective January 1, 1985.

Approved April 13, 1984

**CHAPTER 1076**  
**COMMISSION ON CHILDREN, YOUTH AND FAMILIES**  
*H.F. 2189*

**AN ACT** creating a commission on children, youth, and families and providing its purpose and duties.

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

Section 1. **NEW SECTION. 237B.1 POLICY FOR CHILDREN, YOUTH, AND FAMILIES.** It is the policy of this state that the commission on children, youth, and families work with state agencies in an advisory capacity to help plan needed services for children, youth, and families, improve and coordinate planning efforts with federal, state and local service providers, provide the governor and the legislature with recommendations and information to upgrade and improve services for children, youth, and families, provide local communities with technical assistance, identify state and federal resources that can be used in local areas, and provide needed programs and services to parents to assist and support them in their parenting role.

Sec. 2. **NEW SECTION. 237B.2 COMMISSION ON CHILDREN, YOUTH, AND FAMILIES.**

1. The commission on children, youth, and families is established.
2. The following persons or a designee are members of the commission:
  - a. The commissioner of the department of human services.
  - b. The director of the department of substance abuse.
  - c. The superintendent of public instruction.
  - d. The director of the department of corrections.
  - e. The commissioner of public health.
3. The following members of the commission shall be appointed by the governor:
  - a. A member of a county board of supervisors.
  - b. A mayor or member of a city council.
  - c. A member of the board of directors of a school corporation.
  - d. Eight citizens, one of whom shall be a professional family counselor.
  - e. A person sixteen through eighteen years of age at the time of appointment.
4. The following shall be nonvoting members of the commission:
  - a. Two members of the senate, not more than one from any political party, appointed by the president of the senate.
  - b. Two members of the house of representatives, not more than one from any political party, appointed by the speaker of the house.
  - c. A district court judge appointed by the governor.
5. The members of the commission appointed by the governor shall be appointed to terms of four years beginning July 1. Legislative members shall be appointed to terms of two years beginning January 1 of odd-numbered years. However, members appointed under subsections 3 and 4 shall cease to be members if they no longer hold the office from which they were

appointed. Not more than seven of the members appointed under subsection 3 shall belong to the same political party at the time of appointment. A person designated under subsection 2 is appointed for a term of four years beginning July 1 and must be an assistant director, or head of a division, section, or bureau of that agency whose function relates to children, youth, or families while serving on the commission. Vacancies shall be filled in the same manner as the original appointment. Not more than nine of the voting members of the commission shall be of the same gender.

Sec. 3. NEW SECTION. 237B.3 MEETINGS AND OFFICERS. The governor shall appoint from the commission's voting membership a chairperson and the members shall elect other officers as the commission deems necessary, who shall serve for a period of two years. The commission shall meet at regular intervals at least six times each year and may hold special meetings at the call of the chairperson or at the request of a majority of the voting members.

Sec. 4. NEW SECTION. 237B.4 PURPOSE. The purpose of the commission is to promote coordination of state, local and private programs, resources and services to meet the needs of children, youth, and families. The commission shall work to identify unmet needs and to develop a plan to meet those needs and to improve coordination of efforts. It shall serve as an advocate for Iowa's children, youth, and families to decision-making bodies and to the public. The commission shall make an annual report to the governor and general assembly by December 1 of its activities and legislative recommendations.

Sec. 5. NEW SECTION. 237B.5 DIRECTOR. The governor shall appoint a director for the commission, subject to confirmation by the senate, who shall serve as executive officer of the commission and be exempt from chapter 19A. The director shall be responsible to the commission and with the approval of the commission shall employ and supervise the commission's staff and be responsible for implementing policy set by the commission.

Sec. 6. NEW SECTION. 237B.6 EXPENSES. Members of the commission, while engaged in their official duties, shall be reimbursed for their actual and necessary expenses.

Sec. 7. NEW SECTION. 237B.7 GRANTS AND GIFTS RECEIVED. The commission may receive federal funds or any grants or gifts on behalf of the state for the purposes within its jurisdiction. All federal funds, grants, and gifts shall be deposited with the state treasurer and used only for the purposes agreed upon as conditions for receipt of the funds, grants, or gifts.

Sec. 8. TRANSFER OF RESPONSIBILITIES. The responsibilities, records, and staff of the Iowa council for children and families and the Iowa youth council operating in the office for planning and programming shall be transferred to the commission on children, youth, and families. Upon the transfer, the two councils shall be terminated. Notwithstanding the provisions of chapter 19A, the staff of the Iowa council for children and families and the Iowa youth council, upon transfer to the commission, shall become covered by and subject to the state merit system, assigned classifications comparable to their previous exempt classifications, and credited for their previous exempt service for purposes of seniority, benefits and review dates. The office for planning and programming shall provide office facilities and administrative support services to the commission as agreed to by the commission and the governor.

Sec. 9. INITIAL TERMS AND APPOINTMENTS. The agency head shall designate a member of an agency listed in section 237B.2, subsection 2, to serve in lieu of the agency head

for the first two years of the commission if that person is an assistant director or the head of a division, section or bureau of that agency the function of which relates to children, youth, or families and the person previously served on either the Iowa council for children and families or the Iowa youth council. At least two citizen members of each of those councils shall be provided an opportunity to serve on the commission on children, youth, and families. Six of the members appointed under section 237B.2, subsection 3, shall be appointed to initial terms of two years.

Approved April 13, 1984

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**CHAPTER 1077**  
**LENGTH OF CERTAIN BUSES**  
*H.F. 2232*

**AN ACT** to allow the operation of articulated buses not exceeding sixty-one feet in length on the public streets and highways.

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

Section 1. Section 321.457, subsection 2, paragraph b, Code Supplement 1983, is amended to read as follows:

b. A single bus, unladen or with load, shall not have an overall length, inclusive of front and rear bumpers, in excess of forty feet, except that buses constructed so as to contain a flexible part allowing articulation shall not exceed sixty-one feet.

Approved April 13, 1984

**CHAPTER 1078**  
**SCHOOL DISTRICT REORGANIZATION PROCEDURES**

*H.F. 2458*

**AN ACT** relating to school district reorganization procedures.

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

Section 1. Section 275.1, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. As used in this chapter unless the context otherwise requires:

1. "Eligible elector" means eligible elector as defined in section 39.3, subsection 1.
2. "Qualified elector" means qualified elector as defined in section 39.3, subsection 2.
3. "School districts affected" means the school districts named in the reorganization petition whether a school district is affected in whole or in part.

Sec. 2. Section 275.2, Code 1983, is amended to read as follows:

275.2 SCOPE OF SURVEYS. The scope of ~~such~~ the studies and surveys shall include the following matters in the various districts in the area education agency and all districts adjacent to the area education agency: The adequacy of the educational program, ~~average daily attendance of pupils~~ pupil enrollment, property valuations, existing buildings and equipment, natural community areas, road conditions, transportation, economic factors, individual attention given to the needs of students, the opportunity of students to participate in a wide variety of activities related to the total development of the student, and ~~such~~ other matters that may bear on educational programs meeting minimum standards required by law. The plans shall also include suggested alternate plans that incorporate the school districts in the area education agency into reorganized districts that meet the enrollment standards specified in section 275.3 and may include alternate plans proposed by school districts for sharing programs under section 280.15, 257.28, or 282.7 as an alternative to school reorganization.

Sec. 3. Section 275.4, unnumbered paragraph 1, Code 1983, is amended to read as follows:

In developing studies and surveys the area education agency board shall consult with the officials of ~~affected school districts in the area~~ and other citizens, and shall from time to time hold public hearings, and may employ such research and other assistance as it may determine reasonably necessary in order to properly carry on its survey and prepare definite plans of reorganization.

Sec. 4. Section 275.5, Code 1983, is amended to read as follows:

275.5 PROPOSALS FOR MERGER OR CONSOLIDATION. ~~Any~~ A proposal for merger, consolidation, or boundary change of local school districts shall first be submitted to the area education agency board following the procedure prescribed in this chapter. Following receipt of a petition pursuant to section 275.12, the area education agency board shall review its plans and determine whether the petition complies with the plans which had been adopted by the board. If the petition does not comply with the plans which had been adopted by the board, the board shall conduct further surveys pursuant to section 275.4 prior to the date set for the

hearing upon the petition. If further surveys have been conducted by the board, the board shall present the results of the further surveys at the hearing upon the petition.

Sec. 5. Section 275.8, subsection 2, Code 1983, is amended to read as follows:

2. Adoption of such the written joint plan at a joint session of the several area education agency boards in whose areas such the territory is situated. Votes of each member of an area education agency board shall be weighted so that the total number of votes eligible to be cast by members of each board shall be equal. A quorum of each of the boards is necessary to transact business. Votes shall be taken in the manner prescribed in section 275.16.

Sec. 6. Section 275.12, subsection 1, Code Supplement 1983, is amended to read as follows:

1. A petition describing the boundaries, or accurately describing the area included therein by legal descriptions, of the proposed district, which boundaries or area described shall conform to plans developed or the petition shall request change of the plan, shall be filed with the area education agency administrator of the area education agency in which the greatest number of qualified electors reside. However, the area education agency administrator shall not accept a petition if any of the school districts affected have approved the issuance of general obligation bonds at an election pursuant to section 296.6 during the preceding six-month period. The petition shall be signed by voters qualified electors in each existing school district or portion affected equal in number to at least twenty percent of the number of eligible voters qualified electors or four hundred voters qualified electors, whichever is the smaller number. School district or portion affected means the area to be included in the plan of the proposed new school district.

Sec. 7. Section 275.12, subsection 2, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Such The petition filed under subsection 1 shall also state the name of the proposed school district and the number of directors which may be either five or seven and the method of election of the school directors of the proposed district. The method of election of the directors shall be one of the following optional plans:

Sec. 8. Section 275.12, subsection 4, Code Supplement 1983, is amended to read as follows:

4. The area education agency board in reviewing such the petition as provided in sections 275.15 and 275.16 shall review the proposed method of election of school directors and shall have the duty and authority to may change or amend such the plan in any manner, including the changing of boundaries of director districts if proposed, or to specify a different method of electing school directors on the basis of area, school population, or assessed valuation as may be required by law, justice, equity, and the interest of the people. In such the action, the area education agency board shall follow the same procedure as is required by sections 275.15 and 275.16 for other action on the petition by the area education agency board.

Sec. 9. Section 275.15, Code 1983, is amended to read as follows:

275.15 HEARING—DECISION—PUBLICATION OF ORDER. At the hearing, which shall be held within ten days of the final date set for filing objections, interested parties, both petitioners and objectors, may present evidence and arguments, and the area education agency board shall review the matter on its merits and within five days after the conclusion of any hearing, shall rule on the objections and shall enter an order fixing such boundaries for the proposed school corporation as will in its judgment be for the best interests of all parties concerned, having due regard for the welfare of adjoining districts or dismiss the petition. The area education agency board, when entering the order fixing the boundaries, shall consider requests for boundary line changes of property owners who reside on property adjacent to the proposed boundary lines. The agency administrator shall at once publish this order in the



same newspaper in which the original notice was published. Within twenty days after the publication thereof the decision rendered by the area education agency board may be appealed to the district court in the county involved by any school district affected. For purposes of appeal, only those school districts who filed reorganization petitions are school districts affected. An appeal from a decision of an area education agency board or joint area education agency boards under section 275.4, 275.16, or this section is subject to appeal procedures under this chapter and is not subject to appeal under chapter 290.

Sec. 10. Section 275.16, unnumbered paragraph 1, Code 1983, is amended to read as follows:

If the territory described in the petition for the proposed corporation lies in more than one area education agency, the agency administrator with whom the petition is filed shall fix the time and place for a hearing and call a joint meeting of the members of all the agency boards in which any territory of the proposed school corporation lies, to act as a single board for the hearing of the said objections, and a majority of all members of each of the agency boards of the different agencies in which any part of the proposed corporation lies, shall constitute constitutes a quorum. The president of the board of directors of the area education agency in which the petition has been filed, or a member of the board designated by the president, shall preside at the joint meeting. The joint boards acting as a single board shall determine whether the petition conforms to plans or, if the petition requests a change in plans, whether such a change should be made, and shall have the authority to may change the plans of any or all the area education agency boards affected by the petition, and it shall determine and fix boundaries for the proposed corporation as provided in section 275.15 or dismiss the petition. Votes of each member of an area education agency board in attendance shall be weighted so that the total number of votes eligible to be cast by members of each board in attendance shall be equal. However, if such the joint boards cast a tie vote and are unable to agree to an order fixing the boundaries for the proposed school district or to an order to dismiss the petition, the time during which such actions must be taken under the provisions of section 275.15 shall be extended from five days to fifteen days after the conclusion of the hearing under the provisions of section 275.15, and such the joint board shall reconvene not less than ten and not more than fifteen days after the conclusion of such the hearing. At such the hearing the joint board shall reconsider their its action and if a tie vote shall again be is again cast it shall be deemed is an order granting the petition and changing the plans of any and all of the agency boards affected by the petition and fixing the boundaries for the proposed school corporation. The agency administrator shall at once publish the decision in the same newspaper in which the original notice was published.

Sec. 11. Section 275.27, Code 1983, is amended to read as follows:

275.27 NAMES. School districts created or enlarged under the provisions of this chapter shall be known as are community school districts and shall be are part of the area education agency in which the greatest number of qualified electors of said the district reside at the time of the special election called for in section 275.18, and this provision pertaining to greatest number of electors shall be in full force and effect any statute to the contrary notwithstanding, and all provisions of the law sections of the Code applicable to the common schools generally shall be are applicable to such these districts in addition to the powers and privileges conferred by this chapter.

Sec. 12. Section 275.29, Code 1983, is amended to read as follows:

**275.29 DIVISION OF ASSETS AND LIABILITIES AFTER REORGANIZATION.** Between July 1 and July 20, the board of directors of the newly formed community school district shall meet with the boards of all the old districts, or parts of districts, affected by the organization of the new school corporation for the purpose of reaching joint agreement on an equitable division of the assets of the several school corporations or parts thereof of school corporations and an equitable distribution of the liabilities of the affected corporations or parts thereof of corporations.

Approved April 13, 1984

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## CHAPTER 1079

### VOTING BY IOWA PRODUCT DEVELOPMENT CORPORATION

*S.F. 2053*

**AN ACT** specifying the number of affirmative votes of the board of directors of the Iowa product development corporation that are necessary before action may be taken by the board.

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

Section 1. Section 28.85, Code Supplement 1983, is amended to read as follows:

**28.85 BOARD OF DIRECTORS.** The powers of the corporation are vested in and shall be exercised by the board of directors. Four members of the board constitute a quorum and an affirmative vote of the majority at least four of the members present at a meeting is necessary before an action may be taken by the board. An action taken by the board shall be authorized by resolution at a regular or special meeting and takes effect immediately unless the resolution specifies otherwise. Notice of a meeting shall be given orally or in writing not less than forty-eight hours prior to the meeting.

Approved April 13, 1984

**CHAPTER 1080**  
**TIMES FOR CERTAIN PROBATE ACTIONS**  
*S.F. 2138*

**AN ACT** relating to the time within which to contest wills, file claims, make spousal elections and take certain other actions with respect to decedents' estates.

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

Section 1. Section 633.230, unnumbered paragraph 3, Code 1983, is amended to read as follows:

To All Persons Interested in the Estate of .....  
.....  
..... deceased, who died on or about  
....., 19 .....

Sec. 2. Section 633.230, unnumbered paragraph 5, Code 1983, is amended to read as follows:

Notice is hereby given that all persons indebted to ~~said~~ the estate are requested to make immediate payment to the undersigned, and creditors having claims against ~~said~~ the estate shall file them with the clerk of the above named district court, as provided by law, duly authenticated, for allowance, and unless so filed within ~~six~~ four months from the second publication of this notice (unless otherwise allowed or paid) ~~such a claim shall~~ is thereafter be forever barred.

Sec. 3. Section 633.237, Code 1983, is amended to read as follows:

**633.237 PRESUMPTION THAT SURVIVING SPOUSE ELECTS TO TAKE UNDER WILL.** ~~Where~~ If a voluntary election to take or refuse to take under a will has not been filed by a surviving spouse within two months of the date of the second publication of notice of admission of the will to probate, and the surviving spouse is not the executor of ~~such~~ the will, ~~it shall be the duty of the executor to~~ shall cause to be served a written notice upon the surviving spouse in the manner directed by the court, advising the surviving spouse that the will of ~~such~~ the decedent has been admitted to probate, stating the name of the court where the will was admitted and the date when the will was admitted to probate, and notifying ~~such~~ the spouse that unless within four months after service of ~~such~~ the notice, ~~he~~ the spouse files an election in writing with the clerk of ~~such~~ that court refusing to take under the ~~provisions of such~~ will, ~~such surviving~~ the spouse shall take under the ~~provisions of the will; provided that if.~~ provisions of the will; provided, further, that if. If the surviving spouse files ~~his~~ an election to take under the will at any time the requirements of this section for serving notice are ~~thereby~~ waived; ~~provided, further, that if.~~ provided, further, that if. If within the ~~before described~~ period of four months an affidavit is filed setting forth that ~~such~~ the surviving spouse is incapable to make ~~such~~ the election, the court shall determine whether there shall be an election to take against the will in accordance with section 633.238; ~~provided further, that the.~~ The court on application may, prior to the expiration of ~~such~~ the period of four months, for cause shown, enter an order extending the time for making ~~such~~ the election.

**PARAGRAPH DIVIDED.** If ~~such the~~ surviving spouse shall be is an executor of the will and fails, within ~~six~~ four months after the date of the second publication of notice of admission of the will to probate, to file with the clerk of the court an election to refuse to take under the provisions of the will of the deceased, it shall be conclusively presumed that ~~such the~~ survivor consents to the provisions of the will and elects to take ~~thereunder; provided, further, that under it.~~ However, the court on application may, prior to the expiration of ~~such the~~ period of ~~six~~ four months, on cause shown, enter an order extending the time for making ~~such the~~ election.

Sec. 4. Section 633.241, Code 1983, is amended to read as follows:

**633.241 TIME FOR ELECTION TO OCCUPY HOMESTEAD.** ~~In case~~ If the surviving spouse does not make an election to occupy the homestead and file it with the clerk within ~~six~~ four months from the date of the second publication of the notice to creditors, it shall be conclusively presumed that ~~such the~~ surviving spouse waives the right to make ~~such the~~ election. The court on application may, prior to the expiration of ~~such the~~ period of ~~six~~ four months, for cause shown, enter an order extending the time for making ~~such the~~ election.

Sec. 5. Section 633.247, Code 1983, is amended to read as follows:

**633.247 SETTING OFF SHARE OF SURVIVING SPOUSE WHEN ELECTING TO TAKE AGAINST THE WILL—TIME LIMIT.** The share of the surviving spouse under section 633.236 may be set off by the mutual consent of all parties in interest, or by referees appointed by the court. An application to have it set off by referees shall be made in writing within ~~six~~ four months after the second publication of notice of the probate of the will, or within one month after the election to take against the will is filed with the clerk, whichever is the longer. The application must describe the land in which the share is claimed, and pray for the appointment of referees to set it off.

Sec. 6. Section 633.304, Code 1983, is amended to read as follows:

**633.304 NOTICE OF PROBATE OF WILL WITH ADMINISTRATION.** On admission of a will to probate, the executor shall, as soon as letters are issued, cause to be published once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the estate is pending, a notice of admission of the will to probate and of the appointment of the executor, in which shall be included a notice that any action to set aside the probate of ~~said the~~ will must be brought within ~~six~~ four months from the date of the second publication of ~~said the~~ notice or thereafter be forever barred, and ~~there in which~~ shall ~~also~~ be included ~~therein~~ a notice to debtors to make payment, and to creditors having claims against ~~said the~~ estate to file them with the clerk within ~~six~~ four months from the second publication of ~~said the~~ notice, or thereafter be forever barred.

~~Such~~ The notice shall be substantially in the following form:

Notice of Probate of Will, of Appointment of Executor, and Notice to Creditors  
 In the District Court of Iowa  
 in and for ..... County. Probate No. ....  
 In the Estate of ....., Deceased  
 To All Persons Interested in the Estate of .....,  
 Deceased, who died on or about ....., 19 .....

You are hereby notified that on the ..... day  
 of ....., 19 ....., the last will and testament of .....,  
 deceased, bearing date of the ..... day of ....., 19 ....., was admitted to  
 probate in the above named court and that ..... was appointed executor of  
~~said the~~ estate. Any action to set aside ~~said the~~ will must be brought in the district court of

said county within ~~six~~ four months from the date of the second publication of this notice, or thereafter be forever barred.

Notice is further given that all persons indebted to ~~said~~ the estate are requested to make immediate payment to the undersigned, and creditors having claims against ~~said~~ the estate shall file them with the clerk of the above named district court, as provided by law, duly authenticated, for allowance, and unless so filed within ~~six~~ four months from the second publication of this notice (unless otherwise allowed or paid) ~~such~~ a claim shall ~~is~~ thereafter be forever barred.

Dated this ..... day of ....., 19.....

.....  
Executor of ~~said~~ estate  
.....

.....  
Address  
.....

.....  
Attorney for ~~said~~ executor  
.....

.....  
Address  
.....

Date of second publication  
..... day of ....., 19.....  
(Date to be inserted by publisher)

This section is applicable to wills admitted to probate on or after July 1, 1975.

Sec. 7. Section 633.305, Code 1983, is amended to read as follows:

**633.305 NOTICE WHERE IF NO ADMINISTRATION.** On admission of a will to probate without administration of the estate, and upon advanced payment of the costs thereof by the proponent, the clerk shall cause to be published, in the manner prescribed in the preceding section, a notice of the admission of the will to probate in which shall be included a notice that any action to set aside ~~said~~ the will must be brought within ~~six~~ four months from the date of the second publication of ~~said~~ the notice or thereafter be barred.

~~Such~~ The notice shall be substantially in the following form:

Notice of Proof of Will  
Without Administration

In the District Court of Iowa  
in and for ..... County. Probate No. ....

In the Estate of ....., Deceased To All Persons Interested  
in the Estate of ....., Deceased, who died on or  
about ....., 19.....:

You are hereby notified that on the ..... day of ....., 19.....,  
the last will and testament of ....., deceased, bearing date of the ..... day  
of ....., 19....., was admitted to probate in the above named court and there will be  
no present administration of the estate. Any action to set aside ~~said~~ the will must be brought  
in the district court of said county within ~~six~~ four months from the date of the second publica-  
tion of this notice or thereafter be forever barred.

Dated this ..... day of ....., 19.....

.....  
Clerk of the district court  
.....

.....  
Attorney for ~~said~~ estate  
.....

Address

Date of second publication

..... day of ....., 19. ....

(Date to be inserted by publisher)

This section is applicable to wills admitted to probate on or after July 1, 1975.

Sec. 8. Section 633.309, Code 1983, is amended to read as follows:

633.309 TIME WITHIN WHICH ACTION MUST BE COMMENCED. An action to contest or set aside the probate of a will must be commenced in the court in which the will was admitted to probate within ~~six~~ four months from the date of second publication of notice of admission of ~~such the~~ will to probate and not thereafter. This section is applicable to wills admitted to probate on or after July 1, 1975.

Sec. 9. Section 633.410, Code 1983, is amended to read as follows:

633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S ESTATE. All claims against a decedent's estate, other than charges, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise, ~~shall be~~ are forever barred against the estate, the personal representative, and the distributees of the estate, unless filed with the clerk within ~~six~~ four months after the date of the second publication of the notice to creditors; ~~provided, however, that.~~ However, the personal representative may waive ~~such this~~ this limitation on filing; ~~and this provision shall.~~ This section does not bar claimants entitled to equitable relief due to peculiar circumstances.

Sec. 10. Section 633.412, Code 1983, is amended to read as follows:

633.412 WHEN CLAIM NOT AFFECTED BY STATUTE OF LIMITATION LIMITATIONS. ~~No~~ A claim shall ~~not~~ be barred by the ~~statutes of limitation which~~ statute of limitations if the claim was not barred at the time of the decedent's death; ~~if the claim shall have been and is filed against the decedent's estate within~~ six four months from the date of the decedent's death.

Sec. 11. Section 633.427, Code 1983, is amended to read as follows:

633.427 PAYMENT OF CONTINGENT CLAIMS BY DISTRIBUTEES - CONTRIBUTION. If a contingent claim ~~shall have~~ has been filed and allowed against an estate and all the assets of the estate ~~shall have~~ have been distributed, and the claim ~~shall thereafter become~~ becomes absolute, the creditor ~~shall have~~ has the right to recover ~~thereon on the claim~~ against those distributees whose distributive shares have been increased by ~~reason of the fact that~~ because the amount of ~~said the~~ the claim as finally determined was not paid prior to final distribution, ~~provided if an action therefor shall be for recovery is~~ provided if an action commenced within ~~six~~ four months after the claim becomes absolute. Such distributees ~~shall be~~ are jointly and severally liable, but ~~no~~ a distributee ~~shall be~~ is not liable for an amount exceeding the amount of the estate or fund so distributed to ~~him that~~ that distributee. If more than one distributee is liable to the creditor, the creditor shall make parties to the action all such distributees who can be reached by process. By its judgment, the court shall determine the amount of the liability of each of the distributees as between themselves, but if any ~~be~~ distributee is insolvent or unable to pay ~~his that~~ his that distributee's proportion, or is beyond the reach of process, the others, to the extent of their ~~respective~~ respective liabilities, ~~shall are~~ are nevertheless be liable to the creditor for the whole amount of ~~his the~~ the creditor's debt. If any person liable for the debt fails to pay ~~his that~~ his that person's just proportion to the creditors, ~~he shall be the person is~~ he is liable to indemnify all who, by reason of ~~such the~~ such the failure ~~on his part,~~ on his part, have paid more than their just proportion of the debt, the indemnity to be recovered in the same action or in separate actions.

Sec. 12. Section 633.433, Code 1983, is amended to read as follows:

633.433 PAYMENT OF DEBTS AND CHARGES BEFORE EXPIRATION OF SIX FOUR MONTHS' PERIOD. As soon as the personal representative is possessed of sufficient means over and above the other costs of administration, ~~he~~ the personal representative shall pay any allowance made by the court for the surviving spouse and children of the decedent, and may pay the expenses of funeral, ~~and~~ burial and last illness. Prior to the expiration of ~~six~~ four months after the date of the second publication of notice to creditors, the personal representative shall pay ~~such~~ other debts and charges against the estate as the court ~~shall order orders~~, and the court may require bond or other security to be given by the creditor to refund such part of ~~such~~ the payment as may be necessary to make payment in accordance with the provisions of this Code code. All payments made by the personal representative without order of court ~~shall be~~ are at his the personal representative's own peril.

Sec. 13. Section 633.434, Code 1983, is amended to read as follows:

633.434 PAYMENT OF DEBTS AND CHARGES AFTER EXPIRATION OF SIX FOUR MONTHS' PERIOD. Upon the expiration of ~~six~~ four months after the date of the second publication of notice to creditors, the personal representative shall ~~proceed to~~ pay the debts and charges against the estate in accordance with the provisions of this Code code. If it appears at any time that the estate is or may be insolvent, that there are insufficient funds on hand, or that there is other good and sufficient cause, the personal representative may report that fact to the court and apply for any order that ~~he~~ the personal representative deems necessary in connection therewith.

Sec. 14. Section 633.516, Code 1983, is amended to read as follows:

633.516 RIGHTS OF ABSENTEE BARRED—SALE BY SPOUSE. ~~Such an~~ An order establishing the death of an absentee ~~shall forever bar bars~~ the rights of homestead and distributive share of the absentee, and ~~his~~ the absentee's interest in and to any real estate owned or held by the spouse of ~~such~~ the absentee, and in which ~~said~~ the spouse may have a legal or equitable interest. Conveyance of any such real estate by ~~such~~ the spouse, after ~~six~~ four months or more from date of publication of second notice of the appointment of a personal representative, ~~shall be~~ is free and clear of any claim or right of homestead or distributive share on the part of ~~such~~ the absentee.

Sec. 15. Section 635.13, Code 1983, is amended to read as follows:

635.13 NOTICE—CLAIMS. The executor or administrator of a small estate may publish notice pursuant to section 633.230 or section 633.304. Creditors having claims against the estate must file them with the clerk within ~~six~~ four months from the second publication of the notice. The notice ~~shall have~~ has the same force and effect as in chapter 633.

Sec. 16. This Act applies to estates for which administration is granted on or after its effective date and to wills admitted to probate on or after that effective date.

Approved April 13, 1984

**CHAPTER 1081**  
**FOREIGN SAVINGS AND LOAN ASSOCIATIONS**  
*S.F. 2202*

**AN ACT** relating to the procedure required for a savings and loan association chartered in another state or country to transact business in Iowa.

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

Section 1. Section 534.2, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 33.** "Foreign association" means a building and loan or savings and loan association, incorporated by the laws of another state or country, which as of January 1, 1984 did not have an office, agency, or agent operating in this state.

Sec. 2. Section 534.48, Code 1983, is amended to read as follows:

**534.48 FOREIGN ASSOCIATIONS.** If ~~any a foreign building and loan or savings and loan association, as in this chapter defined,~~ desires to transact business within this state, it shall furnish to the ~~state executive council~~ supervisor a certified copy of its articles of incorporation, or charter and bylaws, and a certified copy of the state laws under which it is organized, together with a report for the year next preceding, verified by its president, vice president, secretary, and at least three directors, which report shall show:

1. The amount of its authorized savings liability and the par value of its shares, if any.
2. The increase in savings liability.
3. The withdrawal from savings liability during the year.
4. The amount of savings liability in force at the end of the year.
5. A detailed statement of all funds received during the year and all disbursements.
6. The salaries paid each of its officers.
7. A detailed statement of its assets and liabilities at the end of ~~such the year and the their~~ nature thereof.
8. ~~The requirements of section 534.3, subsection 3, paragraph "a," for a domestic association desiring to establish an office and any other matters of fact which the council may require. A reconciliation of its net worth for the current year to the date of application and the previous three fiscal years.~~
9. A detailed description of the anticipated types of business to be performed within the state.
10. Any additional information required of domestic associations under section 534.89, subsection 1.

As used in this section, to transact business ~~shall mean~~ means to have an office, agency or agent in this state.

Sec. 3. Section 534.49, Code 1983, is amended to read as follows:

**534.49 APPROVAL BY COUNCIL SUPERVISOR—CERTIFICATE OF AUTHORITY.** ~~Upon~~ If upon receipt of ~~such the~~ the report the ~~council,~~ if it ~~supervisor~~ supervisor finds ~~therefrom from~~ therefrom ~~from~~ a review of the report that the association is properly managed, that its financial condition is satisfactory, and that its business is conducted upon a safe and reliable plan and one equitable



to its members, the supervisor shall so certify upon such copy and statement, and, the same being filed with the auditor, he shall issue a like certificate of authority, signed by the auditor of state as in the case of domestic associations.

Sec. 4. Section 534.50, Code 1983, is amended to read as follows:

534.50 CONDITIONS ATTENDING APPROVAL. ~~No building and loan or savings and loan A foreign association, incorporated under the laws of any other state or country, shall not be authorized to do business in this state, whose if the foreign association's articles of incorporation are not found by the executive council supervisor to be in substantial compliance with the laws of this state, and affording equal security and protection to the its members thereof.~~

Sec. 5. Section 534.51, Code 1983, is amended to read as follows:

534.51 DEPOSIT BY FOREIGN ASSOCIATION. ~~Every such foreign building and loan or savings and loan association, before Before the state auditor shall issue to it supervisor issues a certificate to a foreign association, it shall comply with the following provisions:~~

1. ~~It shall deposit with the auditor of state one two hundred fifty thousand dollars, either in cash, or bonds of the United States or of the state of Iowa, or of any a county or municipal corporation of the state, or notes secured by first mortgage, mortgages on real estate, or a like amount in such other security as shall be which is satisfactory to said the auditor of state.~~

2. ~~Such The foreign association may collect and use the interest on any securities so deposited as long as it fulfills its obligations and complies with the provisions of this chapter. It Upon the approval of the auditor, it may also exchange them the securities for other securities of equal value and satisfactory to said auditor.~~

Sec. 6. Section 534.55, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

534.55 AMENDMENT TO ARTICLES. Within ten days after the adoption of an amendment to its articles of incorporation or bylaws, a foreign association shall file a duly certified copy of the amendment with the supervisor.

Approved April 13, 1984

**CHAPTER 1082**  
**VESSEL REGISTRATION FEES**  
*S.F. 2205*

**AN ACT** relating to the fees for the registration of vessels.

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

Section 1. Section 106.5, subsection 1, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The owner of 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 the appropriate 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 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~~ adopted by the commission. The operator shall exhibit the certificate to any a 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. 2. Section 106.5, subsection 3, unnumbered paragraph 1, Code 1983, is amended by striking the paragraph and inserting in lieu thereof the following:

The registration fees for vessels subject to this chapter are as follows:

- a. For vessels of any length without motor or sail, five dollars.
- b. For motorboats or sailboats less than twelve feet in length, eight dollars.
- c. For motorboats or sailboats twelve feet or more, but less than fifteen feet in length, ten dollars.
- d. For motorboats or sailboats fifteen feet or more, but less than eighteen feet in length, twelve dollars.
- e. For motorboats or sailboats eighteen feet or more, but less than twenty-five feet in length, eighteen dollars.
- f. For motorboats or sailboats twenty-five feet in length or more, twenty-eight dollars.

Every registration certificate and number issued becomes delinquent at midnight April 30 of odd-numbered years unless terminated or discontinued in accordance with this

chapter. After January 1 in odd-numbered years, an unregistered vessel and a renewal of registration may be registered for the two-year registration period beginning May 1 of that year. After January 1 in even-numbered years, unregistered vessels may be registered for the remainder of the current registration period at fifty percent of the appropriate registration fee.

Approved April 13, 1984

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**CHAPTER 1083**  
**MOTOR VEHICLE FUEL STANDARDS**  
*S.F. 2221*

**AN ACT** relating to tests and standards for motor vehicle fuel.

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

Section 1. Section 214A.2, subsection 2, unnumbered paragraph 8, Code 1983, is amended to read as follows:

"A.S.T.M." means the A.S.T.M. standards in effect on July 1, ~~1981~~ 1983.

Approved April 13, 1984

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**CHAPTER 1084**  
**INVESTIGATIONS OF MISSING PERSONS**  
*S.F. 517*

**AN ACT** relating to missing persons and the time and manner in which missing person investigations are to be performed, and providing a penalty.

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

Section 1. NEW SECTION. 694.1 MISSING PERSONS. As used in this chapter, unless the context otherwise indicates, "missing person" means a person who is missing and meets one of the following characteristics:

1. Is physically or mentally disabled.

2. Was, or is, in the company of another person under circumstances indicating that the missing person's safety may be in danger.

3. Is missing under circumstances indicating that the disappearance was not voluntary.

4. Is an unemancipated minor.

For purposes of this chapter an "unemancipated minor" means a minor who has not married and who resides with a parent or other legal guardian.

**Sec. 2. NEW SECTION. COMPLAINT OF MISSING PERSON.**

1. A person may file a complaint of a missing person with a law enforcement agency having jurisdiction. The complaint shall include, but is not limited to, the following information:

a. The name of the complainant.

b. The relationship of the complainant to the missing person.

c. The name, age, address, and all identifying characteristics of the missing person.

d. The length of time the person has been missing.

e. All other information deemed relevant by either the complainant or the law enforcement agency.

2. A report of the complaint of missing person shall be given to all law enforcement personnel currently on active duty for that agency through internal means and over the law enforcement administration network immediately upon its being filed.

**Sec. 3. NEW SECTION. REPORT ON MISSING PERSON.**

1. A law enforcement agency in which a complaint of a missing person has been filed shall prepare, as soon as practicable, a report on a missing person. That report shall include, but is not limited to, the following:

a. All information contained in the complaint on a missing person.

b. All information or evidence gathered by a preliminary investigation, if one was made.

c. A statement, by the law enforcement officer in charge, setting forth that officer's assessment of the case based upon all evidence and information received.

d. An explanation of the next steps to be taken by the law enforcement agency filing the report.

**Sec. 4. NEW SECTION. DISSEMINATION OF REPORT.** Upon completion of the report, a copy of the report shall be forwarded to:

1. All law enforcement agencies having jurisdiction of the location in which the missing person lives or was last seen.

2. All law enforcement agencies considered to be potentially involved by the law enforcement agency filing the report.

3. All law enforcement agencies which the complainant requests the report to be sent to, if the request is reasonable in light of the information contained in the report.

4. Any law enforcement agency requesting a copy of the missing person report.

**Sec. 5. NEW SECTION. 694.3 UNEMANCIPATED MINORS.**

1. If a report of missing person involves an unemancipated minor, the law enforcement agency shall immediately transmit the proper information for inclusion in the national crime information center computer.

2. If a report of missing person involves an unemancipated minor, a law enforcement agency shall not prevent an immediate active investigation on the basis of an agency rule which specifies an automatic time limitation for a missing person investigation.

**Sec. 6. NEW SECTION. 694.4 FALSE INFORMATION—PENALTY.** A person who knowingly makes a false report of missing person, or knowingly makes a false statement in the report, to a law enforcement agency is guilty of a simple misdemeanor.

**CHAPTER 1085****HAZARDOUS CHEMICALS RISK RIGHT TO KNOW ACT***S.F. 2248*

**AN ACT** relating to the collection and dissemination of information regarding hazardous chemicals and providing penalties and authorizing the department of water, air and waste management to adopt hazardous waste rules in respect to hazardous chemicals which are more restrictive than, but consistent with, federal requirements.

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

**DIVISION I****GENERAL PROVISIONS**

Section 1. **NEW SECTION. 455D.1 SHORT TITLE.** This chapter may be cited as the "Hazardous Chemicals Risks Right to Know Act".

Sec. 2. **NEW SECTION. 455D.2 LEGISLATIVE FINDINGS.**

1. The general assembly finds as follows:

a. The proliferation of hazardous chemicals in the environment poses a growing threat to the public health, safety, and welfare.

b. The constantly increasing number and variety of hazardous chemicals and the many routes of exposure to them make it difficult and expensive to adequately monitor and detect any adverse health effects attributable to the hazardous chemicals.

c. Individuals are often able to detect and thus minimize effects of exposure to hazardous chemicals if they are aware of the identity of the chemicals and the early symptoms of unsafe exposure.

d. Individuals have an inherent right to know the full range of the risks they face so that they can make reasoned decisions and take informed action concerning their employment and their living conditions.

e. Local fire and other government emergency response departments require detailed information about the identity, characteristics, and quantities of hazardous chemicals used and stored in communities within their jurisdictions, in order to adequately plan for, and respond to, emergencies, and enforce compliance with applicable laws and regulations concerning these chemicals.

f. The extent of the toxic contamination of the air, water, and land has caused a high degree of concern and much of this concern is needlessly aggravated by the unfamiliarity of the chemicals.

g. There is a need to coordinate the existing regulatory and reporting responsibilities on hazardous chemical users and producers and to provide uniform access to information.

Sec. 3. **NEW SECTION. 455D.3 DEFINITIONS.** As used in this chapter, unless the context otherwise requires:

1. "Bureau" means the state bureau of labor.

2. "Emergency response department" means any governmental department which might be reasonably expected to be required to respond to an emergency involving a hazardous chemical, including, but not limited to, local fire, police, medical rescue, disaster, and public health departments.

3. "Interagency council" means the hazardous chemicals information interagency coordinating council in section 455D.16.

Sec. 4. NEW SECTION. 455D.4 APPLICABILITY TO AGRICULTURAL ACTIVITIES.

1. Except for 455D.9, this chapter does not apply to a person engaged in farming, a commercial applicator as defined in section 206.2, subsection 12, a certified applicator as defined in section 206.2, subsection 17, a certified private applicator as defined in section 206.2, subsection 18, a certified commercial applicator as defined in section 206.2, subsection 19, a pesticide dealer as defined in section 206.2, subsection 24, or to activities which are covered under the federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. sec. 135 et seq.; provided, however, that such persons shall comply with the requirements of the federal Insecticide, Fungicide, and Rodenticide Act, 40 C.F.R. sec. 170, and chapter 206 where applicable to such persons. As used in this section, "farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock, spraying, or harvesting. The department of agriculture shall cooperate with the bureau in an investigation of an agricultural employee's complaint filed pursuant to section 455D.9.

2. Notwithstanding subsection 1 a pesticide dealer, a commercial applicator, or a certified applicator who retails or stores a pesticide as defined in section 206.2, subsection 1, shall comply with sections 455D.14 and 455D.15 for those hazardous chemicals stored or available for sale.

Sec. 5. NEW SECTION. 455D.5 TRANSPORTATION OF HAZARDOUS CHEMICALS. Except for section 455D.9, this chapter does not apply to the transportation of hazardous chemicals if the transportation is regulated by federal law or regulation.

Sec. 6. NEW SECTION. 455D.6 LIABILITY OF STATE OR POLITICAL SUBDIVISION. The state or any of its political subdivisions is not liable for damages in any claim pursuant to chapter 25A or chapter 613A based upon an act or omission of an employee of the state or political subdivision when the employee exercised due care in the execution of this chapter or a rule adopted under this chapter. Any duty created in this chapter is a duty to the public generally and not to any person or group of persons.

Sec. 7. NEW SECTION. 455D.7 IMPLEMENTATION. The requirements imposed by this chapter that are based upon the federal occupational safety and health administration's hazard communication regulation 29 C.F.R. sec. 1910.1200 et seq. as promulgated on November 25, 1983 shall be implemented according to the provisions of the regulation. However, if information is available to an employer at any time prior to the dates required in the regulation, then the employer shall comply as of the date the information becomes available.

## DIVISION II WORKER RIGHT TO KNOW

Sec. 8. NEW SECTION. 455D.8 INFORMATION REQUIRED.

1. An employee in this state has the right to be informed about the hazardous chemicals to which the employee may be exposed in the workplace, the potential health hazards of the hazardous chemicals, and the proper handling techniques for the hazardous chemicals. An employer shall provide or make available to an employee information as required by this chapter. Except as explicitly exempted, this chapter applies to all employers in the state.

2. The bureau shall administer this division. The bureau may exercise the enforcement powers set out in chapter 88 and the rules adopted pursuant to chapter 88 to enforce this division.

3. The federal occupational safety and health administration's hazard communication regulation 29 C.F.R. sec. 1910.1200 et seq. as promulgated on November 25, 1983 is adopted as

the basis for the bureau's regulatory responsibility under this division. Except as specifically modified by this division, all employers in this state shall comply with the regulation including but not limited to the requirements on labeling, training, hazardous chemical list, trade secrets, and material safety data sheets without regard to whether an employer is covered by the federal regulation.

4. In addition to the chemical information required to be reported under federal hazard communication standard 29 C.F.R. sec. 1910.1200(d), the bureau may adopt by rule additional hazardous chemical information to be regulated, if the interagency council recommends such action pursuant to section 455D.17.

Sec. 9. NEW SECTION. 455D.9 EMPLOYEE RIGHTS. An employer shall not discharge or in any other manner discriminate against an employee because the employee has filed a complaint or brought an action under this section or has cooperated in bringing an action against an employer. An employee may file a complaint with the commissioner of labor alleging discharge or discrimination within thirty days after an alleged violation occurs. Upon receipt of the complaint, the commissioner shall cause an investigation to be made to the extent the commissioner deems appropriate. If the commissioner determines from the investigation that this subsection has been violated, the commissioner shall bring an action in the appropriate district court against the person. The district court has jurisdiction, for cause shown, to restrain violations of this subsection and order appropriate relief including rehiring or reinstatement of the employee to the former position with back pay. Notwithstanding section 455D.4, this section applies to an employee of a person otherwise exempt from this chapter.

Sec. 10. NEW SECTION. 455D.10 SPECIAL TRAINING. An employer shall provide special training when the employer either assigns an employee to a special assignment or task which increases the employee's potential exposure to a hazardous chemical or the employer contracts with a person outside the employ of the employer if the person is under the supervision of the employer and may be exposed to hazardous chemicals. The training shall be available for review and approval upon inspection by the bureau and shall be designed to inform the employee or the outside contractor of the presence of the hazardous chemical, the nature of the chemical and the health hazards it presents, and the proper handling procedures for the hazardous chemical.

Sec. 11. NEW SECTION. 455D.11 EDUCATIONAL RESEARCH LABORATORY.

1. Except for section 455D.9, this division does not apply to a research laboratory at a public or private educational institution if the research laboratory complies with subsection 2.

2. A research laboratory shall submit a plan for the supervision and handling of hazardous chemicals and the development of training programs for employees who work with or clean up hazardous chemicals. The plan shall be consistent with this division and is subject to the approval of the bureau.

3. As used in this division, a research laboratory means a specially designated area used primarily for research in which hazardous chemicals are used by or under the direct supervision of a technically qualified person.

### DIVISION III

#### COMMUNITY RIGHT TO KNOW

Sec. 12. NEW SECTION. 455D.12 COMMUNITY INFORMATION ON HAZARDOUS CHEMICALS.

1. The public has a right to be informed about the presence of hazardous chemicals in the community and the potential health and environmental hazards that the chemicals pose.

2. The bureau shall receive and handle requests for information and complaints under this division which involve employer information covered under division II. The bureau shall adopt rules pursuant to chapter 17A regarding requests for information and the investigation and adjudication of complaints.

3. Requests for information under this division are confidential.

**Sec. 13. NEW SECTION. 455D.13 ACCESSIBILITY OF RECORDS.**

1. Except as provided in subsection 2, records that are required to be kept by employers under this chapter shall be accessible to the public. As used in this section "accessible to the public" means either of the following:

a. The records are filed with the bureau.

b. The records are available for inspection at the principal place of employment of the employer during normal working hours.

2. Records do not need to be accessible to the public if any of the following apply:

a. The information is trade secret information under this chapter and any rules regarding the release of the information.

b. Under recommendation from the interagency council, the bureau has adopted rules specifying that certain classes or categories of records required to be kept by employers are confidential information.

c. The employer has notified the bureau in writing that certain information should not be accessible to the public for the reasons that the information is not relevant to public health and safety or that release of the information is proven to cause damage to the employer. After giving the employer notice and an opportunity to be heard, the bureau may release the information if it determines that the impact on public health and safety outweighs the damage that release of the information would cause the employer. The bureau may limit its release of information to areas relevant to public health and safety and may restrict the release of information which will cause damage to the employer.

**DIVISION IV**

**PUBLIC SAFETY – EMERGENCY RESPONSE RIGHT TO KNOW**

**Sec. 14. NEW SECTION. 455D.14 SIGNS IDENTIFYING HAZARDOUS CHEMICALS.** If a building or structure has a floor space of five thousand square feet or less, an employer shall post signs on the outside of the building or structure identifying the type of each hazardous chemical contained in the building or structure. If the building has more than five thousand square feet, the employer shall post a sign at the place within the building where each hazardous chemical is permanently stored to identify the type of hazardous chemical. If the hazardous chemical or a portion of the hazardous chemical is moved within the building, the employer shall also move the sign or post an additional sign at the location where the hazardous chemical is moved. All letters and figures on signs required by this section shall be at least three inches in height. However, upon the written application of an employer, the bureau may permit less stringent sign posting requirements. The signs shall comply with the national fire protection association's standard system for the identification of fire hazards of materials, based upon NFPA 704-1980. The bureau shall adopt rules exempting employers from the requirements of this section when a building or structure or a portion of a building or structure does not contain significant amounts of a hazardous chemical.



Sec. 15. NEW SECTION. 455D.15 INFORMATION FOR EMERGENCY RESPONSE DEPARTMENTS.

1. At the same time that an employer provides the information to employees required under division II, the employer shall submit to the local fire department a list of hazardous chemicals which are consistently generated by, used by, stored at, or transported from the employer's facility. The information shall be provided in sufficient specificity that the local fire department is informed of the nature of the hazardous chemicals, the hazards presented by the chemicals, and the appropriate response in dealing with an emergency involving the hazardous chemicals. The information shall conform to guidelines adopted by the bureau from recommendations of the interagency council under section 455D.19. The employer shall send the information by certified mail. The bureau shall adopt rules exempting employers from this requirement when buildings or structures do not contain significant amounts of a hazardous chemical.

2. A local fire department receiving information pursuant to subsection 1 shall make the information available only to other emergency response departments.

DIVISION V

HAZARDOUS CHEMICALS INFORMATION INTERAGENCY COUNCIL

Sec. 16. NEW SECTION. 455D.16 INTERAGENCY COUNCIL.

1. A hazardous chemicals information interagency coordinating council is created. The council shall be organized under chapter 28E. The council is composed of three voting members consisting of the designee of the commissioner of public health, the designee of the labor commissioner, and the designee of the executive director of the department of water, air and waste management. There are five nonvoting advisory members consisting of the designee of the director of the office of disaster services, the designee of the chief officer of the division of fire protection of the department of public safety, the designee of the head of the state hygienic laboratory, a person representing business and industry, and a person representing labor. The business and labor representatives shall be appointed by the governor.

2. The interagency council has as its primary purpose to establish and facilitate interagency communication to accomplish the purposes of this chapter. The council shall place special emphasis upon avoiding duplication in regulation and reporting responsibilities of the agencies. The council shall review the implementation of this chapter. At least annually the council shall hold a public hearing regarding the provision of information under this chapter and consider public concerns regarding hazardous chemical reporting and regulation. The council shall report annually to the governor and the general assembly. The report shall contain information regarding the activities of the council, recommendations for modifications of this chapter that would further its purposes, and a summary of the information presented at any public hearing held by the council.

Sec. 17. NEW SECTION. 455D.17 RECOMMENDATIONS OF INTERAGENCY COUNCIL. The interagency council may recommend by the unanimous vote of the three voting members any of the following actions:

1. Expansion of the federal occupational safety and health administration's list of hazardous chemicals or reporting required under this chapter. The bureau shall adopt rules pursuant to chapter 17A to expand the list of information required if the bureau decides to follow the recommendation.

2. Expansion of the list of hazardous wastes reported to the department of water, air and waste management under 42 U.S.C. secs. 6921-6934 as amended to January 1, 1981, or information required concerning the wastes. The department shall adopt rules pursuant to chapter

17A to expand the list or information if the department decides to follow the recommendation.

However, the interagency council shall make such recommendations only upon scientific evidence that there may be a significant threat to public health and safety without such action.

Sec. 18. NEW SECTION. 455D.18 ROLE OF DEPARTMENT OF HEALTH. Through the interagency council the department of health may:

1. Review and make recommendations for modifications in the material safety data sheets required under section 455D.8, subsection 3, relating to the health hazards of hazardous chemicals.

2. Provide technical assistance to employers and the bureau on establishing safety procedures to minimize the public environmental and occupational health hazards from the use of hazardous chemicals and provide aid and assistance to small employers, vendors, sellers or dispensers in the preparation of material safety data sheets as required by this chapter.

3. Upon request of the bureau examine information claimed to be a trade secret under the federal occupational safety and health administration's hazard communication regulation.

Sec. 19. NEW SECTION. 455D.19 RECOMMENDATIONS ON THE FORM OF REPORTING. The interagency council shall make recommendations to the bureau for the reporting of information required under division IV by July 1, 1985. The interagency council's recommendations shall consider the information required to be developed by the employer under other provisions of this chapter, and shall establish a form for the reporting of this information that corresponds to other reporting requirements under this chapter.

Sec. 20. Section 25A.14, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Any claim based upon the enforcement of chapter 455D.

Sec. 21. Section 455B.420, Code 1983, is amended to read as follows:

455B.420 RULES. ~~Rules Except as provided in chapter 455D,~~ rules adopted by the commission under sections 455B.411 to 455B.421 shall be consistent with and shall not exceed the requirements of 42 U.S.C. secs. 6921-6934 as amended to January 1, 1981, and rules and regulations adopted pursuant to those sections.

Approved April 16, 1984

**CHAPTER 1086****PUBLIC EMPLOYEE WORKERS' COMPENSATION BENEFIT***S.F. 2295*

**AN ACT** prohibiting reductions in sick leave, vacation leave, or compensatory time entitlements while an employee is receiving weekly workers' compensation benefits.

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

Section 1. Section 85.38, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 3. PROHIBITION OF SUPPLEMENTATION OF WORKERS' COMPENSATION BENEFITS.** A public employer shall not supplement an employee's workers' compensation benefits by reducing the employee's sick leave, vacation leave, or earned compensatory time entitlements, unless the employer first notifies the employee of the employee's option to supplement and the employee elects to so supplement.

Sec. 2. **PUBLICATION.** This Act, being deemed of immediate importance, takes effect from and after its publication in *The Sioux City Journal*, a newspaper published in Sioux City, Iowa, and in the *Waterloo Courier Record*, a newspaper published in Waterloo, Iowa.

Approved April 11, 1984

Pursuant to the authority vested in the undersigned, Secretary of State of the State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1983, there being no newspaper by the name of *Waterloo Courier Record*, published in Waterloo, Iowa, I hereby designate the *Waterloo Courier Cedar Falls Record* published in Waterloo, Iowa, to publish the foregoing Act, Senate File 2295.

MARY JANE ODELL, *Secretary of State*

I hereby certify that the foregoing Act, Senate File 2295 was published in the *Waterloo Courier Cedar Falls Record* on April 17, 1984 and in *The Sioux City Journal*, Sioux City, Iowa on April 16, 1984.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 1087**  
**FARM IMPLEMENTS OR PARTS FRANCHISE**  
*S.F. 2116*

**AN ACT** to provide resale rights to a holder of a farm implements or parts franchise upon termination of the franchise.

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

Section 1. **NEW SECTION. 322D.1 DEFINITIONS.** When used in the chapter, unless the context otherwise requires:

1. "Attachments" means a machine or part of a machine designed to be used on and in conjunction with a farm implement.

2. "Farm implement" means a machine designed or adapted and used exclusively for agricultural or horticultural operations or livestock raising.

3. "Franchise" means a contract between two or more persons when all of the following conditions are included:

a. A commercial relationship of definite duration or continuing indefinite duration is involved.

b. The franchisee is granted the right to offer and sell farm implements or parts manufactured or distributed by the franchiser.

c. The franchisee, as an independent business, constitutes a component of the franchiser's distribution system.

d. The operation of the franchisee's business is substantially associated with the franchiser's trademark, service mark, trade name, advertising, or other commercial symbol designating the franchiser.

e. The operation of the franchisee's business is substantially reliant on the franchiser for the continued supply of farm implements, parts, and attachments.

4. "Franchisee" means a person who receives farm implements or parts for farm implements from the franchiser under a franchise and who offers and sells the farm implements or parts to the general public.

5. "Franchiser" means a person who manufactures, wholesales, or distributes farm implements or parts for farm implements and who enters into a franchise.

6. "Net cost" means the price the franchisee actually paid for the merchandise to the franchiser less any applicable trade, volume, cash or bonus discounts.

7. "Net price" means the price listed in the franchiser's price list in effect at the time the franchise is canceled, less any applicable trade, volume or cash discounts.

8. "Person" means a sole proprietor, partnership, corporation, or any other form of business organization.

Sec. 2. **NEW SECTION. 322D.2 FRANCHISEE'S RIGHTS TO PAYMENT.**

1. A franchisee who enters into a written franchise with a franchiser to maintain a stock of parts, attachments, or farm implements has the following rights to payment, at the option of the franchisee, if the franchise is terminated:

a. One hundred percent of the net cost of new unused complete farm implements, including attachments, which were purchased from the franchiser, and in addition, transportation charges on the farm implements which have been paid by the franchisee.

b. Eighty-five percent of the net prices of any repair parts, including superseded parts, which were purchased from the franchiser and held by the franchisee on the date of the termination of the franchise.

c. Five percent of the net prices of the parts resold under paragraph "b" for handling, packing, and loading of the parts except that this payment shall not be due to the franchisee if the franchiser elects to perform the handling, packing, and loading.

2. Upon receipt of the payments due under subsection 1, the franchiser is entitled to possession of and title to the farm implements, attachments, or parts.

3. The cost of farm implements or attachments and the price of repair parts shall be determined by reference to the franchiser's price list or catalog in effect at the time of the franchise termination.

4. The rights under subsection 1 apply to all franchise agreements now in effect which have no expiration date and are continuing agreements. In addition, subsection 1 applies to all franchise agreements entered into or renewed after the effective date of this Act. However, subsection 1 only applies to those farm implements, attachments, or parts that are purchased after the effective date of this Act.

Sec. 3. NEW SECTION. 322D.3 EXCEPTIONS. This chapter does not require repurchase from a franchisee of:

1. A repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries.

2. A repair part which is in a broken or damaged package.

3. A single repair part which is priced as a set of two or more items.

4. A repair part which because of its condition is not resaleable as a new part without repackaging or reconditioning.

5. Any inventory for which the franchisee is unable to furnish evidence of title and ownership in the retailer that is free and clear of all claims, liens and encumbrances to the satisfaction of the franchiser.

6. Any inventory which a franchisee desires to keep, provided the franchisee has a contractual right in the franchise agreement to do so.

7. A farm implement which is not in new, unused, undamaged, or complete condition.

8. A repair part which is not in new, unused or undamaged condition.

9. A farm implement which was purchased twenty-four months or more prior to the termination of the franchise.

10. Any inventory which was ordered by the franchisee on or after the date of notification of termination of the franchise.

11. Any inventory which was acquired by the franchisee from a source other than the franchiser with whom the franchise is being terminated.

12. A repair part not listed in the franchiser's current price list in effect on the date of notice of termination or classified as nonreturnable or obsolete by the franchiser as of the date of termination. However, this exception to the repurchase requirement applies only if the franchiser provided the franchisee with an opportunity to return the exempted part prior to notice of termination of the franchise.

Sec. 4. NEW SECTION. 322D.4 FRANCHISER FAILURE TO COMPLY—CIVIL PENALTY. In the event that any franchiser fails to make payment to the franchisee or the

franchisee's heir or heirs as required by this chapter within sixty days after the inventory has been received by the franchiser, the franchiser shall be civilly liable for one hundred percent of the current net price of farm implements; transportation charges which have been paid by the franchisee; eighty-five percent of the current net price of repair parts; five percent of the current net price of repair parts to cover handling, packing and loading, if applicable; and attorney fees incurred by the franchisee or the franchisee's heir or heirs.

Sec. 5. **NEW SECTION. 322D.5 DEATH OF A FRANCHISEE OR MAJORITY STOCKHOLDER.** If the franchisee is a natural person, the rights under this chapter may be exercised by the heirs of the franchisee upon the death of the franchisee. If the franchisee is a business organization, the rights may be exercised by the heirs of a majority stockholder of the franchisee upon the death of the majority stockholder.

Sec. 6. **NEW SECTION. 322D.6 SECURITY INTERESTS NOT AFFECTED.** The provisions of this chapter shall not be construed to affect, in any way, the existence or enforcement of any security interest which a supplier, any financial institution or any other person may have in the inventory of the retailer, and any repurchase of inventory which is made hereunder shall not be subject to the bulk sales provisions of chapter 554, article 6, of the uniform commercial code.

Approved April 16, 1984

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**CHAPTER 1088**  
**CHILD CUSTODY**  
*S.F. 2163*

**AN ACT** relating to child custody.

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

Section 1. Section 598.1, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION. 6.** "Best interest of the child" includes, but is not limited to, the opportunity for maximum continuous physical and emotional contact possible with both parents, unless direct physical or significant emotional harm to the child may result from this contact. Refusal by one parent to provide this opportunity without just cause shall be considered harmful to the best interest of the child.

Sec. 2. Section 598.41, subsections 1 and 2, Code 1983, are amended to read as follows:  
1. The court, insofar as is reasonable and in the best interest interests of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure a minor the child frequent and the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have separated or dissolved the marriage, unless direct physical harm or significant emotional harm to the child is likely to result from such contact with one parent, and which will encourage parents to share the rights

and responsibilities of raising the child. The court shall consider the denial by one parent of the child's opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement. 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 cite clear and convincing evidence, pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest of the child to the extent that the legal custodial relationship between the child and a parent should be severed. 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.

Sec. 3. Section 598.41, subsection 3, unnumbered paragraph 1, Code 1983, is amended to read as follows:

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:

Sec. 4. Section 598.41, Code 1983, is amended by adding the following new subsection before subsection 4 and renumbering the subsequent subsections:

NEW SUBSECTION. 4. Subsection 3 shall not apply when parents agree to joint custody.

Sec. 5. Section 598.41, subsection 4, Code 1983, is amended to read as follows:

4. Joint legal custody does not require joint physical care. When the court determines such action would be in the child's best ~~interest~~ interests, physical care may be given to one joint custodial parent and not to the other. If one joint custodial parent is awarded physical care, the court shall hold that parent responsible for providing for the best interests of the child. However, physical care given to one parent does not affect the other parent's rights and responsibilities as a legal custodian of the child. Rights and responsibilities as legal custodian of the child include, but are not limited to, equal participation in decisions affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

Sec. 6. The enactment of subsection 1 of section 598.41 constitutes a substantial change in circumstances authorizing a court to modify a child custody order pursuant to section 598.21 and chapter 598A.

Approved April 16, 1984

**CHAPTER 1089**  
**APPEAL OF PAROLE REVOCATION BAIL**  
*H.F. 601*

**AN ACT** relating to appeal of bond set after parole revocation.

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

Section 1. Section 908.2, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The magistrate may order the alleged parole violator confined in the county jail or may order the alleged parole violator released on bail under such terms and conditions as the magistrate may require. Admittance to bail is discretionary with the magistrate and is not a matter of right. A person for whom bail is set may make application for amendment of bail to a district judge or district associate judge having jurisdiction to amend the order. The motion shall be promptly set for hearing and a record shall be made of the hearing.

Approved April 16, 1984

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**CHAPTER 1090**  
**REAL PROPERTY LEGALIZING ACTS**  
*H.F. 2372*

**AN ACT** relating to real property legalizing acts.

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

Section 1. Section 589.1, Code 1983, is amended to read as follows:

589.1 **ACKNOWLEDGMENTS—SEAL NOT AFFIXED.** All deeds, mortgages, or other instruments in writing, for the conveyance of lands which have been made and executed before July 4, ~~1943~~ 1, 1970, and the officer taking the acknowledgment has not affixed his the officer's seal to the acknowledgment; ~~such the acknowledgment shall is,~~ nevertheless, be good and valid in law and equity, anything in any law passed before July 4, ~~1943~~ 1, 1970, to the contrary notwithstanding.

Sec. 2. Section 589.2, Code 1983, is amended to read as follows:

589.2 **CONVEYANCES BY COUNTY.** All deeds executed before July 4, ~~1943~~ 1, 1970, by a county judge, or county court, or the chairman of the board of supervisors of ~~any~~ a county, and



to which the officer executing the same deed has failed or omitted to affix the county seal, and all deeds where the clerk has failed or omitted to countersign when required so to do, ~~be and the same are hereby~~ legalized and ~~made valid the same in all respects~~ as though the law had in all respects been fully complied with.

Sec. 3. Section 589.3, Code 1983, is amended to read as follows:

**589.3 ABSENCE OF OR DEFECTIVE ACKNOWLEDGMENTS.** Any instrument in writing affecting the title to real estate within the state of Iowa, to which is attached no certificate of acknowledgment, or to which is attached a defective certificate of acknowledgment, which was, prior to ~~January 1, 1930~~ 1970, recorded or spread upon the records in the office of the recorder of the county in which the real estate described in such the instrument is located, is, together with the recording and the record ~~thereof, legalized and declared as of the recording,~~ valid, legal, and binding as if such the instrument had been properly acknowledged and legally recorded.

Sec. 4. Section 589.4, Code 1983, is amended to read as follows:

**589.4 ACKNOWLEDGMENTS BY CORPORATION OFFICERS.** The acknowledgments of all deeds, mortgages, or other instruments in writing taken or certified before ~~July 4, 1943, and 1, 1970,~~ which instruments have been recorded in the recorder's office of any county of this state, including acknowledgments of instruments made by ~~any private or other a~~ corporation, or to which such the corporation was a party, or under which such the corporation was a beneficiary, and which have been acknowledged before or certified by ~~any a~~ notary public who was at the time of such the acknowledgment or certifying a stockholder or officer in such the corporation, are ~~hereby declared to be legal and valid official acts of such the notaries public,~~ and to entitle such the instruments to be recorded, anything in the laws of the state of Iowa in regard to acknowledgments to the contrary notwithstanding. This section ~~shall~~ does not affect pending litigation.

Sec. 5. Section 589.5, Code 1983, is amended to read as follows:

**589.5 ACKNOWLEDGMENTS BY STOCKHOLDERS.** All deeds and conveyances of lands within this state executed before ~~July 4, 1943~~ 1, 1970, but which have been acknowledged or proved according to and in compliance with the laws of this state before a notary public or other official authorized by law to take acknowledgments who was, at the time of such the acknowledgment, an officer or stockholder of a corporation interested in ~~any such the deed or conveyance, or otherwise interested therein in the deeds or conveyances,~~ are, if otherwise valid, ~~hereby declared effectual and valid in law to all intents and purposes as though acknowledged or proved before an officer not interested therein in the deeds or conveyances;~~ and if recorded before ~~July 4, 1943~~ 1, 1970, in the respective counties in which such the lands ~~may be are,~~ the records ~~thereof are hereby confirmed and declared effectual and valid in law to all intents and purposes as though said the deeds and conveyances, so acknowledged or proved and recorded, had, (prior to being recorded), been acknowledged or proved before an officer having no interest therein in the deeds or conveyances.~~

Sec. 6. Section 589.6, Code 1983, is amended to read as follows:

**589.6 INSTRUMENTS AFFECTING REAL ESTATE.** All instruments in writing executed by ~~any a~~ corporation prior to ~~July 4, 1943~~ 1, 1970, conveying, encumbering, or affecting real estate, including releases, ~~satisfaction~~ satisfactions of mortgages, judgments, or any other liens by entry of such the release or satisfaction upon the ~~page or pages~~ where such the lien appears recorded or entered, where the corporate seal of such the corporation has not been affixed or attached ~~thereto,~~ and which are otherwise legally and properly executed, are ~~hereby declared legal, valid, and binding; the same as though the corporate seal had been attached or affixed thereto.~~

Sec. 7. Section 589.8, Code 1983, is amended to read as follows:

589.8 MORTGAGES, TRUST DEEDS AND REALTY LIENS—RELEASES BEFORE JULY 4, 1933 1, 1970. Any A release or satisfaction of any a mortgage or trust deed, or of any an instrument in writing creating a lien upon real estate where such the release or satisfaction has been recorded in the recorder's office of the county in this state, or upon the margin of the record, where such the original instrument was recorded and which release or satisfaction was made by any an individual, association, copartnership, assignee, corporation, attorney in fact, or by a resident or foreign executor, administrator, referee, receiver, trustee, guardian, or commissioner, and which release or satisfaction was executed, filed, and recorded prior to July 4, 1933 1, 1970, is hereby legalized, declared valid, legal and binding and of full force and effect, any defects in the execution, acknowledgment, recording, filing, or otherwise of such the releases or satisfactions to the contrary notwithstanding.

Sec. 8. Section 589.9, Code 1983, is amended to read as follows:

589.9 MARGINAL RELEASES OF SCHOOL-FUND MORTGAGES. The release or satisfaction of any a school-fund mortgage entered on the margin of the record of such the mortgage by the auditor of the county prior to July 4, 1894 1, 1970, is hereby legalized and given the same force and effect as though such the auditor had had, at the time of entering such the release or satisfaction, the same power thereafter conferred upon him the auditor by chapter 53 of the Acts of the Twenty-fifth General Assembly.

Sec. 9. Section 589.10, Code 1983, is amended to read as follows:

589.10 MARGINAL ASSIGNMENT OF MORTGAGE OR LIEN. In any case where If an assignment of a mortgage or other recorded lien on real estate has been made before July 4, 1943 1, 1970, by written assignment thereof on the margin of the record where such the mortgage or other lien is recorded or entered, such the assignment shall be deemed to have passed all the right, title, and interest therein in the real estate, which the assignor at the time had, with like force and effect as if such the assignment had been made by separate instrument duly acknowledged and recorded; and any such an assignment or a duly authenticated copy thereof of an assignment when accompanied by a duly authenticated copy of the record of the instrument or lien it purports to assign, shall be is admissible in evidence as is provided by law for the admission of the records of deeds and mortgages.

Sec. 10. Section 589.11, Code 1983, is amended to read as follows:

589.11 CONVEYANCES BY EXECUTORS, TRUSTEES, ETC FIDUCIARIES. In all cases where If, prior to the year 1930 1970, an executor, administrator, trustee, guardian, assignee, receiver, referee, or commissioner, acting as such in that capacity in this or any state, has conveyed in such the trust capacity real estate lying in this state and such the conveyance has been of record since prior to January 1, 1930 1970, in the county where the real estate so conveyed is located and which conveyance purports to sustain the title in the present record owner or owners thereof, such the conveyance shall is not be held void or insufficient by reason of the fact that because due and legal notice of all proceedings with reference to the making of any such the conveyance was not served upon all interested or necessary parties, or that such the executor, administrator, trustee, guardian, assignee, receiver, referee, or commissioner is not shown to have been duly authorized by an order of court to make and execute such the conveyance, that a bond was not given therefor, or that no a report of the sale was not made; or such the sale or deed of conveyance was not approved by order of court, or that any such a foreign executor, administrator, trustee, guardian, assignee, receiver, referee, or commissioner was not appointed or qualified in the state of Iowa prior to the making of such the conveyance, or that the record thereof fails to disclose compliance with any other provisions of

law, and all such conveyances are hereby legalized and declared valid, legal, and binding and of full force and effect. Allotments by referees in partition shall be considered are conveyances within the meaning of this section.

Sec. 11. Section 589.12, Code 1983, is amended to read as follows:

589.12 SHERIFFS' DEEDS. ~~No A~~ foreclosure proceeding or sale of real estate on execution prior to January 1, ~~1930~~ 1970, ~~wherein if a sheriff's deed was executed and which purports to sustain the record title shall be held is not ineffectual on account of the failure of the record to show that any of the steps in obtaining said the judgment or in the sale of said the property were complied with. Such~~ The proceedings are hereby legalized and made valid as if the record showed that ~~all the provisions of the law has been complied with.~~

Sec. 12. Section 589.13, Code 1983, is amended to read as follows:

589.13 SHERIFF'S DEED EXECUTED BY DEPUTY. All conveyances of land in this state, executed in this state by a deputy sheriff, and properly recorded in the office of the county recorder of the county ~~wherein where the land is located, prior to January 1, 1930, shall~~ 1970, have the same force and effect as though such the conveyance had been executed by the sheriff.

Sec. 13. Section 589.14, Code 1983, is amended to read as follows:

589.14 DEFECTIVE TAX DEEDS. ~~No A~~ sale of real property for taxes made prior to January 1, ~~1930~~ 1970, ~~wherein in which the tax deed was executed and which the deed purports to sustain the record title, shall be held is not ineffectual on account because of the failure of the record to show that any of the steps in the sale and deeding of said the property were complied with; said and these proceedings are hereby legalized and made valid and effectual as if the record showed that all the provisions of law had been complied with.~~

Sec. 14. Section 589.17, Code 1983, is amended to read as follows:

589.17 CONVEYANCES BY SPOUSE UNDER POWER. ~~No A~~ conveyance of real estate made before July 4, ~~1941~~ 1, 1970, ~~wherein in which the husband or wife conveyed or contracted to convey the inchoate right of dower through the other spouse, acting as the attorney in fact, by virtue of a power of attorney executed by such the spouse, such the power of attorney not having been executed as a part of a contract of separation, shall be held are not invalid as contravening the provisions of section 3154 of the Code, of 1897, or section 10447 of subsequent Codes to and including the Code of 1939, but all such conveyances are hereby legalized and made effective.~~

Sec. 15. Section 589.18, Code 1983, is amended to read as follows:

589.18 CONVEYANCES BY FOREIGN EXECUTORS. All conveyances of real property made prior to January 1, ~~1943~~ 1970, by executors or trustees under foreign wills and prior to the date upon which such the will was admitted to probate in Iowa or prior to the expiration of three months after the recording of a duly authenticated copy of such the will, original record of appointment, qualification, and bond as required by the provisions of section 3295 of the Code of 1897 or sections 11878 to 11881, inclusive, of subsequent Codes to and including the Code of 1939, and in which such the will was, subsequent to said the conveyance, probated in Iowa ~~or shall hereafter be probated in Iowa~~, and in which a duly authenticated copy of the will, original record of appointment, qualification, and bond as required by said those sections was, subsequent to such the conveyance, ~~or shall be hereafter made a matter of record as provided in said those sections, are hereby legalized and declared as valid and effectual in law and in equity as though such the will had been probated in Iowa prior to such the conveyance and as though the provisions of said sections had been strictly complied with; provided nothing in.~~ However, this section shall does not affect pending litigation.

Sec. 16. Section 589.19, Code 1983, is amended to read as follows:

**589.19 CONVEYANCES UNDER SCHOOL-FUND FORECLOSURES.** In any case where ~~the title to real estate has been conveyed prior to January 1, 1943~~ 1970, by the sheriff of any a county in the state of Iowa pursuant to sheriff's sale under the foreclosure of permanent school-fund mortgages to the state of Iowa, or to the state of Iowa for the use of the school fund, or to the county for the school fund; and ~~said the land has been heretofore sold under authority of the board of supervisors of said the county and conveyed under its authority, prior to January 1, 1943~~ 1970, and the full purchase price paid and credited to, and used by, the county for the permanent school fund of ~~said the county~~, all right, title, or interest of the state of Iowa in and to ~~said the real estate is hereby relinquished and quitclaimed to the purchaser or his the purchaser's grantees forever, and the title thereto confirmed in such the purchaser, or his the purchaser's grantees insofar as the aforesaid erroneous conveyance is concerned.~~

Sec. 17. Section 589.21, Code 1983, is amended to read as follows:

**589.21 RELEASES AND DISCHARGES IN RE REAL ESTATE.** All releases and discharges of judgments, mortgages, or deeds of trust affecting property in this state made prior to January 1, ~~1933~~ 1970, by administrators, executors, or guardians appointed by the court of any other state or country without complying with the provisions of section 3308 of the Code of 1897 and sections 11897 to 11899, inclusive, of subsequent Codes to and including the Code of 1931 are hereby legalized, and declared as valid and effective in law and in equity as though the provisions of said sections had been strictly followed; provided that nothing in. However, this section shall does not affect pending litigation.

Sec. 18. Section 589.23, Code 1983, is amended to read as follows:

**589.23 DESCRIPTIONS REFERRING TO DEFECTIVE PLATS.** The description of land in all instruments, conveyances, and encumbrances describing lots in or referring to plats made by the county auditors of Iowa, or by the county surveyor for the owner, and placed of record by the county recorders of Iowa prior to January 1, ~~1930~~ 1970, are hereby legalized, and the same declared valid and binding the same as though the said plats had been signed and acknowledged and filed and recorded in strict compliance with law.

Sec. 19. Section 589.24, Code 1983, is amended to read as follows:

**589.24 DEFECTIVE CONVEYANCES - TAX DEEDS - ETC INSTRUMENTS.** Any A deed of conveyance, or other instrument purporting to convey real estate within the state of Iowa, where ~~such the deed or instrument has been recorded in the office of the recorder of any county wherein such in which the real estate is situated, and which said the deed or instrument was executed by a county treasurer under a tax sale, a sheriff under execution sale, or by a resident or foreign executor, administrator, referee, receiver, trustee, guardian, commissioner, individual, copartnership, association, or corporation, and was executed and recorded prior to January 1, 1930~~ 1970, and where if the grantee or grantees named in ~~such the deed or conveyance, or other instrument, his, her, their, or its grantees, or the grantee's heirs, or devisees, by direct line of title or conveyance have been in the actual, open, adverse possession of such the premises since said that date, be and the same is hereby legalized, declared valid, legal, and binding, and of full force and effect, notwithstanding any defects in the execution of said the deed or instrument.~~

Sec. 20. Section 589.25, Code 1983, is amended to read as follows:

**589.25 SALES OF REAL ESTATE BY SCHOOL DISTRICT.** All deeds and conveyances of land made by or purporting to be made by any a school district or by the board of directors

of any a school district prior to July 4, 1960 1, 1970, and placed of record prior to July 4, 1960 1, 1970, which deeds or conveyances purport to sustain the record title, are hereby legalized and made valid, even though the record fails to show that all necessary steps in the sale and deeding of the property were complied with. Such The deeds and conveyances are legalized and made valid and effectual, as fully and completely as if the record showed that all provisions of the law had been complied with, and that the said sales had been duly authorized by the electors of the school district.

Approved April 16, 1984

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## CHAPTER 1091

### LIST OF UNPAID OBLIGATIONS

*H.F. 2454*

**AN ACT** relating to the filing of a list of unpaid obligations by state agencies with the state comptroller.

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

Section 1. Section 8.33, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

No obligation of any kind whatsoever shall be incurred or created subsequent to the last day of the fiscal term for which an appropriation is made, except when specific provision otherwise is made in the Act making the appropriation. On the last day of the fiscal term it shall be the duty of the head of each department, board, or commission, or officer receiving the appropriation under any Act, to file with the state comptroller a list of all obligations incurred, and for which warrants have not been drawn, up to and including that date. On September 30, or as otherwise provided in an appropriation Act, following the close of each fiscal term all unencumbered or unobligated balances of appropriations made for said that fiscal term shall revert to the state treasury and to the credit of the fund from which the appropriation or appropriations were made, except that capital expenditures for the purchase of land or the erection of the buildings or new construction shall continue in force until the attainment of the object or the completion of the work for which such appropriations are were made unless the Act making the appropriation for the capital expenditure contains a specific provision relating to a time limit for incurring an obligation or reversion of funds. This section shall not be construed to repeal the provisions of sections 19.11 to through 19.14.

Approved April 16, 1984

**CHAPTER 1092**  
**PROBATE INVENTORY**  
*H.F. 2474*

**AN ACT** relating to the form of probate inventory.

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

Section 1. Section 633.361, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

**633.361 REPORT AND INVENTORY.** Within ninety days after qualification by the personal representative, unless a longer time is granted by the court, the personal representative shall file with the clerk a report and inventory of the property of the decedent, so far as the same has come to the knowledge of the personal representative. The report and inventory shall be verified or affirmed under penalty of perjury. It shall include the following information:

1. Name, age and residence of decedent.
2. Date of death.
3. Whether decedent died testate or intestate.
4. Name and post office address of the personal representative.
5. Name and post office address of the surviving spouse, if any.
6. Name, relationship and post office address of each beneficiary under the will (if the decedent died testate) or of each heir (if the decedent died intestate). If any persons take by representation, the personal representative shall list the deceased person through whom those persons take and shall also list the persons taking under that deceased person.
7. If the decedent died testate, the name and address of each child, if any, born to or adopted by decedent after execution of the will.
8. Legal descriptions and estimated values of all the real estate of the decedent in the state of Iowa.
9. Legal descriptions and estimated values of all real estate of the decedent outside of the state of Iowa.
10. Personal property regarded as exempt from execution, with estimated values.
11. All other personal property of the decedent, with estimated values.
12. A listing of all other items, with estimated values, which are subject to Iowa inheritance tax or federal estate tax.
13. A report concerning any reductions in the amount of unified credit available for federal estate tax purposes.

Sec. 2. This Act applies to inventories filed on or after its effective date.

Approved April 16, 1984

**CHAPTER 1093**  
**STATE FORMS MANAGEMENT PROGRAM**  
*H.F. 2485*

**AN ACT** relating to the management of state government forms.

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

Section 1. Section 304.2, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. "Records management" means a program designed to provide economy and efficiency in the creation, organization, maintenance, use and disposition of records to assure that needless records will not be created or retained and to assure that valuable records will be preserved.

NEW SUBSECTION. "Form" means a document containing information, printed or reproduced by whatever means, with blank areas for the entry of additional information.

NEW SUBSECTION. "Forms management" means a comprehensive control program which is designed and implemented to provide standards for the analysis, creation, design, procurement and storage of all forms in state government, and to assure that those forms are designed, produced and distributed economically and efficiently.

NEW SUBSECTION. "Designee" means a person or position appointed by the head of an agency listed in section 304.3 for a period of at least two years to regularly represent that agency in the activities of the commission.

Sec. 2. Section 304.3, Code 1983, is amended to read as follows:

**304.3 COMMISSION CREATED.** There is created a state records commission. The commission shall consist of the following or their designees:

1. The secretary of state ~~who shall act as chairman.~~
2. The executive director of the Iowa state historical department.
3. The treasurer of state.
4. The state comptroller.
5. ~~The court administrator of the judicial department~~ state librarian.
6. The auditor of state ~~or designee.~~
7. ~~Director~~ The director of the department of general services who shall act as secretary of the commission.

~~It is the duty of the~~ The commission shall annually elect its chairperson. ~~The commission to shall~~ determine what records have no administrative, legal, fiscal, research or historical value and should be disposed of or destroyed. The commission shall also establish a forms management program. The decisions of the commission shall be made by a majority vote of the entire membership.

Sec. 3. Section 304.6, Code 1983, is amended to read as follows:

**304.6 POWERS.** The primary agency responsible for providing administrative personnel and services for the commission ~~shall be~~ is the department of general services. The purchase, rental or lease of equipment and supplies for record storage or preservation by agencies ~~shall be~~ is subject to the approval of the commission except as otherwise provided by law. The commission shall review all record storage systems and installations of agencies ~~subject to this~~

chapter and recommend any changes necessary to assure maximum efficiency and economic use of equipment and procedures, including but not necessarily limited to, the type of equipment, methods and procedures for filing and retrieval of records and the location of equipment. The commission has the authority to examine all forms, records and other papers in the possession, constructive possession or control of state agencies for the purpose of carrying out the goals of this chapter. The commission shall annually review the effectiveness of the forms management program and the forms management practices of individual state agencies, and maintain records that indicate dollar savings and the number of forms eliminated, simplified or standardized through forms management. The commission shall review forms and may reject forms that are not neutral in regard to gender, race, religion or national origin or that request information on gender, race, religion or national origin when there is an inadequate state interest in obtaining that information for the purpose of that form. The commission shall file an annual report on the forms management program with the general assembly and the governor. The commission shall perform any act necessary and proper to carry out its duties.

Sec. 4. Section 304.7, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. Procedures to assign state form numbers to all forms and maintain an index of all forms.

NEW SUBSECTION. Standards for the design and printing specifications for forms.

NEW SUBSECTION. Procedures for the process of approval for all requests for forms prior to the printing of forms.

NEW SUBSECTION. Procedures to promote the economical and efficient management of forms and to insure that forms are not created nor reproduced unnecessarily.

NEW SUBSECTION. Procedures to assist, train, and instruct state agencies and their internal records and forms management representatives in forms management techniques and provide direct assistance to new state agencies as they are created.

Sec. 5. Section 304.14, Code 1983, is amended to read as follows:

304.14 AGENCY PROGRAM. The head of each agency shall establish and maintain a program for the economical and efficient management of the records and forms of the agency. The program shall:

1. Provide for effective controls over the creation, maintenance, and use of records and forms in the conduct of current business.

2. Provide for co-operation with the secretary of the commission in applying standards, procedures, and techniques to improve the management of records and forms, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and disposal of records of temporary value.

3. Provide for compliance with the provisions of this chapter and the rules and regulations adopted by the commission.

4. Provide for the designation of an agency records and forms coordinator who shall assist the agency in the content requirements of the forms design process and in the development of the agency's forms management program.

5. Report to the commission before the last Wednesday in December of each year those forms and records which have been created or discontinued in the past year, or provide a list of forms and records currently being used by the agency.

Sec. 6. NEW SECTION. 304.18 Effective January 1, 1986, a state agency shall not use a form unless the form has been approved under the forms management program.

Sec. 7. Each state agency shall review its current forms and provide the commission with a copy of all forms being used and recommendations for reductions in the use of forms by that agency within six months of the effective date of this Act.

Approved April 16, 1984



**CHAPTER 1094**  
**MATERIAL LIFT ELEVATORS**  
*H.F. 2502*

**AN ACT** relating to material lift elevators.

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

Section 1. Section 104.1, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION. 11A.** "Material lift elevator" means an elevator existing at the location prior to January 1, 1975, which is limited to the movement of materials.

Sec. 2. Section 104.3, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION. 4.** The commissioner may adopt rules permitting existing passenger and freight elevators to be modified into material lift elevators. The American national standard safety standards for conveyors and related equipment, B20.1, shall be the basis for the rules.

Approved April 16, 1984

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**CHAPTER 1095**  
**FIRE SAFETY**  
*H.F. 257*

**AN ACT** relating to fire safety, and liquefied petroleum gas fuel and natural gas transportation, and liquefied petroleum gas heaters, and providing penalties.

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

Section 1. Section 100.2, Code 1983, is amended to read as follows:  
**100.2 DUTIES OF CITY AND TOWNSHIP OFFICERS.** The chief of the fire department or the chief's designee of every city or township in which a fire department is established, ~~the mayor or chief executive officer of every city in which no fire department exists, or the chief of the fire department or the chief's designee~~ responding to every township fire where there is a contract for fire protection in effect, ~~or the township clerk of every township outside the limits of any city not having a contract for fire protection~~ shall investigate into the cause, origin and circumstances of every fire occurring in ~~such~~ the city, village, or township by which property has been destroyed or damaged or which results in bodily injury to ~~any~~ a person, and determine whether ~~such~~ the fire was the result of natural causes, negligence or design. The state

fire marshal may assist in such the investigation or may ~~superintend and~~ direct the investigation if ~~he deems the fire marshal finds~~ it necessary.

Sec. 2. Section 100.3, unnumbered paragraph 1, Code 1983, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars has occurred as a result of a fire, or if arson is suspected, the fire official required by section 100.2 to make fire investigations, shall notify the state fire marshal's division immediately. Within ten days following the end of the month, the fire official required by section 100.2 to investigate shall file a report with the fire marshal's division. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

Sec. 3. Section 100.4, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

100.4 PENALTY FOR NONREPORTING. The failure or refusal of a fire official to make an investigation or report required by sections 100.2 and 100.3 is a simple misdemeanor.

Sec. 4. Section 100.5, unnumbered paragraph 1, Code 1983, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Reports required by section 100.3 shall be kept on file for public inspection in the fire marshal's office. In those circumstances where disclosure of particular facts in the reports would plainly and seriously jeopardize an investigation of criminal activity, the portions of the reports pertaining to the facts are classified as peace officers' investigative reports and subject to section 68A.7.

Reports and records on investigations made by the state fire marshal's office are the same as peace officers investigative reports and subject to section 68A.7.

Sec. 5. Section 100.12, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

100.12 AUTHORITY FOR INSPECTION. The chief of a fire department or an authorized subordinate who is trained in fire prevention safety standards may enter a building or premises at a reasonable hour to examine the building or premises and its contents. The examining official shall order the correction of a condition which is in violation of this chapter, a rule adopted under this chapter, or a city or county fire safety ordinance. The order shall be in writing or, if the danger is imminent, orally followed by a written order. The examining official shall enforce the order in accordance with the applicable law or ordinance. At the request of the examining official the state fire marshal may assist in an enforcement action.

Sec. 6. Section 100.26, Code 1983, is amended to read as follows:

100.26 TIME FOR COMPLIANCE WITH ORDER. When no petition of review as provided in section 100.14 has been filed or when the fire marshal on review or the court on review has affirmed or modified an order for the removal, destruction, or repair of a building, or the removal of any of its contents, or the change of any of its conditions, the owner, lessee, or occupant shall comply with such the order within thirty days after the delivery of the same order or a copy thereof to him of the order to the person, either personally or by certified letter to his the last known address, or by service upon his duly the person's appointed agent. If such Failure of the owner, lessee, or occupant shall fail to comply with such the order he shall be subject the owner, lessee, or occupant to a penalty of ten dollars for each day of failure or neglect after the expiration of said the period, which. The penalty shall be recovered in the name of the state and paid into the treasury of the county where collected political subdivision

which issues the order or the treasurer of state if the order is issued by the state. If the owner, lessee, or occupant cannot reasonably comply with the order within thirty days and a good faith effort at compliance has been made within thirty days, the owner, lessee, or occupant shall not be subject to a penalty under this section. However, the penalty may be imposed on the person upon a failure to continue the good faith compliance with the order.

Sec. 7. Section 100.28, unnumbered paragraph 1, Code 1983, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The fire marshal shall serve by certified mail to the owner, lessee, or occupant of the property a copy of the certification required by section 100.27 and a notice informing the person that the amount of assessment contained in the certification may be challenged in a hearing before the state fire marshal, if the person requests a hearing within fourteen days of service of the notice. The hearing shall be in accordance with chapter 17A.

Sec. 8. NEW SECTION. 100.55 AUTHORITY TO CITE VIOLATIONS. Fire officials acting under the authority of this chapter may issue citations in accordance with chapter 805, for violations of this chapter or a violation of a local fire safety code.

Sec. 9. NEW SECTION. 101.11 MARKING—DISPENSING PROHIBITION—PENALTY.

1. A vehicle which carries liquefied petroleum gas fuel or natural gas, as a fuel source for the vehicle, in a concealed area, including but not limited to trunks or compartments located in or under the vehicle, shall display on the left rear and right front bumpers of the vehicle a standard abbreviation or symbol, approved by the department of public safety, which indicates liquefied petroleum gas fuel or natural gas is a fuel source for the vehicle.

2. The owner of the vehicle which is fueled by natural gas or liquefied petroleum gas shall be responsible for the placement of the approved abbreviation or symbol on the vehicle.

3. A person shall not dispense liquefied petroleum gas fuel or natural gas into a tank in a concealed area of a vehicle unless the vehicle complies with subsection 1.

4. A person who violates this section is guilty of a simple misdemeanor.

Approved April 17, 1984

**CHAPTER 1096**  
**CIVIL RIGHTS REVISION**  
*H.F. 2466*

**AN ACT** relating to the definition of public accommodation and extending the time for bringing an action under the Iowa civil rights law.

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

Section 1. Section 601A.2, subsection 10, Code 1983, is amended to read as follows:

10. "Public accommodation" means each and every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods ~~to the general public~~ for a fee or charge to nonmembers of any organization or association utilizing the place, establishment, or facility, provided that any place, establishment, or facility that caters or offers services, facilities, or goods to the ~~general public~~ nonmembers gratuitously shall be deemed a public accommodation if the accommodation receives ~~any substantial~~ governmental support or subsidy. Public accommodation shall not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities, or goods to the ~~general public~~ nonmembers for fee or charge or gratuitously, it shall be deemed a public accommodation during such period.

"Public accommodation" includes each state and local government unit or tax-supported district of whatever kind, nature, or class that offers services, facilities, benefits, grants or goods to the public, gratuitously or otherwise. This paragraph shall not be construed by negative implication or otherwise to restrict any part or portion of the pre-existing definition of the term "public accommodation".

Sec. 2. Section 601A.16, subsection 3, Code 1983, is amended to read as follows:

3. An action authorized under this section is barred unless commenced within ninety days after issuance by the commission of a release under subsection 2 of this section ~~or within one year after the filing of the complaint, whichever occurs first~~. If a complainant obtains a release from the commission under subsection 2 of this section, the commission ~~shall be~~ is barred from further action on that complaint.

Approved April 17, 1984

**CHAPTER 1097**  
**COUNTY CONSERVATION DIRECTOR**

*H.F. 425*

**AN ACT** relating to the official title of the chief executive officer of a county conservation board and the compensation of its officers and employees.

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

Section 1. Section 111A.4, subsections 6 and 10, Code 1983, are amended to read as follows:

6. To employ and fix the compensation of ~~an executive officer~~ a director who shall be responsible to the county conservation board for the carrying out of its policies. ~~The said executive officer shall have the power~~ director, subject to the approval of ~~said the~~ the board, ~~to may~~ employ and fix the compensation of ~~such assistants and employees as may be deemed necessary for carrying out the purposes and provisions of this chapter, but not in excess of those paid state conservation officers and employees for like services.~~

10. To furnish suitable uniforms for the ~~executive officer~~ director and ~~such those~~ those employees as ~~he the~~ the director may designate to wear uniforms, when on official duty. The cost of ~~said the~~ said the uniforms shall not exceed three hundred dollars per person in any ~~given~~ year. The uniforms shall at all times remain the property of the county.

Sec. 2. Section 111A.5, Code 1983, is amended to read as follows:

111A.5 **RULES AND REGULATIONS—OFFICERS.** The county conservation board may make, alter, amend or repeal ~~rules and regulations~~ for the protection, regulation and control of all museums, parks, preserves, parkways, playgrounds, recreation centers, and other property under its control. ~~No rules and The regulations adopted shall not be contrary to, or inconsistent with, the laws of the this state of Iowa. Such rules and The regulations shall not take effect until ten days after their adoption by said the board and after their publication once a week for two weeks in at least one paper circulating in the county and after a copy thereof of the regulations has been posted near each gate or principal entrance to the public ground to which they apply. After such the publication and posting, any a person violating any a provision of such rules and the regulations which are then in effect shall be is guilty of a simple misdemeanor. The board may designate the executive officer director and such those employees as the executive officer director may designate as police officers who shall have all the powers conferred by law on police officers, peace officers, or sheriffs in the enforcement of the laws of the this state of Iowa and the apprehension of violators thereof.~~

Sec. 3. Section 111A.10, Code 1983, is amended to read as follows:

111A.10 **STATUTES APPLICABLE.** ~~The provisions of sections Sections 111.35 through 111.57; inclusive, shall apply to all lands and waters under the control of any a county conservation board, in the same manner as if such the lands and waters were state parks, lands, or waters. Wherever used in said sections 111.35 through 111.57, the words "state conservation commission", "conservation commission", and "commission" shall include a county conservation board, and the words "state conservation director" shall include a county conservation board or its executive officer director, with respect to any lands or waters under the control of a county conservation board. However, the provisions of said sections 111.35 through 111.57 may be modified or superseded by rules and regulations adopted as provided in section 111A.5.~~

Approved April 17, 1984

**CHAPTER 1098**  
**REGISTRATION OF POST SECONDARY SCHOOLS**  
*H.F. 509*

**AN ACT** to require registration with the secretary of state of certain schools that maintain or conduct courses of instruction.

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

Section 1. NEW SECTION. 261B.1 POLICY. The general assembly finds that the availability of courses and programs leading to educational degrees and the existence of institutions of postsecondary education that offer courses and programs leading to educational degrees are in the best interest of the state. The general assembly has found that the state can provide protection for persons choosing institutions and programs by ensuring that accurate and complete information about institutions and programs is available to these persons and to the public.

Sec. 2. NEW SECTION. 261B.2 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Secretary" means the secretary of state.
2. "School" means an agency of the state or political subdivision of the state, individual, partnership, company, firm, society, trust, association, corporation, or any combination which meets any of the following criteria:
  - a. Is, owns, or operates a nonprofit postsecondary educational institution.
  - b. Provides a postsecondary instructional program or course leading to a degree.
  - c. Uses in its name the term "college", "academy", "institute", or "university" or a similar term to imply that the person is primarily engaged in the education of students at the postsecondary level, and which makes a charge for its services.
3. "Degree" means a title or symbol which signifies or purports to signify completion of the requirements of an academic, educational, or professional program of study beyond the secondary school level.
4. "Student" means a person who enrolls in or seeks to enroll in a course of instruction offered or conducted by a school.

Sec. 3. NEW SECTION. 261B.3 REGISTRATION. A school that maintains or conducts one or more courses of instruction, including courses of instruction by correspondence, in this state shall register annually with the secretary. Registration shall be made on application forms approved and supplied by the secretary and at the time and in the manner prescribed by the secretary. Upon receipt of a complete and accurate registration application, the secretary shall issue a certificate of registration and send it to the school.

The secretary may request additional information as necessary to enable the secretary to determine the accuracy and completeness of the information contained in the registration application. If the secretary believes that false, misleading, or incomplete information has been submitted in connection with an application for registration, the secretary may deny registration. The secretary shall conduct a hearing on the denial if a hearing is requested by a

school. The secretary may withhold a certificate of registration pending the outcome of the hearing. Upon a finding after the hearing that information contained in the registration application is false, misleading, or incomplete, the secretary shall deny a certificate of registration to the school. The decision of the secretary is subject to judicial review in accordance with section 17A.19.

The secretary shall adopt rules under chapter 17A for the implementation of this chapter.

Sec. 4. NEW SECTION. 261B.4 REGISTRATION INFORMATION. As a basis for registration, schools shall provide the secretary with the following information:

1. The name or title of the school.
2. The principal location of the school and the location of the place or places in this state where instruction is likely to be given.
3. A schedule of tuition charges, fees, and other costs payable to the school by a student.
4. The refund policy of the school for the return of refundable portions of tuition, fees, or other charges.
5. The degrees granted by the school.
6. The names and addresses of the principal owners of the school or the officers and members of the legal governing body of the school.
7. The name and address of the chief executive officer of the school.
8. A copy of or a description of the means by which the school intends to comply with section 261B.9.
9. Whether the school is accredited by any accrediting agency recognized by the United States department of education or a successor agency and, if so, the name of the accreditation body and the status under which accreditation is held.
10. The name, address, and telephone number of a contact person in this state.
11. The names or titles and a description of the courses to be offered in this state.
12. A description of procedures for the preservation of student records.

Sec. 5. NEW SECTION. 261B.5 CHANGES. If any information provided to the secretary under section 261B.3 or 261B.4 changes, the school shall inform the secretary within ninety days of the effective date of the change on forms prescribed and furnished by the secretary.

Sec. 6. NEW SECTION. 261B.6 LIST OF SCHOOLS. The secretary shall maintain a list of registered schools and the list and the information submitted under sections 261B.3 and 261B.4 are public records under chapter 28A.

Sec. 7. NEW SECTION. 261B.7 UNAUTHORIZED REPRESENTATION. Neither a school nor its officials or employees shall advertise or represent that the school is approved or accredited by the secretary or the state of Iowa nor shall it use the registration as a reference in promotional materials.

Sec. 8. NEW SECTION. 261B.8 REGISTRATION FEES. The secretary shall collect an initial registration fee of fifty dollars and an annual renewal of registration fee of twenty-five dollars from each registered school.

Sec. 9. NEW SECTION. 261B.9 DISCLOSURE TO STUDENTS. Prior to the commencement of a course of instruction and prior to the receipt of a tuition charge or fee for a course of instruction, a school shall provide written disclosure to students of the following information accompanied by a statement that the information is being provided in compliance with this section:

1. The name or title of the course.
2. A brief description of the subject matter of the course.
3. The tuition charge or other fees charged for the course. If a student is enrolled in more than one course at the school, the tuition charge or fee for all courses may be stated in one sum.
4. The refund policy of the school for the return of the refundable portion of tuition, fees, or other charges. If refunds are not to be paid, the information shall state that fact.
5. Whether the credential or certificate issued, awarded, or credited to a student upon completion of the course or the fact of completion of the course is applicable toward a degree granted by the school and, if so, under what circumstances the application will be made.
6. Whether the school is accredited by an accrediting agency recognized by the United States department of education or its successor agency.

Sec. 10. NEW SECTION. 261B.10 ADVISORY COMMITTEE. The state advisory committee for postsecondary school registration is created. The committee shall consist of seven members appointed by the coordinating council for post-high school education. Members shall serve for staggered four-year terms and shall include representatives from public and private two-year and four-year colleges, universities, and specialized and vocational schools.

The committee shall meet at least annually to advise the secretary and other agencies in matters relating to the administration of this chapter and to serve as a resource to the secretary as needed.

Sec. 11. NEW SECTION. 261B.11 EXCEPTIONS. This chapter does not apply to the following types of schools and courses of instruction:

1. Schools and educational programs conducted by firms, corporations, or persons for the training of their own employees.
2. Apprentice or other training programs provided by labor unions to members or applicants for membership.
3. Courses of instruction of an avocational or recreational nature that do not lead to an occupational objective.
4. Seminars, refresher courses, and programs of instruction sponsored by professional, business, or farming organizations or associations for the members and employees of members of these organizations or associations.
5. Courses of instruction conducted by a public school district or a combination of public school districts.
6. Colleges and universities authorized by the laws of this state to grant degrees.
7. Schools or courses of instruction or courses of training that are offered by a vendor to the purchaser or prospective purchaser of the vendor's product when the objective of the school or course is to enable the purchaser or the purchaser's employees to gain skills and knowledge to enable the purchaser to use the product.
8. Schools and educational programs conducted by religious organizations solely for the religious instruction of members of that religious organization.

Sec. 12. NEW SECTION. 261B.12 ENFORCEMENT. When the secretary or the secretary's designee believes a school is in violation of this chapter, the secretary shall order the school to show cause why the secretary should not issue a cease and desist order to the school.

After the school's response to the show cause order has been reviewed by the secretary, the secretary may issue a cease and desist order to the school if the secretary believes the school continues to be in violation of this chapter. If the school does not cease and desist, the



secretary may seek judicial enforcement of the cease and desist order in any district court.

Sec. 13. For the initial advisory committee, four members shall be appointed for two-year terms and three members shall be appointed for four-year terms.

Approved April 17, 1984

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**CHAPTER 1099**  
**PUBLIC WATER SUPPLY SYSTEMS**  
*H.F. 2387*

**AN ACT** relating to the authority of the department of water, air and waste management over public water supply systems.

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

Section 1. Section 455B.183, subsection 1 and unnumbered paragraph 4, Code Supplement 1983, are amended to read as follows:

1. The construction, installation or modification of any disposal system or public water supply 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 and private sewage disposal systems. 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 state and 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 state and federal laws and regulations and the review of the department shall be advisory.

Plans and specifications for all other waste disposal systems and public water supply systems, including sewer extensions and water supply distribution system extensions not reviewed by a city or county public works department under this section, shall be submitted to the department before a written permit may be issued. Plans and specifications for public water supply systems and water supply distribution system extensions must be certified by a registered engineer as provided in subsection 1. The construction of any such waste disposal system or public water supply system shall be in accordance with standards formulated and adopted by the commission pursuant to section 455B.173, subsections 6 to 9, ~~or otherwise approved by the department.~~ If it is necessary or desirable to make material changes in the plans or specifications, revised plans or specifications together with reasons for the proposed changes must be submitted to the department for a supplemental written permit. The revised plans and specifications for a public water supply system must be certified by a registered engineer as provided in subsection 1.

Sec. 2. Section 455B.220 is amended by adding the following new subsection:

**NEW SUBSECTION. 3.** A certificate of proper classification may be issued without examination to operators of a water distribution system in which water is conveyed from a supply point to the premises of consumers without treatment which in some way alters the physical, chemical, or bacteriological quality of the water and which serves a population of not more than two hundred fifty persons. Renewals of those certificates issued shall be governed by the provisions of this part 2 of division III and rules promulgated pursuant to this part. Notwithstanding chapter 258A, continuing education requirements shall not be imposed as a condition of certificate renewal for certificates issued under this subsection.

Approved April 17, 1984

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**CHAPTER 1100**  
**GRAIN DEALER AND WAREHOUSE FEES**  
*H.F. 2391*

**AN ACT** relating to license fees, inspection fees, and other fees charged by the commerce commission under chapters 542 and 543.

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

Section 1. Section 542.5, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Upon the filing of the application and compliance with the terms and conditions of this chapter and rules of the commission, the commission shall issue a license to the applicant. The license shall terminate on the thirtieth of June of each year. A grain dealer's license may be renewed annually by the filing of a renewal fee and a renewal application on a form prescribed by the commission. An application for renewal shall be received by the commission before the thirtieth of June. A grain dealer license which has terminated may be reinstated by the commission upon receipt of a proper renewal application, the renewal fee, and penalty the reinstatement fee in the amount of fifty dollars from the grain dealer, provided that such materials are as provided in section 542.6 if filed within thirty days from the date of termination of the grain dealer license. The commission may cancel a license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

Sec. 2. Section 542.6, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**542.6 FEES.** The commission shall charge the following fees for deposit in the general fund:

1. For the issuance or renewal of a license for a grain dealer and for any inspection of a grain dealer, the fee shall be determined on the basis of dollar volume of all grain purchased the previous calendar year as follows:

a. If the total purchased is one hundred thousand dollars or less, the license fee is forty dollars and the inspection fee is fifty dollars.

b. If the total purchased is more than one hundred thousand dollars, but not more than seven hundred fifty thousand dollars, the license fee is seventy dollars and the inspection fee is seventy-five dollars.

c. If the total purchased is more than seven hundred fifty thousand dollars, but not more than one million five hundred thousand dollars, the license fee is one hundred dollars and the inspection fee is one hundred fifteen dollars.

d. If the total purchased is more than one million five hundred thousand dollars, but not more than three million dollars, the license fee is one hundred seventy-five dollars and the inspection fee is one hundred fifty dollars.

e. If the total purchased is more than three million dollars, but not more than four million seven hundred fifty thousand dollars, the license fee is three hundred dollars and the inspection fee is one hundred eighty-five dollars.

f. If the total purchased is more than four million seven hundred fifty thousand dollars, but not more than nine million five hundred thousand dollars, the license fee is four hundred twenty-five dollars and the inspection fee is two hundred twenty-five dollars.

g. If the total purchased is more than nine million five hundred thousand dollars, the license fee is five hundred seventy-five dollars and the inspection fee is two hundred sixty-five dollars.

If the applicant did not purchase grain the previous calendar year, the applicant will pay the fee specified in subsection 1, paragraph "a". If during the license period the total grain actually purchased exceeds one hundred thousand dollars, the licensee shall notify the commission and the license and inspection fee shall be adjusted accordingly. Subsequent adjustments shall be made as necessary. An applicant may elect licensing in any category of subsection 1. New licenses issued for less than a full year shall be prorated from the date of application.

2. For an amendment to a license, the fee is ten dollars.

3. For a duplicate license, the fee is five dollars.

4. For reinstatement of a license the fee is fifty dollars.

Sec. 3. Section 543.2, Code 1983, is amended to read as follows:

543.2 DUTIES AND POWERS OF THE COMMISSION. The commission may exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products. The commission may inspect or cause to be inspected any warehouse. Inspections may be made at times and for purposes as the commission determines. The commission shall cause every licensed warehouse and its contents to be inspected once in every twelve-month period, provided that if a class 1 warehouseman elects to submit the unaudited financial statement under section 543.6, subsection 4, paragraph "b," the commission shall cause the warehouse to be inspected twice in every twelve-month period. The commission may require the filing of reports relating to a warehouse or its operation. If upon inspection a deficiency is found to exist as to the quantity or quality of agricultural products stored, as indicated on the warehouseman's books and records according to official grain standards, the commission may require an employee of the commission to remain at the licensed warehouse and supervise all operations involving agricultural products stored there under this chapter until the deficiency is corrected. The charge for the cost of maintaining an employee of the commission at a warehouse to supervise the correction of a deficiency is one hundred fifty dollars per day. The commission may make available to the United States government, or any of its agencies, including the Commodity Credit Corporation, the results of inspections made and inspection reports submitted to it by employees of the commission, upon payment to it of charges as determined by the commission, but the charges shall not be less than the actual cost of services rendered, as determined by

the commission. The commission may enter into contracts and agreements for such purpose and shall keep a record of all money thus received. All such money shall be paid over to the treasurer of state as miscellaneous receipts. The commission may classify any warehouse in accordance with its suitability for the storage of agricultural products and shall specify in any license issued for the operation of any warehouse the type or types and the quantity of agricultural products which may be exclusively stored in the warehouse. The commission may prescribe, within the limitations of this chapter, the duties of licensed warehousemen with respect to the care of and responsibility for the contents of licensed warehouses. Grain grades shall be determined under the official grain standards. The commission may from time to time publish data in connection with the administration of this chapter as may be of public interest. The commission shall administer this chapter.

Sec. 4. Section 543.33, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

543.33 FEES. The commission shall charge the following fees for deposit in the general fund:

1. For the issuance or renewal of a warehouse license, the fee shall be determined on the basis of the storage capacity in bushels of grain as follows:

a. If the total storage capacity is one hundred thousand bushels or less, the fee is thirty-five dollars.

b. If the total storage capacity is more than one hundred thousand bushels, but not more than seven hundred fifty thousand bushels, the fee is seventy-five dollars.

c. If the total storage capacity is more than seven hundred fifty thousand bushels, but not more than one million five hundred thousand bushels, the fee is one hundred fifteen dollars.

d. If the total storage capacity is more than one million five hundred thousand bushels, but not more than three million bushels, the fee is one hundred fifty dollars.

e. If the total storage capacity is more than three million bushels, but not more than four million seven hundred fifty thousand bushels, the fee is one hundred eighty-five dollars.

f. If the total storage capacity is more than four million seven hundred fifty thousand bushels, but not more than nine million five hundred thousand bushels, the fee is two hundred twenty-five dollars.

g. If the total storage capacity is more than nine million five hundred thousand bushels, the fee is two hundred sixty-five dollars.

2. For the issuance or renewal of a warehouse license for the storage of products other than bulk grain, the fee shall be determined as follows:

a. For intended storage of products of a value of one hundred thousand dollars or less, a fee of sixty dollars.

b. For intended storage of products of a value greater than one hundred thousand dollars but not greater than three hundred thousand dollars, a fee of one hundred dollars.

c. For intended storage of products of a value in excess of three hundred thousand dollars, a fee of two hundred dollars.

For each inspection of a warehouse or station for the purpose of licensing, a fee of twenty-five dollars, and for each additional warehouse or station under the same license, a fee of ten dollars.

3. For each amendment of a license, a fee of ten dollars.

4. For each amendment of a tariff, a fee of ten dollars.

5. For a duplicate license, a fee of five dollars.

6. For the reinstatement of a license, a fee of fifty dollars.

New licenses issued for less than a year shall be prorated from the date of application.

Sec. 5. Section 543.37, Code 1983, is amended to read as follows:

543.37 FAILURE TO PAY FEE. Failure to pay the annual fee provided for in section 543.33 on or before June 30 of the year for which due shall cause a license to terminate. A warehouse license which has terminated may be reinstated by the commission upon receipt of a proper renewal application, the renewal fee, and a ~~penalty~~ the reinstatement fee in the amount of twenty-five dollars as provided for in section 543.33, if filed within thirty days from the date of termination of the warehouse license. The commission may cancel the license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

Approved April 17, 1984

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**CHAPTER 1101**  
**ELECTRIC TRANSMISSION FRANCHISES**  
*S.F. 2135*

**AN ACT** relating to electric transmission line, wire, or cable franchises and making civil penalties applicable.

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

Section 1. Section 476.25, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 3. An electric utility shall not serve or offer to serve electric customers in an exclusive service area assigned to another electric utility, nor shall an electric utility construct facilities to serve electric customers in an exclusive service area assigned to another electric utility. The state, an electric utility, or any other person who is injured or threatened with injury by conduct prohibited by this section may initiate a contested case proceeding with the commission under chapter 17A. Upon finding a violation of this section the commission shall order appropriate corrective action including discontinuance of the unlawful service to electric customers, removal of the unlawful facility, or other disposition the commission deems just and reasonable.

Sec. 2. Section 478.1, Code 1983, is amended to read as follows:

478.1 FRANCHISE. ~~No individual, company, or corporation~~ A person shall not construct, erect, maintain, or operate any a transmission line, wire, or cable which operates at an electric voltage of thirty-four and one-half kilovolts or more along, over, or across any public highway or grounds outside of cities for the transmission, distribution, or sale of electric current, without first procuring from the Iowa state commerce commission a franchise granting authority so to do as provided in this chapter provided.

If the transmission line, wire, or cable operates at an electric voltage of less than thirty-four and one-half kilovolts, no franchise is required. However, the commission shall retain jurisdiction over all such lines, wires or cables and shall prescribe the contents of a written notice and

map to be timely provided to the commission and affected parties including owners of electric supply lines located within six-tenths of one mile of proposed construction of such lines, wires or cables. A person who seeks to construct, erect, maintain or operate a transmission line, wire or cable which will operate at an electric voltage of less than thirty-four and one-half kilovolts outside of cities and which cannot secure the necessary voluntary easements to do so may petition the commission pursuant to section 478.3, subsection 1 for a franchise granting authority for such construction, erection, maintenance or operation, and for the use of the right of eminent domain.

Sec. 3. Section 478.19, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** All transmission lines, wires or cables outside of cities for the transmission, distribution or sale of electric current at any voltage shall be constructed and maintained in accordance with standards adopted by rule by the commission.

Approved April 17, 1984

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**CHAPTER 1102**  
**SECONDARY ROAD BUDGET YEAR**  
*S.F. 2250*

**AN ACT** relating to the budget year and annual report provisions for secondary roads.

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

Section 1. Section 17.9, Code 1983, is amended to read as follows:

17.9 STATE DEPARTMENT OF TRANSPORTATION. The annual report of the state department of transportation shall cover the year ending June 30 and shall be filed not later than September 1 of each year, provided the summary report of county highway engineers may be filed on a date not later than February 1.

Sec. 2. Section 309.1, Code 1983, is amended to read as follows:

309.1 DEFINITION. As used in this chapter, unless the context otherwise requires, "department":

1. "Department" means the state department of transportation.
2. "Fiscal year" means the period of twelve months beginning on July 1 and ending on June 30.

Sec. 3. Section 309.10, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Notwithstanding the provisions of section 310.4, if the board of supervisors of a county does not plan to utilize its farm-to-market road fund allocation for the succeeding calendar fiscal year for farm-to-market projects, the board may annually, by stipulation in the secondary road construction program and secondary road budget submitted to the department in accordance

with sections 309.22 and 309.93, determine an amount of the unobligated portion of their allocation, up to a maximum of fifty percent of their anticipated total annual allocation, for the construction and reconstruction of local secondary roads. However, moneys from the farm-to-market road fund shall not be so used if the moneys are needed to match federal funds available for farm-to-market road projects.

Sec. 4. Section 309.22, Code 1983, is amended to read as follows:

**309.22 CONSTRUCTION PROJECT PROGRAM – PROGRESS REPORT BY ENGINEER.**

On or before the ~~first fifteenth~~ day of ~~December~~ April of each year the board of supervisors, with the assistance of the county engineer, shall, subject to the approval of the department, adopt a secondary road construction program which shall include a project accomplishment list for the next calendar fiscal year, and a project priority list for the succeeding four fiscal years based upon the construction funds, local secondary and farm-to-market, estimated to be available for such year the period. Subject to departmental approval, any project on the approved priority list may be advanced to and constructed in the accomplishment year and the project accomplishment list may be revised due to unforeseen conditions.

~~At~~ After the close of each fiscal year, and not later than September 15, the county engineer as a part of his shall submit an annual report to the said department. The annual report shall include a statement of the progress made toward the completion of each project contained in the approved project accomplishment list on which work was accomplished, a statement of the total amount expended on each such project during the year, and a statement of what portion of the work on each such project was done on contract and the amount so expended on each contract for each such project.

Sec. 5. Chapter 309, Code 1983, is amended by adding the following new section:

**NEW SECTION. 309.23 REVIEW BY DEPARTMENT AND OPERATION OF PROGRAM.** The secondary road construction program is subject to review by the department under section 309.94 and subject to program operation requirements under section 309.96, subsection 2.

Sec. 6. Section 309.93, Code 1983, is amended to read as follows:

**309.93 ITEMIZED STATEMENT.** On or before ~~December 1~~ April 15 of each year, the board of supervisors, with the assistance of the county engineer, shall adopt and submit to the department for approval the county secondary road budget for the next ~~calendar~~ fiscal year. The budget shall include an itemized statement of:

1. Estimated revenues to be raised by property taxation for secondary road purposes.
2. Estimated revenues to be received from the state road use tax fund.
3. ~~Estimates of~~ Estimated revenues from all other sources for secondary road purposes.
4. The proposed expenditures from each the road fund during the next ~~calendar~~ fiscal year. The estimates of ~~such~~ proposed expenditures shall be itemized and classified in a manner which prescribed by the department shall prescribe.
5. The actual expenditures for the ~~last preceding two prior~~ fiscal years and the estimated expenditures for the current fiscal year. These shall be itemized and classified in the same manner as proposed expenditures.
6. The cash balance of each the road fund at the end of the ~~last prior~~ preceding fiscal year, an estimate of the cash balance at the end of the current fiscal year, and an estimate of the cash balance at the end of the next ~~calendar~~ fiscal year.

Sec. 7. Section 309.94, Code 1983, is amended to read as follows:

309.94 REVIEW BY DEPARTMENT. The department shall have the power to approve or disapprove the budget adopted by the board of supervisors. If the budget is not approved, the department shall list the disapproved expenditures and shall state the reasons for disapproval when the budget is returned to the county. The department shall act upon a budget and return the budget to the county within forty-five days after the budget is received by the department not later than June 1. Upon disapproval of any proposed expenditure in a budget, the county may submit a revised budget to the department for approval. The department shall act upon such a the revised budget within thirty days.

Sec. 8. EFFECTIVE DATE—TRANSITION.

1. Sections 1 through 7 of this Act are effective July 1, 1985.

2. This section takes effect July 1, 1984. On or before December 1, 1984, the board of supervisors shall adopt a secondary road budget for the fiscal period beginning January 1, 1985 and ending June 30, 1986. The county secondary road construction program and the county secondary road budget shall be prepared and adopted as provided in chapter 309, but the program and the budget shall be effective for the eighteen-month period beginning January 1, 1985 and ending June 30, 1986 in lieu of the calendar year period required under sections 309.22 and 309.93.

Approved April 17, 1984

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## CHAPTER 1103

### LEASE-PURCHASE AGREEMENTS

*S.F. 2284*

AN ACT relating to lease-purchase agreements made by an area education agency.

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

Section 1. Section 273.2, unnumbered paragraph 2, Code 1983, is amended to read as follows:

An area education agency established under the provisions of this chapter is a body politic as a school corporation for the purpose of exercising powers granted under this chapter, and as such may sue and be sued. An area education agency may hold property and execute lease-purchase agreements pursuant to the provisions of section 273.3, subsection 7, and if the purchase price of the property to be acquired pursuant to the a lease-purchase agreement exceeds five thousand dollars, the lease-purchase agreement must be approved at the regular school election or a special election held throughout the area education agency shall conduct a public hearing on the proposed lease-purchase agreement and receive approval from the area education agency board of directors and the state board of public instruction before entering into the agreement. Section 277.3 is applicable to an election called under this section by the board of directors of an area education agency.

Approved April 17, 1984



**CHAPTER 1104**  
**BOARD OF ENGINEERING EXAMINERS**  
*S.F. 2276*

**AN ACT** relating to the state board of engineering examiners.

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

Section 1. Section 114.11, Code 1983, is amended to read as follows:

114.11 SECRETARY—DUTIES OF. The secretary shall keep on file a record of all certificates of registration granted and shall make annually such revisions of said record as may be necessary. In revising said record the secretary shall communicate ~~annually~~ biannually by mail with every professional engineer and surveyor registered hereunder, as provided in section 114.18.

Sec. 2. Section 114.2, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The "board" means the state board of engineering and land surveying examiners provided by this chapter.

Sec. 3. Section 114.3, Code 1983, is amended to read as follows:

114.3 ESTABLISHMENT OF BOARD. There is established a the state board of engineering and land surveying examiners which shall consist of ~~five~~ four members who are registered professional engineers, one member who is a registered land surveyor or a professional engineer who is also a registered land surveyor, and two members who are not registered professional engineers or land surveyors and who shall represent the general public. Members shall be appointed by the governor subject to confirmation by the senate. A registered member shall be actively engaged in the practice of engineering or land surveying and shall have been so engaged for five years preceding the appointment, the last two of which shall have been in Iowa. No two registered members of the board shall be from the same branch of the profession of engineering. Professional associations or societies composed of registered engineers or registered land surveyors may recommend the names of potential board members whose profession is representative of that association or society to the governor, but the governor shall not be bound by the recommendations. A board member shall not be required to be a member of any professional association or society composed of professional engineers or land surveyors.

Sec. 4. Section 114.13, Code 1983, is amended to read as follows:

114.13 APPLICATIONS AND EXAMINATION FEES. Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and ~~detail~~ a detailed summary of ~~his~~ the applicant's technical work, and the board shall not require that a recent photograph of the applicant be attached to the application form. An applicant ~~shall~~ is not be ineligible for registration because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. The board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of engineering or land surveying. The board may require that an applicant submit ~~character~~ references,

but an applicant for examination in fundamentals or for examination in land surveying shall not submit a character reference from a registered professional engineer. Applications for examination in fundamentals in professional engineering and land surveying shall be accompanied by application fees in amounts determined by the board. The board shall determine the annual cost of administering the examinations and shall set the fees accordingly.

Sec. 5. Section 114.14, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board may establish by rule a temporary permit and a fee to permit an engineer to practice for a period of time without applying for registration.

Sec. 6. Section 114.20, unnumbered paragraph 2, Code 1983, is amended to read as follows:

A temporary permit to practice engineering or land surveying may be granted to a person registered in another state, as prescribed by the rules of the board rule, provided that before practicing within ~~this~~ the state ~~he~~ the person shall have applied for registration or for a temporary permit to practice without applying for registration and shall have paid the fee prescribed by the board.

Sec. 7. Notwithstanding section 114.3, members of the state board of engineering examiners serving unexpired terms immediately prior to the effective date of this Act shall continue to serve until their terms expire or their office otherwise becomes vacant. However, at the next expired term or vacancy of a registered professional engineer member of the board of engineering and land surveying examiners following the effective date of this Act, a registered land surveyor or a professional engineer who is also a registered land surveyor shall be appointed as a member of the board, if there is not a registered land surveyor on the board at that time. On the effective date of this Act, all rights, liabilities, property, and employees of the state board of engineering examiners vest in or become subject to the jurisdiction of the state board of engineering and land surveying examiners.

Approved April 17, 1984

**CHAPTER 1105**  
**PENALTIES REGARDING CONTROLLED SUBSTANCES**  
*S.F. 2304*

**AN ACT** relating to penalties for fraudulently obtaining, manufacturing, delivering, or possessing with intent to manufacture or deliver, a controlled substance.

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

Section 1. Section 155.30, unnumbered paragraph 2, Code 1983, is amended to read as follows:

If Except as otherwise provided in this paragraph, if the prescription drug is a controlled substance as defined in section 204.101, subsection 6, the person shall be punished pursuant to section 204.401, subsection 1, and section 204.411. If the person violates section 155.29, subsection 1, and the prescription drug is a controlled substance, the person shall be punished pursuant to section 204.403 and section 204.411.

PARAGRAPH DIVIDED. If the prescription drug is not a controlled substance, the person ~~shall~~ is upon conviction of a first offense ~~be~~ is guilty of a serious misdemeanor. For a second offense, or if in case of a first conviction of violation of any provision of section 155.29 or of violation of any provision of this section, the offender ~~shall~~ has previously ~~have~~ has been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender ~~shall~~ is guilty of an aggravated misdemeanor. For a third or subsequent offense in violation of this section or in violation of section 155.29, or if the offender ~~shall~~ has previously ~~have~~ has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender ~~shall~~ is guilty of a class "D" felony.

Sec. 2. Section 204.401, subsection 1, paragraph c, Code 1983, is amended to read as follows:

c. A substance classified in schedule IV or V, is guilty of a serious misdemeanor.

Sec. 3. Section 204.401, subsection 1, paragraph d, Code 1983, is amended by striking the paragraph.

Approved April 17, 1984

**CHAPTER 1106**  
**AGE LIMIT FOR AMATEUR BOXING**  
*H.F. 2067*

**AN ACT** establishing an age limit for participants in amateur boxing.

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

Section 1. NEW SECTION. 99C.10 MAXIMUM AGE FOR PARTICIPANTS—BOXING. A person over the age of thirty shall not participate as a contestant in an organized amateur boxing contest unless each contestant participating in the contest is over the age of thirty. A birth certificate, or other similar document, must be submitted at the time of the preflight physical examination in order to determine eligibility.

Approved April 19, 1984

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**CHAPTER 1107**  
**CITY-OWNED HISTORICAL PROJECT**  
*H.F. 456*

**AN ACT** relating to expenditures for a local, nonprofit historical society or municipally-owned historical projects.

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

Section 1. Section 331.427, subsection 2, paragraph 1, Code Supplement 1983, is amended to read as follows:

1. For the use of a nonprofit historical society organized under chapter 504 or 504A, a city-owned historical project, or both.

Approved April 19, 1984

**CHAPTER 1108**  
**HAZARDOUS WASTE REMEDIAL FUND**  
*H.F. 2471*

**AN ACT** creating a hazardous waste remedial fund and providing for the cleanup of hazardous conditions and the management and cleanup of abandoned or uncontrolled hazardous waste disposal sites.

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

Section 1. Section 455B.381, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION. 6.** "Cleanup" means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance.

**NEW SUBSECTION. 7.** "Cleanup costs" means costs incurred by the state or its political subdivisions or their agents, or by any other person participating with the approval of the executive director in the prevention or mitigation of damages from a hazardous condition or the cleanup of a hazardous substance involved in a hazardous condition.

**NEW SUBSECTION. 8.** "Person having control over a hazardous substance" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.

**NEW SUBSECTION. 9.** "Release" means a threatened or real emission, discharge, spillage, leakage, pumping, pouring, emptying, or dumping of a hazardous substance into or onto the land, air, or waters of the state unless one of the following applies:

- a. The release is done in compliance with the conditions of a federal or state permit.
- b. The hazardous substance is confined and expected to stay confined to property owned, leased or otherwise controlled by the person having control over the hazardous substance.
- c. In the use of pesticides, the application is done in accordance with the product label.

**NEW SUBSECTION. 10.** "Waters of the state" means rivers, streams, lakes and any other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common. "Waters of the state" includes waters of the United States lying within the state.

Sec. 2. Section 455B.386, Code 1983, is amended to read as follows:

**455B.386 NOTIFICATION OF SPILLS.** Any A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the department, the local police department, or the office of the sheriff of the affected county of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. A sheriff or police chief who has been notified of a hazardous condition shall immediately notify the department. Persons If requested, a person shall submit within thirty days of the department's request a written report

of particulars of the incident. A person violating this section shall be is subject to a civil penalty of not more than five hundred one thousand dollars.

Sec. 3. Section 455B.387, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 3.** An action taken by a person to abate, control, or clean up a hazardous substance involved in a hazardous condition shall not be construed as an admission of liability for a hazardous condition.

Sec. 4. **NEW SECTION. 455B.392 LIABILITY FOR CLEANUP COSTS.**

1. A person having control over a hazardous substance is strictly liable to the state for all of the following:

a. The reasonable cleanup costs incurred by the state as a result of the failure of the person to clean up a hazardous substance involved in a hazardous condition caused by that person.

b. The reasonable costs incurred by the state to evacuate people from the area threatened by a hazardous condition caused by the person.

c. The reasonable damages to the state for the injury to, destruction of, or loss of natural resources resulting from a hazardous condition caused by that person including the costs of assessing the injury, destruction, or loss.

If the failure is willful, the person is liable for punitive damages not to exceed triple the cleanup costs incurred by the state. Prompt and good faith notification to the executive director by the person having control over a hazardous substance that the person does not have the resources or managerial capability to begin or continue cleanup, or a good faith effort to clean up, relieves the person of liability for punitive damages, but not for actual cleanup costs. The executive director shall keep a record of all expenses incurred in carrying out a project or activity authorized by this part.

2. Liability under subsection 1 is limited to following maximum dollar limitations:

a. Five million dollars for any vehicle, boat, aircraft, pipeline, or other manner of conveyance which transports a hazardous substance.

b. Fifty million dollars for any facility generating, storing, or disposing of a hazardous substance.

3. There is no liability under this section for a person otherwise liable if the hazardous condition is solely resulting from one or more of the following:

a. An act of God.

b. An act of war.

c. An act or omission of a third party if the person establishes both of the following:

(1) That taking into consideration the characteristics of the hazardous substance, the person otherwise liable exercised due care with respect to the hazardous substance.

(2) That the person otherwise liable took precautions against the foreseeable acts or omissions of the third party and the foreseeable consequences.

As used in this paragraph, "third party" does not include an employee or agent of the person otherwise liable or a third party whose act or omission occurs directly or indirectly in connection with a contractual-relationship with the person otherwise liable.

4. There is no liability under this section for a person otherwise liable if all of the following conditions exist:

a. The liability arises during the transportation of a hazardous substance.

b. The fact that the hazardous substance is a hazardous substance has been misrepresented to the person transporting the hazardous substance.

c. The person transporting the hazardous substance does not know or have reason to know that the misrepresentation has been made.

5. Money collected pursuant to this section shall be deposited in the hazardous waste remedial fund created in section 455B.423 and used in the manner permitted for the fund.

6. This section does not deny any person any legal or equitable rights, remedies or defenses or affect any legal relationship other than the legal relationship between the state and a person having control over a hazardous substance pursuant to subsection 1.

Sec. 5. **NEW SECTION. 455B.393 LIABILITY OF STATE EMPLOYEES OR PERSONS PROVIDING ASSISTANCE.**

1. A person employed by the state is not liable for damages incurred as a result of actions taken by the person when acting in the person's official capacity pursuant to this part, rules adopted pursuant to this part and the hazardous condition contingency plan.

2. A person who provides assistance at the request of the department or by previous agreement with the department in the event of a hazardous condition is not liable in a civil action for damages as a result of that person's acts or omissions in rendering the assistance. This section does not relieve a person from civil damages in any of the following circumstances:

a. If the person providing assistance is also the person having control over the hazardous substance which created the hazardous condition.

b. If the person rendered assistance for payment beyond reimbursement for out-of-pocket expenses or with the expectation of such payment.

c. For acts or omissions which result from intentional wrongdoing or gross negligence.

Sec. 6. **NEW SECTION. 455B.394 RIGHT OF ENTRY.** A person shall not refuse entry or access to, or harass or obstruct an authorized representative of the department who seeks entry or access for the purpose of investigating or responding to a hazardous condition. The representative shall present appropriate credentials. Upon a showing of probable cause in writing and made under oath, a judge or magistrate having proper jurisdiction shall issue a suitably restricted search warrant to the representative of the department for the purposes of enabling the representative to investigate or respond to a hazardous condition.

Sec. 7. **NEW SECTION. 455B.395 PUBLIC INFORMATION.** Information obtained under this part or a rule, order or condition adopted or issued under this part, or an investigation authorized thereby, shall be available to the public unless the information constitutes trade secrets or information which is entitled to confidential treatment in order to protect a plan, process, tool, mechanism, or compound which is known only to the person claiming confidential treatment and confidential treatment is necessary to protect the person's trade, business or manufacturing process.

Sec. 8. Section 455B.411, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 6.** "Abandoned or uncontrolled hazardous waste disposal site" means real property which has been used for the disposal of hazardous waste either illegally or prior to regulation under this chapter.

Sec. 9. **NEW SECTION. 455B.423 HAZARDOUS WASTE REMEDIAL FUND.**

1. A hazardous waste remedial fund is created within the state treasury. Moneys received from fees, penalties, general revenue, federal funds, gifts, bequests, donations, or other moneys so designated shall be deposited in the state treasury to the credit of the fund. Any unexpended balance in the hazardous waste remedial fund at the end of each fiscal year shall be retained in the fund. However, any unexpended balance shall be transferred to the general fund to replace funds appropriated from the general fund during fiscal year 1985 and fiscal year 1986 for the purposes for which expenditures from the hazardous waste remedial fund are allowed.

2. The executive director may use the fund for any of the following purposes:
  - a. Administrative services for the identification, assessment and cleanup of abandoned or uncontrolled sites.
  - b. Payments to other state agencies for services consistent with the management of abandoned or uncontrolled hazardous waste sites.
  - c. Emergency response activities as provided in part 4 of this division.
  - d. Financing the nonfederal share of the cost of cleanup and site rehabilitation activities as well as postclosure operation and maintenance costs, pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.
  - e. Financing the cost of cleanup and site rehabilitation activities as well as postclosure operation and maintenance costs of abandoned or uncontrolled hazardous waste disposal sites that do not qualify for federal cost-sharing pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.
  - f. Through agreements or contracts with other state agencies, work with private industry to develop alternatives to land disposal of hazardous waste including, but not limited to, resource recovery, recycling, neutralization, and reduction.

However, at least seventy-five percent of the fund shall be used for the purposes stated in paragraphs "d" and "e".

3. Neither the state nor its officers, employees or agents is liable for an injury caused by a dangerous condition at an abandoned or uncontrolled site unless the condition is the result of gross negligence on the part of the state, its officers, employees or agents.

4. The executive director may contract with any person to perform the acts authorized in this section.

5. Moneys shall not be used from the fund for abandoned site cleanup unless the executive director has made all reasonable efforts to secure voluntary agreement to pay the costs of necessary remedial actions from owners or operators of abandoned or uncontrolled hazardous waste sites or other responsible persons.

6. The executive director shall make all reasonable efforts to recover the full amount of funds expended from the fund through litigation or cooperative agreements with responsible persons. Moneys recovered pursuant to this subsection shall be deposited with the treasurer of state and credited to the hazardous waste remedial fund.

**Sec. 10. NEW SECTION. 455B.424 HAZARDOUS WASTE FEES.**

1. The person who generates hazardous waste or the owner or operator of a hazardous waste disposal facility who transports hazardous wastes off of the site where the hazardous waste was generated or off the disposal facility site shall pay a fee of ten dollars for each ton of hazardous waste transported off the site, excluding the water content of any waste that is transported to another facility under the ownership of the generator for the purposes of waste treatment or recycling.

2. A person who generates hazardous waste or owns or operates a facility which treats or disposes of hazardous waste at the facility shall pay the following fees:

- a. Forty dollars for each ton of hazardous wastes placed, deposited, dumped or disposed of onto or into the land at a disposal facility in Iowa.

- b. Two dollars for each ton of hazardous waste destroyed or treated at the generator's site or at the disposal facility to render the hazardous waste nonhazardous.

3. Fees specified in subsections 1 and 2 shall not be imposed on the state or any of its political subdivisions.

4. Fees specified in subsections 1 and 2 shall not be imposed on any of the following:



- a. Hazardous waste that is reclaimed or reused for energy or materials.
- b. Hazardous waste that is transformed into new products which are not wastes.
- c. Hazardous wastes created or retrieved as a result of remedial actions at an abandoned or uncontrolled hazardous waste site.
- d. Influent waste water to a treatment facility which is subject to regulation under either 33 U.S.C. 1317(b) or 33 U.S.C. 1342.
- e. A hazardous waste which due to its intrinsic physical, chemical or biological composition degrades, decomposes or changes physical characteristics so as to be rendered or considered nonhazardous without any form of external mechanical, physical or chemical treatment being introduced. However, such change to a nonhazardous nature must occur within twenty-four hours of the generation of the hazardous waste before the exemption granted in this paragraph is applicable.

5. Fees imposed by this section shall be paid to the department on an annual basis. Fees are due on April 15 for the previous calendar year. The payment shall be accompanied by a return in the form prescribed by the department.

6. A person required to pay fees by this section who fails or refused to pay the fees imposed by this section shall be assessed a penalty of fifteen percent of the fee due. The penalty shall be paid in addition to the fee due.

7. Moneys collected or received by the department pursuant to this section shall be transmitted to the treasurer of state for deposit in the hazardous waste remedial fund.

8. The fees imposed by this section shall be suspended if after collection of the fees due from the previous quarter, the hazardous waste remedial fund has a balance in excess of six million dollars. If the balance falls below three million dollars, the fees shall be reimposed commencing the beginning of the next calendar quarter.

Sec. 11. NEW SECTION. 455B.425 ANNUAL REPORT ON HAZARDOUS WASTE REMEDIAL FUND. The executive director shall annually on January 1 give a full accounting of moneys received, moneys expended, sources and recipients, and purposes of the expenditures for the preceding fiscal year in the hazardous waste remedial fund to the general assembly and the governor.

Sec. 12. NEW SECTION. 455B.426 REGISTRY OF ABANDONED OR UNCONTROLLED DISPOSAL SITES.

1. The executive director shall maintain and make available for public inspection a registry of confirmed abandoned or uncontrolled hazardous waste disposal sites in the state. The executive director shall take all necessary action to ensure that the registry provides a complete listing of all sites. The registry shall contain the exact location of each site and identify the types of waste found at each site.

2. The executive director shall investigate all known or suspected abandoned or uncontrolled sites and determine whether each site should be included in the registry. In the evaluation of known or suspected abandoned or uncontrolled sites, the executive director may enter private property and perform tests and analyses in the manner provided in section 455B.416.

Sec. 13. NEW SECTION. 455B.427 ANNUAL REPORT ON ABANDONED OR UNCONTROLLED HAZARDOUS WASTE DISPOSAL SITES.

1. The executive director shall annually on January 1 transmit a report to the general assembly and the governor identifying all abandoned or uncontrolled hazardous waste disposal sites in the state listed on the registry. A copy of the report shall also be sent to the board of supervisors of every county containing a site.

2. The annual report shall include, but is not limited to, the following information for each site:

a. A general description of the site, including the name and address of the site, the type and quantity of the hazardous waste disposed of at the site and the name of the current owners of the site.

b. A summary of significant environmental problems at or near the site.

c. A summary of serious health problems in the immediate vicinity of the site and health problems deemed by the executive director in cooperation with the state department of health to be related to conditions at the site.

d. The status of testing, monitoring or remedial actions in progress or recommended by the executive director.

e. The status of pending legal actions and federal, state or local government permits concerning the site.

f. The relative priority for remedial action at each site.

g. The proximity of the site to private residences, public buildings or property, school facilities, places of work or other areas where individuals may be regularly present.

3. In developing and maintaining the annual report, the executive director shall assess the relative priority of the need for action at each site to remedy environmental and health problems resulting from the presence of hazardous wastes at the sites. In making its assessments of relative priority, the executive director, in cooperation with the state department of health on matters relating to public health, shall place every site in one of the following classifications:

a. Causing or presenting an imminent danger of causing irreversible or irreparable damage to the public health or environment—immediate action required.

b. Significant threat to the environment—action required.

c. Not a significant threat to the public health or environment—action may be deferred.

d. Site properly closed—requires continued management.

e. Site properly closed, no evidence of present or potential adverse impact—no further action required.

4. A site classified as properly closed under subsection 3, paragraph "e", shall be removed from all subsequent annual reports and the register of abandoned or uncontrolled sites.

5. The executive director shall work with the department of health when assessing the effects of an abandoned or uncontrolled site on human health.

Sec. 14. NEW SECTION. 455B.428 INVESTIGATION OF SITES.

1. The executive director shall investigate each abandoned or uncontrolled hazardous waste disposal site listed in the registry to determine its relative priority.

2. The executive director shall identify each abandoned or uncontrolled site by providing all of the following:

a. The address and site boundaries.

b. The time period of use for disposal of hazardous waste.

c. The name of the current owner and operator and names of reported owners and operators during the time period of use for disposal of hazardous waste.

d. The names of persons responsible for the generation and transportation of the hazardous waste disposed of at the site.

e. The type, quantity and manner of hazardous waste disposal.

3. When preliminary evidence suggests further assessment is necessary, the executive director may assess any of the following:

- a. The depth of the water table at the site.
- b. The nature of soils at the site.
- c. The location, nature and size of aquifers at the site.
- d. The direction of present and historic groundwater flows at the site.
- e. The location and nature of surface waters at and near the site.
- f. The levels of contaminants in groundwater, surface water, air and soils at and near the site resulting from hazardous wastes disposed of at the site.
- g. The current quality of all drinking water drawn from or distributed through the area in which the site is located if the executive director determines that water quality may have been affected by the site.

4. The executive director shall maintain a site assessment file for each site listed in the registry. The file shall contain all information obtained pursuant to this section and shall be open to the public. Information in the file may be reproduced by any person at a charge not to exceed the actual cost of reproduction for copies of file information.

Sec. 15. NEW SECTION. 455B.429 NOTIFICATION TO OWNERS – APPEALS.

1. Within sixty days after the effective date of this Act, the executive director shall notify the owner of any part of a site to be included in the registry required by section 455B.426. The notice shall be sent by certified mail to the owner's last known address. Thirty days before a site is added to the registry, the executive director shall notify the owner of any part of the site by certified mail of the proposed addition to the registry. The notice shall be sent by certified mail to the owner's last known address.

2. An owner or operator of a site proposed for listing in the registry or listed in the registry pursuant to section 455B.426, may petition the executive director for deletion of the site, modification of the site classification, or modification of any information regarding the site. A site shall not be listed on the registry until a final determination has been made on any appeal initiated under this section. An appeal is a contested case for the purposes of chapter 17A.

3. Within ninety days after the submission of an appeal, the department shall conduct a hearing to review the determination. At least thirty days prior to the hearing the department shall publish a notice of hearing in a newspaper of general circulation in the county in which the site is located. The department shall also notify in writing the owner or operator of the site at least thirty days prior to the hearing.

4. At least thirty days following the hearing, the department shall provide the owner or operator with a written determination accompanied by reasons for the determination on the appeal.

5. Within ten days of a determination, the executive director shall notify the local governments with jurisdiction over the site whenever a change is made in the registry pursuant to this section.

Sec. 16. NEW SECTION. 455B.430 USE AND TRANSFER OF SITES.

1. A person shall not substantially change the manner in which an abandoned or uncontrolled hazardous waste disposal site on the registry pursuant to section 455B.426 is used without the written approval of the executive director.

2. A person shall not sell, convey or transfer title to an abandoned or uncontrolled hazardous waste disposal site which is on the registry pursuant to section 455B.426 without the written approval of the executive director. The executive director shall respond to a request for a change of ownership within thirty days of its receipt.

3. Decisions of the executive director concerning the use or transfer of an abandoned or uncontrolled hazardous waste site may be appealed in the manner provided in section 455B.429.

4. If the executive director has reason to believe this section has been violated, or is in imminent danger of being violated, the executive director may institute a civil action in district court for injunctive relief to prevent the violation and for the assessment of a civil penalty not to exceed one thousand dollars per day for each day of violation. Moneys collected under this subsection shall be deposited in the hazardous waste remedial fund.

Sec. 17. NEW SECTION. 455B.431 RECORDING OF SITE DESIGNATION. When the executive director places a site on the registry as provided in section 455B.426, then the executive director shall file with the county recorder a statement disclosing the period during which the site was used as a hazardous waste disposal area. When the executive director finds that a site on the registry has been properly closed under section 455B.427, subsection 3, paragraph "e", with no evidence of potential adverse impact, this finding shall be filed with the county recorder. The finding shall state that the executive director's finding does not warrant to a future purchaser of the site that the site will be free from any future adverse impacts as a result of use of the site as a hazardous waste disposal site.

Sec. 18. NEW SECTION. 455B.432 LIABILITY. Acts or omissions of the executive director or the department in carrying out the duties imposed by sections 455B.423 through 455B.431 shall not be cause for a claim against the state within the meaning of chapter 25A.

Sec. 19. The fees imposed by section 455B.424, subsection 2, shall not begin to accrue until July 1, 1985.

Approved April 19, 1984

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**CHAPTER 1109**  
**LEE COUNTY LEGALIZING ACT**  
*S.F. 2057*

**AN ACT** to legalize the proceedings of the board of supervisors of Lee county relating to the compensation of certain county officers and deputies.

WHEREAS, section 340.2, unnumbered paragraph 2, Code 1981, authorized the payment of additional compensation for certain county officers and deputies in counties having two places at which the district court is held; and

WHEREAS, the board of supervisors of Lee county approved the additional compensation authorized by the 1981 Code for the 1981-1982 fiscal year; and

WHEREAS, in 1981 the general assembly repealed the authorization for additional compensation for those counties having two court houses and the repeal became effective July 1, 1981; and

WHEREAS, the additional compensation to certain county officers and deputies was paid as originally approved for the 1981-1982 fiscal year; and

WHEREAS, doubts have arisen as to the validity of the payment of the additional compen-

sation to those officers and deputies and those acts should be legalized and the matter once and for all put to rest; NOW THEREFORE,

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

Section 1. That all proceedings of the board of supervisors of Lee county pertaining to the payment of additional compensation to certain county officers and deputies as authorized by the 1981 Code during the 1981-1982 fiscal year are validated, legalized and confirmed.

Approved April 19, 1984

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**CHAPTER 1110**  
**HANDICAPPED PARKING SPACE VIOLATION**  
*S.F. 2095*

**AN ACT** providing a penalty for violation of requirements for setting aside handicapped parking spaces.

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

Section 1. Section 104A.7, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who violates any of the provisions of this section is guilty of a simple misdemeanor.

Approved April 19, 1984

**CHAPTER 1111****CHILD MODELING***S.F. 2159*

**AN ACT** to allow limited child modeling under the child labor laws.

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

Section 1. Section 92.17, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 5.** A child under sixteen years of age from being employed or permitted to work, with or without compensation, as a model, for a period of up to three hours in any day between the hours of 7 a.m. and 10 p.m., not exceeding twelve hours in any month, if the written permission of the parent, guardian or custodian of the child is obtained prior to the commencement of the modeling. However, if the child is of school age this exception allows modeling work only outside of school hours during the regular school year and does not allow modeling work during the summer term if the child is enrolled in summer school. This subsection does not allow modeling for an unlawful purpose or modeling that would violate any other law.

Approved April 19, 1984

**CHAPTER 1112**  
**POWERS OF SAVINGS AND LOAN ASSOCIATIONS**  
*S.F. 2261*

**AN ACT** relating to the powers of state-chartered savings and loan associations.

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

Section 1. **NEW SECTION. 534.4 CAPITAL CERTIFICATES.** An association may issue and sell, directly or through underwriters, capital certificates which shall represent non-withdrawable capital contributions, and constitute part of the reserves and net worth of the association. The certificates shall have no voting rights, shall be subordinate to all savings accounts, debt obligations and claims of creditors of the association and shall constitute a claim in liquidation against any reserves, surplus and other net worth accounts remaining after the payment in full of all savings accounts, debt obligations and claims of creditors. The capital certificates may be entitled to the payment of earnings prior to the allocation of income to surplus or other net worth accounts of the association and may be issued with a fixed rate of earnings or with a prior claim to distribution of a specified percentage of net income remaining after required allocations to reserves, or a combination thereof. Losses shall be charged against capital certificates only after reserves, surplus and other net worth accounts have been exhausted.

Sec. 2. Section 534.5, subsection 1, Code 1983, is amended to read as follows:

**1. EXCLUSIVENESS OF ACCESS.**

a. Every A member shall have the right to may inspect such the books and records of an association as they pertain to the member's loan or savings investment. Otherwise, the right of inspection and examination of the books and records shall be is limited (a) to the following:

(1) The supervisor or a duly authorized representative as provided in this chapter (b) to persons.

(2) Persons duly authorized to act for the association, and (e) to any.

(3) A 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.

b. 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. However, 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. However, written consent of a member is not required for the release of information concerning the member's loans to any of the following:

(1) Another association.

(2) A federal association.

(3) A bank.

- (4) A credit union.
- (5) An industrial loan company.
- (6) A bona fide credit bureau.
- (7) A real estate broker seeking the information in connection with the closing of a loan involving a member.

(8) A person acting in a fiduciary capacity as an agent for the member. ~~No~~

c. A member or any other person shall not have access to the books and records except upon express action and authority of the board of directors.

d. ~~Every~~ An 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. 3. Section 534.10, Code 1983, is amended to read as follows:

534.10 SAVINGS LIABILITY. The savings liability of an association is not limited, but ~~shall consist~~ consists only of the aggregate amount of share accounts of its members, plus dividends credited to ~~sueh~~ the accounts, less redemption and withdrawal payments. Except as limited by the board of directors ~~from time to time~~, a member may make additions to ~~his~~ the ~~member's~~ member's share account in ~~sueh~~ the amounts and at ~~sueh~~ the times as ~~he may elect~~ the member elects. Share accounts shall be opened for cash. The members of an association ~~shall are~~ are not be responsible for any losses which its savings liability ~~shall is~~ is not be sufficient to satisfy, and share accounts ~~shall are~~ are not be subject to assessment, nor ~~shall are~~ are the holders thereof ~~be of~~ share accounts liable for any unpaid installments on their accounts. Dividends shall be declared in accordance with ~~the provisions~~ of this chapter. ~~No~~ An association shall ~~not~~ prefer one of its share accounts over any other share account as to the right to participate in dividends as to time or amount, ~~excepting~~ except that an association may classify its savings accounts according to the location of the offices at which the accounts are opened, the character, amount or duration thereof of the accounts, or the regularity of additions thereto to the accounts, and may agree in advance to pay an additional rate of earnings for particular classes of accounts such as a variable rate or bonus for saving larger amounts, or for maintaining ~~sueh~~ sueh savings over a longer period of time or with regularity, as determined by the board of directors; ~~however~~. However, all ~~sueh~~ sueh classes of accounts shall be available to all qualifying members. The board of directors may also determine that earnings shall not be paid on ~~any~~ any ~~sueh~~ an account which has a withdrawable value in an amount less than fifty dollars. ~~No~~ Preference between share account members shall ~~not~~ be created with respect to the distribution of assets upon voluntary or involuntary liquidation, dissolution, or winding up of an association. ~~No~~ An association shall ~~have power to~~ not contract with respect to the savings liability in a manner inconsistent with ~~the provisions~~ of this chapter.

Sec. 4. Section 534.17, subsection 1, Code 1983, is amended to read as follows:

1. An association may invest without limit, except as expressly stated, in any of the following securities: (a) ~~in obligations~~

a. Obligations of, or obligations which are guaranteed as to principal and interest by, the United States or this state; (b) ~~in stock~~.

b. Stock of a federal home loan bank of which ~~it~~ the association is eligible to be a member, and in any obligation or consolidated obligations of any federal home loan bank or banks; (c) ~~in stock~~.

c. Stock or obligations of the federal savings and loan insurance corporation; (d) ~~in stock~~.



d. Stock, obligations, or other instruments of the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, or any successor; (e) in demand.

e. Demand time or savings deposits, in or bankers acceptances with any bank or trust company the deposits of which are insured by the federal deposit insurance corporation; (f) in stock.

f. Stock or obligations of any corporation or agency of the United States or this state, or in deposits therewith of the corporation or agency to the extent that such the corporation or agency assists in furthering or facilitating the association's purposes or powers; (g) in savings.

g. Savings accounts of any savings and loan association operating under the provisions of this chapter and of any federal savings and loan association; (h) in bonds, the deposits of which are insured by the federal savings and loan insurance corporation.

h. Bonds, notes, or other evidences of indebtedness which are a general obligation of any a city, village, county, school district, or other municipal or political subdivision so long as the total investment in such corporation under this paragraph does not exceed five percent of the assets of the association, 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 five percent limitation; (i) in bonds.

i. Bonds secured by an interest in real estate; (j) in capital.

j. 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 of the association 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 (k) in an.

k. 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. 5. Section 534.19, subsection 7, Code 1983, is amended to read as follows:

7. POWER TO BORROW. If and when Except as provided by its articles of incorporation, an association is not a member of a federal home loan bank, it shall have power to may borrow not more than an aggregate amount equal to one-fourth of its savings liability on the date of borrowing. If and when an association is a member of a federal home loan bank, it shall have power to secure advances of not more than an aggregate amount equal to one-half of its savings liability. Within such amount equal to one-half of its savings liability, the association may borrow from sources other than such federal home loan bank an aggregate amount not in excess of ten percent of its savings liability. A subsequent reduction of savings liability shall not affect in any way outstanding obligations for borrowed money. All such loans and advances may be secured by property of the association. In addition to the above unsecured or secured borrowing, an association may issue such notes, bonds, debentures and other obligations or securities, except capital stock, as are approved by the supervisor of savings and loan associations, and if authorized by the regulations of the federal home loan bank, as long as the total amount of funds borrowed under this sentence shall not exceed five percent of the withdrawable accounts of the association and provided that such. However, the obligations and securities shall be are subject to the priority of the rights of the owners of the savings and deposits of said the association.

Sec. 6. Section 534.19, subsection 13, Code 1983, is amended to read as follows:

13. CONSUMER LOANS AND CERTAIN SECURITIES. An association may make consumer loans as defined in chapter 537, subject to the consumer loan provisions of that chapter. An association may invest in, sell, or hold commercial paper, corporate debt securities and bankers acceptances. ~~The aggregate amount of such loans and investments at any time may not exceed twenty percent of the assets of the association. 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.~~

Sec. 7. Section 534.79, subsection 6, Code 1983, is amended to read as follows:

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~~ The offer shall be at an interest rate no greater than one percent per annum above the index rate, and with 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 which, when added together with the term representing the number of monthly payments made prior to the most recent notice to refinance, is not less than the original loan term. The association must offer to the borrower 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. 8. NEW SECTION. 534.98 NAME. The name of an association shall contain the words "savings bank" or the words "savings and loan association".

Sec. 9. Section 534.15, Code 1983, is repealed.

Approved April 19, 1984

**CHAPTER 1113**  
**STATE HISTORIC BUILDING CODE**  
*S.F. 2121*

**AN ACT** relating to the establishment of a state historic building code.

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

Section 1. Section 103A.3, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 24.** "State historic building code" means the alternative building regulations and building standards for certain historic buildings provided for in section 103A.24.

Sec. 2. **NEW SECTION. 103A.24 STATE HISTORIC BUILDING CODE.** The commissioner, with the approval of the state historic building code advisory board established by section 103A.27, shall adopt, in accordance with chapter 17A, alternative building standards and building regulations for the rehabilitation, preservation, restoration (including related reconstruction) and relocation of buildings or structures designated by state agencies or governmental subdivisions as qualified historic buildings which are included in, or appear to meet criteria for inclusion in, the national register of historic places. The alternative building standards and building regulations comprise and shall be known as the state historic building code. The purpose of the state historic building code is to facilitate the restoration or change of occupancy of qualified historic buildings or structures so as to preserve their original or restored architectural elements and features and, concurrently, to provide reasonable safety from fire and other hazards for the occupants and users, through a cost-effective approach to preservation.

Sec. 3. **NEW SECTION. 103A.25 DESIGNATION OF QUALIFIED HISTORIC BUILDINGS AND STRUCTURES.**

1. A state agency or governmental subdivision may designate as appropriate for the application of the state historic building code those buildings, structures and collections of structures subject to its jurisdiction for which the state historic preservation officer, in response to an adequately documented request, has issued an opinion affirming that the property is either included in or appears to meet criteria for inclusion in the national register of historic places. A building, structure or collection of structures so designated is a qualified historic building or structure for purposes of sections 103A.24 through 103A.28.

2. As used in this section, "buildings, structures and collections of structures" includes their associated sites.

Sec. 4. **NEW SECTION. 103A.26 APPLICATION OF STATE HISTORIC BUILDING CODE AS ALTERNATIVE.**

1. The state historic building code constitutes a lawful alternative building code for application by state agencies and governmental subdivisions as provided in subsections 2 and 3.

2. A state agency may apply the provisions of the state building code or of the state historic building code, or any combination of the two, in providing reasonable safety from fire and

other hazards for the occupants and other users while permitting repairs, alterations and additions necessary for the preservation, restoration, rehabilitation, relocation or continued use of qualified historic buildings or structures.

3. A governmental subdivision may apply the provisions of its regular local building standards and building regulations or of the state historic building code, or any combination of the two, in providing reasonable safety from fire and other hazards for the occupants and other users while permitting repairs, alterations and additions necessary for the preservation, restoration, rehabilitation, relocation or continued use of qualified historic buildings or structures.

4. The alternative building standards and building regulations of the state historic building code shall be enforced in the same manner and by the same governmental entities as the regular building standards and building regulations of those governmental entities respectively.

5. When the requirements of the state historic building code are applied to repairs, alterations or additions to qualified historic buildings or structures, the requirements of this chapter and chapter 104A which are in conflict with the state historic building code do not apply to those repairs, alterations or additions.

**Sec. 5. NEW SECTION. 103A.27 STATE HISTORIC BUILDING CODE ADVISORY BOARD—CREATION.**

1. There is established in the office of the commissioner a state historic building code advisory board consisting of nine members as follows:

- a. The commissioner.
- b. The state fire marshal.
- c. The state historic preservation officer.
- d. Six members appointed by the governor as follows:

(1) One person selected from recommendations submitted by the Iowa association of building officials.

(2) One person selected from recommendations submitted by the Iowa chapter of the American institute of architects.

(3) One person who is a member of the legal profession.

(4) Three persons who represent related professions or the general public.

2. Each member specified in paragraphs "a" through "c" of subsection 1 may designate an alternate to serve in place of the member at meetings the member is unable to attend. An alternate so serving has all of the authority that the member would have when attending in the member's place.

3. The members appointed by the governor shall serve four-year terms at the pleasure of the governor and their appointments are not subject to confirmation. Sections 69.15, 69.16 and 69.19 apply to such members. However, initially the governor shall appoint three members for two-year terms and three members for four-year terms with the terms commencing upon appointment and expiring as provided in section 69.19.

4. The board shall elect a chairperson from among its members. Meetings may be called by the commissioner. Five members of the board constitute a quorum. For the purpose of conducting business a majority vote of the board is required.

5. The members of the board shall serve without compensation, but they are entitled to receive necessary expenses incurred in the performance of their duties.

**Sec. 6. NEW SECTION. 103A.28 STATE HISTORIC BUILDING CODE ADVISORY BOARD—DUTIES.** The state historic building code advisory board shall:

1. Recommend to the commissioner alternative building standards and building regulations for inclusion in the state historic building code.

2. Approve or disapprove alternative building standards and building regulations which the commissioner proposes to include in the state historic building code. A majority vote of the membership of the board is required for this function.

3. Advise and confer with the commissioner in matters relating to the state historic building code.

4. Consult with state agencies, including the state fire marshal and the Iowa state historical department, governmental subdivisions, architects, engineers and others who have knowledge of or interest in the rehabilitation, preservation, restoration and relocation of historic buildings, with respect to matters relating to the state historic building code.

5. At the request of a state agency, governmental subdivision or other interested party, provide review and advice as to specific applications of the state historic building code.

6. At the request of the commissioner, hold public hearings and perform other functions as the commissioner requests.

Approved April 19, 1984

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**CHAPTER 1114**  
**RESEEDING OF DITCHES**  
*H.F. 111*

**AN ACT** relating to reseeding the topsoil of open ditches with prairie grass seed.

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

Section 1. Chapter 314, Code 1983, is amended by adding the following new section:  
**NEW SECTION.** The department shall have the topsoil of each open ditch along the side of a highway reseeded with prairie grass seed and the seed of other adapted grass and legumes including native grass species after the construction, reconstruction, improvement, repair, or maintenance of a highway whenever feasible.

Approved April 19, 1984

**CHAPTER 1115**  
**CONSERVATION EASEMENTS**  
*H.F. 2048*

**AN ACT** relating to conservation easements.

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

Section 1. Chapter 111D, Code 1983, is amended by adding the following new section:  
**NEW SECTION. PRIVATELY-HELD EASEMENTS.** A conservation easement may be held by a private, nonprofit organization for public benefit if the instrument granting the easement or the bylaws of the organization provide that the easement will be transferred either to a public body or another private, nonprofit organization upon the dissolution of the private, nonprofit organization. A conservation easement meeting these requirements acquired after the effective date of this Act is transferable and perpetual as provided in section 111D.2.

Approved April 19, 1984

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**CHAPTER 1116**  
**MORTGAGE REDEMPTION PERIODS**  
*H.F. 2428*

**AN ACT** relating to mortgage redemption periods.

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

Section 1. **NEW SECTION. 628.28 REDEMPTION OF NONRESIDENTIAL PROPERTY.** If real property is not used for agricultural purposes, as defined in section 535.13, and is not the residence of the mortgagor or the owner, or if it is the residence of the mortgagor or the owner but not a single-family or two-family dwelling, the period of redemption after foreclosure is one hundred eighty days, or if a deficiency judgment has been waived the period of redemption is reduced to ninety days, and redemption is exclusively the right of the mortgagor or owner.

If real property is not used for agricultural purposes, as defined in section 535.13, and is a single-family or two-family dwelling which is the residence of the mortgagor or the owner at the time of foreclosure but the court finds that after foreclosure the dwelling has ceased to be the residence of the mortgagor or the owner, the court shall order the period of redemption reduced to thirty days from the date of the court order and redemption is exclusively the right of the mortgagor or the owner during the thirty-day period.

Approved April 19, 1984

**CHAPTER 1117**  
**CODE EDITOR'S AUTHORITY**  
*S.F. 256*

**AN ACT** permitting the Code editor to editorially correct internal references to sections which are cited erroneously or have been repealed, and names of agencies, officers, or other entities which have been changed.

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

Section 1. Section 14.13, Code 1983, is amended by adding the following new subsection as subsection 3 and renumbering the remaining subsections:

**NEW SUBSECTION. 3.** Correct internal references to sections which are cited erroneously or have been repealed, and names of agencies, officers, or other entities which have been changed, when there appears to be no doubt as to the proper methods of making the corrections. The Code editor shall compile a list of the corrections made under this subsection in Code editor's notes to the edition of the Code in which the corrections are made. This list shall be available to the public.

Approved April 20, 1984

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**CHAPTER 1118**  
**EXPENSE AND PAYROLL PROCEDURES**  
*S.F. 2155*

**AN ACT** relating to internal expense reporting and payroll procedures in the office of the auditor of state.

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

Section 1. Section 11.20, Code 1983, is amended to read as follows:

**11.20 BILLS—AUDIT AND PAYMENT.** ~~Where~~ If the examination is made by the state auditor of state under the provisions of this chapter, each auditor shall file with the auditor of state an itemized, certified and sworn voucher of his expense for the time ~~such~~ the auditor is actually engaged in ~~such~~ the examination. ~~On the fifteenth and last days of each month each auditor shall file in triplicate with the auditor of state a certified statement of the actual days engaged in each such examination.~~ The salaries shall be included in a ~~semimonthly two-weekly~~ payroll period. Upon approval of the auditor of state the state comptroller is hereby authorized to may issue warrants for the payment of ~~said~~ the vouchers and salary payments, including a prorated amount for vacation and sick leave, from any unappropriated funds in the state treasury. Repayment to the state shall be made as provided by section 11.21.

Approved April 20, 1984

**CHAPTER 1119**  
**APPEALS OF CONDEMNATION AWARDS**  
*S.F. 2173*

**AN ACT** relating to appeals of awards by compensation commissions in condemnation proceedings.

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

Section 1. Section 472.21, Code 1983, is amended to read as follows:

472.21 APPEALS—HOW DOCKETED AND TRIED. The appeal shall be docketed in the name of the person appealing and all other interested parties to the action shall be defendants. In the event the condemner and the condemnee appeal, the appeal shall be docketed in the name of the appellant which filed the application for condemnation and all other parties to the action shall be defendants. The appeal shall be tried as in an action by ordinary proceedings. The appraisalment of damages by the compensation commission is admissible in the action.

Approved April 20, 1984

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**CHAPTER 1120**  
**MILK STANDARDS**  
*S.F. 2189*

**AN ACT** relating to bacterial and organoleptic milk standards.

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

Section 1. Section 194.6, unnumbered paragraph 2, Code 1983, is amended to read as follows:

For the purpose of quality improvement and payment, the following classifications of milk for bacterial estimate ~~shall be~~ are applicable:

<u>Bacterial Estimate</u> <u>Classification</u>	<u>Standard Plate Count</u> <u>or Equivalent</u>
Class 1	Not over <del>500,000</del> <u>300,000</u> per Milliliter
Class 2	Not over <del>3,000,000</del> <u>1,000,000</u> per Milliliter
Undergrade	Over <del>3,000,000</del> <u>1,000,000</u> per Milliliter



Sec. 2. Section 194.8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Milk acceptable from the standpoint of organoleptic examination, as specified in section 194.6, containing no excessive extraneous matter and classified in excess of three one million for bacterial estimate, may be used in the processing and manufacturing of dairy products for human consumption for a period of seven consecutive days.

Sec. 3. Section 194.9, Code 1983, is amended to read as follows:

194.9 UNLAWFUL MILK. Milk, which from the standpoint of organoleptic examination is not acceptable, or which contains excessive extraneous matter or which by four weekly bacterial estimate tests is classified in excess of three one million, or which contains material evidencing production from a mastitic cow, or which contains chemicals, medicines, or radioactive agents deleterious to health, ~~shall be deemed~~ is unlawful for the manufacture of dairy products for human consumption.

Sec. 4. This Act takes effect July 1, 1986.

Approved April 20, 1984

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## CHAPTER 1121

### WASTE WATER DISPOSAL SYSTEMS

*S.F. 2213*

**AN ACT** relating to the authority of the department of water, air and waste management over waste water disposal systems.

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

Section 1. Section 455B.171, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 23.** "Semi-public sewage disposal system" means a system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary sewer district, or a designated and approved management agency under section 1288 of the federal Water Pollution Control Act (33 U.S.C. sec. 1288).

Sec. 2. Section 455B.171, subsection 22, Code Supplement 1983, is amended to read as follows:

22. "Private sewage disposal system" means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than sixteen individuals on a continuing basis, ~~which does not discharge into the waters of the state.~~

Sec. 3. Section 455B.172, subsection 2, Code Supplement 1983, is amended to read as follows:

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 minimum standards 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, but the department shall maintain jurisdiction over discharges to a water of the state. Each local board of health shall adopt standards relating to the design and construction of private water supplies and private sewage disposal facilities, which standards shall not be lower than the minimum standards adopted by the commission.

Sec. 4. Section 455B.183, subsection 3, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

The operation of any waste disposal system or public water supply system or any part of or extension or addition to such the system. This provision does not apply to any a pretreatment system the effluent of which is to be discharged directly to another disposal system for final treatment and disposal, a semi-public sewage disposal system, the construction of which has been approved by the department and which does not discharge into water of the state or any a private sewage disposal system which does not discharge into a water of the state. The exemption of this paragraph shall not apply to any industrial waste discharges.

Approved April 20, 1984

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**CHAPTER 1122**  
**HEALTH CARE PROVIDERS**  
*S.F. 414*

**AN ACT** relating to health service and health care providers by providing for the licensing of a health service provider in psychology and the ability of a nonprofit medical service plan to contract with certain health care providers.

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

Section 1. Section 154B.6, subsection 1, Code 1983, is amended to read as follows:

1. A licensed psychologist Except as provided in this section, after July 1, 1985 a new applicant for licensure as a psychologist shall possess a doctoral degree in psychology or its equivalent from an institution approved by the board and shall have completed at least one year of supervised professional experience under the supervision of a licensed psychologist or prior to July 1, 1976 any person holding a certificate as a psychologist from the board of examiners of the Iowa psychological association, following the granting of the doctoral degree, or predoctoral experience, as may be acceptable to the board; or shall possess a master's degree in psychology or its equivalent from an institution approved by the board and have completed at least five years of professional experience, at least two of which shall have been under the supervision of a licensed psychologist or prior to July 1, 1976 any person holding a certificate

as a psychologist from the board of examiners of the Iowa psychological association, as may be acceptable to the board.

Sec. 2. NEW SECTION. 154B.6A HEALTH SERVICE PROVIDER IN PSYCHOLOGY. A certified health service provider in psychology means a person licensed to practice psychology who has a doctoral degree in psychology, or prior to July 1, 1984 was licensed at the doctoral level with a degree in psychology or its equivalent, or was prior to January 1, 1984 licensed as a psychologist in this state and prior to January 1, 1985 receives a doctoral degree equivalent to a doctoral degree in psychology, and who has at least two years of clinical experience in a recognized health service setting or meets the standards of a national register of health service providers in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders, and to treat mental illnesses and nervous disorders, excluding those mental illnesses and nervous disorders which are established as primarily of biological etiology with the exception of the treatment of the psychological and behavioral aspects of those mental illnesses and nervous disorders.

Sec. 3. Section 514.1, Code Supplement 1983, is amended to read as follows:

514.1 INSURANCE LAWS EXCLUDED GENERALLY. Any A corporation hereafter organized under the provisions of chapter 504 or chapter 504A for the purpose of establishing, maintaining, and operating a nonprofit hospital service plan, whereby hospital service may be provided by the corporation or by a hospital with which it has a contract for service, to the public who become subscribers to this plan under a contract which entitles each subscriber to hospital service, or any a corporation organized for the purpose of establishing, maintaining, and operating a plan whereby medical and surgical service may be provided at the expense of this corporation, by duly licensed physicians and surgeons, dentists, podiatrists, osteopathic physicians, or osteopathic physicians and surgeons, to subscribers under contract, entitling each subscriber to medical and surgical service, as provided in the contract or any corporation organized for the purpose of establishing, maintaining, and operating a nonprofit pharmaceutical service plan or optometric service plan, whereby pharmaceutical or optometric service may be provided by this corporation or by a licensed pharmacy with which it has a contract for service, to the public who become subscribers to this plan under a contract which entitles each subscriber to pharmaceutical or optometric service, shall be governed by the provisions of this chapter and shall be is exempt from all other provisions of the insurance laws of this state, unless specifically designated herein, not only in governmental relations with the state but for every other purpose, and additions hereafter enacted shall not apply to these corporations unless they be expressly designated therein. For the purposes of this chapter, "subscriber" means an individual who enters into a contract for hospital services, medical or surgical services, dental services, or pharmaceutical or optometric health care services with a corporation subject to this chapter and includes any person eligible for medical assistance or additional medical assistance as defined under chapter 249A, with respect to whom the department of human services has entered into a contract with any firm operating under chapter 514. For purposes of this chapter, "provider" is as defined in section 514B.1 shall mean a person as defined in section 4.1, subsection 13, which is licensed or otherwise authorized in this state to furnish health care services. "Health care" shall mean that care necessary for the purpose of preventing, alleviating, curing, or healing human physical or mental illness, injury, or disability.

Sec. 4. Section 514.5, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A hospital service corporation or medical service corporation organized under this chapter may enter into contracts with subscribers and providers to furnish health care services not otherwise allocated by this section.

Sec. 5. Section 514.6, Code 1983, is amended to read as follows:

**514.6 RATES—APPROVAL BY COMMISSIONER.** The rates charged by any such corporation to the subscribers for ~~hospital health care service or for medical and surgical service, or for pharmaceutical or optometric service~~ shall at all times be subject to the approval of the commissioner of insurance.

Sec. 6. Section 514.7, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

The contracts by any such corporation with the subscribers for ~~hospital health care service or for medical and surgical service or for pharmaceutical or optometric service~~ shall at all times be subject to the approval of the commissioner of insurance. The commission shall require that participating pharmacies be reimbursed by the pharmaceutical service corporation at rates or prices equal to rates or prices charged nonsubscribers, unless the commissioner determines otherwise to prevent loss to subscribers.

Sec. 7. Section 514.8, Code 1983, is amended to read as follows:

**514.8 CONTRACTS WITH HOSPITALS PROVIDERS—APPROVAL.** The contracts by any such corporation with participating hospitals for hospital service or with participating physicians and surgeons, dentists, podiatrists, osteopathic physicians, or osteopathic physicians and surgeons for medical and surgical service, or with participating pharmacies for pharmaceutical service, or with participating optometrists for optometric service, or with other providers shall at all times be subject to the approval of the commissioner of insurance.

Sec. 8. Section 514.13, Code 1983, is amended to read as follows:

**514.13 ARBITRATION OF DISPUTES.** Any dispute arising between a corporation organized under said this chapter and any hospital with which such corporation has a contract for hospital service, or any physician and surgeon, dentist, podiatrist, osteopathic physician, or osteopathic physician and surgeon with whom any such corporation has a contract for medical and surgical service or any pharmacy or optometrist with whom any such corporation has a contract for pharmaceutical or optometric service, as provided for herein, a provider may be submitted to the commissioner of insurance for his a decision. All decisions and findings of the commissioner of insurance may be judicially reviewed in accordance with the terms of the Iowa administrative procedure Act chapter 17A.

Approved April 20, 1984

**CHAPTER 1123**  
**AUDITS OF COUNTIES**

*H.F. 48*

**AN ACT** authorizing counties to contract with certified public accountants to audit their financial records and transactions.

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

Section 1. Section 11.6, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The financial condition and transactions of all counties shall be examined once each year by the auditor of state. ~~Provided however that~~ However, in lieu of an examination by state accountants, ~~the board of supervisors and the local governing body~~ bodies of county hospitals organized under chapters 347 and 347A and memorial hospitals organized under chapter 37, ~~in case it elects to do so,~~ may contract with or employ, under rules promulgated by the auditor of state, certified ~~or registered~~ public accountants, certified ~~and registered~~ in the state of Iowa, and pay for ~~the same them~~ from the proper public funds; in the same manner and under the same conditions as provided in sections 11.18 and 11.19 for cities and school districts. If a board of supervisors elects to have the audit made by certified public accountants, it shall notify the auditor of state within sixty days after the close of the fiscal year to be audited. The report of ~~such~~ the examination of a county, county hospital, or county memorial hospital filed by the accountant employed with the auditor of state, as required by section 11.19, shall be in the form prescribed by the auditor of state.

The auditor of state shall have the authority to review the audit workpapers prepared by a certified public accountant in the performance of the annual examination of a county, provided that, except where the public interest requires otherwise, no more than one such review shall be made in any three-year period so long as only one certified public accountant performs the examination of the county during that period. All actual and necessary expenses incurred by the auditor of state in the performance of the review shall be reimbursed by the certified public accountant whose workpapers are subject to the review, provided that the amount reimbursed shall not exceed the greater of one thousand dollars or ten percent of the fee collected by the accountant from the county to conduct the examination.

Sec. 2. Section 331.402, subsection 2, Code 1983, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH.** Contract with certified public accountants to conduct the annual audit of the financial accounts and transactions of the county as provided in section 11.6.

Approved April 20, 1984

**CHAPTER 1124**  
**COUNTY RECORDER FEES**  
*H.F. 2187*

**AN ACT** to increase the filing or recording fee collected by the county recorder.

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

Section 1. Section 331.604, Code 1983, is amended to read as follows:

331.604 GENERAL RECORDING AND FILING FEE. Except as otherwise provided by state law or section 331.605, the recorder shall collect a fee of ~~three~~ five dollars for each page or fraction of a page of an instrument which is filed or recorded in the recorder's office.

Approved April 20, 1984

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**CHAPTER 1125**  
**REPORTING OF COUNTY TREASURER'S RECEIPTS**  
*H.F. 2194*

**AN ACT** relating to the reporting of receipts by the county treasurer.

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

Section 1. Section 331.902, subsection 3, Code Supplement 1983, is amended to read as follows:

3. Each elective officer specified in subsection 1 shall make a 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. This subsection does not apply to the county treasurer if the county treasurer credits the fees daily to the county treasury and reports the receipts on the monthly report to the auditor and the board of supervisors.

Approved April 20, 1984

**CHAPTER 1126**  
**WAIVER OF PRESENCE INVESTIGATION**

*H.F. 2267*

**AN ACT** relating to the waiver of presentence investigations for class "B", "C", and "D" felonies.

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

Section 1. Section 901.2, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of any public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources. The court shall order a presentence investigation when the offense is a class "B," class "C," or class "D" felony. A presentence investigation for a class "B", class "C", or class "D" felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty. The court may order a presentence investigation when the offense is an aggravated or serious misdemeanor.

Approved April 20, 1984

**CHAPTER 1127**  
**JAIL INSPECTIONS**  
*H.F. 2417*

**AN ACT** relating to the inspection of jails and municipal holding facilities by the Iowa department of corrections.

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

Section 1. Section 356.36, Code Supplement 1983, is amended to read as follows:

356.36 ESTABLISHMENT OF JAIL STANDARDS. The Iowa department of corrections, in consultation with the Iowa state sheriff's association, the Iowa association of chiefs of police and peace officers, the Iowa league of municipalities, and the Iowa board of supervisors association, shall draw up minimum standards for the regulation of jails, and alternative jails, facilities established pursuant to chapter 356A and municipal holding facilities. When completed by the department, the standards shall be adopted as rules pursuant to chapter 17A.

The sole remedy for violation of a rule adopted pursuant to this section, is by a proceeding for compliance initiated by request to the Iowa department of corrections. 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, or any city, its agents or employees.

Sec. 2. Section 356.43, Code Supplement 1983, is amended to read as follows:

356.43 INSPECTION BY DEPARTMENT—REPORT OF INSPECTION. The Iowa department of corrections and its inspectors and agents shall make periodic inspections of each jail or municipal holding facility and all facilities established pursuant to chapter 356A, and officially notify the county board of supervisors governing body of the political subdivision in writing to comply fully with section 356.36.

The Iowa department of corrections may order the governing body of a political subdivision to either correct violations found in the inspection of a jail or municipal holding facility within a designated period, or may prohibit the confinement of prisoners in the jail or municipal holding facility. If the governing body fails to comply with the order within the period designated, the Iowa department of corrections may schedule a hearing on the alleged violation. The department may subpoena witnesses, documents, and other information deemed necessary to determine the validity of the alleged violation. The department shall upon written request from the governing body of the political subdivision grant representatives of the political subdivision the right to appear before the department at the hearing. The representatives have the right to counsel and may produce witnesses and present statements, documents, and other information with respect to the alleged violation for consideration at the hearing.

The department after the hearing shall affirm, revoke, or modify the original order. If the order is upheld, the department may include a schedule for correction of the violations and designate the date by which each violation shall be corrected.

If the political subdivision does not comply with the order within the designated period, the department may petition the attorney general to institute proceedings to enjoin the political



subdivision from confining prisoners in the jail or municipal holding facility and require the transfer of prisoners to a jail or municipal holding facility declared by the director to be suitable for confinement. The county or municipality from which prisoners are transferred is liable for the cost of transfer and expenditures incurred in the confinement of prisoners in the jail or municipal holding facility to which transferred. Following inspection of any county jail or municipal holding facility, a report of the inspection shall be filed with the director of the Iowa department of corrections, and a. A copy of the report shall also be filed with the sheriff or chief of police, the county board of supervisors governing body of the political subdivision, and one copy with the county attorney, which shall be presented at the next session of the grand jury of that county.

Approved April 20, 1984

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## CHAPTER 1128

### COMPLETION OF LOCAL GOVERNMENT AUDITS

*H.F. 169*

**AN ACT** establishing a time limit for completion of audits of units of local government.

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

Section 1. Section 11.6, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** An audit required by this section shall be completed within fifteen months following the end of the fiscal year that is subject to the audit. At the request of a county the executive council may extend the fifteen-month time limitation imposed by this paragraph upon a finding that the extension is necessary and not contrary to the public interest and that the failure to meet the deadline was not intentional.

Sec. 2. Section 11.18, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** An audit required by this section shall be completed within fifteen months following the end of the fiscal year that is subject to the audit. At the request of a political subdivision subject to this section, the executive council may extend the fifteen-month time limitation imposed by this paragraph upon a finding that the extension is necessary and not contrary to the public interest and that the failure to meet the deadline was not intentional.

Approved April 20, 1984

**CHAPTER 1129**  
**EMPLOYER-PROVIDED HEALTH BENEFITS**  
*H.F. 2416*

**AN ACT** relating to employee continuation rights under an employer-provided health benefit plan and to employer liability for breaking an agreement to provide a health benefit plan for employees.

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

**Section 1. NEW SECTION. 91B.1 EMPLOYEE HEALTH BENEFIT PLANS.**

1. As used in this section:
  - a. "Employee" means an employee as defined in section 91A.2.
  - b. "Employer" means an employer as defined in section 91A.2.
  - c. "Health benefit plan" means a plan or agreement provided by an employer for employees for the provision of or payment for care and treatment of sickness or injury.
2. If an employer in this state provides any health benefit plan, the employer shall provide employees, who have been enrolled in the plan for at least six months and whose coverage would otherwise terminate because of temporary layoff or approved leave of absence, with the right to voluntarily continue their coverage in the health benefit plan at their own expense, unless the plan itself is terminated as provided in subsection 3, for the period of the temporary layoff or approved leave of absence for a period not to exceed six months. Employers shall notify all covered employees of their continuation rights, and employees choosing to continue coverage shall be required to remit the required coverage payment to the employer on or before the date the employer is required to make payments to a third party related to the health benefit plan. An employer also satisfies the requirements of this subsection by providing a health benefit plan containing continuation rights no less favorable to employees than required by this subsection.
3. If an employer terminates or substantially modifies an agreement to provide a health benefit plan for employees, or if a health benefit plan for employees is terminated for failure to pay premium or for another reason, the employer shall notify the covered employees whether active, temporarily laid off, or on approved leave of absence of the termination or substantial modification of their coverage. The notice shall be in writing and delivered in person to the employees or mailed to the employees' last known addresses at least fourteen days prior to the termination or substantial modification of the health benefit plan. The employer is solely liable for benefits, including extended benefits, which would have been payable to a covered employee had the health benefit plan remained in force and not been terminated or substantially modified during the period of time following the termination or substantial modification of the health benefit plan until the employee is given notice by the employer as required by this subsection.
4. The employer is also solely liable for benefits, including extended benefits, which would have been payable had the health benefit plan been in force and the employee covered during the period of time the employer failed to implement a health benefit plan which the employer

had agreed with its employees to provide, until the employer gives its employees notice of its failure or inability to provide the agreed health benefit plan. The notice shall be in writing and delivered in person to the employees or mailed to the employees' last known addresses.

5. The employer is also solely liable for benefits, including extended benefits, which would have been payable had the health benefit plan been in force and the employee covered under the health benefit plan during a period of time for which the employer has collected contributions through payroll, withholding, or otherwise, but has failed to enroll the employee, unless the employer has given the employee actual notice that the employee's enrollment in the plan will not become effective until a later date or until the employee's application for enrollment has been approved.

6. Expenses incurred by an employee for which an employer is liable under this section may be assigned to and are recoverable as wages by the labor commissioner under chapter 91A.

Sec. 2. Section 91A.2, subsection 4, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. Expenses incurred and recoverable under a health benefit plan as defined in and as provided in chapter 91B.

Approved April 20, 1984

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## CHAPTER 1130

### LIENS FOR SELF-SERVICE STORAGE FACILITIES

S.F. 163

**AN ACT** creating a possessory lien on personal property in a self-service storage facility and establishing a method for enforcing the lien.

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

Section 1. NEW SECTION. 578A.1 **SHORT TITLE.** This Act shall be known as the "Iowa Self-Service Storage Facility Lien Act".

Sec. 2. NEW SECTION. 578A.2 **DEFINITIONS.** As used in this chapter, unless the context clearly requires otherwise:

1. "Self-service storage facility" means real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing personal property. If an owner issues a warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to chapter 554, article 7 and this chapter does not apply.

2. "Owner" means the owner, operator, lessor, or sub-lessor of a self-service storage facility, the agent, or any other person authorized by the owner to manage the facility, or to receive rent from an occupant under a rental agreement.

3. "Occupant" means a person, in privity with the owner, entitled to the use to the exclusion

of others of the storage space at a self-service storage facility pursuant to privity with the owner.

4. "Rental agreement" means an agreement or lease, written or oral between the owner and occupant, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of a self-service storage facility.

5. "Personal property" means movable property not affixed to land, and includes, but is not limited to goods, merchandise, and household items.

6. "Last known address" means that address provided by the occupant in the latest rental agreement, or the address provided by the occupant by certified mail in a subsequent written notice of a change of address.

7. "Possessory lien" means a lien on a personal property that is valid only while the property is in the possession of the person asserting the lien or an agent of the person.

Sec. 3. NEW SECTION. 578A.3 LIEN. The owner of a self-service storage facility and the heirs, executors, administrators, successors, and assigns have a possessory lien upon all personal property located at a self-service storage facility for rent, labor, or other reasonable charges, in relation to the storage of the personal property, and for expenses necessary for its preservation, or expenses reasonably incurred in its sale or other disposition pursuant to this chapter. The lien provided for in this section shall not have priority over a lien or security interest perfected prior to the time the personal property is placed within or upon the self-storage facility. The lien attaches as of the date the personal property is brought to the self-service storage facility.

Sec. 4. NEW SECTION. 578A.4 ENFORCEMENT OF LIEN. An owner's lien for a claim which has become due may be satisfied as follows:

1. The occupant shall be notified by delivering in person with acceptance to be signed by the occupant or by mailing by certified mail to the last known address of the occupant, a notice which shall include:

a. An itemized statement of the owner's claim showing the amount due at the time of the notice and the date when the amount became due.

b. A brief and general description of the personal property subject to the lien. The description shall be reasonably adequate to permit the person notified to identify it, except that any container including a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner which deters immediate access to its contents shall be described as such without describing its contents.

c. A statement that the occupant is denied access to the personal property, if a denial is permitted under the rental agreement. The statement shall provide the name, street address, and telephone number of the owner, or the owner's designated agent, whom the occupant may contact to respond to this notice.

d. A demand for payment within a specified time not less than fourteen days after delivery of the notice.

e. A conspicuous statement that unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or other disposition, and will be sold or otherwise disposed of at a specified time and place.

2. A notice mailed by certified mail pursuant to subsection 1 is made and completed when the notice is enclosed in a sealed envelope with the proper postage on the envelope, addressed to the occupant or successor at the last known mailing address, and deposited in a mail receptacle provided by the United States postal service.

3. After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county where the self-service storage facility is located. The advertisement shall include:

a. A brief and general description of the personal property reasonably adequate to permit its identification as provided for in subsection 1, paragraph b.

b. The address of the self-service storage facility, the number, if any, of the space where the personal property is located, and the name of the occupant.

c. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place not sooner than fifteen days after the first publication. If there is no newspaper of general circulation where the self-service storage facility is located, the advertisement shall be posted at least ten days before the date of the sale or other disposition in at least six conspicuous places in the neighborhood where the self-service storage facility is located.

4. A sale or other disposition of the personal property shall conform to the terms of the notification provided for in this section.

5. A sale or other disposition of the personal property shall be held at the self-service storage facility, or at the nearest suitable place to where the personal property is held or stored.

6. Before a sale or other disposition of personal property is made pursuant to this section, the occupant may pay the amount necessary to satisfy the lien, and the reasonable expenses incurred under this section, and redeem the personal property. Upon receipt of such payment, the owner shall return the personal property.

7. A purchaser in good faith of the personal property sold to satisfy the lien takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of this section. The purchaser shall apply for a new title to a vehicle by the procedures outlined in section 321.47. For all other property which has a written title, the purchaser shall follow the applicable procedures for the property for the transfer of title by operations of law.

8. In the event of a sale under this section, the owner may satisfy the lien from the proceeds of the sale, but shall hold the balance in a segregated escrow account for a period of ninety days for delivery on demand to the occupant. If the occupant does not claim the balance within ninety days, the moneys shall be paid to the county treasurer in the county where the facility is located. The county treasurer shall hold the money for a period of two years. If a claim is not made by the owner for the funds, then the funds shall become the property of the county. There shall be no further recourse by any person against the owner for an action pursuant to this section.

Sec. 5. NEW SECTION. 578A.5 SUPPLEMENTAL NATURE OF ACT. This chapter does not impair or affect the right of parties to create liens by special contract or agreement, nor does it affect or impair other liens arising at common law or in equity, or by a statute of this state.

Sec. 6. NEW SECTION. 578A.6 RESIDENCE. An occupant shall not use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse as defined in chapter 554.

Approved April 23, 1984

**CHAPTER 1131**  
**GAS OR ELECTRIC SERVICE DEPOSITS**  
*H.F. 2065*

**AN ACT** limiting gas or electric service deposits.

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

Section 1. Section 476.20, subsection 5, Code Supplement 1983, is amended to read as follows:

5. The commerce commission shall establish rules which shall be uniform with respect to all public utilities furnishing gas or electricity relating to deposits which may be required by the public utility for the initiation or reinstatement of service.

a. The deposit for a residencee residential or commercial customer for a place which has previously received service shall not be greater than the highest billing of service for one month to for the residencee place in the previous twelve-month period.

b. The deposit for a residential or a commercial customer for a place which has not previously received service or for an industrial customer shall be the customer's projected one-month's usage for the place to be serviced as determined by the public utility according to rules established by the commerce commission.

PARAGRAPH DIVIDED. This subsection does not prohibit a public utility from requiring payment of a customer's past due account with the utility prior to reinstatement of service.

The rules shall allow a person other than the customer to pay the customer's deposit. Upon termination of service to such a customer, the deposit plus accumulated interest less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

Approved April 23, 1984

**CHAPTER 1132**  
**WORK NEAR BURIED TRANSMISSION LINES**  
*S.F. 511*

**AN ACT** relating to construction near a buried electric transmission line.

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

Section 1. Chapter 478, Code 1983, is amended by adding the following new section:

**NEW SECTION. SUBSEQUENT CONSTRUCTION NEAR BURIED LINE.** At least forty-eight hours before performing construction involving earthwork, tiling, or excavation within fifty feet of a buried electric line, the landowner, tenant, or contractor shall notify the company or corporation that owns or maintains the buried line. Upon notification, if the proposed work will disturb the soil within fifteen feet of the line the company or corporation shall then mark the location of the line or inform the landowner, tenant, or contractor of the line's route and voltage. If the line carries an operating voltage of thirty-four point five kilovolts or greater and if requested by the landowner, tenant, or contractor, the corporation or company shall have a representative present during the performance of the earthwork, tiling or excavation. The company or corporation shall not charge a fee for this service. This section does not apply to emergency construction involving earthwork, tiling, or excavation located in a highway or street right-of-way.

Approved April 24, 1984

**CHAPTER 1133**  
**ENFORCEMENT OF DISSOLUTION, ANNULMENT**  
**OR SEPARATE MAINTENANCE DECREE**  
*S.F. 2005*

**AN ACT** relating to actions to enforce the terms of a dissolution, annulment, or separate maintenance decree and providing a penalty.

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

Section 1. Section 598.23, Code 1983, is amended to read as follows:

**598.23 CONTEMPT PROCEEDINGS—ALTERNATIVE ALTERNATIVES TO JAIL SENTENCE.**

1. If any party a person against whom any a temporary order or final decree has been entered shall willfully disobey the same, or secrete his property, he disobeys the order or decree, the person may be cited and punished by the court for contempt and be committed to the county jail for a period of time not to exceed thirty days for each offense.

2. The court may, as an alternative to punishment for contempt, make an order directing which, according to the subject matter of the order or decree involved, does the following:

a. Directs the defaulting party to assign, trust income or a sufficient amount in salary or wages due, or to become due in the future, from an employer or successor employers, to the clerk of the court where the order or judgment was granted for the purpose of paying the sums in default as well as those to be made in the future. Where the assignment is of salary or wages due, the amount assigned shall not exceed the amount set forth in 15 U.S.C. s. 1673b (Supp. 1979) and the assignment order shall be binding upon the employer only for those amounts that represent child support and only upon receipt by the employer of a copy of the order, signed by the employee. For each payment deducted in compliance with such request, the payor may deduct a sum not exceeding one dollar as a reimbursement for costs. Compliance by a payor with the court's order shall operate as a discharge of his or her the employer's liability to the payee as to the affected portion of the payee's wages, or trust income. Any employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.

b. Modifying visitation to compensate for lost visitation time or establishing joint custody for the child or transferring custody.

Sec. 2. Section 598.24, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**598.24 ENFORCEMENT OF DECREE.** When an action for a modification, order to show cause, or contempt of a dissolution, annulment, or separate maintenance decree is brought on the grounds that a party to the decree is in default or contempt of the decree, and the court determines that the party is in default or contempt of the decree, the costs of the proceeding, including reasonable attorney's fees, may be taxed against that party.

Approved April 24, 1984



**CHAPTER 1134**  
**MAXIMUM FINES FOR CERTAIN FELONIES**  
*S.F. 2223*

**AN ACT** relating to the maximum fine assessable upon the conviction of a class "C" or class "D" felony.

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

Section 1. Section 902.9, subsections 3 and 4, Code 1983, are amended to read as follows:

3. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition may be sentenced to a fine of not more than five ten thousand dollars.

4. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition may be sentenced to a fine of not more than one seven thousand five hundred dollars.

Approved April 24, 1984

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**CHAPTER 1135**  
**PRIVATE DETECTIVE LICENSING EXEMPTION**  
*H.F. 2396*

**AN ACT** relating to the exemption of law enforcement officials from the licensing requirements for private detectives.

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

Section 1. Section 80A.2, Code 1983, is amended to read as follows:

80A.2 PERSONS EXEMPT. The provisions of this This chapter shall does not apply to any a detective or officer belonging to and on the payroll of the police force of the United States, or of any a state, or of any a county, city or village corporation deemed to be a city thereof, appointed or elected by due authority of law; nor to any a person in the employ of the police force or police department or law enforcement agency of any a state, or of any a county, city or village corporation deemed to be a city thereof in the performance of his official duties with permission of the chief executive of the agency; nor to any a county attorney; nor to any attorneys-at-law in the regular practice of their profession; nor to any a person, firm or corporation whose business is solely the making of investigations and adjustments for insurance

companies or the furnishing of information with respect to the business and financial standing and credit of persons, ~~firms or corporations~~; nor to ~~any a~~ person making ~~any an~~ investigation of ~~any a~~ matter in which ~~such the~~ person or the person, ~~firm or corporation~~ by whom such person is ~~solely employed~~ person's sole employer is interested or involved; nor to ~~any a~~ person making ~~any an~~ investigation for ~~any a~~ person, ~~firm or corporation~~ engaged in the business of transporting persons or property in interstate commerce; nor to ~~any a~~ person ~~or persons~~, ~~firm or corporation~~ while engaged in the collection, editing or dissemination of news for or on behalf of ~~any a~~ newspaper, magazine, radio broadcasting station or press or wire news services.

Approved April 24, 1984

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**CHAPTER 1136**  
**HEALTH CARE FACILITIES IN RECEIVERSHIP**  
*H.F. 2424*

**AN ACT** relating to expenses incurred by health care facilities in receivership and the liability of the receiver for the expenses and for suits filed against the receiver.

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

Section 1. Section 135C.30, subsection 4, Code 1983, is amended to read as follows:

4. Payment of the expenses of a receivership established under this section ~~shall be~~ is the responsibility of the facility for which the receiver is appointed, unless the court directs otherwise. The expenses include, but are not limited to:

- a. Salary of the receiver.
- b. Expenses incurred by the facility for the continuing care of the residents of the facility.
- c. Expenses incurred by the facility for the maintenance of buildings and grounds of the facility.
- d. Expenses incurred by the facility in the ordinary course of business, such as employees' salaries and accounts receivable.

The receiver is not personally liable for the expenses of the facility during the receivership. The receiver is an employee of the state as defined in section 25A.2, subsection 3, only for the purpose of defending a claim filed against the receiver. Chapter 25A applies to all suits filed against the receiver.

Approved April 25, 1984

**CHAPTER 1137**  
**COURT INTERPRETERS**

*S.F. 292*

**AN ACT** relating to qualification and compensation of court interpreters.

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

Section 1. Chapter 622A, Code 1983, is amended by adding the following new section:

**NEW SECTION.** The supreme court, after consultation with the Spanish speaking peoples commission and other appropriate departments, shall adopt rules governing the qualifications and compensation of interpreters appearing in proceedings before a court or grand jury under this chapter. However, an administrative agency which is subject to chapter 17A may adopt rules differing from those of the supreme court governing the qualifications and compensation of interpreters appearing in proceedings before that agency.

Sec. 2. Chapter 622A, Code 1983, is amended by adding the following new section:

**NEW SECTION.** A tape recording of the portion of proceedings where non-English testimony is given shall be made and maintained.

Approved April 25, 1984

**CHAPTER 1138**  
**DIRECTOR OF OFFICE FOR PLANNING AND PROGRAMMING**  
*S.F. 400*

**AN ACT** relating to the appointment of the director of the office of planning and programming.

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

Section 1. Section 7A.1, Code 1983, is amended to read as follows:

7A.1 OFFICE CREATED. There is hereby created the office for planning and programming which ~~will be~~ is directly attached to and a part of the office of the governor. The governor ~~may~~ shall appoint a director of planning and programming ~~and, subject to confirmation by the senate.~~ The director shall serve at the pleasure of the governor and receive a salary within the range fixed by the general assembly. The governor ~~may~~ shall appoint other necessary personnel. Employees of the office shall serve at the pleasure of the governor. ~~Where~~ To the extent required by federal statutes, employees shall be covered under the provisions of chapter 19A.

Sec. 2. Section 1 of this Act applies to a vacancy which occurs in the office of the director of planning and programming following the effective date of this Act.

Approved April 25, 1984

**CHAPTER 1139**  
**RECONSIDERATION OF SENTENCE**  
*S.F. 480*

**AN ACT** relating to jurisdiction of the district court in the possible reconsideration of a felon's or misdemeanor's sentence.

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

Section 1. Section 902.4, Code Supplement, 1983, is amended to read as follows:

**902.4 RECONSIDERATION OF FELON'S SENTENCE.** For a period of ninety days from the date when a person convicted of a felony, other than a class "A" felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. The district court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal. The court's final order in the proceeding shall be delivered to the defendant personally or by certified mail. The court's decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

Sec. 2. Section 903.2, Code 1983, is amended to read as follows:

**903.2 RECONSIDERATION OF MISDEMEANANT'S SENTENCE.** For a period of thirty days from the date when a person convicted of a misdemeanor begins to serve a sentence of confinement, the court may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. The sentencing court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal or an application for discretionary review. The court's final order in ~~any such~~ the proceeding shall be delivered to the defendant personally or by certified mail. Such action is discretionary with the court and its decision to take ~~such~~ the action or not to take ~~such~~ the action is not subject to appeal. The other provisions of this section notwithstanding, for the purposes of appeal a judgment of conviction is a final judgment when pronounced.

Approved April 25, 1984

**CHAPTER 1140**  
**TAXABLE STATUS OF CERTAIN SERVICES**  
*S.F. 2354*

**AN ACT** to treat the sale of vulcanizing, recapping, and retreading services under the state sales, services, and use tax as a sale of tangible personal property, and providing retroactive effect.

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

Section 1. Section 422.43, Code Supplement 1983, is amended by adding after subsection 3 the following new subsection and renumbering the remaining subsections:

**NEW SUBSECTION.** There is imposed a like rate of tax upon the gross receipts from the sales of vulcanizing, recapping, and retreading services. For the purpose of this division, the sales of vulcanizing, recapping, and retreading services are sales of tangible property.

Sec. 2. Section 422.43, subsection 9, Code Supplement 1983, is amended to read as follows:

9. The following enumerated services are subject to the tax 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.

Sec. 3. Section 423.1, subsection 4, Code Supplement 1983, is amended to read as follows:

4. "Tangible personal property" means tangible goods, wares, merchandise, optional service or warranty contracts, ~~vulcanizing, recapping, or retreading services~~, and gas, electricity, and water when furnished or delivered to consumers or users within this state.

Sec. 4. This Act is retroactive to January 1, 1979.

Sec. 5. Notwithstanding that section 1 is retroactive to January 1, 1979, any tax collected before the effective date of this Act because vulcanizing, recapping, and retreading services were not sales of tangible property is not refundable.

Sec. 6. This Act, being deemed of immediate importance, takes effect from and after its publication in the Audubon County Journal, a newspaper published in Exira, Iowa, and in The Bayard News, a newspaper published in Bayard, Iowa.

Approved May 8, 1984

I hereby certify that the foregoing Act, Senate File 2354 was published in The Bayard News, Bayard, Iowa on May 17, 1984 and in the Audubon County Journal, Exira, Iowa on May 16, 1984.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 1141

### TAX-EXEMPT MOTOR FUEL EXEMPTION CERTIFICATE

S.F. 2069

**AN ACT** relating to the exemption certificate furnished by the state, its agencies, and political subdivisions of the state for the delivery of tax-exempt motor fuel.

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

Section 1. Section 324.3, subsection 5, Code Supplement 1983, is amended to read as follows:

5. Motor fuel sold to the state, any of its agencies, or to any political subdivision of the state, which is used for public purposes and delivered into any size of storage tank owned or used exclusively by the state, any of its agencies, or a political subdivision of the state. The department of revenue shall ~~provide~~ issue exemption certificate forms to the state, its agencies, and political subdivisions of the state ~~so that they, or the state, any of its agencies, or a political subdivision of the state, or a licensed motor fuel distributor may provide a its own certificate of exemption in the form prescribed by the director, to a distributor or dealer upon the delivery of motor fuel to substantiate tax-exempt sales of motor fuel under this subsection.~~ The certificate of exemption shall ~~specify the number of gallons of motor fuel received and state that all of the motor fuel delivered into the storage tank shall be used for public purposes.~~

Approved April 25, 1984

**CHAPTER 1142**  
**DRIVING WITH SUSPENDED OR REVOKED LICENSE**  
*S.F. 2235*

**AN ACT** relating to the penalties for operating a motor vehicle when the operator's license has been suspended or revoked.

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

Section 1. Section 321.218, unnumbered paragraph 1, Code 1983, is amended to read as follows:

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 a motor vehicle upon the highways of this state while the license or privilege is denied, canceled, suspended, or revoked, is guilty of commits a serious simple misdemeanor. However, a person whose license or driving privilege has been revoked under section 321.209 or chapter 321B and who drives a motor vehicle upon the highways of this state while the license or privilege is revoked commits a serious misdemeanor. The sentence imposed under this section shall not be suspended by the court, notwithstanding section 907.3 or any other statute. The department, upon receiving the record of the conviction of a person under this section upon a charge of driving a motor vehicle while the license of 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 the additional period.

Sec. 2. Section 321A.32, subsection 2, Code 1983, is amended to read as follows:

2. Any person willfully failing to return license or registration as required in section 321A.31 shall be guilty of a serious simple misdemeanor.

Approved April 26, 1984



**CHAPTER 1143**  
**VIOLATIONS OF IOWA COMPETITION LAW**  
*S.F. 2253*

**AN ACT** relating to the penalty for violation of the Iowa competition law and providing for a prohibition from bidding on governmental contracts by persons convicted of violations of the Iowa competition law.

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

Section 1. Section 553.14, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A person having substantial control over an enterprise who knowingly and willfully engages in bid-rigging or price fixing involving a contract with the state or a governmental agency is guilty of a class "D" felony.

Sec. 2. **NEW SECTION. 553.18 DEBARMENT.** A contractor or supplier of goods or services to the state or a governmental agency, and the enterprise for which the illegal action was taken, convicted under this chapter, or convicted under the laws of any other state or the federal government for actions which would constitute a violation of this chapter, are prohibited from bidding on a governmental contract for one year from the date of conviction, unless the state or governmental agency accepting bids expressly allows the contractor or supplier to bid after being informed of the conviction.

Approved April 26, 1984

**CHAPTER 1144**  
**MEAL CHARGES FOR EMPLOYED COUNTY PRISONERS**  
*S.F. 2269*

**AN ACT** limiting the amount charged employed county prisoners for meals.

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

Section 1. Section 356.29, Code 1983, is amended to read as follows:

**356.29 WAGES OR SALARY COLLECTED BY SHERIFF.** If a prisoner is employed for wages or salary the sheriff may collect the same or require the prisoner to turn over his wages or salary in full when received, and the sheriff shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. Such wages or salary are not subject to garnishment during the prisoner's term and shall be disbursed only as provided in these sections 356.26 through 356.35.

Sec. 2. Section 356.30, Code 1983, is amended to read as follows:

**356.30 PRISONER TO PAY FOR BOARD.** Every prisoner gainfully employed and released pursuant to section 356.26 is liable for the cost of his the prisoner's board in the jail as fixed by the county board of supervisors. The sheriff shall charge his the prisoner's account for sueh the board and any meals provided in section 356.31. If the prisoner is gainfully self-employed he the prisoner shall pay the sheriff for sueh the board, in default of which his the prisoner's privilege under this chapter is automatically forfeited. If necessarily absent from jail at a meal time, he the prisoner shall at his the prisoner's request be furnished with a lunch to carry to work. If the jail food is furnished directly, by the county, the sheriff shall account for and pay over sueh the meal payments to the county treasurer. The county board of supervisors may by resolution provide that the county furnish or pay for the transportation of prisoners employed under sections 356.26 to 356.35 to and from the place of employment. However, the charges for board and meals under this section shall not exceed fifty percent of the wages or salaries of the prisoner, after deductions required by law, earned during the period of time for which the charges are made.

Approved April 26, 1984

**CHAPTER 1145**  
**COMPUTER DATA STORAGE SYSTEMS**  
*S.F. 2306*

**AN ACT** authorizing the use of computer data storage systems for the collection, storage, and retrieval of intelligence data, providing for restrictions on access to these computer data storage systems, and requiring the adoption of rules for authorization to access a computer data storage system containing intelligence data.

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

Section 1. Section 68A.1, Code 1983, is amended to read as follows:

68A.1 PUBLIC RECORDS DEFINED. Wherever used in this chapter, "public records" includes all records, and documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any county, city, township, school corporation, political subdivision, or tax-supported district in this state, or any branch, department, board, bureau, commission, council, or committee of any of the foregoing.

Sec. 2. Section 692.8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Intelligence data contained in the files of the department of public safety or a criminal justice agency ~~shall not~~ may be placed within a computer data storage system, provided that access to the computer data storage system is restricted to authorized employees of the department or criminal justice agency and the computer data storage system is not interconnected with any other computer, computer system, or communication facility outside of the department or agency and cannot be accessed by persons outside of the department or agency.

Sec. 3. Section 692.10, Code 1983, is amended to read as follows:

692.10 RULES. The department shall adopt rules designed to assure the security and confidentiality of all systems established for the exchange of criminal history data and intelligence data between criminal justice agencies and for the authorization of officers or employees to access a department or agency computer data storage system in which criminal intelligence data is stored.

Approved April 26, 1984

**CHAPTER 1146****ACCRUED SICK LEAVE AND DISABILITY OF STATE EMPLOYEES***S.F. 2310*

**AN ACT** relating to payments to state employees for accrued sick leave and disability.

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

Section 1. Section 79.23, Code 1983, is amended to read as follows:

79.23 CREDIT FOR ACCRUED SICK LEAVE. ~~Commencing July 1, 1977, when~~ When a state employee, excluding an employee covered under a collective bargaining agreement which provides otherwise, retires under 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), or an employee dies on or after July 1, 1984, while the employee is in active employment but is eligible for retirement benefits under one of the listed chapters, 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 payments for accumulated, unused sick leave shall not exceed two thousand dollars per employee and is are payable upon retirement or death. 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. Section 79.20, subsection 2, Code 1983, is amended to read as follows:

2. Maximum period benefits paid . . . . . ~~sickness or accident disability to age sixty-five.~~ for both accident or sickness disability:

a. If the disability occurs prior to the time the employee attains the age of sixty-one years, the maximum benefit period shall end sixty months after continuous benefit payments begin or on the date on which the employee attains the age of sixty-five years, whichever is later.

b. If the disability occurs on or after the time the employee attains the age of sixty-one years, the maximum benefit period shall end sixty months after continuous benefit payments begin or on the date on which the employee attains the age of seventy years, whichever is earlier.

Approved April 26, 1984

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**CHAPTER 1147**  
**PREFERENCE FOR IOWA COAL**  
*S.F. 2317*

**AN ACT** relating to the purchase of Iowa coal by state and local government institutions.

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

Section 1. Section 73.7, Code 1983, is amended to read as follows:

73.7 BIDS AND CONTRACTS. Before any user of coal designated in section 73.6, whose annual consumption of coal exceeds, in delivered value, the sum of three hundred dollars, ~~shall purchase~~ purchases any coal, it shall make request for bids for ~~such~~ the coal by advertising in a newspaper published in the county in which the purchaser has its principal office, ~~and such.~~ The advertisement shall, among other things, state the date, time and place such the bids shall be received, which date and time shall not be less than fifteen days after publication, and the advertisement shall contain the approximate quantity and description of coal to be purchased, and the. The bids for such the coal shall be opened in public at the time, date and place indicated in the said advertisement and, unless the purchasing body shall determine determines that the general good of the state, including the best interests of the taxpayer and the employment of labor, the adaptability of the coal offered, or the efficiency and cost of operation of the purchaser's plant makes it advisable to do otherwise, the contract shall be let to the lowest responsible bidder, but any. However coal mined or produced in this state may be granted up to a five percent preference over coal mined or produced outside this state on the delivered cost per unit of heat produced. Any and all bids may be rejected; however, if all bids are rejected, then an advertisement for bids shall again be made as hereinbefore provided. After ~~any~~ a bid is accepted, a written contract shall be entered into and the successful bidder shall furnish a good and sufficient bond with qualified sureties for the faithful performance of the contract. Any contract for purchase of coal provided for in sections 73.6 to 73.9 may contain the provision that the purchaser may, in the event of an emergency, purchase coal elsewhere without advertising for bids in any year, for not more than ten percent of ~~said~~ the purchaser's annual coal requirements.

Approved April 26, 1984

**CHAPTER 1148**  
**CONFIDENTIALITY OF CORRECTIONS RECORDS**  
*S.F. 2082*

**AN ACT** relating to the confidentiality of Iowa department of corrections records and providing a penalty.

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

Section 1. Section 217A.18, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

**217A.18 CONFIDENTIALITY OF RECORDS.**

1. The following information regarding individuals receiving services from the department or from the judicial district departments of correctional services under chapter 905 is public information and may be given to anyone, except that the information shall be limited to the offense for which an individual was last convicted:

- a. Name.
- b. Age.
- c. Sex.
- d. Status (inmate, parolee, or probationer).
- e. Location, except home street address.
- f. Duration of supervision.
- g. Offense or offenses for which the individual was placed under supervision.
- h. County of commitment.
- i. Arrest and detention orders.
- j. Physical description.
- k. Type of services received.

l. Disciplinary reports and decisions which have been referred to the county attorney or prosecutor for prosecution, and the following information of all other disciplinary reports:

- (1) The name of the subject of the investigation.
- (2) The alleged infraction involved.
- (3) The finding of fact and the penalty, if any, imposed as a result of the infraction.

2. The following information regarding individuals receiving services from the department or from the judicial district departments of correctional services under chapter 905 is confidential and shall not be disseminated by the department to the public:

- a. Home street address of the individual receiving services or that individual's family.
- b. Department evaluations.
- c. Medical, psychiatric or psychological information.
- d. Names of associates or accomplices.
- e. Name of employer.
- f. Social security number.
- g. Prior criminal history including information on offenses where no conviction occurred.
- h. Family and personal history.

i. Financial information.

j. Information from disciplinary reports and investigations other than that identified in subsection 1, paragraph 1.

k. Investigations by the department or other agencies which are contained in the individual's file.

l. Department committee records which include any information identified in paragraphs "a" through "k". A record containing information which is both public and confidential which is reasonably segregable shall not be confidential after deletion of the confidential information.

m. Presentence investigations as provided under chapter 901.

n. Pretrial information that is not otherwise available in public court records or proceedings.

o. Correspondence directed to department officers or staff from an individual's family, victims, or employers of a personal or confidential nature. If the custodian of the record determines that the correspondence is confidential, in any proceeding under chapter 68A the burden of proof shall be on the person seeking release of the correspondence, and the writer of the correspondence shall be notified of the proceeding.

3. Information identified in subsection 2 shall not be disclosed or used by any person or agency except for purposes of the administration of the department's programs of services or assistance and shall not, except as otherwise provided in subsection 4, be disclosed by the department or be used by persons or agencies outside the department unless they are subject to, or agree to, comply with standards of confidentiality comparable to those imposed on the department by this section.

4. This section does not restrict the disclosure or use of information regarding the cost, purpose, number of persons served or assisted by or results of any program administered by the department, and other general statistical information so long as the information does not identify particular individuals served or assisted except as provided in subsection 1 of this section.

5. Information restricted in subsection 2 may be disclosed to persons or agencies with the approval of the director for the limited purpose of research and program evaluation or educational purposes when those persons or agencies agree to keep confidential that information restricted in subsection 2, and any reports of the research shall not contain any of the information restricted in subsection 2 except as allowed in subsection 4. However, the persons or agencies eligible to receive information under this subsection include only those which are state employees or those whom the department retains under contract to perform the services.

6. Confidential information described in subsection 2 may be disclosed to public officials for use in connection with their official duties relating to law enforcement, audits and other purposes directly connected with the administration of their programs. Full disclosure by the department of any information on an individual may be made to the board of parole and to judicial district departments of correctional services created under chapter 905, and the board and those departments are subject to the same standards as the department in dissemination or redissemination of information on persons served or supervised by those departments, and all provisions of this section pertain to the board of parole and to the judicial district departments as if they were a part of the department. Information may be disseminated about individuals while under the supervision of the department to public or private agencies to which

persons served or supervised by the department are referred for specific services not otherwise provided by the department but only to the extent that the information is needed by those agencies to provide the services required, and they shall keep information received from the department confidential.

7. If it is established that a provision of this section would cause any of the department's programs of services or assistance to be ineligible for federal funds, the provision shall be limited or restricted to the extent which is essential to make the program eligible for federal funds. The department shall adopt, pursuant to chapter 17A, rules necessary to implement this subsection.

8. A supervised individual or former supervised individual shall be given access to the individual's own records in the custody of the department, except that records which could result in physical or psychological harm to another person or the supervised individual or adversely affect an investigation into a supervised individual's possible violation of departmental rules, shall not be disclosed without a court order. Psychiatric information may be withheld by the department if its release would jeopardize the supervised individual's treatment. Upon the supervised individual's written authorization, that information which the supervised individual has access to may be released to any third party. A reasonable fee for copying and services may be charged.

9. Regulations, procedures, and policies that govern the internal administration of the department and the judicial district departments of correctional services under chapter 905, which if released may jeopardize the secure operation of a correctional institution operation or program are confidential unless otherwise ordered by a court. These records include procedures on inmate movement and control, staffing patterns and regulations, emergency plans, internal investigations, equipment use and security, building plans, operation, and security, security procedures for inmate, staff, and visits, daily operation records, and contraband and medicine control.

These records are exempt from the public inspection requirements in section 17A.3 and section 68A.2.

10. Violation of this section is a serious misdemeanor.

11. This section does not preclude the disclosure of otherwise confidential material if it is necessary to civil or criminal court proceedings. The review of the court may, however, limit the confidential information to an in camera inspection where the court determines that the confidential nature of the information needs to be protected.

Sec. 2. Section 217A.19, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

**217A.19 ACTION FOR DAMAGES.** A person receiving services, or that person's family, victim or employer may institute a civil action for damages under chapter 25A or other action to restrain the release of confidential records set out in section 217A.18, subsection 2, which is in violation of that section, and a person, agency or governmental body proven to have released confidential records in violation of section 217A.18, subsection 2 is liable for actual damages for each violation and is liable for court costs and reasonable attorney's fees incurred by the party bringing the action.

Sec. 3. Section 217A.32, Code Supplement 1983, is amended to read as follows:

**217A.32 RECORDS OF INMATES.** The director shall keep the following record of every person committed to any of the department's institutions: Name, residence, sex, age, place of birth, occupation, civil condition, date of entrance or commitment, date of discharge, whether a discharge is final, condition of the person when discharged, the name of the institutions from



which and to which the person has been transferred, and if the person is dead, the date and cause of death. The director may permit the state libraries and the Iowa state historical department's division of historical museum and archives to copy or reproduce by any photographic, photostatic, microfilm, microcard, or other process which accurately reproduces in a durable medium and to destroy in the manner described by law the records of inmates required by this section.

Sec. 4. Section 217A.33, Code Supplement 1983, is repealed.

Sec. 5. 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 Daily Nonpareil, a newspaper published in Council Bluffs, Iowa.

Approved April 16, 1984

I hereby certify that the foregoing Act, Senate File 2082 was published in The Daily Nonpareil, Council Bluffs, Iowa on April 20, 1984 and in the Muscatine Journal, Muscatine, Iowa on April 23, 1984.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 1149

### DISCLOSURE OF SENTENCE RECONSIDERATION

*H.F. 2427*

**AN ACT** relating to disclosure of the court's decision on whether to reconsider a felon's sentence of confinement.

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

Section 1. Section 902.4, Code Supplement 1983, is amended to read as follows:

**902.4 RECONSIDERATION OF FELON'S SENTENCE.** For a period of ninety days from the date when a person convicted of a felony, other than a class "A" felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. The court shall not disclose its decision to reconsider or not to reconsider the sentence of confinement until the date reconsideration is ordered or the date the ninety-day period expires, whichever occurs first. The court's final order in the proceeding shall be delivered to the defendant personally or by certified mail. The court's decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

Approved April 27, 1984

**CHAPTER 1150**  
**ARREST WARRANTS FOR WORK RELEASE VIOLATORS**  
*H.F. 2431*

**AN ACT** relating to the issuance of arrest warrants for work release violators or escapees.

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

Section 1. Section 217A.8, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 6.** The director or the director's designee, having probable cause to believe that a person has escaped from a state correctional institution or a person released on work release has violated the conditions of the person's work release, may make a complaint before a judge or magistrate charging the violation. If it is determined from the complaint or accompanying affidavits that there is probable cause to believe that the person has escaped from a state correctional institution or violated the terms of the person's work release, the judge or magistrate shall issue a warrant for the arrest of the person.

Approved April 27, 1984

**CHAPTER 1151**  
**PUBLIC TRANSIT ASSISTANCE FUND**  
*H.F. 2432*

**AN ACT** to establish a public transit assistance fund.

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

Section 1. Chapter 601J, Code 1983, is amended by adding the following new section:  
**NEW SECTION. 601J.6 PUBLIC TRANSIT ASSISTANCE FUND ESTABLISHED.**

1. There is established a public transit assistance fund in the office of the treasurer of state. Moneys in this fund shall be expended for providing assistance to public transit for the development, improvement, and maintenance of public transit systems. Unencumbered moneys appropriated by the general assembly for the implementation of a state assistance plan shall be deposited in the public transit assistance fund. Moneys received by the department by agreements, grants, gifts, or other means from individuals, companies or other business entities, or cities and counties for the purposes stated in this section shall be credited to the public transit assistance fund.

2. The department, with the approval of the state transportation commission, may enter into agreements with public transit systems, the United States government, cities, counties, business entities, or other persons for carrying out the purposes of this section.

3. The department may accept federal funds to carry out this section. Federal funds received under this section are appropriated for the purposes set forth in the federal grants.

4. Moneys deposited in the public transit assistance fund are not subject to sections 8.33 and 8.39.

5. Notwithstanding chapter 8, funds appropriated for public transit purposes to implement a state assistance plan shall be allocated in whole or in part to a public transit system prior to the time actual expenditures are incurred if the allocation is first approved by the department. A public transit system shall make application for advance allocations to the department specifically stating the reasons why an advance allocation is required and this allocation shall be included in the total to be audited.

Approved April 27, 1984

**CHAPTER 1152****BAIL AND DEFERRED JUDGMENT***H.F. 2452*

**AN ACT** relating to the requirement of bail during and after a period of deferred judgment and to the discharge of surety bail upon the occurrence of specified conditions.

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

Section 1. Section 811.2, subsection 1, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Allailable defendants shall be ordered released from custody pending judgment or entry of deferred judgment on their personal recognizance, or upon the execution of an unsecured appearance bond in an amount specified by the magistrate unless the magistrate determines in the exercise of the magistrate's discretion, that such a release will not reasonably assure the appearance of the defendant as required or that release will jeopardize the personal safety of another person or persons. When such determination is made, the magistrate shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or deferral of judgment and the safety of another person or other persons, or, if no single condition gives that assurance, any combination of the following conditions:

Sec. 2. Section 811.2, subsection 1, paragraph d, Code Supplement 1983, is amended to read as follows:

d. Require the execution of a bail bond with sufficient surety, or the deposit of cash in lieu thereof, provided that of bond. However, except as provided in section 811.1, bail initially given shall remain remains valid until final disposition of the offense or entry of an order deferring judgment. If the amount of bail is deemed insufficient by the court before whom the offense is pending, the court may order an increase thereof of bail and the defendant must provide the additional undertaking, written or in cash, to secure his or her release.

Sec. 3. **NEW SECTION. 811.10 DISCHARGE OF SURETY.** When a defendant is admitted to bail by means of a surety bail bond pursuant to section 811.2, subsection 1, paragraph "d", the obligation of surety shall be discharged, and the surety released, upon any of the following conditions:

1. Dismissal of the charges against the defendant.
2. Judgment of acquittal against the defendant.
3. Judgment of conviction against the defendant.
4. Entry of an order deferring judgment of the defendant.
5. Entry of an order by the court which, by its terms, continues the case against the defendant for a period exceeding six months.

Sec. 4. **NEW SECTION. 811.11 BAIL AFTER DEFERRED JUDGMENT.** Upon entry of an order by the court deferring judgment, effecting a discharge of the surety as required under section 811.10, the defendant may be admitted to bail, as a condition of the deferral of judgment. Admittance to bail under this section, if required by the court, requires a new bail

undertaking by the defendant. The surety under this section is responsible only for the failure of the defendant to appear at required court appearances during the period of deferral of judgment.

Approved April 27, 1984

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**CHAPTER 1153**  
**ASSESSMENT OF COAL MINING PENALTIES**  
*H.F. 531*

**AN ACT** to revise the procedures for the assessment of penalties under the laws regulating coal mining.

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

Section 1. Section 83.15, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION.** A person who violates a permit condition, any provision of this chapter or a rule or order issued under this chapter shall be subject to a civil penalty not to exceed five thousand dollars per day for each day of violation. If any violation results in the issuance of a cessation order, a civil penalty shall be imposed. Such penalty shall not exceed five thousand dollars for each day of violation.

In determining the amount of the penalty, consideration shall be given to the operator's history of previous violations at the particular mining operation, the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public, whether the operator was negligent, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of the violation.

An operator who fails to correct a violation for which a notice or order has been issued within the period permitted for its correction shall be required to pay a civil penalty of not less than seven hundred fifty dollars for each day during which the failure or violations continue.

**NEW SUBSECTION.** Where a notice or order has been issued, the department may assess a recommended penalty in accordance with a schedule established by rule. The person to whom the notice or order was issued may submit written information within fifteen days of the notice or order to be considered by the department. The department shall serve the assessment by certified mail return receipt requested within thirty days of issuance of the notice or order. The department may reassess any penalty if necessary to consider facts not reasonably available on the date of issuance of the assessment and may provide an informal conference to review the recommended penalty. A person may consent to a penalty assessment by paying the penalty without resort to judicial proceedings.

**NEW SUBSECTION.** Judicial review of any action of the department shall be in accordance with the provisions of chapter 17A.

**NEW SUBSECTION.** If a person violates a permit condition or violates a provision of this chapter, or a rule, or order issued under this chapter, the attorney general shall, at the request of the department, institute a civil action in the district court for injunctive relief or for the assessment of a civil penalty as determined by the court. If any violations result in the issuance of a cessation order under section 83.14, the department shall request the attorney general to institute a civil action in the district court for the assessment of a civil penalty. Injunctive relief to prevent or abate any violation of this chapter, permit condition, rule, or order issued under this chapter shall be available upon proof of the violation. A final order of the department is judicially enforceable and is not subject to collateral attack in any judicial proceeding if opportunity for hearing and judicial review were available to the person.

An appeal bond shall be required for any appeal of a judgment assessing a civil penalty.

Sec. 2. Section 83.15, subsections 1 and 4, Code 1983, are amended by striking the subsections.

Approved April 30, 1984

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## CHAPTER 1154

### DISPOSITION OF PROPERTY POSSESSED BY DEPARTMENT OF PUBLIC SAFETY

*H.F. 573*

**AN ACT** providing for the disposition of personal property in the possession of the department of public safety.

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

Section 1. Chapter 80, Code 1983, is amended by adding the following new section:

**NEW SECTION. DISPOSITION OF PERSONAL PROPERTY.**

1. Personal property, except for property subject to forfeiture, motor vehicles subject to sale pursuant to section 321.89, weapons subject to disposition pursuant to section 691.9, and seized property subject to disposition pursuant to chapter 809, which personal property is found or seized by, turned in to, or otherwise lawfully comes into the possession of the department of public safety and which the department does not own, shall be disposed of pursuant to this section. If by examining the property the owner or lawful custodian of the property is known or can be readily ascertained, the department shall notify the owner or custodian by certified mail directed to the owner's or custodian's last known address, as to the location of the property. If the identity or address of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property was found is sufficient notice. Publication notice may contain multiple items.

2. The department may return the property to a person if that person or the person's representative does all of the following:

a. Appears at the location where the property is located.

b. Provides proper identification.  
c. Demonstrates ownership or lawful possession of the property to the satisfaction of the department.

3. After ninety days following the mailing or publication of the notice required by this section, or if the owner or lawful custodian of the property is unknown or cannot be readily determined, or the department has not turned the property over to the owner, the lawful custodian, or the owner's or custodian's representative, the department may dispose of the property in any lawful way, including but not limited to the following:

a. Selling the property at public auction with the proceeds, less department expenses, going to the general fund of the state, however, the department shall be reimbursed from the proceeds for the reasonable expenses incurred in selling the property at the auction.

b. Retaining the property for the department's own use.

c. Giving the property to another agency of government.

d. Giving the property to an appropriate charitable organization.

e. Destroying the property.

4. Except when a person appears in person or through a representative within the time periods set by this section, and satisfies the department that the person is the owner or lawful custodian of the property, disposition of the property shall be at the discretion of the department. The department shall maintain the receipt and disposition records for all property processed under this section. Good faith compliance with this section is a defense to any claim or action at law or in equity regarding the disposition of the property.

Sec. 2. Section 691.9, Code 1983, is amended to read as follows:

#### 691.9 DEPOSIT OF AMMUNITION AND FIREARMS.

1. Ammunition and firearms which are stolen or embezzled or confiscated pursuant to a valid arrest or search warrant and for which lawful possession is not established or for which lawful title cannot be ascertained pursuant to chapter 809 shall be forwarded to the state criminalistics laboratory for deposit by the law enforcement agency having possession of such items. Ammunition and firearms which were used in the perpetration or attempted perpetration of a criminal offense and are owned by the perpetrator of such offense shall be forfeited to the state, and shall be deposited with the state criminalistics laboratory if no longer required in a criminal action for evidentiary purposes. Ammunition and firearms forfeited shall become the property of the state and shall be disposed of as provided for in subsection 3.

2. Ammunition After being retained for at least one year, ammunition and firearms other than those forfeited to the state, which come into the possession of the state criminalistics laboratory may, at the discretion of the commissioner of public safety, after being retained for at least one year, be destroyed, retained or exchanged with other public agencies. Ammunition and firearms forfeited to the state may be destroyed, retained, given to or exchanged with other public agencies, within or without the state.

3. Ammunition and firearms subject to this section shall be disposed of as provided in subsection 3, and shall not be subject to the provisions of chapter 556, or any other provisions of law relating to abandoned property.

3. Ammunitions and firearms acquired pursuant to subsection 1 or 2 shall be disposed of, as follows:

a. Ammunition and firearms which are suitable for use in law enforcement may be given to or exchanged with any public agency.

b. Ammunition and firearms which are not illegal or which are not offensive weapons as defined by section 724.1 may be sold at public auction. The sale of ammunition or firearms pursuant to this paragraph shall be made only to federally-licensed firearms dealers or to persons who have a permit to purchase the firearms. Persons who have not obtained a permit may bid on firearms at the public auction. However, persons who bid without a permit must

post a fifty percent of purchase price deposit with the commissioner on any winning bid. No transfer of firearms may be made to a person bidding without a permit until such time as the person has obtained a permit. If the person is unable to produce a permit within two weeks from the date of the auction, the person shall forfeit the fifty percent deposit to the department. All proceeds of a public auction pursuant to this paragraph, less department expenses reasonably incurred, shall be deposited in the general fund of the state. The department shall be reimbursed from the proceeds for the reasonable expenses incurred in selling the property at the auction.

c. Firearms and ammunition which are not given to or exchanged with a public agency, or sold, or retained by the department of public safety for law enforcement use, shall be destroyed by the department of public safety.

4. If any person claims to be entitled to any property which may have been disposed of under this section, he the person may file a claim for the value of such the property as provided in chapter 25A.

5. Notwithstanding chapter 25A, the state of Iowa, and employees of the state shall not be held liable for a claim arising from the retention, gift, or sale of ammunition or firearms done pursuant to this section.

Approved April 30, 1984

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## CHAPTER 1155

### CARRYBACK OF LOSSES CLAIMS

*H.F. 2331*

**AN ACT** relating to the filing of refund claims resulting from the carryback of net operating losses or net capital losses for tax years ending on or before December 31, 1978 for personal and corporate and franchise tax purposes.

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

Section 1. Section 422.73, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 3.** A credit, action or claim for refund arising or existing from a carryback of a net operating loss or net capital loss from tax years ending on or before December 31, 1978 is not allowed, unless the action or claim was received by the department prior to July 1, 1984. This subsection prevails over any other statutes authorizing income tax refunds or claims.

Approved April 30, 1984



**CHAPTER 1156**  
**BOARD OF PAROLE**  
*H.F. 2378*

**AN ACT** relating to the board of parole.

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

Section 1. Section 908.7, Code Supplement 1983, is amended to read as follows:

908.7 ACTION BY PAROLE BOARD. Upon a finding of probable cause to believe that a parole violation has occurred, the board of parole or a panel of three or more members of the board shall proceed without unreasonable delay to hear the charge of parole violation. Upon receipt of the record prepared and forwarded by the liaison officer, the board or panel of three or more members of the board shall fix a time and place for the hearing and shall notify in writing the alleged violator, the alleged violator's attorney of record, if any, and the Iowa department of corrections of the hearing and the claimed violation of parole. The alleged violator shall be given an opportunity to be heard by the board or panel of three or more members of the board under rules the board shall adopt. The inquiry shall be limited to the following two matters:

1. Did the alleged parole violation actually occur?
2. If the violation did occur, should the violator's parole be revoked?

If the board or panel of three or more members of the board determines that the parole should be revoked, it shall make an order revoking the parole. The board or panel of three or more members of the board shall furnish the violator with a written statement of the facts relied upon to establish a violation and the reasons for revoking parole.

Sec. 2. Section 908.8, Code Supplement 1983, is amended to read as follows:

908.8 PROCEEDING WITHOUT ARREST OR PROBABLE CAUSE. The board of parole may receive from a parole officer a charge or complaint of parole violation against any parolee and the board or a panel of three or more members of the board may proceed to a hearing on the charge in any case where the alleged violator has not been arrested or has been arrested and discharged by the liaison officer on a finding of no probable cause. The presence of the alleged violator at the hearing shall be secured by summons. A statement of the charge against the alleged violator shall accompany the summons, and the parole officer shall give the alleged violator assistance as needed to get to the place of the hearing. Travel expenses, if any, shall be paid by the board. If the alleged violator fails without good cause to appear as commanded by the summons, the failure shall be considered a violation of the parole, and the board or panel of three or more members of the board may proceed to revoke parole. If the parole is revoked, the board or panel of three or more members of the board shall issue a warrant for the person's arrest and return to the custody of the Iowa department of corrections. Upon the person's return to custody, the board or panel of three or more members of the board, upon request, shall give the person an opportunity to present any matters in defense or mitigation of the conduct.

Sec. 3. Section 904.3, Code 1983, is repealed.

Approved April 30, 1984

**CHAPTER 1157**  
**USED OIL REGULATION**  
*H.F. 2393*

**AN ACT** relating to the authority of the department of water, air and waste management over used oil.

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

Section 1. Section 455B.411, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION. 6.** "Lubricating oil" means the fraction of crude oil or re-refined oil which is sold for purposes of reducing friction in an industrial or mechanical device.

**NEW SUBSECTION. 7.** "Recycled oil" means used oil which is reused, following its original use, for any purpose, including the purpose for which the oil was originally used. Recycled oil includes oil which is refined, reclaimed, burned, or reprocessed.

**NEW SUBSECTION. 8.** "Re-refined oil" means used oil from which the physical and chemical contaminants acquired through previous use have been removed through a refining process.

**NEW SUBSECTION. 9.** "Used oil" means oil which has been refined from crude oil, has then been used, and as a result of the use, is contaminated by physical or chemical impurities.

Sec. 2. Section 455B.412, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 5.** Notwithstanding section 455B.420, adopt rules regulating the use of recycled oil for the purpose of road oiling, dust control, or weed control necessary to protect public health and the environment. The rules adopted shall be limited to addressing the following:

a. Analysis of oils by those persons supplying the oils prior to their use for road oiling, dust control or weed control. This analysis shall be for polychlorinated biphenyl, flashpoints, and lead.

b. Notification by the person supplying the oils of the results of analysis required to the person to whom the oils are supplied or delivered and the department at the time of delivery or prior to application of oils for road oiling, dust control or weed control.

c. Establishing maximum levels of contaminants allowed in oils used for the purpose of road oiling, dust control or weed control and prohibiting the use of oils containing contaminants in excess of maximum allowable levels for such purposes.

d. Requirements for persons supplying oils for the mitigation and cleanup of contamination posing a threat to public health and the environment resulting from oils applied for road oiling, dust control or weed control.

Approved April 30, 1984

**CHAPTER 1158**  
**REGULATION OF HAZARDOUS WASTE**  
*S.F. 2214*

**AN ACT** relating to the regulation of hazardous waste and subjecting violators to a civil penalty.

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

Section 1. Section 455B.103, subsection 8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Conduct investigations of complaints received directly or referred by the commission created in section 455B.104 or ~~such~~ other investigations deemed necessary. While conducting an investigation, the executive director may enter at any reasonable time in and upon any private or public property, ~~except private dwellings,~~ to investigate any actual or possible violation of the ~~provisions~~ of this chapter or the rules or standards adopted under this chapter. However, the owner or person in charge shall be notified.

Sec. 2. Section 455B.411, subsection 2, paragraph a, subparagraph (2), Code 1983, is amended to read as follows:

(2) Poses a substantial ~~danger present or potential hazard~~ to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. "Hazardous waste" may include but is not limited to wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives.

Sec. 3. Section 455B.412, subsection 3, Code 1983, is amended to read as follows:

3. Adopt rules, applicable to generators or transporters of or owners or operators of facilities for the treatment, storage, or disposal of hazardous waste listed or identified by the commission under subsection 2 of this section, as necessary to protect human health and the environment. The rules shall include establishment of a manifest system.

Sec. 4. Section 455B.413, subsection 1, Code 1983, is amended to read as follows:

1. Issue, revoke, suspend, modify or deny permits for persons owning or operating a facility for the treatment, storage or disposal of a hazardous waste listed identified by the commission under section 455B.412, subsection 2. Permits shall be issued for such a period as the commission may by rule prescribe.

Sec. 5. Section 455B.414, Code 1983, is amended to read as follows:

**455B.414 HAZARDOUS WASTE NOTIFICATION.**

1. A person who on the effective date of a rule adopted under section 455B.412, subsection 2 ~~listing identifying~~ a hazardous waste as subject to sections 455B.411 to 455B.421 is generating or transporting the listed identified hazardous waste or owns or is operating a treatment, storage or disposal facility handling the listed identified hazardous waste shall file with the executive director a notification stating the waste handled by the person and the location and a general description of the activity involving the waste. The notice shall be given within ninety days after the effective date of the rule ~~listing identifying~~ the waste.

2. Except as provided in subsection 1 of this section, a person shall not commence to transport or generate a hazardous waste listed identified by rule under section 455B.412, subsection 2 without first notifying the executive director of the proposed activity. The notice shall state the waste to be handled, and the location and a general description of the activity involving the listed identified waste.

3. When the commission amends a rule adopted under section 455B.412, subsection 2, identifying additional characteristics of hazardous waste or listing identifying an additional substance as hazardous waste, the commission may require a person to file the notification required by subsection 1 or 2 of this section.

Sec. 6. Section 455B.415, subsections 1, 2, and 4, Code Supplement 1983, is amended to read as follows:

1. Except as provided in subsections 2 and 4, a person shall not construct or operate a facility for the treatment, storage or disposal of a hazardous waste listed identified under section 455B.412, subsection 2 unless the owner or operator has obtained a permit for the facility from the executive director.

2. The owner or operator of a facility for the treatment, storage or disposal of a hazardous waste listed identified under section 455B.412, subsection 2 existing on the effective date of the rule listing the waste shall obtain a permit for the facility within six months of the effective date of the rule. A person owning or operating a facility for the treatment, storage or disposal of a hazardous waste that existed on the effective date of the rule listing identifying the waste and that is required to have a permit under sections 455B.411 to 455B.421 is considered to have a permit until such time as a final administrative determination is made if the person meets the following conditions:

- a. The person has given notice as required by section 455B.414.
- b. The person has applied for a permit.
- c. The executive director has determined that the failure to issue the permit is not the result of the failure of the applicant to furnish information reasonably required or requested to process the application.

4. A permit is not required for the storage of a hazardous waste listed identified under section 455B.412, subsection 2 when the only purpose of the storage is to accumulate for a period of up to ninety days sufficient quantities of the waste for transportation, treatment or disposal unless a permit for the storage is required under federal law.

Sec. 7. Section 455B.417, subsection 1, paragraphs a and b, Code 1983, is amended to read as follows:

a. Transport a hazardous waste listed identified under the commission's rules to a hazardous waste storage, treatment or disposal facility that is located in Iowa and that does not have a permit under section 455B.415, subsection 1.

b. Treat, store, or dispose of a hazardous waste listed identified under sections 455B.411 to 455B.421 either without having obtained a permit for the treatment, storage, or disposal under section 455B.415, subsection 1, or in violation of a material condition or requirement of a permit.

Sec. 8. Section 455B.417, subsections 3, 4, 5, and 6, Code 1983, are amended by striking the subsections and inserting in lieu thereof the following:

3. A person who violates a provision of this part or a rule, permit, or order adopted or issued under this part is subject to a civil penalty not to exceed ten thousand dollars for each violation. Each day of violation constitutes a separate violation.

Sec. 9. Section 455B.419, Code 1983, is amended to read as follows:

## 455B.419 AGRICULTURAL CHEMICALS.

1. A person farmer using or disposing of federally approved agricultural chemicals or the empty containers thereof shall of agricultural chemicals is not be in violation of sections 455B.411 to 455B.421 by reason of such the use or disposal provided that if the person farmer does both of the following:

1 a. Applies or disposes of the chemicals in accordance with the manufacturer's instructions, and.

2 b. Triple rinses each chemical container after it has been emptied and uses the rinsing as makeup water in a tankmix and applies the mix to the farmer's cropland at an application rate that does not exceed the manufacturer's instructions.

2. As used in this section, farmer means an owner or tenant of a farm unit, a member of the family of the owner or tenant, or an employee of the owner or tenant. Farmer does not include a commercial applicator of agricultural chemicals.

Approved April 30, 1984

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**CHAPTER 1159**

**DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT  
ENFORCEMENT REMEDIES**

*S.F. 2217*

**AN ACT** establishing uniform enforcement remedies for the department of water, air and waste management, and imposing civil penalties.

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

**Section 1. NEW SECTION. 455B.109 SCHEDULE OF FINES—MINOR VIOLATIONS.**

1. The commission may establish, by rule, a schedule or range of civil penalties which may be administratively assessed. The schedule shall provide procedures and criteria for the administrative assessment of penalties of not more than one thousand dollars for minor violations of this chapter or rules, permits or orders adopted or issued under this chapter. In adopting a schedule or range of penalties and in proposing or assessing a penalty, the commission and executive director shall consider among other relevant factors the following:

- a. The costs saved or likely to be saved by noncompliance by the violator.
- b. The gravity of the violation.
- c. The degree of culpability of the violator.
- d. The maximum penalty authorized for that violation under this chapter.

Penalties may be administratively assessed only after an opportunity for a contested case hearing which may be combined with a hearing on the merits of the alleged violation. Major violations, violations not fitting within the schedule, or violations which the commission determines should be referred to the attorney general for legal action shall not be governed by the schedule established under this subsection.

2. If the commission establishes a schedule for minor violations, the commission shall provide, by rule, a procedure for the screening of alleged violations to determine which cases may be appropriate for the administrative assessment of penalties. However, the screening procedure shall not limit the discretion of the department to refer any case to the attorney general for legal action.

3. A penalty shall be paid within thirty days of the date the order assessing the penalty becomes final. When a person against whom a civil penalty is assessed under this section seeks timely judicial review of an order imposing the penalty as provided under chapter 17A, the order is not final for the purposes of this section until all judicial review processes are completed. Additional judicial review may not be sought after the order becomes final. A person who fails to timely pay a civil penalty assessed by a final order of the department shall pay, in addition, interest at the rate of one and one-half percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid. The attorney general shall institute, at the request of the department, summary proceedings to recover the penalty and any accrued interest.

4. All civil penalties assessed by the department and interest on the penalties shall be deposited in the general fund of the state.

5. This section does not require the commission or the executive director to pursue an administrative remedy before seeking a remedy in the courts of this state.

Approved April 30, 1984

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## CHAPTER 1160

### REGIONAL LIBRARY FUNDS

*S.F. 176*

**AN ACT** relating to the allocation of funds to regional libraries.

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

Section 1. Section 303B.8, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**303B.8 ALLOCATION AND ADMINISTRATION OF FUNDS.**

1. Funds appropriated for the purpose of carrying out this chapter shall be allocated to regional boards by the board of trustees of the Iowa state traveling library as follows:

- Sixty percent in proportion to the population served by each regional board.
- Twenty-five percent proportioned equally among the regional boards.
- Fifteen percent in proportion to the geographic area served by each regional board.

2. All funds appropriated for the regional library system shall be administered by the regional boards.

**Sec. 2. EFFECTIVE DATE.**

1. Section 1 of this Act takes effect July 1, of the year when the allocation of appropriated funds under the allocation formula specified in section 1 of this Act at least equals the amount received by each regional board of trustees for the fiscal year beginning July 1, 1983.

2. Section 2 of this Act takes effect July 1, 1984.

Approved April 30, 1984

**CHAPTER 1161**  
**INVESTIGATORS FOR MEDICAL EXAMINERS**  
*S.F. 451*

**AN ACT** relating to enforcement of license discipline by the board of medical examiners.

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

Section 1. Section 147.103, Code 1983, is amended to read as follows:

147.103 ~~INSPECTOR~~ INVESTIGATORS. The medical examiners may appoint ~~an inspector~~ investigators, who shall not be a ~~member~~ members of the examining board, to administer and aid in the enforcement of the provisions of the law relating to those licensed to practice medicine and surgery, osteopathic medicine and surgery, and osteopathy. The amount of compensation for the ~~inspector~~ investigators shall be determined pursuant to chapter 19A.

Investigators authorized by the board of medical examiners have the powers and status of peace officers when enforcing this chapter and chapters 147A, 148, 148C, 150, 150A, and 258A.

Approved April 30, 1984

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**CHAPTER 1162**  
**VALUE OF PROPERTY TAKEN BY THEFT OR FRAUD**  
*S.F. 505*

**AN ACT** relating to the value of property for purposes of certain crimes and certain penalties.

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

Section 1. Section 714.3, Code 1983, is amended to read as follows:

714.3 VALUE. The value of property is its ~~normal market or exchange value within the community~~ highest value by any reasonable standard at the time that it is stolen. Reasonable standard includes but is not limited to market value within the community, actual value, or replacement value.

PARAGRAPH DIVIDED. If money or property is stolen by a series of two or more acts from the same person or location, or from different persons by a series of two or more acts which occur in approximately the same location or time period so that the thefts are

attributable to a single scheme, plan or conspiracy, ~~such~~ these acts may be considered a single theft and the value may be the total value of all the property stolen.

Sec. 2. Section 714.14, Code 1983, is amended to read as follows:

714.14 VALUE FOR PURPOSES OF FRAUDULENT PRACTICES. The value of property or service is its ~~normal market or exchange value, if any, within the community highest value by any reasonable standard~~ at the time the fraudulent practice is committed. Reasonable standard includes but is not limited to market value within the community, actual value, or replacement value.

If money or property or service is obtained by a series of two or more acts from the same person or location, or from different persons by a series of two or more acts which occur in approximately the same location or time period so that the fraudulent practices are attributable to a single scheme, plan, or conspiracy, ~~such~~ these acts may be considered as a single fraudulent practice and the value may be the total value of all money, property, and service involved.

Approved April 30, 1984

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**CHAPTER 1163**  
COLLECTION OF FINES AND PENALTIES  
*S.F. 2104*

**AN ACT** relating to the collections of fines and penalties by a county attorney.

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

Section 1. Section 96.11, subsection 7, paragraph b, subparagraph (3), Code Supplement 1983, is amended to read as follows:

(3) Information obtained from an employing unit or individual in the course of administering this chapter and initial determinations made by the department's representative under section 96.6, subsection 2 as to benefit rights of an individual shall not be used in any action or proceeding except in a contested case proceeding or judicial review under the provisions of chapter 17A. However, the department shall make information, which is obtained from an employing unit or individual in the course of administering this chapter and which relates to the employment and wage history of the individual, available to a county attorney for the county attorney's use in the performance of duties under section 331.756, subsection 5. Information in the department's possession that may affect a claim for benefits or a change in an employer's rating account shall be made available to the affected parties or their legal representatives. ~~Such~~ The information may be used by the affected parties in a proceeding under this chapter to the extent necessary for the proper presentation or defense of a claim.

Sec. 2. Section 331.756, subsection 5, Code Supplement 1983, is amended to read as follows:



5. Enforce all forfeited bonds and recognizances and prosecute all proceedings necessary for the recovery of debts, revenues, moneys, fines, penalties, and forfeitures accruing to the state or the county or to a school district or road district in the county, and all suits in the county against public service corporations which are brought in the name of the state. To assist in this duty, the county attorney may procure professional collection services provided by persons or organizations which are generally considered to have knowledge and special abilities which are not generally available to state or local government.

Approved April 30, 1984

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## CHAPTER 1164

### IOWA PRODUCT DEVELOPMENT CORPORATION

S.F. 2063

**AN ACT** relating to the Iowa product development corporation Act.

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

Section 1. Section 28.83, subsection 3, Code Supplement 1983, is amended to read as follows:

3. The board of directors shall annually elect one member as chairperson and one member as secretary. The board may elect other officers of the corporation as necessary. Members ~~shall not receive compensation but are entitled to receive forty dollars per diem for each day spent in performance of duties and shall be reimbursed for necessary expenses incurred in the performance of duties from funds appropriated to the Iowa development commission.~~

Sec. 2. Section 28.86, Code Supplement 1983, is amended to read as follows:

28.86 **PRESIDENT.** The board of directors shall appoint a president of the corporation who shall serve at the pleasure of the board and shall receive the compensation determined by the board. The president is a state employee. The president shall not be a member of the board. The president ~~shall be~~ is the chief administrative and operational officer of the corporation and shall direct and supervise the administrative affairs and the general management of the corporation. The president may employ other employees as designated by the board. The president shall provide copies of all minutes, documents, and other records of the corporation and shall provide a certificate which attests to truthfulness of the copies, if requested. Persons dealing with the corporation may rely upon the certificates. The president shall keep a record of all proceedings, documents, and papers filed with the corporation.

Sec. 3. Section 28.88, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Notwithstanding the requirements of chapter 28A, relating to open meetings, and chapter 68A, relating to examination of public records, the corporation shall keep as confidential those items on the application for financial aid that the applicant has specifically requested to be held in confidence. These items shall remain confidential until the applicant says otherwise or the corporation determines the items no longer need to be held confidential.

Sec. 4. Section 28.89, Code Supplement 1983, is amended to read as follows:

28.89 IOWA PRODUCT DEVELOPMENT CORPORATION FUND. There is created an "Iowa product development corporation fund". All funds of the corporation including the proceeds from the issuance of notes or sale of bonds under this division, any funds appropriated from the general fund to the corporation, and other income derived from the exercise of authority powers granted to the corporation under this division shall be paid ~~to the treasurer of state as an agent of the corporation and the treasurer shall deposit the amounts in~~ into the Iowa product development corporation fund notwithstanding section 12.10. The money in the Iowa product development corporation fund shall be paid out by warrants signed by the treasurer of state on requisition of the president of the corporation on the order of the person authorized by the corporation. The money in the Iowa product development corporation fund shall be used for repayment of notes and bonds issued under this division, and the extension of financial aid granted by the corporation under this division, and the amount remaining may be used for the payment of the administrative and overhead costs of the corporation to the extent required. Notwithstanding section 8.33, no part of this fund shall revert at or after the close of a fiscal year unless otherwise provided by the general assembly, but shall remain in the fund and appropriated for the purposes of this division. The board shall seek to repay the state for general fund appropriations by recommending to the general assembly reversions from income received from successful ventures. The board shall recommend such action at any time when the revenue available to the board is deemed sufficient to continue existing operations.

Sec. 5. Section 28.90, Code Supplement 1983, is amended to read as follows:

28.90 PRODUCT DEVELOPMENT CORPORATION NOTES. The corporation may issue Iowa product development corporation fund notes, the principal and interest of which shall be payable solely from the Iowa product development corporation fund established by this division. The fund notes of each issue shall be dated, shall mature at times not exceeding ten years from their dates of issue, and may be made redeemable before maturity, at the option of the corporation, at prices and under terms and conditions as determined by the corporation. The corporation shall determine the form and manner of execution of the fund notes, including any interest coupons to be attached, and shall fix the denominations and the places of payment of principal and interest, which may be any financial institution within or without the state or any agent, including the lender. If an officer whose signature or a facsimile of whose signature appears on fund notes or coupons ceases to be that officer before the delivery of the notes or coupons, the signature or facsimile is valid and sufficient for all purposes the same as if the officer had remained in office until delivery. The fund notes may be issued in coupon or in registered form, or both, as the corporation determines, and provision may be made for the registration of coupon fund notes as to principal alone and also as to both principal and interest, and for the conversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the interchange of registered and coupon fund notes. Fund notes shall bear interest at rates as determined by the corporation and may be sold in a manner, either at public or private sale, and for a price as the corporation determines to be best to effectuate the purposes of the housing assistance Iowa product development corporation fund. The proceeds of fund notes shall be used solely for the purposes for which issued and shall be disbursed in a manner and under restrictions as provided in this division and in the resolution of the corporation providing for their issuance. The corporation may provide for the replacement of fund notes which become mutilated or are destroyed or lost.

Sec. 6. Section 28.93, Code Supplement 1983, is amended to read as follows:

28.93 AUDITS. The auditor of state shall audit the books and accounts of the corporation at least semi-annually. One audit shall be conducted for the preceding fiscal year on or after July 1 of each fiscal year. The results of the yearly audit shall be certified and turned over submitted to the governor no later than July ~~30~~ December 31 of each fiscal year.

Approved May 2, 1984

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**CHAPTER 1165**  
COUNTY OF LEGAL SETTLEMENT  
S.F. 2091

**AN ACT** relating to the acquisition of legal settlement by persons hospitalized in or receiving treatment at a state mental health institute or state hospital-school and by institutionalized, emancipated, and other minors.

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

Section 1. Section 252.16, Code 1983, is amended to read as follows:

252.16 SETTLEMENT—HOW ACQUIRED. A legal settlement in this state may be acquired as follows:

1. ~~Any A~~ person continuously residing in ~~any~~ a county in this state for a period of one year acquires a settlement in that county except as provided in subsection 7.

2. ~~Any A~~ person having acquired a settlement in ~~any~~ a county of this state shall not acquire a settlement in any other county until ~~such the person shall have~~ has continuously resided in ~~said the other~~ county for a period of one year except as provided in subsection 7.

3. A person who is an inpatient, a resident, or an inmate of or is supported by an institution whether organized for pecuniary profit or not or an institution supported by charitable or public funds in a county in this state shall does not acquire a settlement in the county unless the person before becoming an inpatient, a resident, or an inmate in the institution or being supported by an institution has a settlement in the county. A minor child residing in an institution assumes the settlement of ~~his the child's~~ the child's custodial parent as prescribed in subsections 5 and 6. Settlement of the minor child changes with the settlement of ~~his the child's~~ the child's custodial parent, except that the child retains the settlement that ~~his the child's~~ the child's custodial parent has on the child's eighteenth birthday until he the child is discharged from the institution, at which time he the child acquires his the child's own settlement, as provided in this section by continuously residing in a county for one year.

4. Minor children who reside with both parents take the settlement of the parents. If the minor child resides on a permanent basis with only one parent or a guardian, the minor child takes the settlement of the parent or guardian with whom the child resides.

An emancipated minor acquires a legal settlement in the minor's own right. An emancipated minor is one who is absent from the minor's parents with the consent of the parents, is

self-supporting, and has assumed a new relationship inconsistent with being a part of the family of the parents.

A minor, placed in the care of a public agency or facility as custodian or guardian, takes the legal settlement that the parents had upon severance of the parental relationship, and retains that legal settlement until a natural person is appointed custodian or guardian at which time the minor takes the legal settlement of the natural person or until the minor person attains the age of eighteen and acquires another legal settlement in the person's own right.

5. Any A person with settlement in this state who enlists in or is inducted into the military or naval becomes a member on active duty of an armed service of the United States shall retain such retains the settlement during the period of his military or naval service active duty. Any A person without settlement in this state who is serving in said military or naval a member on active duty of an armed service of the United States within the borders of this state shall does not acquire settlement during the period of such service active duty.

6. The provisions of subsections Subsections 1, 2, and 3, and 7 of this section shall do not apply to any a blind person who is receiving assistance under the laws of this state. Any such A blind person receiving assistance who has resided in any one county of this state for a period of six months shall have acquired acquires legal settlement for support as provided in this chapter.

7. A person hospitalized in or receiving treatment at a state mental health institute or state hospital-school does not acquire legal settlement in the county in which the institute or hospital-school is located unless the person is discharged from the institute or hospital-school, continuously resides in the county for a period of one year subsequent to the discharge, and during that year is not hospitalized in and does not receive treatment at the institute or hospital-school.

Sec. 2. Section 252.22, unnumbered paragraph 1, Code 1983, is amended to read as follows:

When relief is granted to a poor person having a settlement in another county, the auditor shall at once by mail notify the auditor of the county of his settlement of such that fact, and, within fifteen days after receipt of such the notice, such the auditor shall inform the auditor of the county granting relief if the claim of settlement is disputed. If it is not, the poor person, at the request of the auditor or board of supervisors of the county of his settlement, may be maintained where he the person then is at the expense of such the county of legal settlement, and without affecting his legal settlement as provided in section 252.16.

Approved May 2, 1984

**CHAPTER 1166****COMMITMENT TO STATE SCHOOL BEYOND AGE EIGHTEEN***S.F. 2101*

**AN ACT** relating to the commitment of children beyond their eighteenth birthday to the state training school.

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

Section 1. Section 232.53, Code 1983, is amended to read as follows:

**232.53 DURATION OF DISPOSITIONAL ORDERS.**

1. Any dispositional order entered by the court pursuant to section 232.52 shall remain in force for an indeterminate period or until the child becomes eighteen years of age unless otherwise specified by the court or unless sooner terminated pursuant to the provisions of section 232.54. No dispositional order made under section 232.52, subsection 2, paragraph "e" shall remain in force longer than the maximum possible duration of the sentence which may be imposed on an adult for the commission of the act which the child has been found by the court to have committed.

2. All dispositional orders 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. 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.

3. Notwithstanding section 242.13, a child committed to the training school subsequent to the child attaining the age of seventeen years and six months and prior to the child's eighteenth birthday may be held at the school beyond the child's eighteenth birthday pursuant to subsection 2 provided that the training school makes application to and receives permission from the committing court. This extension shall be for the purpose of completion by the child of a course of instruction established for the child pursuant to section 242.4 and cannot extend for more than one year beyond the date of disposition.

3 4. Any person supervising but not having custody of the child pursuant to such an order shall file a written report with the court at least every six months concerning the status and progress of the child.

Any agency, facility, institution or person to whom custody of the child has been transferred pursuant to such order shall file a written report with the court at least every six months concerning the status and progress of the child.

Approved May 2, 1984

**CHAPTER 1167**  
**TRANSFERS OF FIDUCIARY BANK ACCOUNTS**  
*S.F. 2233*

**AN ACT** providing for the transfer of fiduciary accounts among affiliates and between independent banks.

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

Section 1. NEW SECTION. 524.1007 SUCCESSION OF FIDUCIARY ACCOUNTS TO AN AFFILIATE.

1. A state bank authorized to act in a fiduciary capacity may enter into an agreement for the succession of fiduciary accounts with any of its affiliates which are authorized to act in a fiduciary capacity. In the agreement the succeeding affiliate may agree to succeed the relinquishing affiliate as a fiduciary to those fiduciary accounts which are designated in the agreement. The designation of accounts may be by general class or description and may include fiduciary accounts subject and not subject to court administration and fiduciary accounts to arise in the future under wills, trusts, court orders, or other documents under which the relinquishing affiliate is named as a fiduciary or is named to become a fiduciary upon the death of a testator or settlor or upon the happening of any other subsequent event. The agreement shall provide that the succeeding affiliate maintain one or more employees or agents at the office of the relinquishing affiliate in order to facilitate the continued servicing of the designated fiduciary accounts. The relinquishing affiliate shall mail a notice of the succession to all persons having an interest in a fiduciary account at the then last known address, and shall publish a notice of the succession to fiduciary accounts in a newspaper published in the county of the principal place of business of the relinquishing affiliate. After the publication, the succeeding affiliate shall, without further notice, approval or authorization, succeed to the relinquishing affiliate as to the fiduciary accounts and the fiduciary powers, rights, privileges, duties, and liabilities for the fiduciary accounts. On the effective date of the succession to fiduciary accounts, the relinquishing affiliate is released from the fiduciary duties under the fiduciary accounts and shall discontinue its exercise of trust powers to the fiduciary accounts. This subsection does not absolve a bank or affiliate from liabilities arising out of a breach of fiduciary duty occurring prior to the effective date of the succession to fiduciary accounts.

2. Within sixty days after the mailing and publication of the notice, a person with an interest in a fiduciary account included within the notice and agreement required by subsection 1 may apply to the district court in the county in which the notice is published for the appointment of a new fiduciary on the ground that the succeeding fiduciary will adversely affect the administration of the fiduciary account. After notice to all interested parties and a hearing on the issues, the court may appoint a new fiduciary to replace the succeeding fiduciary if it finds that the substitution of the succeeding fiduciary will adversely affect the administration of the account and that the appointment of a new fiduciary would be in the best interests of the beneficiaries of the fiduciary account. This subsection is in addition to section 633.65 governing the removal of a fiduciary.

3. For purposes of subsection 1, "affiliate" means another state bank or a national bank located in this state and organized under 12 U.S.C. secs. 21 et seq. to engage generally in the banking business. A state bank and another bank shall not be deemed "affiliates" unless both are under the common ownership of a bank holding company as defined in section 524.1801 that owns at least eighty percent of the voting shares of each of the two banks.

4. The privilege extended to a state bank by this section is also extended on the same terms and conditions to a national bank located in this state and organized under 12 U.S.C. secs. 21 et seq. to engage generally in the banking business.

**Sec. 2. NEW SECTION. 524.1008 SUCCESSION OF FIDUCIARY ACCOUNTS TO AN INDEPENDENT BANK.**

1. A state bank authorized to act in a fiduciary capacity may enter into an agreement for the succession of fiduciary accounts with one or more other state or national banks that are located in this state and authorized to act in a fiduciary capacity. In the agreement the succeeding bank may agree to succeed the relinquishing bank as a fiduciary with respect to those fiduciary accounts which are designated in the agreement. The designation of accounts may be by general class or description and may include fiduciary accounts subject and not subject to court administration and fiduciary accounts to arise in the future under wills, trusts, court orders, or other documents under which the relinquishing bank is named as a fiduciary or is named to become a fiduciary upon the death of a testator or settlor or upon the happening of any other subsequent event. The agreement shall provide either (a) that the succeeding bank maintain one or more employees or agents at the office of the relinquishing bank in order to facilitate the continued servicing of the designated fiduciary accounts, or (b) that the relinquishing bank act as an agent of the succeeding bank with respect to the fiduciary accounts that are subject to the agreement, and the relinquishing bank as an agent may perform services other than fiduciary services with respect to those accounts. If the relinquishing bank is an agent under alternative (b) above, then the relinquishing bank shall disclose to its customers that it is acting as an agent of the succeeding bank. The relinquishing bank shall mail a notice of the succession to all persons having an interest in a fiduciary account at their last known address, and shall publish a notice of the succession to fiduciary accounts in a newspaper published in the county of the principal place of business of the relinquishing bank. After the publication, the succeeding bank shall, without further notice, approval or authorization succeed the relinquishing bank as to the fiduciary accounts and the fiduciary powers, rights, privileges, duties, and liabilities for the fiduciary accounts. On the effective date of the succession to fiduciary accounts, the relinquishing bank is released from fiduciary duties under the fiduciary accounts and shall discontinue its exercise of trust powers to the fiduciary accounts. This subsection does not absolve a relinquishing bank from liabilities arising out of a breach of fiduciary duty occurring prior to the succession of fiduciary accounts.

2. Within sixty days after the mailing and publication of the notice, a person with an interest in a fiduciary account included within the notice and agreement required by subsection 1 may apply to the district court in the county in which the notice is published for the appointment of a new fiduciary on the ground that the succeeding fiduciary will adversely affect the administration of the fiduciary account. After notice to all interested parties and a hearing on the issues, the court may appoint a new fiduciary to replace the succeeding fiduciary if it finds that the substitution of the succeeding fiduciary will adversely affect the administration of the account and that the appointment of a new fiduciary would be in the best interests of the beneficiaries of the fiduciary account. This subsection is in addition to section 633.65 governing the removal of a fiduciary.

3. A state bank or national bank that is owned or controlled by a bank holding company as defined in section 524.1801 shall not be a party to an agreement authorized by subsection 1. A bank shall not agree to relinquish fiduciary accounts to or act as an agent of more than one succeeding bank at any one time.

4. The privilege of succeeding to fiduciary accounts that is extended to a state bank by subsection 1 is also extended on the same terms and conditions to a national bank located in this state and organized under 12 U.S.C. secs. 21 et seq. to engage generally in the banking business.

Approved May 2, 1984

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**CHAPTER 1168**  
**COUNTY LIBRARIES**  
*S.F. 2122*

**AN ACT** relating to county libraries.

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

Section 1. Section 358B.13, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

**358B.13 MAINTENANCE EXPENSE ON PROPORTIONATE BASIS.** The maintenance of a county library shall be on the basis of each participating unit bearing its share of the total cost in proportion to its population as compared to the total population of the county library district. The board of library trustees shall make an estimate of the amount necessary for the maintenance of the county library, the sources of direct library revenue, and the amount to be contributed from taxes or other revenues by the participating city or county and hold a hearing on the estimate after notice of the hearing is published as provided in section 331.305. On or before January 10 of each year, the board of library trustees shall transmit the estimate in dollars to the board of supervisors and to the cities participating in the district. The unincorporated area of each county in the library district shall be considered as a separate supporting unit. Each board of supervisors shall review the estimate and appropriate for library purposes its share in the county rural services fund budget. Each city council shall review the estimate for the city and appropriate for library purposes its share in the city general fund budget. Each participating city or county shall contribute its share from taxation or from other sources available for library purposes on an equitable basis. With approval of a city council, the county treasurer may withhold a reasonable portion of the taxes collected for a city to meet the city's contribution for library purposes and deliver a receipt to the city clerk for the amount withheld.

Sec. 2. Section 358B.16, Code 1983, is amended by adding the following new unnumbered paragraphs:



**NEW UNNUMBERED PARAGRAPH.** A county may withdraw from the district after a majority of the voters of the unincorporated area of the county voting on the issue favor the withdrawal. The board of supervisors shall call for the election which shall be held at the next general election.

**NEW UNNUMBERED PARAGRAPH.** A county library district may be terminated upon a majority vote of the electors of the unincorporated area of the county and the cities included in the county library district. The election shall be held upon motion of the board of supervisors and simultaneously with a general election.

**NEW UNNUMBERED PARAGRAPH.** A city or county election shall not be called until a hearing has been held on the proposal to submit a proposition of withdrawal to an election. A hearing may be held only after public notice published as provided in section 362.3 in the case of a city or section 331.305 in the case of a county. A copy of the notice submitted for publication shall be mailed to the county library on or before the date of publication. The proposal presented at the hearing must include a plan for continuing adequate library service with or without all participants and the respective allocated costs and levels of service shall be stated. At the hearing, any interested person shall be given a reasonable time to be heard, either for or against the withdrawal or the plan to accompany it.

**NEW UNNUMBERED PARAGRAPH.** An election for withdrawal from or termination of a county library district shall not be held more than once each four years.

Approved May 2, 1984

**CHAPTER 1169**  
**MOTOR VEHICLE CERTIFICATES OF TITLE**  
*S.F. 2188*

**AN ACT** relating to the period of time in which a motor vehicle dealer must apply for a title certificate for a foreign registered vehicle acquired for resale and allowing a county treasurer to issue, under certain circumstances, a restricted certificate of title to a person who was issued a junking certificate.

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

Section 1. Section 321.48, subsection 2, Code Supplement 1983, is amended to read as follows:

2. Any A 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~~. The dealer shall be is exempt from the payment of any and all registration fees for ~~such~~ the vehicle. ~~Such~~ The application for certificate of title shall be made within ~~forty-eight hours~~ fifteen days after ~~said~~ the vehicle comes within the border of the state.

Sec. 2. Section 321.52, subsection 3, Code 1983, is amended to read as follows:

3. When a vehicle for which a certificate of title is issued is junked or dismantled by the owner, the owner shall detach the registration plates and surrender the plates to the county treasurer, unless the plates are properly assigned to another vehicle. The owner shall also surrender the registration receipt and certificate of title to the county treasurer. Upon surrendering the certificate of title, the county treasurer shall issue to such person, without fee, a junking certificate, which shall authorize the holder to possess, transport or transfer ownership of the junked vehicle by endorsement of the junking certificate. A The county treasurer shall hold the surrendered certificate of title, registration receipt and, if applicable, the registration plates for a period of fourteen days following the issuance of a junking certificate under this subsection. Within the fourteen-day period the person who was issued the junking certificate and to whom the vehicle was titled or assigned may surrender to the county treasurer the junking certificate, and upon the person's payment of appropriate fees and taxes and payment of any credit for registration fees received by the person for the vehicle under section 321.46, subsection 3, the county treasurer shall issue to the person a restricted certificate of title for the vehicle. After the expiration of the fourteen-day period, a certificate of title shall not again be issued for the junked vehicle for which a junking certificate is issued. The county treasurer shall cancel the record of the vehicle and forward the certificate of title to the department.

Approved May 2, 1984

**CHAPTER 1170**  
**NATIONAL GUARD PAY STANDARDS**  
*S.F. 2212*

**AN ACT** relating to pay scale standards for members of the Iowa national guard.

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

Section 1. Section 29A.27, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Officers and enlisted men persons while in active state service shall receive the same pay and allowances as are paid for the same rank or grade for service in the armed forces of the United States. ~~When in active state service, except when such service is for the purpose of training, enlisted men shall receive additional pay in the sum of five dollars per day; provided, however, that no employee of the state who receives pay from the state as such employee during said active state service shall receive the additional pay herein provided for enlisted men. However, a person shall not be paid at a base rate of pay of less than fifty dollars per calendar day of active state service.~~

Approved May 2, 1984

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**CHAPTER 1171**  
**AUTHORITY OF LEGISLATIVE COMMITTEE**  
*S.F. 2059*

**AN ACT** relating to the authority of a standing committee of the general assembly to call upon a state agency or political subdivision for assistance and information.

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

Section 1. Section 2.15, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A standing committee may call upon any department, agency or office in the state, or any political subdivision of the state, for such information and assistance as may be needed in the performance of its duties and the information and assistance shall be furnished to the extent that they are within the resources and authority of the department, agency, office or political subdivision. This paragraph does not require the production or opening of any records which are required by law to be kept private or confidential.

Approved May 2, 1984

**CHAPTER 1172**  
**ACCESS TO RECORDS BY LEGISLATIVE FISCAL BUREAU**  
*S.F. 2311*

**AN ACT** relating to access to records by the legislative fiscal bureau.

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

Section 1. Section 2.52, Code 1983, is amended to read as follows:

2.52 ACCESS. The director and his designated agents and employees of the legislative fiscal bureau shall at all times have access to all state offices, departments, agencies, boards, bureaus, and commissions of the state, its political subdivisions and private organizations providing services to individuals under contracts with state agencies, and to the books, records, and other instrumentalities and properties used in the performance of their statutory duties, and all state or contractual arrangements. All offices, departments, agencies, boards, bureaus, and commissions of the state and its political subdivisions and such private organizations shall co-operate with the director in the performance of the foregoing duty, and shall make available to him such books, records, instrumentalities, and property.

If the information sought by the legislative fiscal bureau is required by law to be kept confidential, the bureau shall have access to the information, but shall maintain the confidentiality of the information and is subject to the same penalties as the lawful custodian of the information for dissemination of the information. However, the legislative fiscal bureau shall not have access to tax return information except for individual income tax sample data as provided in section 422.72, subsection 1.

Approved May 2, 1984

**CHAPTER 1173**  
**PENALTIES FOR CERTAIN TAXES**  
*H.F. 2507*

**AN ACT** relating to the penalties for certain taxes including cigarette and tobacco taxes, state motor vehicle fuel taxes, freight line and equipment car mileage taxes, income taxes, withholding taxes, franchise taxes, inheritance and estate taxes, sales and use taxes, and generation skipping transfer taxes.

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

Section 1. Section 98.28, Code 1983, is amended to read as follows:

**98.28 ASSESSMENT OF TAX BY DEPARTMENT.** If after any audit, examination of records, or other investigation the department finds that any person has sold cigarettes, without stamps affixed thereto as required by this division or that any person has failed to pay at least ninety percent of any tax imposed upon the person, the department shall fix and determine the amount of tax due, and shall assess the tax against the person, together with a penalty, which is imposed, equal to of five percent of the amount of the tax. The taxpayer shall pay interest on the tax or additional tax at the rate determined under section 421.7 counting each fraction of a month as an entire month, computed from the date the tax was due. If any person fails to furnish evidence satisfactory to the director showing purchases of sufficient stamps to stamp unstamped cigarettes purchased by the person, the presumption shall be that the cigarettes were sold without the proper stamps affixed thereto. Within two years after the return is filed or within two years after the return became due, whichever is later, the department shall examine it and determine the correct amount of tax.

Sec. 2. Section 98.46, subsections 5 and 6, Code 1983, are amended to read as follows:

5. All taxes shall be due and payable not later than the twentieth day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate of one percent per month in effect under section 421.7 counting each fraction of a month as an entire month, computed from the date the tax was due.

Where, under the provisions of subsections 2 and 3 of this section, the amount of tax due for a given period is assessed without allocating it to any particular month or months, the interest shall commence to run from the date of such the assessment.

The director ~~shall have power to may~~ reduce or abate interest when in ~~his the~~ director's opinion the facts warrant such the reduction or abatement. The exercise of this power shall be subject to the approval of the attorney general.

6. The director in issuing his the final assessment pursuant to subsection 3 shall add to the amount of tax found due and unpaid a penalty of ten five percent thereof of the tax if less than ninety percent of the tax has been paid, except that, if he the director finds that the taxpayer has made a false and fraudulent return with intent to evade the tax imposed by this division, the penalty shall be twenty-five fifty percent of the entire tax as shown by the return as corrected. The director in assessing a tax on the basis of a return made pursuant to subsection 4 shall add to the amount of tax found due and unpaid a penalty of twenty-five fifty percent

thereof of the tax. The penalty imposed under this subsection is not subject to waiver.

The director shall have power to abate penalties, when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general.

Sec. 3. Section 324.65, Code 1983, 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 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 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 penalty imposed under this section is not subject to waiver. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 counting each fraction of a month as an entire month, computed from the date the return was required to be filed.

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 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, is subject to a penalty of ten dollars if the report is not timely filed with the appropriate state agency.

Sec. 4. Section 422.16, subsection 10, paragraph b, Code Supplement 1983, is amended to read as follows:

b. An employer or withholding agent required to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to file a semimonthly, monthly, or quarterly 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 semimonthly, monthly, or quarterly 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 at least ninety percent of the tax due with the filing of the semimonthly, monthly, or quarterly deposit form on or before the due date, or pays less than ninety percent of any tax required to be shown on the semimonthly, monthly, or quarterly 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 ten 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 semimonthly, monthly, or quarterly deposit form and failure to pay the tax due or required on the semimonthly, monthly, or quarterly 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 semimonthly, monthly, or quarterly deposit form. In the case of willful failure to file a semimonthly, monthly, or quarterly deposit form with intent to evade tax or willful filing of a false semimonthly, monthly, or quarterly deposit form with intent to evade tax, in lieu of the penalty otherwise provided in this paragraph, there is added to the amount required to be shown as tax on the semimonthly, monthly, or quarterly deposit form, fifty percent of the amount of the tax. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the semimonthly, monthly, or quarterly deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent. The penalty imposed under this subsection is not subject to waiver.

Sec. 5. Section 422.25, subsection 2, Code Supplement 1983, 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 421.7 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 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. The penalty imposed under this subsection is not subject to waiver.

Sec. 6. Section 422.58, subsection 1, Code Supplement 1983, is amended to read as follows:

1. If a person fails to file a permit holder's semimonthly or monthly tax 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 semimonthly 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 a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the semimonthly 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 ten 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 semimonthly or monthly tax deposit form or return, willful filing of a false semimonthly or monthly tax deposit form or return or willful filing of a false or fraudulent semimonthly or monthly tax 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 semimonthly or monthly tax deposit form or return fifty percent of the amount of the tax. When penalties are applicable for failure to file a semimonthly or monthly tax deposit form or return and failure to pay at least ninety percent of the tax due or required on the semimonthly or monthly tax deposit form or return, the penalty for failure to file is in lieu of the penalty for failure to pay at least ninety percent of the tax due or required on the semimonthly 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 421.7 for each month counting each fraction of a month as an entire month, computed from the date the semimonthly 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. The penalty imposed under this subsection is not subject to waiver.

Sec. 7. Section 423.18, subsection 1, Code Supplement 1983, 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. For tax due under section 423.9, the penalty shall be ten percent. 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 for failure to file is in lieu of the penalty 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 421.7, 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 collected in the same manner as the tax imposed by this chapter. The penalty imposed under this subsection is not subject to waiver.

Sec. 8. Section 435.5, Code 1983, 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 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 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. The penalty imposed under this section is not subject to waiver.

Sec. 9. Section 450.63, subsection 2, Code 1983, 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 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 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 is in lieu of the penalty provision for failure to pay the tax due or required to be shown on the return. The penalty imposed under this subsection is not subject to waiver.

Sec. 10. This Act takes effect January 1 following enactment for taxes due and payable on or after that date.

Approved May 2, 1984

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## CHAPTER 1174

### MOTOR FUEL TAX COLLECTIONS AND TRANSPORTER REGISTRATION

H.F. 508

**AN ACT** to eliminate annual registration plates for motor fuel transporters and providing that persons without motor fuel tax permits have certain duties and responsibilities.

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

Section 1. Section 324.12, subsection 1, Code 1983, is amended to read as follows:

1. There shall be carried on every vehicle, while in use in transportation service ~~requiring that it be registered under the preceding section~~, a serially numbered manifest in form satisfactory to the department of revenue on which shall be entered the following information as to the cargo of motor fuel being moved in the vehicle: The date and place of loading, the place to be unloaded, the person for whom it is to be delivered, the nature and kind of product, ~~and the amount thereof of product~~, and ~~such~~ other information as is called for in the forms prescribed or approved by the department of revenue. The manifest covering each load transported, upon consummation of the delivery, shall be completed showing the date and place of actual delivery and the person to whom actually delivered and shall be kept as a permanent record for a period of three years, ~~provided, however, that~~. However, the record of the manifest of past cargoes need not be carried on the conveyance but must be preserved by the carrier for the inspection of the department of revenue. A carrier subject to this subsection may with the approval of the department of revenue when distributing for a licensee substitute the loading and delivery evidence required in subsection 2 ~~of this section~~.

Sec. 2. Section 324.53, unnumbered paragraphs 2 and 3, Code 1983, are amended to read as follows:

Persons choosing not to make advance arrangements with the state department of transportation by procuring a permit are not relieved of their responsibility to purchase motor fuel and special fuel commensurate with their use of the state's highway system. When there is reasonable cause to believe that there is evasion of the fuel tax on commercial motor vehicles, the state department of transportation may audit persons not holding a permit. Audits shall be conducted pursuant to section 324.55. The state department of transportation shall collect all taxes due and refund any overpayment.

A permanent permit may be obtained upon application to the state department of transportation. A fee of five ten dollars shall be charged for each permit issued. The holder of a permanent permit shall have the privilege of bringing into this state in the fuel supply tanks of commercial motor vehicles any amount of motor fuel or special fuel to be used in the operation of the vehicles and for that privilege shall pay Iowa motor fuel or special fuel taxes as provided in section 324.54. A single trip interstate permit as provided for in this section may be obtained from the state department of transportation. A fee of twelve dollars shall be charged for each individual single trip interstate permit issued. A single trip interstate permit shall be is subject to the following provisions and limitations:

Sec. 3. Section 324.55, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The state department of transportation within a period of one year from the issuance of a permanent interstate fuel permit may audit the records of the permittee for the two years preceding the issuance of the permit. The state department of transportation shall collect all taxes due had the permittee been licensed for the two years prior to the issuance of the permit and shall refund any overpayment pursuant to section 324.54. When, as a result of an audit, fuel taxes unpaid and due the state of Iowa exceed five hundred dollars, such the audit shall be at the expense of the person whose records are being audited. However, if an audit of records maintained under this section is made outside the state of Iowa in a state which requires payment of the costs for similar audits performed by officials or employees of the other state when made in Iowa, then all costs of audits performed outside of Iowa in such the other state shall be at the expense of the person whose records are audited.

Sec. 4. Section 324.76, unnumbered paragraphs 1 and 2, Code 1983, are amended to read as follows:

Authority is given to the department of revenue to enforce the provisions of this chapter except division III and sections 324.14 and 324.52. Employees of the department of revenue designated as enforcement employees shall have the power of peace officers in the performance of such duties.

Authority to enforce division III and sections 324.14 and 324.52, is given to the state department of transportation. Employees of the department of transportation designated enforcement employees shall have the power of peace officers in the performance of their duties; however, they shall not be considered members of the Iowa highway safety patrol. The department of transportation shall furnish enforcement employees with necessary equipment and supplies in the same manner as provided in section 80.18, including uniforms which are distinguishable in color and design from those of the Iowa highway safety patrol. Enforcement employees shall be furnished and shall conspicuously display badges of authority.

Sec. 5. Section 805.8, subsection 2, paragraph p, Code Supplement 1983, is amended to read as follows:

p. For violations of sections 324.14, section 324.52 or 324.74, subsections 2 and 6, the scheduled fine is ten dollars.

Sec. 6. Sections 324.11, 324.14, 326.34, 326.35, 326.36, 326.37, and 326.38, Code 1983, are repealed.

Approved May 2, 1984

**CHAPTER 1175**  
**SUPERVISION OF INSURANCE COMPANIES**  
*H.F. 2501*

**AN ACT** relating to the supervision, rehabilitation, and liquidation of insurance companies and providing penalties.

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

**DIVISION I**  
**GENERAL PROVISIONS**

**Section 1. NEW SECTION. 507C.1 SHORT TITLE—CONSTRUCTION—PURPOSE.**

1. This chapter shall be cited as the "Insurers Supervision, Rehabilitation, and Liquidation Act".

2. This chapter shall not be interpreted to limit the powers granted the commissioner by any other law.

3. This chapter shall be liberally construed to effect the purpose stated in subsection 4.

4. The purpose of this chapter is the protection of the interests of insured, claimants, creditors, and the public, with minimum interference with the normal prerogatives of the owners and managers of insurers, through all of the following:

a. Early detection of a potentially dangerous condition in an insurer and prompt application of appropriate corrective measures.

b. Improved methods for rehabilitating insurers, involving the cooperation and management expertise of the insurance industry.

c. Enhanced efficiency and economy of liquidation, through clarification of the law, to minimize legal uncertainty and litigation.

d. Equitable apportionment of any unavoidable loss.

e. Lessening the problems of interstate rehabilitation and liquidation by facilitating cooperation between states in the liquidation process, and by extending the scope of personal jurisdiction over debtors of the insurer outside this state.

f. Regulation of the insurance business by the impact of the law relating to delinquency procedures and substantive rules on the entire insurance business.

**Sec. 2. NEW SECTION. 507C.2 DEFINITIONS.** As used in this chapter, unless the context otherwise requires:

1. "Ancillary state" means a state other than a domiciliary state.

2. "Commissioner" means the commissioner of insurance and any successor in office.

3. "Creditor" is a person having a claim against an insurer, whether the claim is matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed or contingent.

4. "Delinquency proceeding" means a proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, reorganizing or conserving the insurer, and a summary proceeding under section 507C.9 or 507C.10. "Formal delinquency proceeding" means any liquidation or rehabilitation proceeding.

5. "Doing business" means any of the following acts, whether effected by mail or otherwise:

a. The issuance or delivery of contracts of insurance to persons resident in this state.

b. The solicitation of applications for the contracts, or other negotiations preliminary to the execution of the contracts.

c. The collection of premiums, membership fees, assessments, or other consideration for the contracts.

d. The transaction of matters subsequent to execution of the contracts and arising out of them.

e. Operating as an insurer under a license or certificate of authority issued by the insurance department.

6. "Domiciliary state" means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry.

7. "Fair consideration" is given for property or obligation when either of the following is present:

a. When in good faith property is conveyed or services are rendered or an obligation is incurred or an antecedent debt is satisfied in exchange for the property or obligation, as a fair equivalent therefor, and in good faith.

b. When the property or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared to the value of the property or obligation obtained.

8. "Foreign country" means another jurisdiction not in a state.

9. "General assets" means all property, real or personal, not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or classes or persons. As to specifically encumbered property, "general assets" includes all property or its proceeds in excess of the amount necessary to discharge the sum or sums secured by the property or its proceeds. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors, in more than a single state, shall be treated as general assets.

10. "Guaranty association" means the Iowa insurance guaranty association created in chapter 515B and any other similar entity either presently existing or to be created by the general assembly for the payment of claims of insolvent insurers. "Foreign guaranty association" means a similar entity presently existing in or to be created in the future by the legislature of any other state.

11. "Insolvency" or "insolvent" means either of the following:

a. For an insurer that it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of:

(1) Any capital and surplus required by law for its organization.

(2) The total par or stated value of its authorized and issued capital stock.

b. As to an insurer licensed to do business in this state as of the effective date of this Act which does not meet the standard established under paragraph "a" the term "insolvency" or "insolvent" shall mean, for a period not to exceed three years from the effective date of this Act, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the commissioner under provisions of the insurance law.

For purposes of this subsection "liabilities" shall include but not be limited to reserves required by statute or by the insurance department's rules or specific requirements imposed by the commissioner upon a company at the time of or subsequent to admission.

12. "Insurer" means a person who has done, purports to do, is doing or is licensed to do insurance business, and is or has been subject to the authority of, or to liquidation, rehabilitation, reorganization, supervision, or conservation by an insurance commissioner. For purposes of this chapter, any other person included under section 507C.3 is an insurer.

13. "Preferred claim" means a claim with respect to which the terms of this chapter grant priority of payment from the general assets of the insurer.

14. "Receiver" means receiver, liquidator, rehabilitator, or conservator as the context requires.

15. "Reciprocal state" means a state other than this state in which section 507C.18, subsection 1, sections 507C.52 and 507C.53 and sections 507C.55 through 507C.57 are in force, and in which provisions are in force requiring that the commissioner or equivalent official be the receiver of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers.

16. "Secured claim" means a claim secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise, but not including special deposit claims or claims against general assets. The term also includes claims which have become liens upon specific assets by reason of judicial process.

17. "Special deposit claim" means a claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including a claim secured by general assets.

18. "State" means a state, district, or territory of the United States and the Panama Canal Zone.

19. "Transfer" shall include the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest in the property, or with the possession of the property or of fixing a lien upon the property or upon an interest in the property, absolutely or conditionally, voluntarily, by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by a debtor.

Sec. 3. NEW SECTION. 507C.3 APPLICABILITY. This chapter may be applied to any of the following:

1. Insurers who are doing or have done insurance business in this state, and against whom claims arising from that business may exist now or in the future.
2. Insurers who purport to do insurance business in this state.
3. Insurers who have insureds who are residents in this state.
4. Other persons organized or in the process of organizing with the intent to do insurance business in this state.
5. Nonprofit health service corporations and all fraternal benefit societies and beneficial societies subject to chapters 512, 512A, and 514.

Sec. 4. NEW SECTION. 507C.4 JURISDICTION AND VENUE.

1. A delinquency proceeding shall not be commenced under this chapter by a person other than the commissioner. A court shall not have jurisdiction over a proceeding under this chapter commenced by a person other than the commissioner.

2. A court shall not have jurisdiction over a petition praying for the dissolution, liquidation, rehabilitation, sequestration, conservation or receivership of an insurer, or praying for an injunction or restraining order or other relief preliminary to, incidental to or relating to such proceedings other than pursuant to this chapter.

3. A court having jurisdiction of the subject matter has jurisdiction over a person served pursuant to the Iowa rules of civil procedure or other applicable provisions in an action brought by the receiver of a domestic insurer or an alien insurer domiciled in this state for any of the following:

- a. In an action on or incident to an obligation if the person served is obligated to the insurer in any way as an incident to an agency or brokerage arrangement that may exist or has existed between the insurer and the agent or broker.

b. In an action on or incident to a reinsurance contract if the person served is a reinsurer who has at any time written a policy of reinsurance for an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced, or is an agent or broker of or for the reinsurer.

c. In an action resulting from a relationship with the insurer, if the person served is or has been an officer, manager, trustee, organizer, promoter, or person in a position of comparable authority or influence in an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced.

4. If the court on motion of a party finds that an action should as a matter of substantial justice be tried in a forum outside this state, the court may enter an order to stay the proceedings on the action in this state.

5. All action authorized in this chapter shall be brought in the district court in Polk county.

**Sec. 5. NEW SECTION. 507C.5 INJUNCTIONS AND ORDERS.**

1. A receiver appointed in a proceeding under this chapter may at any time apply for, and any court of general jurisdiction may grant, restraining orders, preliminary and permanent injunctions, and other orders as necessary to prevent any of the following:

- a. The transaction of further business.
- b. The transfer of property.
- c. Interference with the receiver or with a proceeding under this chapter.
- d. Waste of the insurer's assets.
- e. Dissipation and transfer of bank accounts.
- f. The institution or further prosecution of any actions or proceedings.
- g. The obtaining of preferences, judgments, attachments, garnishments, or liens against the insurer, its assets or its policyholders.
- h. The levying of execution against the insurer, its assets or its policyholders.
- i. The making of a sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of the insurer.
- j. The withholding from the receiver of books, accounts, documents, or other records relating to the business of the insurer.
- k. Any other threatened or contemplated action that might lessen the value of the insurer's assets or prejudice the rights of policyholders, creditors, or shareholders, or the administration of a proceeding under this chapter.

2. A receiver may apply to a court outside of the state for the relief described in subsection 1.

**Sec. 6. NEW SECTION. 507C.6 COOPERATION OF OFFICERS, OWNERS, AND EMPLOYEES—PENALTY.**

1. An officer, manager, director, trustee, owner, employee, or agent of an insurer, or any other person with authority over or in charge of any segment of the insurer's affairs, shall cooperate with the commissioner in any proceeding under this chapter or any investigation preliminary to the proceeding. The term "person" as used in this section, shall include any person who exercises control directly or indirectly over activities of insurer through any holding company or other affiliate of the insurer. "To cooperate" shall include, but shall not be limited to, the following:

- a. To reply promptly in writing to any inquiry from the commissioner requesting a reply.
  - b. To make available to the commissioner any books, accounts, documents, or other records or information or property of or pertaining to the insurer and in the commissioner's possession, custody or control.
3. A person shall not obstruct or interfere with the commissioner in the conduct of a delinquency proceeding or an investigation preliminary or incidental to a delinquency proceeding.
4. This section does not abridge otherwise existing legal rights, including the right to resist a petition for liquidation, other delinquency proceedings, or other orders.
5. A person included within subsection 2\* who fails to cooperate with the commissioner, or a person who obstructs or interferes with the commissioner in the conduct of a delinquency proceeding or an investigation preliminary or incidental to a delinquency proceeding, or who violates a valid order the commissioner issued under this chapter is:
- a. Guilty of an aggravated misdemeanor; and
  - b. After a hearing, subject to the imposition by the commissioner of a civil penalty not to exceed ten thousand dollars and subject to the revocation or suspension of insurance licenses issued by the commissioner.

Sec. 7. NEW SECTION. 507C.7 BONDS. In a proceeding under this chapter, the commissioner and the commissioner's deputies shall be responsible on their official bonds for the faithful performance of their duties. If the court deems it desirable for the protection of the assets, it may require an additional bond from the commissioner or the commissioner's deputies. The bonds shall be paid for out of the assets of the insurer as a cost of administration.

Sec. 8. NEW SECTION. 507C.8 CONTINUATION OF DELINQUENCY PROCEEDINGS. A proceeding commenced before the effective date of this Act shall be deemed to have commenced under this Act for the purpose of conducting the proceeding thereafter. However, in the discretion of the commissioner the proceeding may be continued, in whole or in part, as it would have continued had this Act not been enacted.

#### DIVISION II

#### SUMMARY PROCEEDINGS

Sec. 9. NEW SECTION. 507C.9 SUMMARY ORDERS AND SUPERVISION PROCEEDINGS—PENALTY.

1. If after a hearing held under subsection 5, the commissioner determines that a domestic insurer has committed or engaged in, or is about to commit or engage in, an act, practice, or transaction that would subject it to delinquency proceedings under this chapter, the commissioner may make and serve upon the insurer and any other persons involved orders as are reasonably necessary to correct, eliminate, or remedy the conduct, condition, or ground.

2. If the commissioner upon reasonable cause determines that a domestic insurer is in a condition as to render the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance or if the domestic insurer gives its consent then the commissioner shall do both of the following:

- a. Notify the insurer of the determination.
- b. Furnish to the insurer a written list of the commissioner's requirements to abate the determination.

3. If the commissioner makes a determination to supervise an insurer subject to an order under subsection 1 or 2, the commissioner shall notify the insurer that it is under the supervision of the commissioner. During the period of supervision, the commissioner may appoint a supervisor to supervise the insurer. The order appointing a supervisor shall direct the supervisor to enforce orders issued under subsections 1 and 2 and may also require that during the

\*Subsection 1 probably intended; subsection 2 combined with subsection 1 prior to passage.



period of supervision, the insurer shall not do any of the following without the prior approval of the commissioner or the commissioner's supervisor:

- a. Dispose of, convey or encumber its assets or its business in force.
- b. Withdraw from its bank accounts.
- c. Lend its funds.
- d. Invest its funds.
- e. Transfer its property.
- f. Incur any debt, obligation or liability.
- g. Merge or consolidate with another company.
- h. Enter into a new reinsurance contract or treaty.
- i. Write new or renewal business.

4. An insurer subject to an order under this section shall comply with the lawful requirements of the commissioner and, if placed under supervision, shall have sixty days from the date the supervision order is served within which to comply with the requirements of the commissioner. If the insurer fails to comply, the commissioner may institute proceedings under section 507C.12 or 507C.17 to have a rehabilitator or liquidator appointed or extend the period of supervision.

5. The notice of hearing and any order issued pursuant to subsection 1 shall be served upon the insurer pursuant to chapter 17A. The notice of hearing shall state the time and place of hearing, and the conduct, condition or ground upon which the commissioner would base an order. Unless mutually agreed between the commissioner and the insurer, the hearing shall occur not less than ten days nor more than thirty days after notice is served and shall be either in Polk county or in some other place convenient to the parties to be designated by the commissioner. All hearings under subsection 1 shall be confidential unless the insurer requests a public hearing.

6. a. An insurer subject to an order under subsection 2 may request a hearing to review that order. The hearing shall be held as provided in subsection 5. The request for a hearing shall not stay the effect of the order.

b. If the commissioner issues an order under subsection 2, the insurer may waive a commissioner's hearing and apply for immediate judicial relief by means of any remedy afforded by law without first exhausting administrative remedies. Subsequent to a hearing, a party to the proceedings whose interests are substantially affected is entitled to judicial review of any order issued by the commissioner.

7. During the period of supervision the insurer may request the commissioner to review an action taken or proposed to be taken by the supervisor by specifying the reasons the action complained of is believed not to be in the best interest of the insurer.

8. If a person has violated a supervision order issued under this section which was in effect, the person is liable to pay a civil penalty imposed by the district court not to exceed ten thousand dollars.

9. The commissioner may apply for and any court of general jurisdiction may grant restraining orders, preliminary and permanent injunctions, and other orders as necessary to enforce a supervision order.

Sec. 10. NEW SECTION. 507C.10 SEIZURE ORDER.

1. With respect to a domestic insurer the commissioner may file in the district court a petition alleging all of the following:

- a. That there exist grounds that would justify a court order for a formal delinquency proceeding against an insurer under this chapter.

- b. That the interests of policyholders, creditors, or the public will be endangered by delay.
- c. The contents of an order deemed necessary by the commissioner.

2. Upon a filing under subsection 1, the court may issue, ex parte and without a hearing, the requested order which shall direct the commissioner to take possession and control of all or a part of the property, books, accounts, documents, and other records of an insurer, and of the premises occupied by it for transaction of its business, and until further order of the court enjoin the insurer and its officers, managers, agents, and employees from disposing of the insurer's property and from transacting of the insurer's business, except with the written consent of the commissioner.

3. The court shall specify in the order the duration of the order. The duration shall be the time the court deems necessary for the commissioner to ascertain the condition of the insurer. Upon motion or on its own, the court may from time to time hold hearings as it deems desirable after notice as it deems appropriate, and may extend, shorten, or modify the terms of the seizure order. The court shall vacate the seizure order if the commissioner fails to commence a formal proceeding under this chapter after having had a reasonable opportunity to do so. An order of the court pursuant to a formal proceeding under this chapter shall automatically vacate the seizure order.

4. Entry of a seizure order under this section is not an anticipatory breach of a contract of the insurer.

5. An insurer subject to an ex parte order under this section may petition the court after the issuance of the order for a hearing and review of the order. The court shall hold the hearing and review not more than fifteen days after the request. A hearing under this subsection may be held privately in chambers. Upon request of the insurer the hearing shall be held privately in chambers.

6. If at any time after the issuance of an order under this section it appears to the court that a person whose interest is or will be substantially affected by the order did not appear at the hearing and has not been served, the court may order that notice be given. An order that notice be given shall not stay the effect of any order previously issued by the court.

Sec. 11. NEW SECTION. 507C.11 CONFIDENTIALITY OF HEARINGS. Notwithstanding chapter 68A, in all administrative proceedings pursuant to sections 507C.9 and 507C.10 all records and documents pertaining to or a part of the record of the proceedings are confidential except as is necessary to obtain compliance with a proceeding. However, the records may be released if either of the following:

- 1. The insurer requests that the records be made public.
- 2. After a hearing on the issue with the parties to the proceeding, the court orders that the records be made public.

### DIVISION III FORMAL PROCEEDINGS

Sec. 12. NEW SECTION. 507C.12 GROUNDS FOR REHABILITATION. The commissioner may petition the district court for an order to rehabilitate a domestic insurer or an alien insurer domiciled in this state on any of the following grounds:

- 1. The insurer is in a condition that the further transaction of business would be financially hazardous to its policyholders, creditors, or the public.
- 2. There is reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's assets, forgery or fraud affecting the insurer, or other illegal conduct in, by, or with respect to the insurer that, if established, would endanger assets in an amount threatening the solvency of the insurer.

3. The insurer has failed to remove a person, whether an officer, manager, general agent, employee, or other person, who in fact has executive authority in the insurer, if the person has been found after notice and hearing by the commissioner to be dishonest or untrustworthy in a way affecting the insurer's business.

4. Control of the insurer is in a person or persons found after notice and hearing to be untrustworthy. Control may be by stock ownership or by other means and may be direct or indirect.

5. A person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director or trustee, employee, or other person has refused to be examined under oath by the commissioner concerning the insurer's affairs, in this state or elsewhere, and after reasonable notice of the fact the insurer has failed promptly and effectively to terminate the employment and status of the person and all the person's influence on management.

6. After demand by the commissioner under chapter 507 or under this chapter, the insurer has failed to promptly make available for examination any of its property, books, accounts, documents, or other records, or those of a subsidiary or related company within the control of the insurer, or those of a person having executive authority in the insurer so far as they pertain to the insurer.

7. Without first obtaining the written consent of the commissioner, the insurer has transferred, or attempted to transfer, in a manner contrary to chapter 521 or 521A, substantially its entire property or business, or has entered into a transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person.

8. The insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator or sequestrator or similar fiduciary of the insurer of its property other than as authorized under the insurance laws of this state, and the appointment has been made or is imminent, and the appointment might oust the court of this state of jurisdiction or might prejudice orderly delinquency proceedings under this chapter.

9. Within the previous three years the insurer has willfully violated its charter or articles of incorporation, its bylaws, an insurance law of this state, or a valid order of the commissioner under section 507C.9.

10. The insurer has failed to pay within sixty days after the due date an obligation to a state or any subdivision of a state or a judgment entered in a state, if the court in which the judgment was entered had jurisdiction over the subject matter. However, nonpayment shall not be a ground until sixty days after a good faith effort by the insurer to contest the obligation has been terminated whether the effort is before the commissioner or in the courts, or the insurer has systematically attempted to compromise or renegotiate previously agreed settlements with its creditors on the ground that it is financially unable to pay its obligations in full.

11. The insurer has failed to file its annual report or other financial report required within the time allowed and, after written demand by the commissioner, has failed to immediately give an adequate explanation.

12. The board of directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities request or consent to rehabilitation under this chapter.

Sec. 13. NEW SECTION. 507C.13 REHABILITATION ORDERS.

1. An order to rehabilitate the business of a domestic insurer or an alien insurer domiciled in this state shall appoint the commissioner as the rehabilitator. The order shall direct the rehabilitator to take possession of the assets of the insurer, and to administer them under the general supervision of the court. The filing or recording of the order with the clerk of the district court or recorder of deeds of the county in which the principal business of the insurer is conducted, or the county in which its principal office or place of business is located, is the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds. The order to rehabilitate the insurer shall vest title to all assets of the insurer in the rehabilitator.

2. An order issued under this section shall require accounting to the court by the rehabilitator. Accountings shall be at intervals the court specified in the order.

3. Entry of an order of rehabilitation is not an anticipatory breach of a contract of the insurer.

**Sec. 14. NEW SECTION. 507C.14 POWERS AND DUTIES OF THE REHABILITATOR.**

1. The commissioner as rehabilitator may appoint one or more special deputies. The special deputies shall have the powers and responsibilities of the rehabilitator granted under this section. The commissioner may employ counsel, clerks, and assistants as necessary. The compensation of the special deputy, counsel, clerks, and assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the commissioner with the approval of the court and shall be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the commissioner. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of any appropriation for the maintenance of the insurance department. Amounts so advanced for expenses of administration shall be repaid to the commissioner for the use of the insurance department out of the first available money of the insurer.

2. The rehabilitator may take action as the rehabilitator deems necessary or appropriate to reform and revitalize the insurer. The rehabilitator shall have the powers of the directors, officers, and managers of the insurer, whose authority shall be suspended, except as the powers are re delegated by the rehabilitator. The rehabilitator shall have power to direct and manage, to hire and discharge employees subject to contract rights the employees may have, and to deal with the property and business of the insurer.

3. If it appears to the rehabilitator that there has been criminal or tortious conduct, or breach of a contractual or fiduciary obligation by any person detrimental to the insurer, the rehabilitator may pursue appropriate legal remedies on behalf of the insurer.

4. If the rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer is appropriate, the rehabilitator shall prepare a plan to effect the changes. Upon application of the rehabilitator for approval of the plan, and after notice and hearings as the court may prescribe, the court may either approve, disapprove or modify the plan proposed. Before approving a plan, the court shall find that it is fair and equitable to all parties concerned. If the plan is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, if all rights of shareholders are first relinquished, the plan proposed may include the imposition of liens upon the policies of the company. A plan for a life insurer may also propose imposition of a moratorium upon loan and cash surrender rights under policies.

5. The rehabilitator shall have the power under sections 507C.26 and 507C.27 to avoid fraudulent transfers.

**Sec. 15. NEW SECTION. 507C.15 ACTIONS BY AND AGAINST REHABILITATOR.**

1. A court, before which an action or proceeding in which the insurer is a party or is obligated to defend a party is pending when a rehabilitation order against the insurer is entered, shall stay the action or proceeding for ninety days and any additional time as necessary for the rehabilitator to obtain proper representation and prepare for further proceedings. The rehabilitator shall take action respecting the pending litigation as necessary in the interests of justice and for the protection of creditors, policyholders, and the public. The rehabilitator shall immediately consider all litigation pending outside this state and shall petition the courts having jurisdiction over that litigation for stays whenever necessary to protect the estate of the insurer.

2. A statute of limitations or defense of laches shall not run in an action by or against an insurer between the filing of a petition for appointment of a rehabilitator for that insurer and the order granting or denying that petition. An action by or against the insurer that might have been commenced when the petition was filed may be commenced for at least sixty days after the order of rehabilitation is entered or the petition is denied.

3. A guaranty association or foreign guaranty association covering life or health insurance or annuities shall have standing to appear in a court proceeding concerning the rehabilitation of a life or health insurer if the association is or may become liable to act as a result of the rehabilitation.

**Sec. 16. NEW SECTION. 507C.16 TERMINATION OF REHABILITATION.**

1. Whenever the commissioner determines that further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors, policyholders, or the public, or would be futile, the commissioner may petition the district court for an order of liquidation. A petition under this subsection shall have the same effect as a petition under section 507C.17. The court shall permit the directors of the insurer to take actions as are reasonably necessary to defend against the petition and may order payment from the estate of the insurer of costs and other expenses of defense as justice may require.

2. The rehabilitator may at any time petition the district court for an order terminating rehabilitation of an insurer. The directors of the insurer may petition the court for an order terminating rehabilitation of the insurer and the court may order payment from the estate of the insurer of costs and other expenses of the petition as justice may require. If the court finds that rehabilitation has been accomplished and that grounds for rehabilitation under section 507C.12 no longer exist, it shall order that the insurer be restored to possession of its property and the control of its business. The court may also terminate the rehabilitation at any time upon its own motion.

**Sec. 17. NEW SECTION. 507C.17 GROUNDS FOR LIQUIDATION.** The commissioner may petition the district court for an order directing the commissioner to liquidate a domestic insurer or an alien insurer domiciled in this state on any of the following grounds:

1. Any ground for an order of rehabilitation specified in section 507C.12 whether or not there has been a prior order directing the rehabilitation of the insurer.

2. That the insurer is insolvent.

3. That the insurer is in a condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors, or the public.

**Sec. 18. NEW SECTION. 507C.18 LIQUIDATION ORDERS.**

1. An order to liquidate the business of a domestic insurer shall appoint the commissioner as liquidator and shall direct the liquidator to immediately take possession of the assets of the insurer and to administer them under the general supervision of the court. The liquidator

shall be vested with the title to the property, contracts, and rights of action and the books and records of the insurer ordered liquidated, wherever located, as of the entry of the final order of liquidation. The filing or recording of the order with the clerk of the court and the recorder of deeds of the county in which its principal office or place of business is located, or, in the case of real estate with the recorder of deeds of the county where the property is located, shall be notice as a deed, bill of sale, or other evidence of title duly filed or recorded with the recorder of deeds.

2. Upon issuance of the order, the rights and liabilities of an insurer and of its creditors, policyholders, shareholders, members and other persons interested in its estate shall become fixed as of the date of entry of the order of liquidation, except as provided in sections 507C.19 and 507C.37.

3. An order to liquidate the business of an alien insurer domiciled in this state shall be in the same terms and have the same legal effect as an order to liquidate a domestic insurer, except that the assets and the business in the United States shall be the only assets and business included in the order.

4. At the time of petitioning for an order of liquidation, or at any time thereafter, the commissioner, after making appropriate findings of an insurer's insolvency, may petition the court for a declaration of insolvency. After providing notice and hearing as it deems proper, the court may make the declaration.

5. An order issued under this section shall require accounting to the court by the liquidator. Accountings shall be at intervals specified in the order.

**Sec. 19. NEW SECTION. 507C.19 CONTINUANCE OF COVERAGE.**

1. Except for life or health insurance or annuities, policies in effect at the time of issuance of an order of liquidation shall continue in force only for the lesser of:

- a. A period of thirty days from the date of entry of the liquidation orders.
- b. The expiration of the policy coverage.
- c. The date when the insured has replaced the insurance coverage with equivalent insurance in another insurer or otherwise terminated the policy.
- d. The liquidator has effected a transfer of the policy obligation pursuant to section 507C.21, subsection 1, paragraph "h".

2. An order of liquidation under section 507C.18 shall terminate coverages at the time specified in subsection 1 for purposes of any other statute.

3. Policies of life or health insurance or annuities shall continue in force for the period and under terms as is provided for by any applicable guaranty association or foreign guaranty association.

4. Policies of life or health insurance or annuities or any period or coverage of the policies not covered by a guaranty association or foreign guaranty association shall terminate under subsections 1 and 2.

**Sec. 20. NEW SECTION. 507C.20 DISSOLUTION OF INSURER.** The commissioner may petition for an order dissolving the corporate existence of a domestic insurer or the United States branch of an alien insurer domiciled in this state at the time the commissioner applies for a liquidation order. The court shall order dissolution of the corporation upon petition by the commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, it shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent. However, dissolution may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason.

Sec. 21. NEW SECTION. 507C.21 POWERS OF LIQUIDATOR.

1. The liquidator may:

a. Appoint a special deputy to act for the liquidator under this chapter, and to determine the special deputy's reasonable compensation. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

b. Hire employees and agents, legal counsel, actuaries, accountants, appraisers, consultants, and other personnel as the commissioner may deem necessary to assist in the liquidation.

c. With the approval of the court fix the reasonable compensation of employees and agents, legal counsel, actuaries, accountants, appraisers and consultants.

d. Pay reasonable compensation to persons appointed and to defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of an appropriation for the maintenance of the insurance department. Amounts so advanced for expenses of administration shall be repaid to the commissioner for the use of the insurance department out of the first available moneys of the insurer.

e. Hold hearings, subpoena witnesses, and compel their attendance, administer oaths, examine a person under oath, and compel a person to subscribe to the person's testimony after it has been correctly reduced to writing, and in connection to the proceedings require the production of books, papers, records or other documents which the liquidator deems relevant to the inquiry.

f. Collect debts and moneys due and claims belonging to the insurer, wherever located. Pursuant to this paragraph, the liquidator may:

(1) Institute timely action in other jurisdictions to forestall garnishment and attachment proceedings against debts.

(2) Perform acts as are necessary or expedient to collect, conserve or protect its assets or property, including the power to sell, compound, compromise or assign debts for purposes of collection upon terms and conditions as the liquidator deems best.

(3) Pursue any creditor's remedies available to enforce claims.

g. Conduct public and private sales of the property of the insurer.

h. Use assets of the estate of an insurer under a liquidation order to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 507C.42.

i. Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with property of the insurer at its market value or upon terms and conditions as are fair and reasonable. The liquidator shall also have power to execute, acknowledge, and deliver deeds, assignments, releases and other instruments necessary to effectuate a sale of property or other transaction in connection with the liquidation.

j. Borrow money on the security of the insurer's assets or without security and to execute and deliver documents necessary to that transaction for the purpose of facilitating the liquidation.

k. Enter into contracts as are necessary to carry out the order to liquidate and to affirm or disavow contracts to which the insurer is a party.

l. Continue to prosecute and to institute in the name of the insurer or in the liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and to abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under section 507C.20, the liquidator may apply to any court in this state or elsewhere for leave to substitute the liquidator for the insurer as plaintiff.

m. Prosecute an action on behalf of the creditors, members, policyholders or shareholders of the insurer against an officer of the insurer, or any other person.

n. Remove records and property of the insurer to the offices of the commissioner or to other place as may be convenient for the purposes of efficient and orderly execution of the liquidation. A guaranty association or foreign guaranty association shall have reasonable access to the records of the insurer as necessary to carry out the guaranty's statutory obligations.

o. Deposit in one or more banks in this state sums as are required for meeting current administration expenses and dividend distributions.

p. Unless the court orders otherwise, invest funds not currently needed.

q. File necessary documents for record in the office of a recorder of deeds or record office in this state or elsewhere where property of the insurer is located.

r. Assert defenses available to the insurer as against third persons including statutes of limitation, statutes of fraud, and the defense of usury. A waiver of a defense by the insurer after a petition in liquidation has been filed shall not bind the liquidator. If a guaranty association or foreign guaranty association has an obligation to defend a suit, the liquidator shall defer to the obligation and may defend only in the absence of a defense by the guaranty association.

s. Exercise and enforce the rights, remedies, and powers of a creditor, shareholder, policyholder, or member, including the power to avoid a transfer or lien that may be given by the general law and that is not included with sections 507C.26 through 507C.28.

t. Intervene in a proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

u. Enter into agreements with a receiver or commissioner of insurance of any other state relating to the rehabilitation, liquidation, conservation or dissolution of an insurer doing business in both states.

v. Exercise powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with this chapter.

2. This section does not limit the liquidator or exclude the liquidator to exercise a power not listed in subsection 1 that may be necessary or appropriate to accomplish the purposes of this chapter.

**Sec. 22. NEW SECTION. 507C.22 NOTICE TO CREDITORS AND OTHERS.**

1. Unless the court otherwise directs, the liquidator shall give notice of the liquidation order as soon as possible by doing all of the following:

a. By first class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is doing business.

b. By first class mail to a guaranty association or foreign guaranty association which is or may become obligated as a result of the liquidation.

c. By first class mail to all insurance agents of the insurer.

d. By first class mail to all persons known or reasonably expected to have claims against the insurer, including policyholders, by mailing a notice to their last known address as indicated by the records of the insurer.



e. By publication in a newspaper of general circulation in the county in which the insurer has its principal place of business and in other locations as the liquidator deems appropriate.

2. Notice to potential claimants under subsection 1 shall require claimants to file with the liquidator their claims together with proper proofs of the claim under section 507C.36 on or before a date the liquidator shall specify in the notice. The liquidator need not require persons claiming cash surrender values or other investment values in life insurance and annuities to file a claim. Claimants shall keep the liquidator informed of changes of address.

3. If notice is given pursuant to this section, the distribution of assets of the insurer under this chapter shall be conclusive with respect to claimants, whether or not a claimant actually received notice.

**Sec. 23. NEW SECTION. 507C.23 DUTIES OF AGENTS.**

1. A person, who receives notice in the form prescribed in section 507C.22 that an insurer which the person represents as an agent is the subject of a liquidation order, shall within fifteen days of the notice give notice to each policyholder or other person named in a policy issued through the agent by the insurer of the liquidation order. The notice shall be sent by first class mail to the last address contained in the agent's records if the agent has a record of the address of the policyholder or other person. A policy is issued through an agent if the agent has a property interest in the expiration of the policy, or if the agent has had in the agent's possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of the policy has been transferred to another. The written notice shall include the name and address of the insurer, the name and address of the agent, identification of the policy impaired and the nature of the impairment including termination of coverage, as described in section 507C.19. Notice by a general agent satisfies the notice requirement for an agent under contract to the general agent. An agent obligated to give notice under this section shall file a report of compliance with the liquidator.

2. An agent failing to give notice or file a report of compliance as required in subsection 1 may be subject to payment of a penalty of not more than one thousand dollars and may have the agent's license suspended. The penalty is to be imposed only after a hearing held by the commissioner.

3. The liquidator may waive the duties imposed by this section if the liquidator determines that another notice to the policyholders of the insurer under liquidation is adequate.

**Sec. 24. NEW SECTION. 507C.24 ACTIONS BY AND AGAINST LIQUIDATOR.**

1. After the issuance of an order appointing a liquidator of a domestic insurer or of an alien insurer domiciled in this state, action at law or equity shall not be brought against the insurer or liquidator in this state nor shall existing actions be maintained or further presented after issuance of the order. The courts of this state shall give full faith and credit to injunctions against the liquidator or the insurer or the continuation of existing actions against the liquidator or the insurer, when the injunctions are included in an order to liquidate an insurer issued pursuant to corresponding provisions in other states. Whenever in the liquidator's judgment, protection of the estate of the insurer necessitates intervention in an action against the insurer that is pending outside this state, the liquidator may intervene in the action. The liquidator may defend at the expense of the estate of the insurer an action in which the liquidator intervenes under this section.

2. Within two years or such additional time as applicable law may permit, the liquidator may after the issuance of an order for liquidation institute an action or proceeding on behalf of the estate of the insurer upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which the order

is entered. Where a period of limitation is fixed by agreement for instituting a suit or proceeding upon a claim, or for filing a claim, proof of claim, proof of loss, demand, notice, or the like, or where in a proceeding a period of limitation is fixed for taking an action, filing a claim or pleading, or doing an act, and where in any case the period had not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take any action or do any act, required of or permitted to the insurer, within a period of one hundred eighty days subsequent to the entry of an order for liquidation, or within a further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

3. A statute of limitations or defense of laches shall not run with respect to an action against an insurer between the filing of a petition for liquidation against an insurer and the denial of the petition. An action against the insurer that might have been commenced when the petition was filed may be commenced for at least sixty days after the petition is denied.

4. A guaranty association or foreign guaranty association shall have standing to appear in a court proceeding concerning the liquidation of an insurer if the association is or may become liable to act as a result of the liquidation.

**Sec. 25. NEW SECTION. 507C.25 COLLECTION AND LIST OF ASSETS.**

1. As soon as practicable after the liquidation order but not later than one hundred twenty days thereafter, the liquidator shall prepare in duplicate a list of the insurer's assets. The list shall be amended or supplemented as the liquidator may determine. One copy shall be filed in the office of the clerk of the court and one copy shall be retained for the liquidator's files. Amendments and supplements shall be similarly filed.

2. The liquidator shall reduce the assets to a degree of liquidity that is consistent with the effective execution of the liquidation.

3. A submission to the court for disbursement of assets in accordance with section 507C.34 fulfills the requirements of subsection 1.

**Sec. 26. NEW SECTION. 507C.26 FRAUDULENT TRANSFERS PRIOR TO PETITION.**

1. A transfer made and an obligation incurred by an insurer within one year prior to the filing of a successful petition for rehabilitation or liquidation under this chapter is fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay, or defraud either existing or future creditors. A fraudulent transfer made or an obligation incurred by an insurer ordered to be rehabilitated or liquidated under this chapter may be avoided by the receiver, except as to a person who in good faith is a purchaser, lienor, or obligee for a present fair equivalent value. A purchaser, lienor, or obligee, who in good faith has given a consideration less than fair for such transfer, lien, or obligation, may retain the property, lien or obligation as security for repayment. The court may, on due notice, order any such transfer or obligation to be preserved for the benefit of the estate, and in that event, the receiver shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

2. a. A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee under section 507C.28, subsection 3.

b. A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the insurer could not obtain rights superior to the rights of the transferee.

c. A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be created.

d. A transfer not perfected prior to the filing of a petition for liquidation shall be deemed to be made immediately before the filing of the successful petition.

e. This subsection applies whether or not there are or were creditors who might have obtained a lien or persons who might have become bona fide purchasers.

3. A transaction of the insurer with a reinsurer is fraudulent and may be avoided by the receiver under subsection 1 if both of the following exist:

a. The transaction consists of the termination, adjustment, or settlement of a reinsurance contract in which the reinsurer is released from any part of its duty to pay the originally specified share of losses that had occurred prior to the time of the transaction, unless the reinsurer gives a present fair equivalent value for the release.

b. Part of the transaction took place within one year prior to the date of filing of the petition through which the receivership was commenced.

**Sec. 27. NEW SECTION. 507C.27 FRAUDULENT TRANSFER AFTER PETITION.**

1. After a petition for rehabilitation or liquidation has been filed a transfer of real property of the insurer made to a person acting in good faith is valid against the receiver if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred. The commencement of a proceeding in rehabilitation or liquidation is constructive notice upon the recording of a copy of the petition for or order of rehabilitation or liquidation with the recorder of deeds in the county where any real property in question is located. The exercise by a court of the United States or a state or jurisdiction to authorize a judicial sale of real property of the insurer within a county in a state shall not be impaired by the pendency of a proceeding unless the copy is recorded in the county prior to the consummation of the judicial sale.

2. After a petition for rehabilitation or liquidation has been filed and before either the receiver takes possession of the property of the insurer or an order of rehabilitation or liquidation is granted:

a. A transfer of the property, other than real property, of the insurer made to a person acting in good faith is valid against the receiver if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred.

b. If acting in good faith, a person indebted to the insurer or holding property of the insurer may pay the debt or deliver the property, or any part thereof, to the insurer or upon the insurer's order as if the petition were not pending.

c. A person having actual knowledge of the pending rehabilitation or liquidation is not acting in good faith.

d. A person asserting the validity of a transfer under this section shall have the burden of proof. Except as provided in this section, a transfer by or on behalf of the insurer after the date of the petition for liquidation by any person other than the liquidator shall not be valid against the liquidator.

3. This chapter shall not impair the negotiability of currency or negotiable instruments.

**Sec. 28. NEW SECTION. 507C.28 VOIDABLE PREFERENCES AND LIENS.**

1. a. A preference is a transfer of the property of an insurer to or for the benefit of a creditor for an antecedent debt made or suffered by the insurer within one year before the filing of a successful petition for liquidation under this chapter, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the insurer is already subject to a rehabilitation order, then the transfers are preferences if made or suffered within one year before the filing of the successful petition for rehabilitation, or within two years before the filing of the successful petition for liquidation, whichever time is shorter.

b. A preference may be avoided by the liquidator if any of the following exist:

(1) The insurer was insolvent at the time of the transfer.

(2) The transfer was made within four months before the filing of the petition.

(3) At the time the transfer was made, the creditor receiving it or to be benefited by the transfer or the creditor's agent acting with reference to the transfer had reasonable cause to believe that the insurer was insolvent or was about to become insolvent.

(4) The creditor receiving the transfer was an officer, or an employee, attorney or other person who was in fact in a position of comparable influence in the insurer to an officer whether or not the person held the position of an officer, or a shareholder directly or indirectly holding more than five per centum of a class of an equity security issued by the insurer, or other person, firm, corporation, association, or aggregation of persons with whom the insurer did not deal at arm's length.

c. Where the preference is voidable, the liquidator may recover the property. If the property has been converted, the liquidator may recover its value from a person who has received or converted the property. However, if a bona fide purchaser or lienor has given less than fair equivalent value, the purchaser or lienor shall have a lien upon the property to the extent of the consideration actually given. Where a preference by way of lien or security interest is voidable, the court may on due notice order the lien or security interest to be preserved for the benefit of the estate, in which event the lien or title shall pass to the liquidator.

2. a. A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee.

b. A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the insurer could not obtain rights superior to the rights of the transferee.

c. A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be created.

d. A transfer not perfected prior to the filing of a petition for liquidation shall be deemed to be made immediately before the filing of the successful petition.

e. This subsection applies whether or not there are or were creditors who might have obtained liens or persons who might have become bona fide purchasers.

3. a. A lien obtainable by legal or equitable proceedings upon a simple contract is one arising in the ordinary course of the proceedings upon the entry or docketing of a judgment or decree, or upon attachment, garnishment, execution, or like process, whether before, upon, or after judgment or decree and whether before or upon levy. It does not include liens which under applicable law are given a special priority over other liens which are prior in time.

b. A lien obtainable by legal or equitable proceedings could become superior to the rights of a transferee, or a purchaser could obtain rights superior to the rights of a transferee within the meaning of subsection 2, if such consequences would follow only from the lien or purchase itself, or from the lien or purchase followed by a step wholly within the control of the respective lienholder or purchaser, with or without the aid of ministerial action by public officials. However, a lien could not become superior and a purchase could not create superior rights for the purpose of subsection 2 through an act subsequent to the obtaining of a lien or subsequent to a purchase which requires the agreement or concurrence of any third party or which requires further judicial action or ruling.

4. A transfer of property for or on account of a new and contemporaneous consideration, which is under subsection 2 made or suffered after the transfer because of delay in perfecting it, does not become a transfer for or on account of an antecedent debt if any acts required by

the applicable law to be performed in order to perfect the transfer as against liens or bona fide purchasers' rights are performed within twenty-one days or any period expressly allowed by the law, whichever is less. A transfer to secure a future loan, if a loan is actually made, or a transfer which becomes security for a future loan, shall have the same effect as a transfer for or on account of a new and contemporaneous consideration.

5. If a lien voidable under subsection 1, paragraph "b" has been dissolved by the furnishing of a bond or other obligation, the surety on which the bond or obligation has been indemnified directly or indirectly by the transfer of or the creation of a lien upon property of an insurer before the filing of a petition under this chapter which results in a liquidation order, the indemnifying transfer or lien is also voidable.

6. The property affected by a lien voidable under subsections 1 and 5 is discharged from the lien. The property and any of the indemnifying property transferred to or for the benefit of a surety shall pass to the liquidator. However, the court may on due notice order a lien to be preserved for the benefit of the estate and the court may direct that the conveyance be executed to evidence the title of the liquidator.

7. The court shall have summary jurisdiction of a proceeding by the liquidator to hear and determine the rights of parties under this section. Reasonable notice of hearing in the proceeding shall be given to all parties in interest, including the obligee of a releasing bond or other like obligation. Where an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, upon application of any party in interest, the court shall in the same proceeding ascertain the value of the property or lien. If the value is less than the amount for which the property is indemnity or than the amount of the lien, the transferee or lien holder may elect to retain the property or lien upon payment of its value, as ascertained by the court, to the liquidator within time as the court shall fix.

8. The liability of a surety under a releasing bond or other like obligation shall be discharged to the extent of the value of the indemnifying property recovered or the indemnifying lien nullified and avoided by the liquidator. Where the property is retained under subsection 7, the liability of the surety shall be discharged to the extent of the amount paid to the liquidator.

9. If a creditor has been preferred for property which becomes a part of the insurer's estate, and afterward in good faith gives the insurer further credit without security of any kind, the amount of the new credit remaining unpaid at the time of the petition may be set off against the preference which would otherwise be recoverable from the creditor.

10. If within four months before the filing of a successful petition for liquidation under this chapter, or at any time in contemplation of a proceeding to liquidate an insurer directly or indirectly, pays money or transfers property to an attorney for services rendered or to be rendered, the transaction may be examined by the court on its own motion or shall be examined by the court on petition of the liquidator. The payment or transfer shall be held valid only to the extent of a reasonable amount to be determined by the court. The excess may be recovered by the liquidator for the benefit of the estate. However, where the attorney is in a position of influence in the insurer or an affiliate, payment of any money or the transfer of any property to the attorney for services rendered or to be rendered shall be governed by the provision of subsection 1, paragraph "b", subparagraph (4).

11. a. An officer, manager, employee, shareholder, member, subscriber, attorney, or any other person acting on behalf of the insurer who knowingly participates in giving any preference when the person has reasonable cause to believe the insurer is or is about to become insolvent at the time of the preference is personally liable to the liquidator for the

amount of the preference. There is an inference that reasonable cause exists if the transfer was made within four months before the date of filing of this successful petition for liquidation.

b. A person receiving property from the insurer or the benefit thereof as a preference voidable under subsection 1 is personally liable for the property and shall account to the liquidator.

c. This subsection shall not prejudice any other claim by the liquidator against any person.

**Sec. 29. NEW SECTION. 507C.29 CLAIMS OF HOLDERS OF VOID OR VOIDABLE RIGHTS.**

1. A claim of a creditor who has received or acquired a preference, lien, conveyance, transfer, assignment, or encumbrance, voidable under this chapter shall not be allowed unless the creditor surrenders the preference, lien, conveyance, transfer, assignment, or encumbrance. If the avoidance is effected by a proceeding in which a final judgment has been entered, the claim shall not be allowed unless the money is paid or the property is delivered to the liquidator within thirty days from the date of the entering of the final judgment. However, the court having jurisdiction over the liquidation may allow further time if there is an appeal or other continuation of the proceeding.

2. A claim allowable under subsection 1 by reason of a voluntary or involuntary avoidance, preference, lien, conveyance, transfer, assignment, or encumbrance may be filed as an excused late filing under section 507C.35 if filed within thirty days from the date of the avoidance or within the further time allowed by the court under subsection 1.

**Sec. 30. NEW SECTION. 507C.30 SETOFFS AND COUNTERCLAIMS.**

1. Except as provided in subsection 2 and section 507C.33 mutual debts or mutual credits between the insurer and another person in connection with an action or proceeding under this chapter shall be set off and the balance only shall be allowed or paid.

2. A setoff or counterclaim shall not be allowed in favor of a person where any of the following are found:

a. At the date of the filing of a petition for liquidation, the obligation of the insurer to the person would not entitle the person to share as a claimant in the assets of the insurer.

b. The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff.

c. The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution.

d. The obligation of the person is to pay premiums whether earned or unearned to the insurer.

**Sec. 31. NEW SECTION. 507C.31 ASSESSMENTS.**

1. As soon as practicable but not more than two years from the date of an order of liquidation under section 507C.18 of an insurer issuing assessable policies, the liquidator shall make a report to the court setting forth all of the following:

a. The reasonable value of the assets of the insurer.

b. The insurer's probable total liabilities.

c. The probable aggregate amount of the assessment necessary to pay claims of creditors and expenses in full, including expenses of administration and costs of collecting the assessment.

d. A recommendation as to whether an assessment should be made and, if so, in what amount.

2. a. Upon the basis of the report provided in subsection 1 and any supplement or amendment to the report, the court may levy one or more assessments against all members of the insurer who are subject to assessment.

b. Subject to any applicable legal limits on assessability, the aggregate assessment shall be for the amount that the sum of the probable liabilities, the expenses of administration, and the estimated cost of collection of the assessment, exceeds the value of existing assets. Due regard shall be given to assessments that cannot be collected economically.

3. After levy of assessment under subsection 2, the liquidator shall issue an order directing a member who has not paid the assessment pursuant to the order to show cause why the liquidator should not pursue a judgment for the assessment.

4. The liquidator shall give notice of the order to show cause by publication and by first class mail to a member liable under the order. The notice shall be mailed to the member's last known address as it appears on the insurer's records at least twenty days before the return day of the order to show cause.

5. a. If a member does not appear and serve duly verified objections upon the liquidator on or before the return day of the order to show cause under subsection 3, the court shall order the adjudging member to be liable for the amount of the assessment plus costs. The liquidator shall have a judgment against the member for the amount entered in the order.

b. If on or before the return day, the member appears and serves duly verified objections upon the liquidator, the commissioner may hear and determine the matter or may appoint a referee to hear it and make such order as the facts warrant. If the commissioner determines that the objections do not warrant relief from assessment, the member may request the court to review the matter and vacate the order to show cause.

6. The liquidator may enforce an order or collect a judgment under subsection 5 by any lawful means.

Sec. 32. NEW SECTION. 507C.32 REINSURER'S LIABILITY. Notwithstanding a provision in the reinsurance contract or other agreement, the amount recoverable by the liquidator from reinsurers shall not be reduced as a result of delinquency proceedings. Payment made directly to an insured or other creditor shall not diminish the reinsurer's obligation to the insurer's estate except when the reinsurance contract provided for direct coverage of a named insured and the payment was made in discharge of that obligation.

Sec. 33. NEW SECTION. 507C.33 RECOVERY OF PREMIUMS OWED.

1. a. An agent, broker, premium finance company or any other person responsible for the payment of a premium is obligated to pay an unpaid premium for the full policy term due the insurer at the time of the declaration of insolvency, whether earned or unearned, as shown on the records of the insurer. The liquidator shall also have the right to recover from the person any part of an unearned premium that represents commission of the person. Credits or setoffs or both shall not be allowed to an agent, broker, or premium finance company for amounts advanced to the insurer by the agent, broker, or premium finance company on behalf of, but in the absence of a payment by, the insured.

b. An insured is obligated to pay an unpaid earned premium due the insurer as shown on the records of the insurer at the time of the declaration of insolvency.

2. Upon satisfactory evidence of a violation of this section, the commissioner may pursue either one or both of the following courses of action:

a. Suspend or revoke or refuse to renew the licenses of the offending party or parties.  
b. Impose a penalty of not more than one thousand dollars for each act in violation of this section by the party or parties.

3. Before the commissioner shall take any action as set forth in subsection 2, the commissioner shall give written notice to the person, company, association, or exchange accused of violating the law, stating specifically the nature of the alleged violation, and fixing a time and place, at least ten days thereafter, when a hearing on the matter shall be held. After such hearing, or upon failure of the accused to appear at the hearing, if a violation is found the commissioner shall impose those penalties under subsection 2 as deemed advisable.

4. When the commissioner shall take action in any or all of the ways set out in subsection 2, the party aggrieved may appeal from the action to court.

Sec. 34. NEW SECTION. 507C.34 DOMICILIARY LIQUIDATOR'S PROPOSAL TO DISTRIBUTE ASSETS.

1. Within one hundred twenty days of a final determination of insolvency under this chapter as assets become available, the liquidator shall make application to the court for approval of a proposal to disburse assets out of marshaled assets to a guaranty association or foreign guaranty association having obligations because of the insolvency. If the liquidator determines that there are insufficient assets to disburse, the application required by this section shall be considered satisfied by a filing by the liquidator stating the reasons for this determination.

2. The proposal shall at least include provisions for all of the following:

a. Reserving amounts for the payment of all the following:

(1) Expenses of administration.

(2) To the extent of the value of the security held, the payment of claims of secured creditors.

(3) Claims falling within the priorities established in section 507C.42, subsections 1 and 2.

b. Disbursement of the assets marshaled to date and subsequent disbursement of assets as they become available.

c. Equitable allocation of disbursements to each of the guaranty associations and foreign guaranty associations entitled to disbursements.

d. The securing by the liquidator from each of the associations entitled to disbursements of an agreement to return to the liquidator the assets, together with income earned on assets previously disbursed, as may be required to pay claims of secured creditors and claims falling within the priorities established in section 507C.42 in accordance with the priorities. A bond shall not be required of an association.

e. A full report to be made by each association to the liquidator accounting for assets so disbursed to the association, all disbursements made from the assets, interest earned by the association on the assets and any other matter as the court may direct.

3. The liquidator's proposal shall provide for disbursements to the associations in amounts estimated at least equal to the claim payments made or to be made for which the associations could assert a claim against the liquidator. The proposal shall provide that if the assets available for disbursement do not equal or exceed the amount of the claim payments made or to be made by the association then disbursements shall be in the amount of available assets.

4. With respect to an insolvent insurer writing life or health insurance or annuities, the liquidator's proposal shall provide for disbursements of assets to a guaranty association or a foreign guaranty association covering life or health insurance or annuities or to any other entity or organization reinsuring, assuming, or guaranteeing policies or contracts of insurance under the acts creating the associations.



5. Notice of the application shall be given to the association in and to the commissioners of insurance of each of the states. Notice is given when deposited in the United States certified mails, first class postage prepaid, at least thirty days prior to submission of the application to the court. Action on the application may be taken by the court provided the required notice has been given and that the liquidator's proposal complies with subsection 2, paragraphs "a" and "b".

**Sec. 35. NEW SECTION. 507.35 FILING OF CLAIMS.**

1. Proof of all claims shall be filed with the liquidator in the form required by section 507C.36 on or before the last day for filing specified in the notice required under section 507C.22. However, proof of claims for cash surrender values or other investment values in life insurance and annuities need not be filed unless the liquidator expressly so requires.

2. The liquidator may permit a claimant making a late filing to share in distributions, whether past or future, as if the claimant were not late, to the extent that the payment will not prejudice the orderly administration of the liquidation under any of the following circumstances:

a. The existence of the claim was not known to the claimant and that the claimant filed the claim as promptly thereafter as reasonably possible after learning of it.

b. A transfer to a creditor was avoided under sections 507C.26 through 507C.28, or was voluntarily surrendered under section 507C.29, and that the filing satisfies the conditions of section 507C.29.

c. The valuation under section 507C.41 of security held by a secured creditor shows a deficiency, which is filed within thirty days after the valuation.

3. The liquidator shall permit late filing claims to share in distributions, whether past or future, as if they were not late, if the claims are claims of a guaranty association or foreign guaranty association for reimbursement of covered claims paid or expenses incurred, or both, subsequent to the last day for filing where the payments were made and expenses incurred as provided by law.

4. The liquidator may consider any claim filed late which is not covered by subsection 2, and permit it to receive distributions which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive at each distribution the same percentage of the amount allowed on the claim as is then being paid to claimants of any lower priority. This shall continue until the claim has been paid in full.

**Sec. 36. NEW SECTION. 507C.36 PROOF OF CLAIM.**

1. Proof of claim shall consist of a statement signed by the claimant that includes all of the following that are applicable:

a. The particulars of the claim including the consideration given for it.

b. The identity and amount of the security on the claim.

c. The payments, if any, made on the debt.

d. A statement that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to the claim.

e. Any right of priority of payment or other specific right asserted by the claimant.

f. A copy of the written instrument which is the foundation of the claim.

g. The name and address of the claimant and the attorney who represents the claimant, if any.

2. A claim need not be considered or allowed if it does not contain all the information in subsection 1 which is applicable. The liquidator may require that a prescribed form be used and may require that other information and documents be included.

3. At any time the liquidator may request the claimant to present information or evidence supplementary to that required under subsection 1 and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional information or evidence.

4. A judgment or order against an insured or the insurer entered after the date of filing of a successful petition for liquidation, or a judgment or order against an insured or the insurer entered at any time by default or by collusion need not be considered as evidence of liability or of quantum of damages. A judgment or order against an insured or the insurer entered within four months before the filing of the petition need not be considered as evidence of liability or of the quantum of damages.

5. Claims of a guaranty association or foreign guaranty association shall be in the form and contain the substantiation as may be agreed to by the association and the liquidator.

**Sec. 37. NEW SECTION. 507C.37 SPECIAL CLAIMS.**

1. The claim of a third party which is contingent only on the third party first obtaining a judgment against the insured shall be considered and allowed as if there were no such contingency.

2. A claim may be allowed even if contingent, if it is filed in accordance with section 507C.35. It may be allowed and the claimant may participate in all distributions declared after it is filed to the extent that it does not prejudice the orderly administration of the liquidation.

3. Claims that are due except for the passage of time shall be treated as absolute claims are treated. However, the claims may be discounted at the legal rate of interest.

4. Claims made under employment contracts by directors, principal officers, or persons in fact performing similar functions or having similar powers are limited to payment for services rendered prior to the issuance of an order of rehabilitation or liquidation under section 507C.13 or 507C.18.

**Sec. 38. NEW SECTION. 507C.38 SPECIAL PROVISIONS FOR THIRD-PARTY CLAIMS.**

1. If a third party asserts a cause of action against an insured of an insurer in liquidation, the third party may file a claim with the liquidator.

2. Whether or not the third party files a claim, the insured may file a claim on the insured's own behalf in the liquidation. If the insured fails to file a claim by the date for filing claims specified in the order of liquidation or within sixty days after mailing of the notice required by section 507C.22, whichever is later, the insured is an unexcused late filer.

3. The liquidator shall make recommendations to the court under section 507C.42, for the allowance of an insured's claim under subsection 2 after consideration of the probable outcome of a pending action against the insured on which the claim is based, the probable damages recoverable in the action and the probable costs and expenses of defense. After allowance by the court, the liquidator shall withhold dividends payable on the claim, pending the outcome of litigation and negotiation with the insured. If it seems appropriate, the liquidator shall reconsider the claim on the basis of additional information and amend the recommendations to the court. The insured shall be afforded the same notice and opportunity to be heard on all changes in the recommendation as in its initial determination. The court may amend its allowance as it finds appropriate. As claims against the insured are settled or barred, the insured shall be paid from the amount withheld the same percentage dividend as was paid on other claims of like property, based on the lesser of:

a. The amount actually recovered from the insured by action or paid by agreement plus the reasonable costs and expenses of defense.

b. The amount allowed on the claims by the court.

After all claims are settled or barred, any sum remaining from the amount withheld shall revert to the undistributed assets of the insurer. Delay in final payment under this subsection shall not be a reason for unreasonable delay of final distribution and discharge of the liquidator.

4. If several claims founded upon one policy are filed, whether by third parties or as claims by the insured under this section, and the aggregate allowed amount of the claims to which the same limit of liability in the policy is applicable exceeds that limit, each claim as allowed shall be reduced in the same proportion so that the total equals the policy limit. Claims by the insured shall be evaluated as in subsection 3. If any insured's claim is subsequently reduced under subsection 3, the amount thus freed shall be apportioned ratably among the claims which have been reduced under this subsection.

5. A claim may not be presented under this section if it is or may be covered by any guaranty association or foreign guaranty association.

**Sec. 39. NEW SECTION. 507C.39 DISPUTED CLAIMS.**

1. If a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant or the claimant's attorney by first class mail at the address shown in the proof of claim. Within sixty days from the mailing of the notice, the claimant may file objections with the liquidator. Unless a filing is made, the claimant may not further object to the determination.

2. If objections are filed with the liquidator and the liquidator does not alter the denial of the claim as a result of the objections, the liquidator shall ask the court for a hearing as soon as practicable and give notice of the hearing by first class mail to the claimant or the claimant's attorney and to any other persons directly affected. The notice shall be given not less than ten nor more than thirty days before the date of the hearing. The matter shall be heard by the court or by a court-appointed referee. The referee shall submit findings of fact along with a recommendation.

**Sec. 40. NEW SECTION. 507C.40 CLAIMS OF SURETY.** If a creditor whose claim against an insurer is secured in whole or in part, by the undertaking of another person, fails to prove and file that claim, then the other person may do so in the creditor's name. The surety shall be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the surety in the creditor's name to the extent that the surety discharges the undertaking. However, in the absence of an agreement with the creditor to the contrary, the surety is not entitled to any distribution until the amount paid to the creditor on the undertaking plus the distributions paid on the claim from the insurer's estate to the creditor equals the amount of the entire claim of the creditor. An excess received by the creditor shall be held by the creditor in trust for the surety. As used in this section, "surety" is not intended to apply to a guaranty association or foreign guaranty association.

**Sec. 41. NEW SECTION. 507C.41 SECURED CREDITOR'S CLAIMS.**

1. The value of security held by a secured creditor shall be determined in one of the following ways, as the court may direct:

a. By converting the security into money according to the terms of the agreement pursuant to which the security was delivered to the creditors.

b. By agreement, arbitration, compromise or litigation between the creditor and the liquidator.

2. The determination shall be under the supervision and control of the court with due regard for the recommendation of the liquidator. The amount so determined shall be credited upon the secured claim. A deficiency shall be treated as an unsecured claim. If the claimant surrenders the security to the liquidator, the entire claim shall be allowed as if unsecured.

Sec. 42. NEW SECTION. 507C.42 PRIORITY OF DISTRIBUTION. The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth. Claims in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. Subclasses shall not be established within a class. The order of distribution of claims is:

1. CLASS 1. The costs and expenses of administration, including but not limited to the following:

- a. The actual and necessary costs of preserving or recovering the assets of the insurer.
- b. Compensation for services rendered in the liquidation.
- c. Necessary filing fees.
- d. The fees and mileage payable to witnesses.
- e. Reasonable attorney's fees.
- f. The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

2. CLASS 2. Debts due to employees for services performed to the extent that they do not exceed one thousand dollars and represent payment for services performed within one year before the filing of the petition for liquidation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.

3. CLASS 3. Claims under policies for losses incurred, including third-party claims, claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, and claims of a guaranty association or foreign guaranty association. Claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values shall be treated as loss claims. That portion of a loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. A payment by an employer to an employee is not a gratuity.

4. CLASS 4. Claims under nonassessable policies for unearned premium or other premium refunds and claims of general creditors.

5. CLASS 5. Claims of the federal or any state or local government. Claims, including those of a governmental body for a penalty or forfeiture, are allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs. The remainder of such claims shall be postponed to the class of claims under subsection 8.

6. CLASS 6. Claims filed late or any other claims other than claims under subsections 7 and 8.

7. CLASS 7. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies is limited in accordance with law.

8. CLASS 8. The claims of shareholders or other owners.

**Sec. 43. NEW SECTION. 507C.43 LIQUIDATOR'S RECOMMENDATIONS TO THE COURT.**

1. The liquidator shall review claims duly filed in the liquidation and shall make further investigation as necessary. The liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court except where the liquidator is required by law to accept claims as settled by a person or organization, including a guaranty association or foreign guaranty association. Unresolved disputes shall be determined under section 507C.39. As soon as practicable, the liquidator shall present to the court a report of the claims against the insurer with the liquidator's recommendations. The report shall include the name and address of each claimant and the amount of the claim finally recommended. If the insurer has issued annuities or life insurance policies, the liquidator shall report the persons to whom, according to the records of the insurer, amounts are owed as cash surrender values or other investment value and the amounts owed.

2. The court may approve, disapprove, or modify the report on claims by the liquidator. Reports not modified by the court within sixty days following submission by the liquidator shall be treated by the liquidator as allowed claims, subject to later modification or to rulings made by the court pursuant to section 507C.39. A claim under a policy of insurance shall not be allowed for an amount in excess of the applicable policy limits.

**Sec. 44. NEW SECTION. 507C.44 DISTRIBUTION OF ASSETS.** Under the direction of the court, the liquidator shall pay distributions in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third-party claims. Distribution of assets in kind may be made at valuations set by agreement between the liquidator and the creditor and approved by the court.

**Sec. 45. NEW SECTION. 507C.45 UNCLAIMED AND WITHHELD FUNDS.**

1. Unclaimed funds subject to distribution remaining in the liquidator's hands when the liquidator is ready to apply to the court for discharge, including the amount distributable to a creditor, shareholder, member, or other person who is unknown or cannot be found, shall be deposited with the state treasurer, and shall be paid without interest, except in accordance with section 507C.42, to the person entitled or the person's legal representative upon proof satisfactory to the state treasurer of the right to the funds. An amount on deposit not claimed within six years from the discharge of the liquidator is deemed to have been abandoned and shall become the property of the state without formal escheat proceedings and be deposited with the general fund.

2. Funds withheld under section 507C.37 and not distributed shall upon discharge of the liquidator be deposited with the state treasurer and paid in accordance with section 507C.42. Sums remaining which under section 507C.42 would revert to the undistributed assets of the insurer shall be transferred to the state treasurer and become the property of the state under subsection 1, unless the commissioner in the commissioner's discretion petitions the court to reopen the liquidation under section 507C.47.

**Sec. 46. NEW SECTION. 507C.46 TERMINATION OF PROCEEDINGS.**

1. When all assets justifying the expense of collection and distribution have been collected and distributed under this chapter, the liquidator shall apply to the court for discharge. The court may grant the discharge and make any other orders, including an order to transfer remaining funds that are uneconomical to distribute, as appropriate.

2. Any other person may apply to the court at any time for an order under subsection 1. If the application is denied, the applicant shall pay the costs and expenses including reasonable attorney's fee of the liquidator in resisting the application.

Sec. 47. **NEW SECTION. 507C.47 REOPENING LIQUIDATION.** At any time after the liquidation proceeding has been terminated and the liquidator discharged, the commissioner or other interested party may petition the court to reopen the proceedings for good cause including the discovery of additional assets. The court shall order the proceeding reopened if it is satisfied that there is justification for the reopening.

Sec. 48. **NEW SECTION. 507C.48 DISPOSITION OF RECORDS DURING AND AFTER TERMINATION OF LIQUIDATION.** If it appears to the commissioner that the records of an insurer in process of liquidation or completely liquidated are no longer useful, the commissioner may recommend to the court and the court shall direct what records shall be retained for future reference and what shall be destroyed.

Sec. 49. **NEW SECTION. 507C.49 EXTERNAL AUDIT OF THE RECEIVER'S BOOKS.** The court may order audits to be made of the books of the commissioner relating to a receivership established under this chapter, and a report of each audit shall be filed with the commissioner and with the court. The books, records, and other documents of the receivership shall be made available to the auditor at any time without notice. The expense of an audit shall be considered a cost of administration of the receivership.

#### DIVISION IV

#### INTERSTATE RELATIONS

Sec. 50. **NEW SECTION. 507C.50 CONSERVATION OF PROPERTY OF FOREIGN OR ALIEN INSURERS FOUND IN THIS STATE.**

1. If a domiciliary liquidator has not been appointed, the commissioner may apply to the court by verified petition for an order directing the commission to act as conservator to conserve the property of an alien insurer not domiciled in this state or a foreign insurer on any of the following grounds:

- a. Any of the grounds in section 507C.12.
- b. That property has been sequestered by official action in the insurer's domiciliary state, or in any other state.
- c. That enough of its property has been sequestered in a foreign country to give reasonable cause to fear that the insurer is or may become insolvent.
- d. That both of the following are found:
  - (1) That its certificate of authority to do business in this state has been revoked or that no certificate was ever issued.
  - (2) That there are residents of this state with outstanding claims or outstanding policies.

2. When an order is sought under subsection 1, the court shall cause the insurer to be given notice and time to respond to the petition as is reasonable under the circumstances.

3. The court may issue the order in whatever terms it deems appropriate. The filing or recording of the order with the clerk of court or the recorder of deeds of the county in which the principal business of the company is located or the county in which its principal office or place of business is located is the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds.

4. The conservator may at any time petition for and the court may grant an order under section 507C.51 to liquidate assets of a foreign or alien insurer under conservation, or, for an order under section 507C.53, to be appointed ancillary receiver.

5. The conservator may at any time petition the court for an order terminating conservation of an insurer. If the court finds that the conservation is no longer necessary, it shall order that the insurer be restored to possession of its property and the control of its business. The court may also make such finding and issue such order at any time upon motion of any interested party, but if the motion is denied costs shall be assessed against the party.

**Sec. 51. NEW SECTION. 507C.51 LIQUIDATION OF PROPERTY OF FOREIGN OR ALIEN INSURERS FOUND IN THIS STATE.**

1. If a domiciliary receiver has not been appointed, the commissioner may apply to the court by verified petition for an order directing the commissioner to liquidate the assets found in this state of a foreign insurer or an alien insurer not domiciled in this state on any of the following grounds:

a. Any of the grounds in section 507C.12 or 507C.17.

b. Any of the grounds specified in section 507C.50, subsection 1, paragraphs "b" through "d".

2. When an order is sought under subsection 1, the court shall cause the insurer to be given notice and time to respond to the petition as is reasonable under the circumstances.

3. If it appears to the court that the best interests of creditors, policyholders, and the public require, the court may issue an order to liquidate in whatever terms it deems appropriate. The filing or recording of the order with the clerk of the court or the recorder of deeds of the county in which the principal business of the company is located or the county in which its principal office or place of business is located, is same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds.

4. If a domiciliary liquidator is appointed in a reciprocal state while a liquidation is proceeding under this section, the liquidator under this section shall act as ancillary receiver under section 507C.53. If a domiciliary liquidator is appointed in a nonreciprocal state while a liquidation is proceeding under this section, the liquidator under this section may petition the court for permission to act as ancillary receiver under section 507C.53.

5. On the same grounds as are specified in subsection 1, the commissioner may petition an appropriate federal district court to be appointed receiver to liquidate that portion of the insurer's assets and business over which the court will exercise jurisdiction, or any lesser part that the commissioner deems desirable for the protection of the policyholders and creditors in this state.

6. When the commissioner has liquidated the assets of a foreign or alien insurer under this section, the court may order the commissioner to pay claims of residents of this state against the insurer under rules as to the liquidation of insurers under this chapter as are otherwise compatible with this section.

**Sec. 52. NEW SECTION. 507C.52 DOMICILIARY LIQUIDATORS IN OTHER STATES.**

1. Except as to special deposits and security on secured claims under section 507C.53, subsection 3, the domiciliary liquidator of an insurer domiciled in a reciprocal state shall be vested with the title to the assets, property, contracts, and rights of action, agents' balances, books, accounts and other records of the insurer located in this state. The date of vesting is the date of the filing of the petition, if that date is specified by the domiciliary law for the vesting of property in the domiciliary state. Otherwise, the date of vesting shall be the date of entry of the order directing possession to be taken. The domiciliary liquidator may immediately recover balances due from agents and obtain possession of the books, accounts and other records of the insurer located in this state. Subject to section 507C.53, the domiciliary liquidator may also recover all other assets of the insurer located in this state.

2. If a domiciliary liquidator is appointed for an insurer not domiciled in a reciprocal state, the commissioner of this state shall be vested with the title to the property, contracts and rights of action, books, accounts and other records of the insurer located in this state, at the

same time that the domiciliary liquidator is vested with title in the domicile. The commissioner of this state may petition for a conservation or liquidation order under section 507C.50 or 507C.51, or for an ancillary receivership under section 507C.53, or after approval by the court may transfer title to the domiciliary liquidator, as the interests of justice and the equitable distribution of the assets require.

3. Claimants residing in this state may file claims with the liquidator or ancillary receiver in this state or with the domiciliary liquidator, if the domiciliary law permits. The claims shall be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceedings.

**Sec. 53. NEW SECTION. 507C.53 ANCILLARY FORMAL PROCEEDINGS.**

1. If a domiciliary liquidator has been appointed for an insurer not domiciled in this state, the commissioner may file a petition with the court requesting appointment as ancillary receiver in this state if both of the following exist:

a. If the domiciliary liquidator finds that there are sufficient assets of the insurer located in this state to justify the appointment of an ancillary receiver.

b. If the protection of creditors or policyholders in this state so requires.

2. The court may issue an order appointing an ancillary receiver in whatever terms it deems appropriate. The filing or recording of the order with the recorder of deeds in this state is the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds.

3. When a domiciliary liquidator has been appointed in a reciprocal state, then the ancillary receiver appointed in this state may aid and assist the domiciliary liquidator in recovering assets of the insurer located in this state. As soon as practicable, the ancillary receiver shall liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this state. The ancillary receiver shall pay the necessary expenses of the proceedings and shall promptly transfer all remaining assets, books, accounts and records to the domiciliary liquidator. Subject to this section, the ancillary receiver and any deputies have the same powers and is subject to the same duties with respect to the administration of assets as a liquidator of an insurer domiciled in this state.

4. As to assets and books, accounts, and other records in their respective states, when a domiciliary liquidator has been appointed in this state, ancillary receivers appointed in reciprocal states shall have corresponding rights, duties and powers to those provided in subsection 3 for ancillary receivers appointed in this state.

**Sec. 54. NEW SECTION. 507C.54 ANCILLARY SUMMARY PROCEEDINGS.** In the sole discretion of the commissioner, the commissioner may institute proceedings under sections 507C.9 through 507C.11 at the request of the commissioner or other appropriate insurance official of the domiciliary state of a foreign or alien insurer having property located in this state.

**Sec. 55. NEW SECTION. 507C.55 CLAIMS OF NONRESIDENTS AGAINST INSURERS DOMICILED IN THIS STATE.**

1. In a liquidation proceeding begun in this state against an insurer domiciled in this state, claimants residing in foreign countries or in nonreciprocal states shall file claims in this state, and claimants residing in reciprocal states shall file claims either with the ancillary receivers in their respective states or with the domiciliary liquidator. Claims shall be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceeding.

2. Claims belonging to claimants residing in reciprocal states shall be proved either in the liquidation proceeding in this state as provided in this chapter or in ancillary proceedings in



the reciprocal states. If notice of the claims and opportunity to appear and be heard is afforded the domiciliary liquidator of this state as provided in section 507C.56, subsection 2 with respect to ancillary proceedings, the final allowance of claims by the courts in ancillary proceedings in reciprocal states shall be conclusive as to amount and as to priority against special deposits or other security located in such ancillary states, but shall not be conclusive with respect to priorities against general assets under section 507C.42.

**Sec. 56. NEW SECTION. 507C.56 CLAIMS OF RESIDENTS AGAINST INSURERS DOMICILED IN RECIPROCAL STATES.**

1. In a liquidation proceeding in a reciprocal state against an insurer domiciled in that state, claimants against the insurer who reside within this state may file claims either with the ancillary receiver in this state, or with the domiciliary liquidator. Claims shall be filed on or before the last dates fixed for the filing of claims in the domiciliary liquidation proceeding.

2. Claims belonging to claimants residing in this state may be proved either in the domiciliary state under the law of that state, or in ancillary proceedings in this state. If a claimant elects to prove the claim in this state, the claimant shall file the claim with the liquidator in the manner provided in sections 507C.35 and 507C.36. The ancillary receiver shall make a recommendation to the court as under section 507C.43. The ancillary receiver shall also arrange a date for hearing if necessary under section 507C.39 and shall give notice to the liquidator in the domiciliary state, either by certified mail or by personal service at least forty days prior to the date set for hearing. Within thirty days after the giving of the notice, if the domiciliary liquidator gives notice in writing either by certified mail or by personal service to the ancillary receiver and to the claimant of an intention to contest the claim, the domiciliary liquidator is entitled to appear or to be represented in a proceeding in this state involving the adjudication of the claim.

3. The final allowance of the claim by the courts of this state shall be accepted as conclusive as to amount and as to priority against special deposits or other security located in this state.

**Sec. 57. NEW SECTION. 507C.57 ATTACHMENT, GARNISHMENT, AND LEVY OF EXECUTION.** An action or proceeding in the nature of an attachment, garnishment, or levy of execution shall not be commenced or maintained in this state against the delinquent insurer or its assets during the pendency in this or any other state of a liquidation proceeding, whether called by that name or not.

**Sec. 58. NEW SECTION. 507C.58 INTERSTATE PRIORITIES.**

1. In a liquidation proceeding in this state involving one or more reciprocal states, the order of distribution of the domiciliary state shall control as to claims of residents of this and reciprocal states. Claims of residents of reciprocal states shall be given equal priority of payment from general assets regardless of where the assets are located.

2. The owners of special deposit claims against an insurer for which a liquidator is appointed in this or any other state is given priority against the special deposits in accordance with the statutes governing the creation and maintenance of the deposits. If there is a deficiency in a deposit so that the claims secured by it are not fully discharged from it, the claimants may share in the general assets. However, the sharing shall be deferred until general creditors and claimants against other special deposits who have received smaller percentages from their respective special deposits have been paid percentages of their claims equal to the percentage paid from the special deposit.

3. The owner of a secured claim against an insurer for which a liquidator has been appointed in this or any other state may surrender the security and file the claim as a general creditor, or the claim may be discharged by resort to the security in accordance with section 507C.41, in

which case the deficiency shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors.

Sec. 59. NEW SECTION. 507C.59 SUBORDINATION OF CLAIMS FOR NON-COOPERATION. If an ancillary receiver in another state or foreign country, whether called by that name or not, fails to transfer to the domiciliary liquidator in this state assets within the ancillary receiver's control other than special deposits, diminished only by the expenses of the ancillary receivership, the claims filed in the ancillary receivership, other than special deposit claims or secured claims, shall be placed in the class of claims under section 507C.42, subsection 7.

Approved May 2, 1984

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**CHAPTER 1176**  
**PROTEST OF ZONING CHANGES**  
*H.F. 205*

**AN ACT** relating to the eligibility of property owners to protest changes in zoning districts.

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

Section 1. Section 414.5, Code 1983, is amended to read as follows:

414.5 **CHANGES – HEARING – NOTICE.** ~~Such~~ The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. In case, however, of a written protest against such a change or repeal which is filed with the city clerk and signed by the owners of twenty percent or more either of the area of the lots included in such the proposed change or repeal, or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed two hundred feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed two hundred feet from the street frontage of such opposite lots, such amendment by the owners of twenty percent or more of the property which is located within two hundred feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths of all the members of the council. The provisions of section 414.4 relative to public hearings and official notice apply equally to all changes or amendments.

Approved May 2, 1984

**CHAPTER 1177**  
**PROPERTY OWNED BY CITY UTILITY**  
*H.F. 2043*

**AN ACT** relating to the reporting of property owned by a city utility.

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

Section 1. Section 428.28, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Every individual, copartnership, corporation, ~~or association or city~~ which operates a public utility on a nonprofit basis, as defined in section 428.24 shall annually, on or before the first day of May of each calendar year, make a report on blanks to be provided by the department of revenue of all of the property owned by ~~such~~ the individual, copartnership, corporation, ~~or association or city~~ within the incorporated limits of any city in the state, and give ~~such~~ other information as the director of revenue shall ~~require~~ requires. ~~Any city utility which reports according to this paragraph shall not be assessed.~~

Approved May 2, 1984

**CHAPTER 1178**  
**COUNTY FINANCE REVISION**  
*H.F. 2390*

**AN ACT** relating to county finance by deleting or amending incorrect references to county funds and making amendments to resolve conflicts in county finance laws.

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

Section 1. Section 165.18, subsection 3, Code Supplement 1983, is amended to read as follows:

3. Not later than December 15 or June 15 of a year in which the tax is collected, the county treasurer shall transmit the amount of the tax levied and collected to the treasurer of state, who shall credit it to the county brucellosis and tuberculosis eradication fund.

Sec. 2. Section 174.14, Code Supplement 1983, is amended to read as follows:

174.14 FAIRGROUND AID. The board of supervisors of a county which has acquired real estate for county or district fair purposes and which has a society using the real estate, may appropriate moneys to be used for the erection and repair of buildings or other permanent improvements on the real estate, and for the payment of debts contracted in the erection or repair and payment of agricultural and livestock premiums. In addition, the net proceeds from the sale of fairground sites and structures on the sites shall be placed in this fund to be used for the erection of permanent buildings on a new fairground site or the cost of moving structures from the old to the new site.

Sec. 3. Section 235B.1, subsection 5, paragraph c, Code Supplement 1983, is amended to read as follows:

c. In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to this section, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid out of the court expense fund by the county.

Sec. 4. Section 309.10, unnumbered paragraph 2, Code Supplement 1983, is amended to read as follows:

A county shall not use farm-to-market road funds as described in this section unless the total funds that the county transferred or provided during the prior fiscal year pursuant to section 331.429, subsection 1, paragraphs "a", "b", and "d", and "e", are at least seventy-five percent of the maximum funds the county could have transferred in the prior fiscal year pursuant to section 331.429, subsection 1, paragraphs "a" and "b".

Sec. 5. Section 312.2, subsection 8, Code Supplement 1983, is amended to read as follows:

8. The treasurer of state, before making any allotments to counties under this section, shall reduce the allotment to any county for the secondary road fund by an amount by which the total funds that the county transferred or provided during the prior fiscal year under section 331.429, subsection 1, paragraphs "a," "b," and "d," and "e", are less than seventy-five percent of the maximum funds that the county could have transferred in the prior fiscal year under section 331.429, subsection 1, paragraphs "a" and "b". Funds remaining in the secondary road fund of the counties due to a reduction of allocations to counties for failure to maintain a minimum local tax effort shall be reallocated to counties that are not reduced under this subsection pursuant to the allocation provisions of section 312.3, subsection 1, based upon the needs and area of the county. Information necessary to make allocations under this subsection shall be provided by the state department of transportation or the state comptroller upon request by the treasurer of state.

Sec. 6. Section 331.421, subsections 1 and 2, Code Supplement 1983, are amended to read as follows:

1. "General county services" means the services which are primarily intended to benefit all residents of a county, including secondary road services, but excluding ~~debt service and~~ services financed by other statutory funds.

2. "Rural county services" means the services which are primarily intended to benefit those persons residing in the county outside of incorporated areas, including secondary road services, but excluding ~~debt service and~~ services financed by other statutory funds.

Sec. 7. Section 331.424, subsection 1, paragraph m, Code Supplement 1983, is amended to read as follows:

m. The maintenance and operation of the courts, including but not limited to the salary and expenses of the clerk of the district court, deputy clerks and other employees of the clerk's office, and bailiffs, establishment and operation of a public defender's office, court costs if the prosecution fails or if the costs cannot be collected from the person liable, costs and expenses of prosecution under section 189A.17, salaries and expenses of juvenile ~~probation court~~ officers under chapter ~~231~~ 602, court-ordered costs in domestic abuse cases under section 236.5, the county's expense for confinement of prisoners under chapter 356A, temporary assistance to the county attorney, county contributions ~~required under section 602.34~~ to a retirement system for bailiffs, reimbursement for judicial magistrates under section ~~602.42~~ 602.6501, claims filed under section 622.93, interpreters' fees under section 622B.7, uniform citation and complaint supplies under section 805.6, and ~~witness fees under section 819.3~~ costs of prosecution under section 815.13.

Sec. 8. Section 331.429, subsection 1, paragraph a, Code Supplement 1983, is amended to read as follows:

a. Transfers from the general fund not to exceed in any year the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county and an amount equivalent to the moneys derived by the general fund from livestock tax credits under section 427.17, military service tax credits under chapter 426A, and mobile home taxes under section 135D.22 multiplied by the ratio of sixteen and seven-eighths cents to the general fund tax rate.

Sec. 9. Section 331.429, subsection 1, paragraph b, Code Supplement 1983, is amended to read as follows:

b. Transfers from the rural services fund not to exceed in any year the dollar equivalent of a tax of three dollars and three-eighths cents per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county and an amount equivalent to the moneys derived by the rural services fund from the livestock tax credits under section 427.17, military service tax credits under chapter 426A, and mobile home taxes under section 135D.22 multiplied by the ratio of three dollars and three-eighths cents to the rural service fund tax rate.

Sec. 10. Section 331.429, subsection 2, paragraph i, Code Supplement 1983, is amended to read as follows:

i. The services provided under sections 306.15, 309.18, 309.52, 311.7, 311.23, 313A.23, 316.14, ~~321.426~~, 455.50, 455.118, 460.7, and 460.8, or other state law relating to secondary roads.

Sec. 11. Section 331.430, subsection 2, paragraph b, Code Supplement 1983, is amended to read as follows:

b. Interest as it becomes due and the amount necessary to pay, or to create a sinking fund to pay, the principal at maturity of all general obligation bonds issued by the county ~~except those serviced through the secondary road services levies.~~

Sec. 12. Section 815.13, Code Supplement 1983, is amended to read as follows:

815.13 PAYMENT OF PROSECUTION COSTS. The county or city that prosecutes a criminal action shall pay the required fees and mileage to witnesses called on behalf of the prosecution, the costs of depositions taken on behalf of the prosecution, the costs of transcripts requested by the prosecution, the fees that are payable to the clerk of the district court for services rendered, and court costs taxed in connection with the trial of the action or appeals from the judgment. These fees and costs are recoverable by the county or city from the defendant unless the defendant is found not guilty or the action is dismissed. ~~Expenditures of a county under this section may be paid out of the court expense fund in lieu of the county general fund.~~

Approved May 2, 1984

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## CHAPTER 1179

### REAL PROPERTY IN MUNICIPAL IMPROVEMENT DISTRICT

*H.F. 2510*

**AN ACT** relating to the definition and taxation of real property within a self-supported municipal improvement district.

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

Section 1. Section 386.1, subsection 7, Code 1983, is amended to read as follows:

7. "Property" means real property as defined in section 4.1, subsection 8, and in section 427A.1, subsection 1, paragraph "h".

Approved May 2, 1984

**CHAPTER 1180**  
**EFFICIENCY TASK FORCE RECOMMENDATIONS**  
*H.F. 2473*

**AN ACT** to implement certain recommendations of the governor's task force by providing limitations on leaves of absence for certain military purposes, providing a phased retirement incentive program for full-time state employees, providing for the use of investment income as management expenses for certain retirement programs, providing that persons who are not full-time employees of the state who do not accrue sick leave or vacation and who work on a state holiday shall receive pay only for hours worked, and providing that all state departments and agencies shall have appropriations for the 1984-1985 fiscal year reduced by the amount of out-of-state travel incurred in the 1984-1985 fiscal year.

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

Section 1. **NEW SECTION. 79.30 ESTABLISHMENT OF PHASED RETIREMENT PROGRAM.** There is established a voluntary employee phased retirement incentive program for full-time state employees who are at least sixty years of age and have completed at least twenty years as full-time state employees.

The phased retirement incentive program is a retirement system for purposes of section 20.9, but is not retirement for purposes of chapter 97A, 97B, or 602 or for the employees who are members of the teachers insurance annuity association-college retirement equity fund.

Sec. 2. **NEW SECTION. 79.31 ELIGIBILITY.** The phased retirement incentive program requires that participants work a maximum of thirty-two hours per week and a minimum of twenty hours per week for the first year after entering the program. After the fourth year of participation in the program, participants shall work a maximum of twenty hours per week.

Sec. 3. **NEW SECTION. 79.32 PHASED RETIREMENT PROGRAM.** The phased retirement incentive program is a voluntary program that provides that an employee may participate in the program for not more than five years and provides for the following:

1. Payment of a salary based upon the participant's salary on a full-time basis reduced proportionally by the number of hours of employment plus ten percent of the budgeted full-time salary. A participant is eligible for cost of living increases granted to all state employees.

2. Continuation of eligibility by the participant for membership in the state life insurance program with continuation of state payments at the rate paid for full-time employees.

3. Continuation of eligibility by the participant for membership in the state health or medical insurance program and continuation of state payments at the rate paid for full-time employees.

4. Continuation of membership in the state employees disability insurance program. During the five-year period, monthly earnings of the employee for purposes of the disability insurance program equal the monthly earnings as if the participant were a full-time employee.

5. Accrual of vacation and sick leave based upon section 79.1 as it applies to part-time employees.

Sec. 4. **NEW SECTION. 79.33 PARTICIPATION PLAN.** A state employee meeting the requirements of section 79.31 may file a request to participate in the program with the head of the employee's state department, agency, or commission. The employee shall specify the number of hours per week the employee intends to work for each of the five years of participation. Participation in the program is dependent upon the approval of the head of the department, agency, or commission. The cost to the state department, agency, or commission shall be paid from the funds appropriated to the department, agency, or commission for salaries, support, maintenance, and miscellaneous purposes.

An employee who participates in the program is not eligible to return to state employment as a permanent full-time employee. Once an employee reduces the employee's hours of participation, that employee shall not subsequently increase the hours of participation.

Sec. 5. **NEW SECTION. 79.25 APPROPRIATION.** Annually after June 30 of each fiscal year, the department of job service shall determine the cost during the preceding fiscal year to the Iowa public employees' retirement fund of participation of state employees in the phased retirement program. Annually, there is appropriated from the general fund of the state to the Iowa public employees' retirement fund an amount sufficient to reimburse the retirement fund for the costs of the phased retirement program.

Sec. 6. Section 12.8, Code 1983, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** Investment income may be used to maintain compensating balances and pay transaction costs for investments made by the treasurer of state. The treasurer of state shall coordinate with the affected departments to determine how compensating balances or transaction costs will be established. All charges against a retirement system must be documented and notification of the charges shall be made to the appropriate administration of the retirement system effected.

Sec. 7. Section 33.1, Code 1983, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** Notwithstanding any other provision of this section, an employee of the state who does not accrue sick leave or vacation, and who works on a holiday, shall receive regular pay for the hours worked on that holiday and shall not otherwise earn holiday compensatory pay.

Sec. 8. Section 97A.8, subsection 3, Code 1983, is amended to read as follows:

3. **EXPENSE FUND.** The expense fund shall be the fund to which shall be credited all money provided by the state of Iowa to pay the administration expenses of the system and from which shall be paid all the expenses necessary in connection with the administration and operation of the system. Biennially the board of trustees shall estimate the amount of money necessary to be paid into the expense fund during the ensuing biennium to provide for the expense of operation of the system. Investment management expenses shall be charged to the investment income of the system and there is appropriated from the system an amount required for the investment management expenses. The board of trustees shall report the investment management expenses for the fiscal year as a percent of the market value of the system.

Sec. 9. Section 97B.7, subsection 2, paragraph b, subparagraph (6), unnumbered paragraph 2, Code 1983, is amended to read as follows:



~~In the event of If there is loss on the redemption or sale of securities, where invested as prescribed by law, neither the treasurer nor the department shall be is personally liable, but such the loss shall be charged against the retirement fund and there is hereby appropriated from such the retirement fund an amount as may be so required for the loss. Expenses incurred in the sale and purchase of securities belonging to the retirement fund shall be charged to the retirement fund and there is hereby appropriated from such the retirement fund an amount as may be so required and investment for the expenses incurred. management expenses shall be charged to the investment income of the retirement fund and such expense shall otherwise be budgeted and appropriated in the same manner as administrative expenses for the rest of the system.~~

Sec. 10. Section 602.9111, Code Supplement 1983, is amended to read as follows:

602.9111 INVESTMENT OF FUND. So much of the judicial retirement fund as may not be necessary to be kept on hand for the making of disbursements under this chapter shall be invested by the treasurer of state in bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof or in any investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b", and the earnings therefrom shall be credited to said fund.

Investment management expenses shall be charged to the investment income of the fund and there is appropriated from the fund an amount required for the investment management expenses. The court administrator shall report the investment management expenses for the fiscal year as a percent of the market value of the system.

Sec. 11. Notwithstanding any provision of any appropriation bill, the 1984-1985 appropriations for all state departments, agencies, boards, commissions, and other entity receiving state funds are reduced by the amount expended for out-of-state travel, except travel that was essential for the performance of the employee's duties or for professional purposes, during the fiscal year beginning July 1, 1984 by such state entities. The amount of the reduced funds shall revert to the fund from which appropriated.

Sec. 12. This Act, being deemed of immediate importance, takes effect from and after its publication in the West Des Moines Express, a newspaper published in West Des Moines, Iowa, and in The Altoona Herald-Mitchellville Index, a newspaper published in Altoona, Iowa. Section 6\* of this Act takes effect upon publication. All other provisions of this Act take effect July 1, 1984.

Approved May 2, 1984

Pursuant to the authority vested in the undersigned, Secretary of State of the State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1983, there being no newspaper published in West Des Moines, Iowa by the name of the West Des Moines Express, I hereby designate the West Des Moines Express published in Des Moines, Iowa to publish House File 2473.

MARY JANE ODELL, *Secretary of State*

I hereby certify that the foregoing Act, House File 2473 was published in the West Des Moines Express, West Des Moines, Iowa on May 11, 1984 and in The Altoona Herald-Mitchellville Index, Altoona, Iowa on May 10, 1984.

MARY JANE ODELL, *Secretary of State*

\*According to enrolled Act

**CHAPTER 1181****JUROR SERVICE***S.F. 253*

**AN ACT** relating to qualifications for and exemptions from juror service.

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

Section 1. Section 29A.41, Code 1983, is amended to read as follows:

**29A.41 EXEMPTION FROM JURY AND OTHER EXEMPTIONS.** ~~Every officer and enlisted person of the national guard while in active state service shall be exempt from jury duty. No A member of the national guard shall not be arrested, or served with any a summons, order, warrant or other civil process after having been ordered to any duty, or while going to, attending, or returning from, any place to which the officer or enlisted person is required to go for military duty. Nothing herein shall~~ This section does not prevent the officer's or enlisted person's arrest by order of a military officer or for a felony or breach of the peace committed while not in the actual performance of the officer's or enlisted person's duty. The articles of equipment personally owned by such members shall be are exempt from seizure or sale for debt. Every member of the national guard who has faithfully served the full term of the member's commission, warrant or enlistment, shall, upon application, be is entitled, upon application, to an honorable discharge, exempting the member from military duty except in time of war or public danger.

Sec. 2. Section 607.1, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**607.1 SERVICE ON JURY.** Juror service is a duty which every person who qualifies under this chapter shall perform when selected, except as provided in sections 607.2 and 607.3. Selection for juror service shall be at random from the population of the judicial district. All persons residing in the district shall have equal opportunity to be considered for juror service. A person shall not be exempted from serving as a juror because of race, color, religion, sex, national origin, economic status, or occupation. Physically handicapped persons shall serve unless the court finds the service is not feasible. The court shall strictly enforce this section.

Sec. 3. Section 607.2, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**607.2 QUALIFICATION FOR SERVICE.** A person is qualified for juror service unless one of the following grounds for disqualification applies:

1. The person is under eighteen years of age.
2. The person is not a United States citizen.
3. The person cannot understand the English language in a written, spoken, or manually signed mode.
4. The person's ability to receive and evaluate information is so impaired that the person is incapable of rendering satisfactory juror service.
5. The person is solely responsible for the daily care of a permanently disabled person living in the same household and the performance of juror service would cause a substantial risk of

injury to the health of the disabled person. A person who is regularly employed at a location other than the person's household is not entitled to this disqualification.

A person may be disqualified if the person has, directly or indirectly, requested to be placed on the list for juror service compiled under section 609.1.

A person who claims disqualification for any of the grounds identified in this section may, upon the person's own volition, or shall, upon the court's volition, submit in writing to the court's satisfaction, documentation that verifies disqualification from juror service.

Sec. 4. Section 607.3, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**607.3 JURORS EXCUSED.** The court may defer a term of grand or petit juror service upon a finding of hardship, inconvenience, or public necessity, however the juror must serve at a later date established by the court. The court may excuse a person from grand juror service in part or in full, upon a finding of hardship, inconvenience, or public necessity, considering the length of grand juror service. The court may excuse a person from petit juror service, in part or in full, upon a finding of extreme hardship. The courts shall exercise this authority strictly. The court may dismiss a juror at any time in the interest of justice.

Sec. 5. Section 608.8, Code 1983, is amended to read as follows:

**608.8 INSTRUCTIONS TO APPOINTIVE COMMISSION.** ~~It shall be the duty of the~~ The judges of the district court ~~to shall~~ give instructions to appointive jury commissioners at the time of their appointment as to their duties, and ~~to shall~~ call their special attention to the ~~provisions of section 609.2~~ sections 607.1, 607.2, and 609.5.

Sec. 6. Section 609.1, subsections 1, 2, and 3, Code 1983, are amended to read as follows:

1. **GRAND JURORS.** A list of names and addresses of one hundred fifty ~~eligible electors~~ persons qualified for service under section 607.2 from which to select grand jurors.

2. **PETIT JURORS.** A list of names and addresses of ~~eligible electors~~ persons qualified for service under section 607.2 equal to at least one-eighth of the whole number of qualified electors in the county as shown by the current list of registered voters, from which to select petit jurors.

3. **TALESMEN.** A list of the names and addresses of ~~eligible electors~~ persons qualified for service under section 607.2 equal to fifteen percent of the whole number of qualified electors as shown by the current list of registered voters, in the city in which the district court is held and in the township or townships in which ~~such that~~ city is located, (but in no case exceeding five hundred names), from which to select talesmen.

Sec. 7. Section 609.1, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The jury commission may convene at the courthouse to prepare an additional list or lists as the commission deems necessary at the time and date determined by a majority of the commissioners.

Sec. 8. Section 609.5, Code 1983, is amended to read as follows:

**609.5 ADDITIONAL INFORMATION PROVIDED.** ~~For the purpose of aiding the appointive commission in drawing the jury lists, officials of the state and its political subdivisions shall furnish the appointive commission with copies of the~~ The commission shall use all of the following lists in preparing a jury list:

1. A current list of registered voters, lists.
2. A list of persons holding motor vehicle operators' licenses, or such.
3. Lists of public utility customers.

In addition to the lists required to be used in preparing a jury list the commission may use other comprehensive lists of persons residing in the county as the commission may request identifies. State and local government officials shall furnish the commission with copies of lists required by law or as the commission requests. The clerk of the district court shall also deliver to the commission a list of all persons who have served as grand or petit jurors since January 1 of the preceding year. Lists of public utility customers are limited to publicly available telephone directories.

Sec. 9. Section 609.11, unnumbered paragraph 2, Code 1983, is amended to read as follows:

We, . . . . ., and . . . . ., constituting the jury commission for . . . . . county, ~~do hereby~~ certify that the foregoing lists do not, to our knowledge and belief, contain the name of any person who ~~should be excluded is not qualified~~ under section ~~609.2~~ 607.2.

Sec. 10. **NEW SECTION. 609.49 JURY SELECTION.** When selecting a jury in a trial in which a municipality is a defendant, a juror challenge based on the potential juror's status as a taxpayer of that municipality shall not be allowed unless a real, substantial, and immediate interest is shown which would unfairly prejudice the plaintiff.

Sec. 11. Section 609.2, Code 1983, is repealed.

Approved May 3, 1984

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## CHAPTER 1182

### STATE HAZARDOUS WASTE FACILITY

H.F. 2426

**AN ACT** relating to the study of the feasibility of a state-owned hazardous waste treatment and resource recovery facility.

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

#### Section 1. HAZARDOUS WASTE FACILITY STUDY.

1. The department of water, air and waste management shall study the feasibility of a state-owned hazardous waste treatment and resource recovery facility. The department shall:

- a. Identify the treatment and resource recovery technologies suitable for a hazardous waste treatment and resource recovery facility.
- b. Determine the optimum areas for the siting of the facility.
- c. Assess the use of economic incentives to local communities.
- d. Determine the economic feasibility of a state-owned facility.

2. The department shall report its findings to the general assembly by January 1, 1985.

Sec. 2. Section 455B.422, Code 1983, is amended to read as follows:

455B.422 ACQUISITION AND LEASE OF SITES. The commission shall adopt rules establishing criteria for the identification of land areas or sites which are suitable for the operation of a treatment or disposal facility. Upon request, the department shall assist the executive council in locating suitable sites for the location of a treatment or disposal facility. The commission may recommend to the executive council the purchase or condemnation of land to be leased for the operation of a treatment or disposal facility. The executive council may purchase or may condemn the land subject to chapter 471. Consideration for a contract for purchase of land shall not be in excess of funds appropriated by the general assembly for that purpose. The executive council upon recommendation of the commission may lease land purchased under this section to any person except the state or a state agency. This section does not authorize the state to own or operate a hazardous waste treatment or disposal facility and the state shall not own or operate such a facility for the treatment and disposal of hazardous wastes other than those generated by the state. The terms of the lease shall establish responsibility for long-term monitoring and maintenance of the site. The lessee is subject to all applicable requirements of this part including permit requirements. The commission may require the lessee to post bond conditioned upon performance of conditions of the lease relating to long-term monitoring and maintenance. The leasehold interest including improvements made to the property shall be listed, assessed and valued as any other real property as provided by law.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Waterloo Courier Record, a newspaper published in Waterloo, Iowa, and in The Nevada Evening Journal, a newspaper published in Nevada, Iowa.

Approved April 27, 1984

Pursuant to the authority vested in the undersigned, Secretary of State of the State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1983, there being no newspaper by the name of the Waterloo Courier Record, published in Waterloo, Iowa, I hereby designate the Waterloo Courier Cedar Falls Record published in Waterloo, Iowa to publish the foregoing Act, House File 2426.

MARY JANE ODELL, *Secretary of State*

I hereby certify that the foregoing Act, House File 2426 was published in The Nevada Evening Journal, Nevada, Iowa on May 4, 1984 and in the Waterloo Courier Cedar Falls Record, Waterloo, Iowa on May 3, 1984.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 1183**  
**SUSPENSION OF DAIRY INDUSTRY COMMISSION**  
*S.F. 2346*

**AN ACT** to suspend the Iowa dairy industry commission during the effective period of a national promotional order established pursuant to the 1983 dairy Act.

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

Section 1. Section 179.2, Code 1983, is amended by adding the following new unnumbered paragraphs:

**NEW UNNUMBERED PARAGRAPH.** When a national promotional order is established by the United States department of agriculture pursuant to the dairy product stabilization Act of 1983, collection of the excise tax in section 179.5 shall be suspended for the period in which the national order is in effect. The commission shall continue to operate thereafter for only such period of time as is necessary to pay refunds and disburse the funds remaining in the dairy industry fund for the purposes enumerated in this chapter. Upon completion of these acts, the existence of the Iowa dairy industry commission shall be suspended. The secretary of agriculture shall certify the suspension of the commission as of a date certain to the Iowa dairy industry commission and the Iowa state dairy association. When the existence of the commission is suspended, the terms of office being served by individual commissioners shall also be suspended.

**NEW UNNUMBERED PARAGRAPH.** When the national promotional order expires, the period of suspension of the excise tax in section 179.5 shall terminate and the secretary of agriculture shall take such steps as are necessary to collect that excise tax and otherwise fulfill the duties of the commission, except that of expending funds collected under the excise tax, until those duties can be resumed by the reactivated commission. When the national promotional order expires, the period of suspension of the commission shall terminate and the terms of office of the individual commissioners shall continue and the period of the suspension shall not be counted to determine the time left in the terms of office. Vacancies occurring in the commission during the period of suspension shall be filled when the suspension is terminated. The secretary of agriculture shall call the first meeting of the reactivated commission. Upon reactivation, the commission shall reimburse the secretary of agriculture for any expenses incurred in carrying out the duties provided in this paragraph.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Messenger*, a newspaper published in Fort Dodge, Iowa, and in the *Oskaloosa Daily Herald*, a newspaper published in Oskaloosa, Iowa.

Approved April 30, 1984

I hereby certify that the foregoing Act, Senate File 2346 was published in the *Oskaloosa Daily Herald*, Oskaloosa, Iowa on May 4, 1984 and in *The Messenger*, Fort Dodge, Iowa on May 4, 1984.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 1184**  
**TRANSITION LEGISLATION FOR CORRECTIONS**

*S.F. 2084*

**AN ACT** relating to transition legislation for the Iowa department of corrections.

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

Section 1. Section 217A.2, subsection 4, Code Supplement 1983, is amended by striking the subsection and inserting in lieu thereof the following:

4. Iowa medical and classification center.

Sec. 2. Section 217A.52, Code Supplement 1983, is amended to read as follows:

**217A.52 DIAGNOSTIC CLINIC INMATE INTAKE AND CLASSIFICATION CENTER.** The director may provide facilities and personnel for a diagnostic ~~clinic~~ intake and classification center. The work of the ~~clinic~~ center shall include a scientific study of each inmate, the inmate's career and life history, the causes of the inmate's criminal acts and recommendations for the inmate's custody, care, training, employment, and counseling with a view to rehabilitation and to the protection of society. To facilitate the work of the ~~clinic~~ center and to aid in the rehabilitation of the inmates, the trial judge, prosecuting attorney, and presentence investigators shall furnish the director upon request with a full statement of facts and circumstances attending the commission of the offense so far as known or believed by them. If the department develops and utilizes an inmate classification system, it must, within a reasonable time, present evidence from independent experts as to the effectiveness and validity of the classification system.

Sec. 3. **NEW SECTION. 217A.80 INSTITUTIONAL RECEIPTS.** All institutional receipts of the department of corrections shall be deposited in the general fund except for reimbursements for services provided to another institution or state agency, rentals charged to employees or other persons for room, apartment, or housing, and charges for meals.

Sec. 4. Section 223.1, Code Supplement 1983, is amended to read as follows:

**223.1 INSTITUTION ESTABLISHED.** There is established an institution for persons displaying evidence of mental illness or psychosocial disorders and requiring diagnostic services and treatment in a security setting. The institution may also be used for persons only requiring confinement in a security setting. The institution is under the jurisdiction of the Iowa department of corrections and shall be known as the Iowa ~~security and medical facility and classification center~~.

Sec. 5. Section 223.2, Code Supplement 1983, is amended to read as follows:

**223.2 SUPERINTENDENT.** A superintendent of the Iowa ~~security and medical facility and classification center~~ shall be appointed by the director of the Iowa department of corrections with the approval of the board of corrections. The superintendent shall be a reputable and qualified person experienced in the administration of programs for the care and treatment of persons afflicted with mental disorders and have other qualifications the director and board deem necessary.

Sec. 6. Section 223.4, unnumbered paragraph 3, Code Supplement 1983, is amended to read as follows:

The director of the Iowa department of corrections may house inmates from any penal correctional institution at the Iowa security and medical facility and classification center in order to provide the inmates with either suitable security or medical treatment, or both. Unless an inmate is determined to be mentally ill, the inmate shall not be subjected involuntarily to psychiatric treatment.

Sec. 7. Section 245.1, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

245.1 OFFICIAL DESIGNATION—DEFINITIONS. The state correctional facilities for women at Mitchellville and Oakdale shall be known as the "Iowa correctional institution for women—Mitchellville", and the "Iowa medical and classification center—women's unit—Oakdale". For the purpose of this chapter "director" or "state director" means the director of the Iowa department of corrections.

Sec. 8. Section 245.3, Code Supplement 1983, is amended to read as follows:

245.3 SERVICE REQUIRED. The superintendent ~~superintendents~~ may, with the approval of the director, require an inmate to perform any service suited to her strength and attainments and which may be needed for the benefit of the Iowa correctional institution for women respective institutions or for the welfare of the inmate.

Sec. 9. Section 245.8, Code Supplement 1983, is amended to read as follows:

245.8 MANNER OF COMMITTING FEMALES WOMEN. Females Women committed to the Iowa correctional institution for women custody of the director shall be taken to the institution Iowa medical and classification center—women's unit—Oakdale by a woman, or by a male peace officer accompanied by a woman, ~~appointed by the court.~~

Sec. 10. Section 245.9, Code Supplement 1983, is amended to read as follows:

245.9 COST OF COMMITMENT. The costs and expenses allowed for taking females women to the Iowa correctional institution for women medical and classification center—women's unit—Oakdale shall be the same as those allowed by law ~~for taking girls to the training school under section 331.655, subsection 1,~~ and shall be audited and paid in like manner by the counties from which they are sent.

Sec. 11. Section 245.12, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

245.12 TRANSFER OF MENTALLY ILL. The provisions for the transfer of mentally ill persons under this chapter shall be the same as provided in sections 246.16 and 246.17.

Sec. 12. Section 245.15, Code Supplement 1983, is amended to read as follows:

245.15 ESCAPE. ~~Any~~ An inmate of the Iowa a state correctional institution ~~for women~~ who escapes from it may be arrested and returned to the institution, by an officer or employee of the a state correctional institution without any other authority than this chapter, and by any peace officer or other person on the request in writing of the superintendent or the state director.

Sec. 13. Section 246.11, Code Supplement 1983, is amended to read as follows:

246.11 FEDERAL PRISONERS. ~~Male inmates~~ Inmates sentenced for any term by any court of the United States may be received by the warden into the penitentiary or the men's reformatory or superintendent of a state correctional institution and there kept there in pursuance of their sentences. Inmates at either the penitentiary or men's reformatory state correctional institutions may also be transferred to the federal bureau of prisons.

Sec. 14. Section 246.16, Code Supplement 1983, 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 a state correctional institution is mentally ill, the Iowa department of corrections may cause that prisoner to be transferred to the Iowa security and medical facility and classification center 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 the prisoner's sentence, the prisoner shall be returned to the penitentiary or reformatory state correctional institution 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 remain applicable during the inmate's stay at the Iowa security and medical facility and classification center. However, section 246.32 applies to the total inmate population, including both convicts and patients.

Sec. 15. Section 246.17, Code 1983, 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 reformatory a state correctional institution, whose sentence has expired, is mentally ill, ~~it~~ the director shall cause examination to be made of the prisoner by competent physicians who shall certify to the state director whether the prisoner is in good mental health or mentally ill. The state director may make further investigation and if satisfied that the prisoner is mentally ill, the state director may cause the prisoner to be transferred to one of the hospitals for the mentally ill, or may order the prisoner to be confined in the Iowa security and medical facility and classification center.

Sec. 16. Section 247A.7, Code Supplement 1983, is amended to read as follows:

**247A.7 SURRENDER OF EARNINGS.** An inmate employed in the community under a work release plan shall surrender to the institution from which released his judicial district department of correctional services the inmate's total earnings less payroll deductions required by law. The institution judicial district department of correctional services shall deduct from such the earnings in the following order of priority:

1. An amount determined to be the cost to the judicial district department of correctional services for providing food, lodging and clothing for the inmate while under the program. The judicial district department of correctional services shall be reimbursed this amount unless the contract with the department of corrections provides otherwise.

2. The actual and necessary food, travel and other expenses of the inmate when released from actual confinement under the program.

3. An amount the inmate may be legally obligated to pay for the support of his the inmate's dependents, the amount of which shall be paid to the dependents through the local department of human services in the county or city in which the dependents reside.

4. Court costs.

4. Restitution as ordered by the court pursuant to chapter 910.

Any balance remaining after deductions and payments shall be credited to the inmate's personal account at the institution judicial district department of correctional services and shall be paid to him the inmate upon release. Any An inmate so employed shall be paid a fair and reasonable wage in accordance with the prevailing wage scale for such work and shall work at fair and reasonable hours per day and per week.

Sec. 17. Section 255.29, Code Supplement 1983, is amended to read as follows:

**255.29 MEDICAL CARE FOR PAROLEES AND PERSONS ON WORK RELEASE.** The director of the Iowa department of corrections may send former inmates of the institutions

provided for in section 217A.2, while on parole or work release, to the hospital of the college of medicine of the state University of Iowa for treatment and care as provided in this chapter, without securing the order of the court required in other cases. The director may pay the traveling expenses of any patient thus committed, and when necessary the traveling expenses of an attendant of the patient out of funds appropriated for the use of the ~~division~~ department.

Sec. 18. Section 690.4, unnumbered paragraph 2, Code Supplement 1983, is amended to read as follows:

It ~~shall~~ is also be the duty of the wardens and superintendents to procure the taking of five-by seven-inch photographic negative showing a full length view of each ~~convict, prisoner or inmate of the penitentiary, men's reformatory, and Iowa inmate of a state correctional institution for women~~ in the inmate's release clothing immediately prior to the inmate's discharge from the institution either upon expiration of sentence or commitment or on parole, and to forward the photographic negative within two days after it is taken to the division of criminal investigation and bureau of identification, Iowa department of public safety.

Sec. 19. 1983 Iowa Acts, chapter 96, section 155, is amended to read as follows:

SEC. 155. 1981 Iowa Acts, chapter 9, section 7, subsection 6, is amended to read as follows:

6. The following are range four positions: superintendent of banking, director of the Iowa beer and liquor control department, chairperson and members of the Iowa state commerce commission, director of the state conservation commission, director of the Iowa development commission, director of the educational radio and television facility board, director of the Iowa department of job service, director of the department of general services, commissioner of health, director of the office for planning and programming, ~~director of the department of corrections~~, and commissioner of public safety.

Sec. 20. 1983 Iowa Acts, chapter 96, is amended by adding the following new section:

NEW SECTION. The department of corrections may enter into agreements, as provided for in chapter 28E, with a district department of correctional services as necessary.

Sec. 21. 1983 Iowa Acts, chapter 205, section 7, subsection 6, is amended to read as follows:

6. The following are range five positions: state comptroller, superintendent of public instruction, executive secretary of the state board of regents, director of the department of revenue, director of the Iowa development commission, commissioner of ~~social~~ human services or its successor agency, director of the department of corrections, chairperson and members of the Iowa state commerce commission, consumer advocate, and director of the department of transportation.

Sec. 22. Sections 85.60, 218.73, and 218.74, Code Supplement 1983, are repealed.

Sec. 23. The department of corrections shall cause to be transferred all records, supplies, equipment and property, including automobiles, which are used in the operation of parole services and work release programs to the appropriate community-based corrections judicial district in accordance with section 217A.3, subsection 1.

Sec. 24. The Code editor shall change any reference to "Iowa security and medical facility" remaining in the Code or Acts to "Iowa medical and classification center".

Approved May 4, 1984

**CHAPTER 1185**  
**OPEN RECORDS LAW REVISION**  
*S.F. 2294*

**AN ACT** relating to the examination of government records by providing for the procedures for their examination, for enforcement of those procedures, for the availability of certain records, and for the duties of the lawful custodians and providing for civil damages.

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

Section 1. Section 68A.1, Code 1983, is amended by adding the following new unnumbered paragraphs:

**NEW UNNUMBERED PARAGRAPH.** The term "government body" means this state, or any county, city, township, school corporation, political subdivision, tax supported district or other entity of this state, or any branch, department, board, bureau, commission, council, committee, official or officer, of any of the foregoing or any employee delegated the responsibility for implementing the requirements of this chapter.

**NEW UNNUMBERED PARAGRAPH.** The term "lawful custodian" means the government body currently in physical possession of the public record. The custodian of a public record in the physical possession of persons outside a government body is the government body owning that record. Each government body shall delegate to particular officials or employees of that government body the responsibility for implementing the requirements of this chapter and shall publicly announce the particular officials or employees to whom responsibility for implementing the requirements of this chapter has been delegated. "Lawful custodian" does not mean an automated data processing unit of a public body if the data processing unit holds the records solely as the agent of another public body, nor does it mean a unit which holds the records of other public bodies solely for storage.

Sec. 2. Section 68A.2, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**68A.2 RIGHT TO EXAMINE PUBLIC RECORDS.**

1. Every person shall have the right to examine and copy public records and to publish or otherwise disseminate public records or the information contained therein. The right to copy public records shall include the right to make photographs or photographic copies while the records are in the possession of the custodian of the records. All rights under this section are in addition to the right to obtain certified copies of records under section 622.46.

2. A government body shall not prevent the examination or copying of a public record by contracting with a nongovernment body to perform any of its duties or functions.

Sec. 3. Section 68A.4, Code 1983, is amended to read as follows:

**68A.4 HOURS WHEN AVAILABLE.** The rights of citizens persons under this chapter may be exercised at any time during the customary office hours of the lawful custodian of the records. However, if the lawful custodian does not have customary office hours of at least thirty hours per week, such right may be exercised at any time from nine o'clock a.m. to noon and from one o'clock p.m. to four o'clock p.m. Monday through Friday, excluding legal holidays,

unless the citizen person exercising such right and the lawful custodian agree on a different time.

Sec. 4. Section 68A.5, Code 1983, is amended to read as follows:

**68A.5 ENFORCEMENT OF RIGHTS.** The provisions of this chapter and all rights of citizens persons under this chapter may be enforced by mandamus or injunction, whether or not any other remedy is also available. In the alternative, rights under this chapter also may be enforced by an action for judicial review according to the provisions of the Iowa administrative procedure Act, if the records involved are records of an "agency" as defined in that Act.

Sec. 5. Section 68A.7, unnumbered paragraph one, and subsections 1 and 2, Code Supplement 1983, are amended to read as follows:

The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

1. Personal information in records regarding a student, prospective student, or former student of the maintained, created, collected or assembled by or for a school corporation or educational institution maintaining such records.

2. Hospital records, and medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient.

Sec. 6. Section 68A.7, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 18.** Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination. Notwithstanding this provision:

a. The communication is a public record to the extent that the person outside of government making that communication consents to its treatment as a public record.

b. Information contained in the communication is a public record to the extent that it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

c. Information contained in the communication is a public record to the extent that it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent that its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate that the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger.

Sec. 7. Section 68A.8, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**68A.8 INJUNCTION TO RESTRAIN EXAMINATION.**

1. The district court may grant an injunction restraining the examination, including copying, of a specific public record or a narrowly drawn class of public records. A hearing shall be held on a request for injunction upon reasonable notice as determined by the court to persons requesting access to the record which is the subject of the request for injunction. It shall be the duty of the lawful custodian and any other person seeking an injunction to ensure compliance with the notice requirement. Such an injunction may be issued only if the petition supported by affidavit shows and if the court finds both of the following:

a. That the examination would clearly not be in the public interest.  
b. That the examination would substantially and irreparably injure any person or persons.  
2. An injunction shall be subject to the rules of civil procedure except that the court in its discretion may waive bond.

3. In actions brought under this section the district court shall take into account the policy of this chapter that free and open examination of public records is generally in the public interest even though such examination may cause inconvenience or embarrassment to public officials or others. A court may issue an injunction restraining examination of a public record or a narrowly drawn class of such records, only if the person seeking the injunction demonstrates by clear and convincing evidence that this section authorizes its issuance. An injunction restraining the examination of a narrowly drawn class of public records may be issued only if such an injunction would be justified under this section for every member within the class of records involved if each of those members were considered separately.

4. Good faith, reasonable delay by a lawful custodian in permitting the examination and copying of a government record is not a violation of this chapter if the purpose of the delay is any of the following:

- a. To seek an injunction under this section.
- b. To determine whether the lawful custodian is entitled to seek such an injunction or should seek such an injunction.
- c. To determine whether the government record in question is a public record, or confidential record.
- d. To determine whether a confidential record should be available for inspection and copying to the person requesting the right to do so. A reasonable delay for this purpose shall not exceed twenty calendar days and ordinarily should not exceed ten business days.
- e. Actions for injunctions under this section may be brought by the lawful custodian of a government record, or by another government body or person who would be aggrieved or adversely affected by the examination or copying of such a record.
- f. The rights and remedies provided by this section are in addition to any rights and remedies provided by section 17A.19.

Sec. 8. Section 68A.9, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** An agency within the meaning of section 17A.2, subsection 1 shall adopt as a rule, in each situation where this section is believed applicable, its determination identifying those particular provisions of this chapter that must be waived in the circumstances to prevent the denial of federal funds, services, or information.

Sec. 9. **NEW SECTION. 68A.10 CIVIL ENFORCEMENT.**

1. The rights and remedies provided by this section are in addition to any rights and remedies provided by section 17A.19. Any aggrieved person, any taxpayer to or citizen of the state of Iowa, or the attorney general or any county attorney, may seek judicial enforcement of the requirements of this chapter in an action brought against the lawful custodian and any other persons who would be appropriate defendants under the circumstances. Suits to enforce this chapter shall be brought in the district court for the county in which the lawful custodian has its principal place of business.

2. Once a party seeking judicial enforcement of this chapter demonstrates to the court that the defendant is subject to the requirements of this chapter, that the records in question are government records, and that the defendant refused to make those government records available for examination and copying by the plaintiff, the burden of going forward shall be on the defendant to demonstrate compliance with the requirements of this chapter.

3. Upon a finding by a preponderance of the evidence that a lawful custodian has violated any provision of this chapter, a court:

- a. Shall issue an injunction punishable by civil contempt ordering the offending lawful custodian and other appropriate persons to comply with the requirements of this chapter in

the case before it and, if appropriate, may order the lawful custodian and other appropriate persons to refrain for one year from any future violations of this chapter.

b. Shall assess the persons who participated in its violation damages in the amount of not more than five hundred dollars nor less than one hundred dollars. These damages shall be paid by the court imposing it to the state of Iowa if the body in question is a state government body, or to the local government involved if the body in question is a local government body. A person found to have violated this chapter shall not be assessed such damages if that person proves that the person either voted against the action violating this chapter, refused to participate in the action violating this chapter, or engaged in reasonable efforts under the circumstances to resist or prevent the action in violation of this chapter; had good reason to believe and in good faith believed facts which, if true, would have indicated compliance with the requirements of this chapter; or reasonably relied upon a decision of a court or an opinion of the attorney general or the attorney for the government body.

c. Shall order the payment of all costs and reasonable attorneys fees, including appellate attorneys fees, to any plaintiff successfully establishing a violation of this chapter in the action brought under this section. The costs and fees shall be paid by the particular persons who were assessed damages under paragraph "b" of this subsection. If no such persons exist because they have a lawful defense under that paragraph to the imposition of such damages, the costs and fees shall be paid to the successful plaintiff from the budget of the offending government body or its parent.

d. Shall issue an order removing a person from office if that person has engaged in two prior violations of this chapter for which damages were assessed against the person during the person's term.

4. Ignorance of the legal requirements of this chapter is not a defense to an enforcement proceeding brought under this section. A lawful custodian or its designee in doubt about the legality of allowing the examination or copying or refusing to allow the examination or copying of a government record is authorized to bring suit at the expense of that government body in the district court of the county of the lawful custodian's principal place of business, or to seek an opinion of the attorney general or the attorney for the lawful custodian, to ascertain the legality of any such action.

5. Judicial enforcement under this section does not preclude a criminal prosecution under section 68A.6 or any other applicable criminal provision.

Sec. 10. NEW SECTION. 68A.11 FAIR INFORMATION. This section may be cited as the "Iowa fair information practices Act." It is the intent of this section to require that the information policies of state agencies are clearly defined and subject to public review and comment.

1. Each state agency as defined in chapter 17A shall adopt rules which provide the following:

a. The nature and extent of the personally identifiable information collected by the agency, the legal authority for the collection of that information and a description of the means of storage.

b. A description of which of its records are public records, which are confidential records and which are partially public and partially confidential records and the legal authority for the confidentiality of the records. The description shall indicate whether the records contain personally identifiable information.

c. The procedure for providing the public with access to public records.

d. The procedures for allowing a person to review a government record about that person and have additions, dissents or objections entered in that record unless the review is prohibited by statute.

e. The procedures by which the subject of a confidential record may have a copy of that record released to a named third party.

f. The procedures by which the agency shall notify persons supplying information requested by the agency of the use that will be made of the information, which persons outside of the agency might routinely be provided this information, which parts of the information requested are required and which are optional and the consequences of failing to provide the information requested.

g. Whether a data processing system matches, collates or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

2. A state agency shall not use any personally identifiable information after July 1, 1988 unless it is in a record system described by the rules required by this section.

Sec. 11. NEW SECTION. 68A.12 POLITICAL SUBDIVISIONS. A political subdivision or public body which is not a state agency as defined in chapter 17A is not required to adopt policies to implement section 68A.11. However, if a public body chooses to adopt policies to implement section 68A.11 the policies must be adopted by the elected governing body of the political subdivision of which the public body is a part. The elected governing body must give reasonable notice, make the proposed policy available for public inspection and allow full opportunity for the public to comment before adopting the policy. If the public body is established pursuant to an agreement under chapter 28E, the policy must be adopted by a majority of the public agencies party to the agreement. These policies shall be kept in the office of the county auditor if adopted by the board of supervisors, the city clerk if adopted by a city, and the chief administrative officer of the public body if adopted by some other elected governing body.

Sec. 12. The legislative council shall establish an interim study committee to review the recommendations of the report of the governor's committee on the Iowa public records law during the 1984 legislative interim.

Approved May 4, 1984

**CHAPTER 1186**  
**BRUCellosIS AND TUBERCULOSIS FUNDING**  
*S.F. 2170*

**AN ACT** to provide temporary funding for the brucellosis and tuberculosis eradication fund.

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

Section 1. **SPECIAL ASSESSMENT FROM COUNTIES.** The board of supervisors of each county shall appropriate from its county general fund the sum of two thousand five hundred dollars to be paid to the brucellosis and tuberculosis eradication fund created under section 165.18 in the office of the secretary of agriculture. The payment from each county is due and payable to the secretary of agriculture on July 1, 1984.

Approved May 4, 1984

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**CHAPTER 1187**  
**IOWA DEVELOPMENT COMMISSION MEMBERSHIP**  
*S.F. 2182*

**AN ACT** relating to the membership of the Iowa development commission.

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

Section 1. Section 28.1, Code 1983, is amended to read as follows:

**28.1 CREATION OF COMMISSION—TERMS.** There is hereby created and established a commission to be known as "The Iowa Development Commission", hereinafter referred to in this chapter as "the commission", to consist of eleven voting members, all of whom shall be appointed by the governor and four ex officio nonvoting legislative members. The legislative members are two state senators, one appointed by the majority and one appointed by the minority leaders of the state senate from their respective parties, and two state representatives, one appointed by the speaker and one appointed by the minority leader of the state house of representatives from their respective parties.

The commission shall be nonpartisan and the members shall be appointed without reference to their political affiliation except as otherwise provided in this section. The governor shall appoint one of said the voting members as chairman chairperson and one as vice chairman



chairperson. The chairperson and vice chairperson shall not be of the same political party. As the terms of the voting members so appointed shall expire, their successors shall be appointed, each for a term of four years; provided, however, that. However, upon the death, disability, or resignation of any a voting member, the governor shall appoint a person to serve for the unexpired term. The terms of the legislative members are for two years beginning on July 1 of each even-numbered year. Upon the death, disability, or resignation of a legislative member, or if the member ceases to be a member of the general assembly, the vacancy shall be filled for the unexpired term in the same manner as the previous appointment was made.

Sec. 2. Section 28.2, Code 1983, is amended to read as follows:

28.2 COMPENSATION AND EXPENSES. The voting members of the commission shall be paid a forty-dollar per diem and shall be reimbursed for their actual and necessary expense incurred in performing their duties as members of the commission. All per diem and expense moneys paid to the voting members shall be paid from funds appropriated to the commission. The legislative members shall be paid, when the general assembly is not in session, a forty-dollar per diem and shall be reimbursed for their actual and necessary expense incurred in performing their duties as members of the commission from funds appropriated by section 2.12.

Sec. 3. Section 28.6, Code 1983, is amended to read as follows:

28.6 MEETINGS AND RULES. The commission shall meet once each month, and shall hold special meetings on call of the ~~chairman~~ chairperson. ~~Five~~ Six voting members shall constitute a quorum. The commission shall adopt such rules as it may deem deems necessary to govern its own procedure.

Approved May 4, 1984

**CHAPTER 1188****SEXUAL ABUSE***S.F. 2183*

**AN ACT** relating to sexual abuse committed by engaging in a sex act against the will of the other participant.

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

Section 1. Section 709.1, subsection 1, Code 1983, is amended to read as follows:

1. ~~Such~~ The act is done by force or against the will of the other. ~~In any case where~~ If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.

Sec. 2. Section 709.3, subsection 1, Code 1983, is amended to read as follows:

1. During the commission of sexual abuse the person displays in a threatening manner a ~~deadly~~ dangerous weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.

Approved May 4, 1984

**CHAPTER 1189****DRAINAGE DISTRICT EXPENSES AND ASSESSMENTS***S.F. 2153*

**AN ACT** relating to drainage district expenses and assessments.

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

Section 1. Section 455.40, Code 1983, is amended to read as follows:

455.40 ADVERTISEMENT FOR BIDS. The board shall cause notice to be given by publication once each week for two consecutive weeks in ~~some a~~ newspaper published in the county ~~wherein such where~~ the improvement is located, and ~~such~~ additional advertisement and publication elsewhere as it may direct, of the time and place of letting the work of construction of ~~said~~ the improvement, specifying the approximate amount of work to be done in each numbered section of the district, the time fixed for the commencement, and the time of the completion ~~thereof~~ of the work, that bids will be received on the entire work and in sections or divisions ~~thereof~~ of it, and that each bidder will be required to deposit with ~~his~~ the bid cash or certified check on and certified by a bank in Iowa, payable to the auditor or ~~his~~ the auditor's order, at ~~his~~ the auditor's office, in an amount equal to ten percent of ~~his~~ the bid, in no case to exceed ten thousand dollars. ~~When~~ If the estimated cost of the improvement exceeds fifteen thousand dollars, the board may make additional publication for two consecutive weeks in ~~some contractors~~ a contractors' journal of general circulation, giving only the type of proposed construction or repairs, estimated amount, date of letting, amount of bidder's bond, and the name and address of the county auditor. All notices shall fix the date to which bids will be received and upon which ~~said~~ work will be let. ~~Except, however~~ However, when the estimated cost of the improvement is less than ~~twenty five hundred five thousand~~ dollars, the board may let the contract for ~~such~~ construction without taking bids ~~therefor~~ and without publishing any notice ~~as above provided~~.

Sec. 2. Section 455.63, Code 1983, is amended to read as follows:

455.63 PAYMENT BEFORE BONDS OR CERTIFICATES ISSUED. All assessments for benefits, as corrected and approved by the board, shall be levied at one time against the property benefited, and when levied and certified by the board, ~~shall be~~ are payable at the office of the county treasurer. ~~Each A person or corporation shall have the right may~~, within ~~twenty thirty~~ days after the levy of assessments, to pay ~~his or its~~ the person's assessment in full without interest, and before any warrants against assessments, ~~improvement certificate certificates or drainage bond is bonds are~~ issued ~~therefor~~ for the assessment, and ~~any~~ may pay a certificate at any time after issue, with accrued interest.

Approved May 4, 1984

**CHAPTER 1190**  
**ADMINISTRATION OF PROPERTY TAX CREDIT**  
*S.F. 2156*

**AN ACT** relating to the administration of the extraordinary property tax credit or reimbursement.

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

Section 1. Section 425.25, Code 1983, is amended to read as follows:

425.25 ADMINISTRATION. The director of revenue shall make available suitable forms with instructions for claimants. Each assessor and county treasurer shall make available the forms and instructions. The claim shall be in such a form as the director may prescribe. The director may also devise a tax credit or reimbursement table, with amounts rounded to the nearest even whole dollar. Reimbursements or credits in the amount of less than one dollar shall not be paid.

Sec. 2. Section 425.27, Code 1983, is amended to read as follows:

425.27 AUDIT OF CLAIM. If on the audit of any a claim for credit or reimbursement under this division, the director determines the amount of the claim to have been incorrectly calculated or that the claim is not allowable, the director shall recalculate the claim and notify the claimant of the recalculation or denial and the reasons for it. The director shall not adjust any a claim after three years from October 31 of the year in which the claim was filed. If the claim for reimbursement has been paid, the amount may be recovered by assessment in the same manner that income taxes are assessed under sections 422.26 and 422.30. If the claim for credit has been paid, the county treasurer shall repay the amount to the director and after shall give notification to the claimant and the county treasurer of the recalculation or denial of the claim, and the county treasurer shall proceed to collect the tax owed in the same manner as other property taxes due and payable are collected and repay the amount to the director upon collection. The recalculation of the claim shall be final unless appealed as provided in section 425.31. The provisions of section Section 422.70 shall be is applicable with respect to this division.

Approved May 4, 1984

**CHAPTER 1191**  
**STATE EMPLOYEE SUGGESTION SYSTEM**  
*S.F. 2254*

**AN ACT** relating to the state employee suggestion system.

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

Section 1. Section 19.33, subsection 2, paragraph c, Code 1983, is amended to read as follows:

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

Sec. 2. Section 19.33, subsections 4 and 5, Code 1983, are amended to read as follows:

4. a. When a suggestion is implemented and 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 or a certificate. A cash award shall not be paid awarded for a suggestion which saves less than one hundred dollars during the first year of implementation. The department head shall approve all awards and determine the amount to be awarded. Appeals of award amounts shall be submitted to the state comptroller whose decision is final.

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.~~ Certificates shall be awarded to suggesters of implemented suggestions that result in a direct cost reduction of less than one hundred dollars. The department head shall make the determination as to who will receive certificates. That decision is final.

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

Sec. 3. Section 19.33, subsections 3, 6 and 8, Code 1983, are amended by striking the subsections.

Approved May 4, 1984

**CHAPTER 1192**  
**COST OF SOIL CONSERVATION PRACTICES**  
*H.F. 2167*

**AN ACT** relating to the cost of permanent soil and water conservation practices constructed under administrative order with public cost-sharing funds.

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

Section 1. Section 467A.48, Code 1983, is amended to read as follows:  
467A.48 APPLICATION FOR PUBLIC COST-SHARING FUNDS.

1. ~~No~~ An owner or occupant of land in this state ~~shall be~~ is not required to establish any new permanent or temporary soil and water conservation practice unless public or other cost-sharing funds have been specifically approved for ~~such~~ that land and actually made available to the owner or occupant in an amount equal to at least. The amount of cost-sharing funds made available shall not exceed seventy-five percent of the estimated cost as established by the commissioners of any a permanent soil and water conservation practice, or seventy-five percent of the actual cost, whichever is less, or an amount set by the state soil conservation committee for any a temporary soil and water conservation practice, except as otherwise provided by law with respect to land classified as agricultural land under conservation cover. The commissioners shall establish the estimated cost of permanent soil and water conservation practices in the district based upon one and two-tenths of the average cost of the practices installed in the district during the previous year. The average costs shall be reviewed and approved by the commissioners each calendar year.

2. The state soil conservation committee shall review these requirements once each year, and may authorize soil conservation district commissioners to make the mandatory establishment of any specified soil and water conservation practice in any particular case conditional on a higher proportion of public cost-sharing than is required by this section. When the commissioners have been so authorized, they shall, in determining the amount of cost-sharing for establishment of a specified soil and water conservation practice to comply with an administrative order issued pursuant to section 467A.47, consider the extent to which the practice will contribute benefits to the public in relation to the benefits that will accrue to the individual owner or occupant of the land on which the practice is to be established. Evidence that an application for public or other cost-sharing funds, from a source or sources having authority to pay a portion of the cost of work needed to comply with an administrative order issued pursuant to section 467A.47, has been submitted to the proper officer or agency ~~shall constitute~~ constitutes commencement of ~~such~~ the work within the meaning of sections 467A.43 to 467A.53.

3. Upon receiving evidence of the submission of ~~such~~ an application, the commissioners shall forward to the officer or agency to which the application was made a written request to receive notification of the disposition of ~~such~~ the application. When notified of the approval of ~~such~~ the application, the commissioners shall issue to the same parties who received the original administrative order, or their successors in interest, a supplementary order, to be

delivered in the same manner as provided by sections 467A.43 to 467A.53 for delivery of original administrative orders. The supplementary order shall state a time, not more than six months after approval of the application for public cost-sharing funds, by which the work needed to comply with the original administrative order shall actually be commenced, and a time thereafter when ~~such~~ the work is to be satisfactorily completed. If feasible, that time shall be within one year after the date of the supplementary order, but the owner of land on which a soil and water conservation practice is being established under this section ~~shall~~ is not be required to incur a cost ~~therefor~~ for the practice in any one calendar year which exceeds ten dollars per acre for each acre of land belonging to that owner and located in the county containing the land on which the required practice is being established or in counties contiguous ~~thereto~~ to that county.

Approved May 4, 1984

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**CHAPTER 1193**  
**POSTCONVICTION PROCEDURES**  
*H.F. 582*

**AN ACT** relating to the postconviction procedure Act.

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

Section 1. Section 663A.3, Code 1983, is amended to read as follows:

663A.3 HOW TO COMMENCE PROCEEDING. A proceeding is commenced by filing an application verified by the applicant with the clerk of the court in which the conviction or sentence took place. However, if the applicant is seeking relief under section 663A.2, subsection 6, the application shall be filed with the clerk of the court of the county in which the applicant is being confined. An application may must be filed at any time within three years from the date the conviction or decision is final or, in the event of an appeal, from the date the writ of procedendo is issued. However, this limitation does not apply to a ground of fact or law that could not have been raised within the applicable time period. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The supreme court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general.

Approved May 4, 1984

**CHAPTER 1194**  
**JOINT INVESTMENT OF PUBLIC FUNDS**  
*H.F. 434*

**AN ACT** authorizing cities or counties to enter agreements to jointly invest public funds.

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

Section 1. Section 452.10, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Two or more cities within the same county, or two contiguous counties may execute an agreement under chapter 28E for the purpose of consolidating their public funds for purposes of investment. The treasurer who is designated in the agreement as the person responsible for accounting and investment may deposit the consolidated funds in one or more banks or depository institutions which would be lawful depositories under chapter 453 for the cities or counties that are parties to the agreement, or may invest the funds as provided in this section, or as may be provided in the agreement.

Approved May 4, 1984



**CHAPTER 1195****COUNTY AUDITOR'S ANNUAL VALUATION AND REPORT ELIMINATED***H.F. 2326*

**AN ACT** to eliminate the county auditor's annual property valuation and tax report to the department of revenue.

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

Section 1. Section 443.2, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The county auditor shall list the aggregate actual value and the aggregate taxable value of all taxable property within the county and each political subdivision on the tax list in order that the actual value of the taxable property within the county or a political subdivision may be ascertained and shown by the tax list for the purpose of computing the debt-incurring capacity of the county or political subdivision. As used in this section ~~and section 443.5~~, "actual value" is the value determined under section 441.21, subsections 1 to 3, prior to the reduction to a percentage of actual value as otherwise provided in section 441.21.

Sec. 2. Section 443.22, Code 1983, is amended to read as follows:

**443.22 UNIFORM ASSESSMENTS MANDATORY.** All assessors and assessing bodies, including the department of revenue having authority over the assessment of property for tax purposes, shall comply with the provisions of sections 428.4, 428.29, 434.15, 438.13, 441.21, and 441.45 ~~and 443.5~~. The department of revenue having authority over ~~such~~ the assessments, shall exercise its powers and perform its duties under section 421.17 and other applicable laws so as to require the uniform and consistent application of said section.

Sec. 3. Section 443.5, Code 1983, is repealed.

Approved May 4, 1984

**CHAPTER 1196**  
**INSURANCE ON DEPOSITORS' ACCOUNTS**  
*H.F. 189*

**AN ACT** requiring state banks, private banks and state savings and loan associations to acquire and maintain account insurance on their deposits.

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

**Section 1. NEW SECTION. 524.816 ACCOUNT INSURANCE.**

1. A bank organized under this chapter, as a condition of maintaining its privilege of organization after the effective date of this Act shall become an insured bank and shall acquire and maintain insurance to protect each depositor against loss of funds held on account by the bank. The insurance shall be obtained from the federal deposit insurance corporation or another insurance plan approved by the superintendent.

2. The superintendent may furnish to an official of an insurance plan by which the accounts of the bank are insured, any information relating to examinations and reports of the status of that bank for the purpose of determining availability of insurance to that bank.

**Sec. 2. Section 524.1701, Code 1983, is amended to read as follows:**

**524.1701 APPLICATION OF CHAPTER.** Nothing in Except as provided in this division, this chapter shall not be construed as affecting or in any way interfering with any a private bank or private banker that was engaged in lawful business prior to April 19, 1919.

**Sec. 3. NEW SECTION. 524.1703 ACCOUNT INSURANCE.**

1. A private bank shall acquire and maintain insurance to protect each depositor against loss of funds held on account by the private bank. The insurance shall be obtained from the federal deposit insurance corporation or another insurance plan approved by the superintendent. Upon request from the superintendent, a private bank shall provide proof of compliance with this subsection.

2. The superintendent may furnish to an official of an insurance plan by which the accounts of the private bank are insured, any information relating to examinations and reports of the status of that private bank for the purpose of determining availability of insurance to that private bank.

3. The failure of a private bank to comply with subsection 1 shall constitute a request by a private bank under section 524.1702 to be subject to examination and supervision by the superintendent.

**Sec. 4. NEW SECTION. 534.24 ACCOUNT INSURANCE.**

1. An association organized under this chapter as a condition of maintaining its privilege of organization after the effective date of this Act shall acquire and maintain insurance to protect each depositor against loss of funds held on account by the association. The insurance shall be obtained from the federal savings and loan insurance corporation or another insurance plan approved by the supervisor.

2. The supervisor may furnish to an official of an insurance plan by which the accounts of the association are insured, any information relating to examinations and reports of the status

of that association for the purpose of determining availability of insurance to that association.

Sec. 5. 1. This bill becomes effective July 1, 1984. However, the superintendent of banking may grant to a state bank or a private bank and the supervisor of savings and loan associations may grant to a savings and loan association a six-month extension to January 1, 1985 upon a finding that the financial institution has diligently sought to comply with this Act but was unable to do so by July 1, 1984. After expiration of the first extension a second six-month extension may be granted until July 1, 1985 upon a finding that the financial institution has diligently sought to comply with this Act but was unable to do so by January 1, 1985. In no event shall an extension be granted beyond July 1, 1985.

2. Notwithstanding subsection 1, the requirements of this Act shall not apply until July 1, 1986 to a bank or savings and loan association which holds a state charter and is uninsured as of January 1, 1984 if the state bank or savings and loan association maintains a reserve equal to at least fifteen percent of its deposits. However, if a bank or savings and loan association exempt from compliance until July 1, 1986 allows its reserve to drop below fifteen percent of its deposits, then the bank or savings and loan association shall comply with this Act. The bank or savings and loan association may be granted a six-month extension to comply upon a finding that the financial institution has diligently sought to comply but was unable to do so by the date compliance is required. After expiration of the first extension, a second six-month extension may be granted upon a finding that the financial institution has diligently sought to comply but was unable to do so by the date of expiration of the first extension.

A bank or savings and loan association exempt from compliance until July 1, 1986 may be granted a six-month extension to comply upon a finding that the financial institution has diligently sought to comply but was unable to do so by July 1, 1986. After expiration of the first extension, a second six-month extension may be granted upon a finding that the financial institution has diligently sought to comply but was unable to do so by January 1, 1987. In no event shall an extension be permitted under this Act beyond July 1, 1987.

3. A state bank, private bank, or state savings and loan association that does not have account insurance in effect by July 1, 1984 shall mail a written notice to each of its depositors stating that the deposits in the financial institution are not insured. The notice shall be sent to the last known address of each depositor. A copy of the notice shall be given to each prospective depositor seeking to open a new account prior to accepting any funds for the account.

Approved May 4, 1984

**CHAPTER 1197**  
**CREDIT UNION'S PAR VALUE**

*H.F. 2414*

**AN ACT** relating to a credit union's par value of shares, deposits, investments, powers, membership, and reserves.

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

Section 1. Section 533.1, subsection 1, paragraph c, Code 1983, is amended to read as follows:

c. The par value of the shares of the credit union ~~which shall not exceed twenty-five dollars each and~~ shall be established by the board of directors. A credit union may have more than one class of shares.

Sec. 2. Section 533.4, subsection 5, paragraph d, Code 1983, is amended to read as follows:

d. Paid-up ~~shares~~ deposits of savings and loan associations, the ~~shares~~ deposits of which are insured by the federal savings and loan insurance corporation.

Sec. 3. Section 533.4, subsection 5, paragraph g, Code 1983, is amended by striking the paragraph and inserting in lieu thereof the following:

g. Shares, stocks, loans, and other obligations or a combination thereof of an organization, corporation, or association, provided the membership or ownership, as the case may be, of the organization, corporation, or association is primarily confined or restricted to credit unions or organizations of credit unions and provided that the purpose of the organization, corporation, or association is primarily designed to provide services to credit unions, organizations of credit unions, or credit union members. However, the aggregate amount invested pursuant to this subsection shall not exceed five percent of the assets of the credit union.

Sec. 4. Section 533.4, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 22. Charge fees and penalties and apply them to income.

NEW SUBSECTION. 23. Act as a fiscal agent of the state of Iowa or the federal government and receive payments on shares and deposits of a governmental subdivision of the state or the federal government.

Sec. 5. Section 533.5, Code 1983, is amended to read as follows:

533.5 MEMBERSHIP. Credit union membership shall consist of the incorporators and other persons who may be elected to membership and subscribe for at least one share, and who pay the installment thereon and the entrance fee, if any. To continue membership, a member must comply with any changes in the par value of the share. Organizations, incorporated or otherwise, composed for the most part of the same general group as the credit union membership may be members. Credit union organization shall be limited to groups of individuals who have a common bond of occupation or association, or to groups of individuals who reside within a well-defined neighborhood, community, or rural district. However, membership also may be extended to persons related to a member within the common bond by the first or second degree of consanguinity or affinity, including foster children and adopted children, and to such relatives of a deceased member. If adopted as a policy by the board of

directors of a credit union, members who cease to meet the qualifications of membership may retain their credit union membership and all membership privileges.

Sec. 6. Section 533.17, subsection 1, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Whenever the legal reserve ~~fall~~ falls below ten percent or seven and one-half percent of the total of outstanding loans and risk assets, as the case may be, the difference shall be replaced by regular contributions in order to maintain the seven and one-half percent or ten percent reserve. ~~Any entrance fees, charges and transfer fees shall, after payment of organization expenses, be added to the legal reserve. However, the administrator may waive the reserve requirement when in the administrator's opinion a waiver is necessary or desirable. The legal reserve shall belong to the credit union and shall be used to meet losses except those resulting from an excess of expenses over income. The reserve shall not be distributed to members as interest or dividends except on liquidation of the credit union or in accordance with a plan approved by the administrator.~~

Approved May 4, 1984

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**CHAPTER 1198**  
**PROPERTY TRANSFER FEES**  
*H.F. 4*

**AN ACT** relating to fees charged by county auditors for transfers made in the transfer books.

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

Section 1. Section 331.507, subsection 2, paragraph a, Code 1983, is amended by striking the paragraph and inserting in lieu thereof the following:

a. For a transfer of property made in the transfer records, five dollars for each separate platted lot and five dollars for each separate parcel of contiguous land lying within one unplatted section and described in one instrument of transfer. However, the fee shall not exceed fifty dollars for a transfer of platted or unplatted property which is described in one instrument of transfer and which is contiguous or separated only by a public street or highway.

Approved May 4, 1984

**CHAPTER 1199**  
**FUR BUYERS LICENSE RECIPROCITY**  
*H.F. 523*

**AN ACT** to provide for reciprocity among the states on the license fee for fur buyers.

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

Section 1. Section 109.95, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A resident of another state shall pay the fee provided by statute for the nonresident fur dealer's license unless that state has a reciprocity agreement with this state. The reciprocity agreement must provide that each state will charge nonresidents from the other state the same fee for the nonresident fur dealer's license and the fee under the agreement must be less than the statutory fee of this state for nonresidents and higher than the statutory fee of this state for residents.

Sec. 2. Section 110.1, subsection 4, paragraph e, Code 1983, is amended to read as follows:

e. Fur ~~dealers~~ dealer's license for nonresidents ..... ~~\$300.00~~  
450.00

Approved May 4, 1984

**CHAPTER 1200**  
**TRANSIT SYSTEMS**  
*H.F. 2386*

**AN ACT** relating to transportation programs by defining a public transit system, requiring coordinated funding and services, establishing criteria to determine compliance, and providing penalties for violations.

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

Section 1. Section 601J.1, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION. 5.** "Public transit system" means an urban or regional transit system providing transit services accessible to the general public and receiving federal, state or local tax support.

**NEW SUBSECTION. 6.** "Urban transit system" means a system designated by the department in which motor buses are operated primarily upon the streets of cities for the transportation of passengers who present themselves for transportation without discrimination up to the limit of the capacity of each motor bus. "Urban transit system" also includes motor buses operated upon the streets of adjoining cities, whether interstate or intrastate for the transportation of passengers without discrimination up to the limit of the capacity of each motor bus. A privately chartered bus service or interurban carrier subject to the jurisdiction of the state department of transportation is not an urban transit system.

**NEW SUBSECTION. 7.** "Regional transit system" means a public transit system serving one county or all or part of a multicounty area whose boundaries correspond to the same boundaries as those of the regional planning areas designated by the governor except as agreed upon by the county and the department. Each county, through the county board of supervisors, within the region shall be responsible for determining the service and funding within its own county. However, the administration and overhead support services for the regional transit system shall be consolidated into one existing or new agency to be mutually agreed upon by the participating members.

**NEW SUBSECTION. 8.** "Transportation" means the movement of individuals in a four or more wheeled motorized vehicle designed to carry passengers, including a car, van, or bus, between one geographic point and another geographic point. "Transportation" does not include emergency or incidental transportation or transportation conducted by the department of human services at its institutions.

Sec. 2. Section 601J.2, unnumbered paragraph 1 and subsections 1 and 2, Code Supplement 1983, are amended to read as follows:

The department ~~may~~ shall, at the request of a state agency, political subdivision, or public transit system or organization affected by this chapter, provide to them the following technical transportation assistance ~~to the political subdivision~~:

1. An evaluation of existing ~~urban and rural transportation~~ public transit systems, including but not limited to an evaluation of rolling stock, the costs of operation including the costs of fuel, maintenance and personnel and the development of common management and operating systems and procedures.

2. An analysis of existing urban and rural transit system services provided for transportation disadvantaged persons and the service needs of transportation disadvantaged persons, including an evaluation of specialized equipment required to meet the service needs of transportation disadvantaged persons.

Sec. 3. Section 601J.3, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The department ~~may~~ shall at the request of a political subdivision, or public and private providers of transportation services affected by this chapter assist ~~such~~ the providers in the development of a fiscal and service plan which may be used by ~~political subdivisions~~ them to co-ordinate and consolidate all forms of urban and rural transportation services except public school transportation, including but not limited to, the following:

Sec. 4. Section 601J.4, subsection 1, Code 1983, is amended to read as follows:

1. The department shall compile and maintain current information on available and pending federal, state, local, and private aid ~~effecting~~ affecting urban and rural public transit programs. Public, private, and private nonprofit organizations applying for or receiving federal, state or local aid for providing transit services shall provide a copy of their fiscal year operating budget annually prior to ~~December~~ June 1 depicting funds used for public transit programs and such other information as the department may require prior to receiving any federal or state funds or any aid from a political subdivision of the state. The operating budget shall list all of the funding sources of the organization along with the listing of funds expended by that organization during the preceding fiscal year. The department, in co-operation with the regional planning agencies as the responsible agency for annual updating the regional transit development programs, shall compile this information annually. Any state agency or organization administering funds for transit services is required to submit all funding requests through the regional and state clearinghouse and the state department of transportation. Any organization ~~receiving federal, state or local aid to provide or contract for transit services, state agency, political subdivision, and public transit system, except public school transportation, must be in compliance with the state transit plan receiving federal, state or local aid to provide or contract for public transit services or transportation to the general public and specific client groups, must coordinate and consolidate funding and resulting service, to the maximum extent possible, with the urban or regional transit system.~~

Sec. 5. Section 601J.4, subsection 2, Code 1983, is amended to read as follows:

2. Upon request, the department shall provide assistance to political subdivisions, state agencies, and organizations affected by this chapter for federal aid applications for urban and rural ~~public transit system~~ program aid. The department, in co-operation with the regional planning agencies, shall maintain current information reflecting the amount of federal, state and local aid received by the public and private nonprofit organizations providing public transit services and the purpose for which ~~such~~ the aid is received. The department shall annually prepare a report to be submitted to the general assembly, the office for planning and programming, and to the governor, prior to February 1 of each year, stating the receipts and disbursements made during the preceding fiscal year and the adequacy of programs financed by federal, state, local, and private aid in the state. The department shall analyze the programs financed and recommend methods of avoiding duplication and increasing the efficacy of programs financed. The department shall receive comments from the department of human services, commission on aging, and the officers and agents of the other affected state and local government units relative to the department's analysis. The department shall use the following criteria to adopt rules to determine compliance with and exceptions to subsection 1:

a. Elimination of duplicative and inefficient administrative costs, policies and management.



- b. Utilization of resources for transportation services effectively and efficiently.
- c. Elimination of duplicative and inefficient transportation services.
- d. Development of transportation services which meet the needs of the general public and insure services adequate to the needs of transportation disadvantaged persons.
- e. Protection of the rights of private enterprise public transit providers.
- f. Coordination of planning for transportation services at the urban and regional level by all agencies or organizations receiving public funds that are purchasing or providing transportation services.
- g. Management of equipment and facilities purchased with public funds so that efficient and routine maintenance and replacement is accomplished.
- h. Training of transit management, drivers and maintenance personnel to provide safe, efficient, and economical transportation services.

Eligibility to receive or expend federal, state or local funds for transportation services by all agencies or organizations purchasing or providing these services shall be contingent upon compliance with these criteria as determined by the department, except that services provided by or purchased by the department of human services, which include transportation, shall be subject to section 601J.5, subsection 3, paragraph c.

Sec. 6. Chapter 601J, Code 1983, is amended by adding the following new section:

**NEW SECTION. 601J.5 COORDINATION OF TRANSPORTATION SERVICES.** The department of human services, commission on aging, and the officers and agents of other state and local governmental units shall assist the department in carrying out section 601J.4, subsections 1 and 2, insofar as the functions of these respective officers and departments are concerned with the health, welfare and safety of any recipient of transportation services.

1. Prior to July 1, 1985 all agencies or organizations purchasing or providing transportation services, except public school transportation, with federal, state or local funds shall comply with section 601J.4.

2. Any agency or organization found to be in noncompliance with section 601J.4 shall be notified in writing by the department of those activities which are not in compliance. The notice shall also provide for a period of thirty days during which compliance with section 601J.4 can be accomplished without penalty or sanction.

3. If noncompliant activities continue after the period of thirty days, the department shall, in cooperation with the attorney general and the state comptroller, initiate the following actions:

a. If the activities that are not in compliance with section 601J.4 are funded with state or federal funds which are administered by the state and can be used by agencies or organizations that are in compliance with section 601J.4, then upon notice by the department, the state comptroller shall not permit the expenditure of ten percent of the funds during fiscal year 1986, an additional twenty percent of funds during the following year, an additional thirty percent during the third year, and the remaining funds in the fourth year that the activities remain in noncompliance. Any funds retained by the state comptroller shall be distributed to agencies and organizations eligible to receive the funds for transportation purposes.

b. If the activities that are not in compliance with section 601J.4 are funded with state, federal or local funds which are not administered by the state or cannot be used by agencies and organizations that are in compliance with section 601J.4, then upon notice by the department, the attorney general shall file an action to enjoin agencies or organizations from expending funds for transportation purposes until and unless compliance with section 601J.4 is achieved. If federal funds are involved in such cases, then the attorney general shall notify the responsible federal agency of the actions and request its cooperation.

c. The department of human services shall not purchase services from any provider which has been denied a certificate of compliance with chapter 601J from the department.

d. The department shall establish an appeal process under chapter 17A which allows those agencies or organizations determined to not be in compliance with this chapter an opportunity for a timely hearing before the department.

e. The department shall, in accordance with chapter 17A, adopt and enforce rules setting minimum standards for determination of compliance and certification. The rules and standards required by this section shall be formulated in consultation with all affected state agencies, local government units with professional and consumer groups affected, and shall be designed to further the accomplishment of the purposes of this chapter.

Sec. 7. The department shall establish two pilot projects to evaluate the feasibility of developing area-wide ride-sharing programs. One pilot project shall be located in an urban area and the other in a rural area. The department shall coordinate its efforts with state and local agencies, existing transportation providers and planning agencies. The department shall consult with public and private organizations to ascertain ride-sharing needs and opportunities for client participation. Ride-sharing in privately-owned vehicles shall be included in the project. The department shall monitor the progress of the projects and report at least once annually to the general assembly and participating agencies. It is intended that if the pilot programs prove that ride-sharing is feasible, administration will be delegated to the urban and regional transit systems. The department shall implement in the pilot projects appropriate telecommunications and data processing technology to implement ride-sharing programs.

Approved May 8, 1984

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## CHAPTER 1201

### COUNTY PUBLIC HOSPITAL PURCHASES

*H.F. 2354*

**AN ACT** relating to the purchase of equipment and supplies by the board of trustees of a county public hospital.

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

Section 1. Section 347.13, subsection 2, Code 1983, is amended to read as follows:

2. Cause plans and specifications to be made and adopted for all hospital buildings and equipment, and advertise for bids, as required by law for other county buildings, before making any a contract for the construction of any such a building or the purchase of such equipment.

Sec. 2. Section 347.13, Code 1983, is amended by inserting after subsection 2 the following new subsection and renumbering the subsequent subsections:

NEW SUBSECTION. Procure equipment under bidding and contracting requirements prescribed by the board and procure supplies necessary for the operation of the hospital.

Approved May 4, 1984

**CHAPTER 1202**  
**NAME AND LOCATION OF STATE BANKS**  
*S.F. 513*

**AN ACT** relating to state banks by providing for the name and the location of the principal place of business and offices of a state bank.

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

Section 1. Section 524.310, subsection 1, Code 1983, is amended to read as follows:

1. The name of a state bank originally incorporated after the effective date of this chapter shall include the word "bank" and may include the word "state" or "trust" in its name. If a state bank uses the word "trust" in its name, it must be authorized under this chapter to act in a fiduciary capacity.

Sec. 2. Section 524.1202, subsection 2, paragraph a, subparagraphs (1), (2), (3), and (4), Code 1983, are amended to read as follows:

(1) ~~If the municipal corporation has a population of fifty thousand or less according to the most recent federal census, the state bank shall not establish more than three bank offices.~~

(2) ~~1) If the municipal corporation or urban complex has a population of more than fifty thousand but not more than one hundred thousand or less according to the most recent federal census, the state bank shall not establish more than three bank offices.~~

(3) ~~2) If the municipal corporation or urban complex has a population of more than one hundred thousand but not more than two hundred thousand according to the most recent federal census, the state bank shall not establish more than four bank offices.~~

(4) ~~3) If the municipal corporation or urban complex has a population of more than two hundred thousand according to the most recent federal census, the state bank shall not establish more than five bank offices.~~

Sec. 3. Section 524.1507, Code 1983, is amended to read as follows:

**524.1507 CHANGE OF LOCATION OF PRINCIPAL PLACE OF BUSINESS.**

1. If a change in the location of the principal place of business of a state bank is proposed and involves a change other than a change within the municipal corporation, urban complex or unincorporated area in which the state bank has its principal place of business, pursuant to section 524.312 application for the required approval of the superintendent shall be made in the manner required by the superintendent and subject to ~~the provisions of this section.~~ Any A change in location of the principal place of business of a state bank subject to this section, including a change from one municipal corporation to another corporation within an urban complex, shall require amendment to the articles of incorporation in accordance with ~~the provisions of sections 524.1502, 524.1504 and 524.1506.~~ A state bank seeking approval of a change of location pursuant to this subsection shall publish a notice of the proposed change of location in a newspaper of general circulation published in the municipal corporation or unincorporated

area in which the state bank has its principal place of business, or if there is none, in a newspaper of general circulation published in the county, or in a county adjoining the county, in which the state bank has its principal place of business, and in the municipal corporation in which it seeks to establish its principal place of business, or if there is none, in a newspaper of general circulation published in the county, or in a county adjoining the county, in which such the municipal corporation is located. The notice shall be published within thirty days after making application to the superintendent for approval of the change in location. The notice shall set forth the name of the state bank, the present location of its principal place of business, the location to which it wishes to move its principal place of business and the date upon which the state bank made application to the superintendent for approval of the change.

2. Upon receipt of an application for approval of a change of location of the principal place of business of a state bank pursuant to subsection 1 of this section, the superintendent shall conduct such investigation as he ~~deems~~ deemed necessary giving due consideration to factors substantially similar to those set forth in section 524.305, ~~subsections 2 to 6~~ subsection 1, paragraphs "c" through "f". Within one hundred eighty days after receipt of the application, the superintendent shall make a determination whether to approve or disapprove the application on the basis of his the investigation. ~~Prior to making a determination on the pending application the superintendent shall, upon adequate notice, afford all interested persons an opportunity for a stenographically reported hearing during which such persons shall be allowed to present evidence in support of, or in opposition to, the pending application.~~ Thereafter the superintendent shall give written notice of his the decision to the state bank and, in the event of disapproval, a statement of the reasons for his the decision. If the superintendent shall approve the change in location ~~he~~ the superintendent shall deliver the articles of amendment to the secretary of state. ~~The decision of the superintendent shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act.~~ Before receiving the decision of the superintendent with respect to the pending application, the state bank shall upon notice reimburse the superintendent to the extent of the expenses incurred by ~~him~~ the superintendent in connection with the application.

Approved May 4, 1984

**CHAPTER 1203****ATTORNEYS FEES IN REAL ESTATE CONTRACT FORFEITURE***H.F. 2459*

**AN ACT** allowing a vendor to charge for reasonable attorneys fees in the forfeiture of a real estate contract.

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

**Section 1. NEW SECTION. 656.7 ATTORNEYS FEES.**

1. The vendee is liable to the vendor for reasonable attorney fees actually incurred by the vendor necessary for the forfeiture of a contract governed by this chapter. The demand for attorney fees must be stated in the notice served. The maximum liability under this section is fifty dollars. "Attorney fees", as used in this chapter, is limited to reasonable fees for services requiring a lawyer. "Attorney fees" does not include clerical services even if the services are performed in a lawyer's office.

2. A vendor seeking payment of attorney fees, when the vendee fails or refuses to pay them, may file a small claims action for enforcement.

Sec. 2. Section 656.2, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**656.2 NOTICE.**

1. The forfeiture shall be initiated by the vendor by serving on the vendee a written notice which shall:

- a. Reasonably identify the contract and accurately describe the real estate covered.
- b. Specify the terms of the contract with which the vendee has not complied.
- c. State that unless, within thirty days after the completed service of the notice, the vendee performs the terms in default and pays the reasonable costs of serving the notice, the contract will be forfeited.
- d. Specify the amount of attorney fees claimed by the vendee pursuant to section 656.7 and state that payment of the attorney fees is not required to comply with the notice and prevent forfeiture.

2. The vendor shall also serve a copy of the notice required in subsection 1 on the person in possession of the real estate, if different than the vendee, and on all mortgagees of record.

3. As used in this section, the terms "vendor" and "vendee" include a successor in interest.

Sec. 3. Section 656.4, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**656.4 COMPLIANCE WITH NOTICE.** If the vendee or a mortgagee of the real estate performs, within thirty days of completed service of notice, the breached terms specified in the notice and pays the vendor the reasonable cost of serving the notice, then the right to forfeit for the breach is terminated. The payment of attorney fees pursuant to section 656.7 is not necessary to comply with the notice and prevent forfeiture.

Approved May 4, 1984

**CHAPTER 1204**  
**SPECIAL EMPLOYMENT SECURITY CONTINGENCY FUND**  
*S.F. 2040*

**AN ACT** amending Iowa's unemployment compensation law by crediting earned interest on the special employment security contingency fund to the temporary emergency surcharge fund, by limiting expenditures from the special employment security contingency fund, by annually transferring certain amounts from the special employment security contingency fund to the temporary emergency surcharge fund or to the unemployment trust fund, and by requiring an annual departmental report detailing planned expenditures from the special employment security contingency fund.

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

Section 1. Section 96.13, subsection 3, Code 1983, is amended to read as follows:

3. **SPECIAL EMPLOYMENT SECURITY CONTINGENCY FUND.** There is hereby created in the state treasury a special fund to be known as the special employment security contingency fund. All interest, fines, and penalties, regardless of when ~~the same they~~ become payable, collected from employers under ~~the provisions of section 96.14 subsequent to July 1, 1970,~~ shall be paid into ~~this the~~ fund. ~~Said The~~ moneys shall not be expended or available for expenditure in any manner which would permit their substitution for federal funds which would in the absence of ~~said the~~ moneys be available to finance expenditures for the administration of the employment security law. ~~Nothing in this section shall prevent said~~ However, the moneys from being may be used as a revolving fund to cover expenditures for which federal funds have been duly requested but not yet received, subject to the charging of ~~sueh the~~ expenditures against ~~sueh the~~ funds when received. ~~Said fund The moneys~~ may be used for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds, received for or in the employment security administration fund. The moneys in ~~this the~~ fund are hereby specifically made available to replace, within a reasonable time, any moneys received by this state in the form of grants from the federal government for administrative expenses which because of any action or contingency have been expended for purposes other than, or in excess of, those necessary for the proper administration of the employment security law. All moneys in the ~~special employment security contingency fund~~ shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds in the state treasury. However, interest earned upon moneys in the fund shall be deposited in and credited to the temporary emergency surcharge fund created under section 96.7, subsection 15.

The treasurer of state shall be the custodian of ~~said funds the fund~~ and shall give a separate and additional bond conditioned upon the faithful performance of ~~his or her the~~ treasurer's duties in connection with the ~~special employment security contingency fund~~ in an amount and with ~~sueh~~ sureties as shall be fixed and approved by the governor. The ~~premiums for such bonds premium for the bond~~ shall be paid from the moneys in the ~~special employment security~~

contingency fund. All sums recovered on such the bond for losses sustained by the special employment security contingency fund shall be deposited in the fund. Refunds of interest and penalties collected on or after July 1, 1970, pursuant to this chapter shall be paid only from this the fund.

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 with this subsection. However, the department shall not expend more than fifty thousand dollars from the fund in a state fiscal year beginning July 1 and ending June 30. After the end of a state fiscal year the treasurer of state shall promptly transfer the entire amount of the fund in excess of that portion of the fifty thousand dollars, which the department has expended or obligated for the preceding state fiscal year, to the temporary emergency surcharge fund, but if the treasurer of state determines that the department does not have and will not on September 30 have an outstanding balance of interest accrued on advance moneys received from the federal government for the payment of unemployment compensation benefits, the treasurer of state shall instead promptly transfer the entire excess amount to the unemployment trust fund established in section 96.9.

Sec. 2. The department of job service shall annually report to the joint regulatory and finance appropriations subcommittee on its plans for expenditures during the next state fiscal year from the special employment security contingency fund. The report shall describe the specific expenditures and explain why the expenditures are to be made from the fund and not from federal administrative funds.

Sec. 3. The department of job service may appear before the executive council and request funds to meet unanticipated emergencies.

Approved May 4, 1984

**CHAPTER 1205**  
**CHARGES BY INDUSTRIAL LOAN LICENSEES**  
*S.F. 2232*

**AN ACT** relating to charges by industrial loan licensees by authorizing industrial loan licensees to collect an appraisal fee on loans secured by a mortgage and requiring industrial loan licensees to pay interest on funds held in escrow in connection with a single-family or two-family home loan.

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

Section 1. Section 536A.20, subsection 3, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

A licensed industrial loan company may act as an escrow agent with respect to real property that is mortgaged to the licensed industrial loan company, and may receive funds and make disbursements from escrowed funds in that capacity. The licensed industrial loan company shall be deemed to be acting in a fiduciary capacity with respect to these funds. A licensed industrial loan company receiving funds in escrow pursuant to an escrow agreement executed on or after July 1, 1982 and before July 1, 1983 or on or after the effective date of this Act in connection with a loan 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. A licensed industrial loan company which maintains such an escrow account, whether or not the mortgage has been assigned to a third person, shall deliver to the mortgagor a written summary of all transactions made with respect to the loan and escrow accounts during each calendar year. However, the mortgagor and mortgagee may, by mutual agreement, select a fiscal year reporting period other than the calendar year.

Sec. 2. Section 536A.23, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 5.** In addition to the other charges authorized by this chapter, industrial loan companies licensed under this chapter may collect an appraisal fee on a loan secured by a mortgage or deed of trust upon real property, if the appraisal fee is bona fide, reasonable in amount, and not for purposes of circumvention or evasion of this chapter.

Sec. 3. Section 536A.31, subsection 3, Code 1983, is amended to read as follows:

3. A provision of the Iowa consumer credit code, chapter 537, applicable to loans regulated by this chapter shall supersede supersedes a conflicting provision of this chapter. However, section 536A.23, subsection 5 is not superseded by the Iowa consumer credit code.

Approved May 4, 1984



**CHAPTER 1206**  
**REPEAL OF DOMESTIC ANIMAL FUND**  
*H.F. 224*

**AN ACT** repealing the domestic animal fund.

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

Section 1. Section 331.427, subsection 2, paragraph k, Code Supplement 1983, is amended by striking the paragraph.

Sec. 2. Chapter 352, Code 1983, is repealed.

Approved May 4, 1984

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**CHAPTER 1207**  
**CHILD ABUSE**  
*H.F. 2302*

**AN ACT** relating to the definition of child abuse, investigations of child abuse and the admissibility of certain tape recordings as evidence in child in need of assistance cases.

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

Section 1. Section 232.68, subsection 2, paragraph b, Code Supplement 1983, is amended to read as follows:

b. The commission of any sexual offense with or to a child pursuant to chapter 709, or section 726.2, or section 728.12, subsection 1, as a result of the acts or omissions of the person responsible for the care of the child.

Sec. 2. Section 232.68, subsection 2, Code Supplement 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. The acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in prostitution pursuant to section 725.1.

Sec. 3. Section 232.71, Code Supplement 1983, is amended by adding the following new subsection after subsection 4:

NEW SUBSECTION. Administrators of all public and nonpublic schools subject to the authority of the department of public instruction shall cooperate with the investigators by

providing confidential access to the child named in the report, and to other children alleged to have relevant information, for the purposes of interviews. The investigators shall determine who shall be present at the interviews. The school administrators are under no duty to report the investigation or interview to the child's parent or guardian. The immunity granted by section 232.73 applies to such administrators and their school districts.

Sec. 4. Section 232.96, subsection 6, Code Supplement 1983, is amended to read as follows:

6. A report, study, record, or other writing or an audiotape or videotape recording made by the department of human services, a juvenile court officer, a peace officer or a hospital relating to a child in a proceeding under this division ~~shall be~~ is admissible notwithstanding any objection to hearsay statements contained ~~therein in it~~ provided it is relevant and material and provided its probative value substantially outweighs the danger of unfair prejudice to the child's parent, guardian, or custodian. The circumstances of the making of the report, study, record or other writing or an audiotape or videotape recording, including the maker's lack of personal knowledge, may be proved to affect its weight.

Approved May 4, 1984

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**CHAPTER 1208**  
**FOSTER CARE REVIEW COMMITTEES**  
*H.F. 2430*

**AN ACT** relating to the selection and operation of foster care review committees under the department of human services.

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

Section 1. **NEW SECTION. 234.42 FOSTER CARE REVIEW COMMITTEES—CONFIDENTIALITY.** The department of human services shall select foster care review committees of at least three individuals each to review recommendations regarding a child foster care placement. The department shall determine the composition, organization, and duties of foster care review committees. Members of a foster care review committee who are not employees of the department are subject to the same standards of confidentiality comparable to those imposed on departmental employees under section 217.30.

Sec. 2. Section 232.147, subsection 3, Code Supplement 1983, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH. g.** The foster care review committee selected to review recommendations regarding the child's placement in foster care pursuant to section 234.42.

Approved May 4, 1984

**CHAPTER 1209**  
**CITY OF RYAN LEGALIZING ACT**  
*H.F. 2517*

**AN ACT** to legalize proceedings by the city council of the city of Ryan, Iowa relating to the sale of certain property.

WHEREAS, in 1969 the city council of the city of Ryan, Iowa sold alley property to the Ryan Farmers Cooperative Creamery Company which property is described as follows:

Alley lying in Block Eight (8) of the Town of Ryan, between the East line of Washington Street and the West line of Adams Street; and

WHEREAS, in proposing the sale of the above described property, the city council of the city of Ryan, Iowa failed to comply with the public notice requirements specified in section 368.39, Code of Iowa, 1966, in that the last publication was less than ten days prior to the council meeting; and

WHEREAS, some doubts have arisen as to the validity of the sale of the above described property by the city council of the city of Ryan, Iowa to the Ryan Farmers Cooperative Creamery Company on December 16, 1969, and the doubts may raise an issue concerning the merchantability of the title to the property and the acts should be legalized and the matter once and for all put to rest; **NOW THEREFORE,**

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

Section 1. That all proceedings taken by the city council of the city of Ryan, Iowa pertaining to the sale of the alley property above described to the Ryan Farmers Cooperative Creamery Company where the city council failed to publish the last notice not less than ten days prior to the city council meeting are legalized and constitute a legal and binding sale of the above described property.

Approved May 4, 1984

**CHAPTER 1210**  
**URBAN RENEWAL**  
*H.F. 2531*

**AN ACT** relating to urban renewal.

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

Section 1. Section 403.6, Code Supplement 1983, is amended by adding the following new subsections:

**NEW SUBSECTION.** To provide in an urban renewal plan for the exclusion from taxation of value added to real estate during the process of construction for development or redevelopment. The exclusion may be limited as to the scope of exclusion, territory, or class of property affected. However, the value added during construction shall not be eligible for exclusion from taxation for more than two years and the exclusion shall not be applied to a facility which has been more than eighty percent completed as of the most recent date of assessment. This subsection permits the elimination only of those taxes which are levied against assessments made during the construction of the development or redevelopment.

**NEW SUBSECTION.** A municipality, upon entering into a development or redevelopment agreement pursuant to section 403.8, subsection 1, or as otherwise permitted in this chapter, may enter into a written assessment agreement with the developer of taxable property in the urban renewal area which establishes a minimum actual value of the land and completed improvements to be made on the land until a specified termination date which shall not be later than the date after which the tax increment will no longer be remitted to the municipality pursuant to section 403.19, subsection 2. The assessment agreement shall be presented to the appropriate assessor. The assessor shall review the plans and specifications for the improvements to be made and if the minimum actual value contained in the assessment agreement appears to be reasonable, the assessor shall execute the following certification upon the agreement:

The undersigned assessor, being legally responsible for the assessment of the above described property upon completion of the improvements to be made on it, certifies that the actual value assigned to that land and improvements upon completion shall not be less than \$ .....

This assessment agreement with the certification of the assessor and a copy of this subsection shall be filed in the office of the county recorder of the county where the property is located. Upon completion of the improvements, the assessor shall value the property as required by law, except that the actual value shall not be less than the minimum actual value contained in the assessment agreement. This subsection does not prohibit the assessor from assigning a higher actual value to the property or prohibit the owner from seeking administrative or legal remedies to reduce the actual value assigned except that the actual value shall not be reduced below the minimum actual value contained in the assessment agreement. An assessor, county auditor, board of review, director of revenue or court of this state shall not reduce or order the reduction of the actual value below the minimum actual

value in the agreement during the term of the agreement regardless of the actual value which may result from the incomplete construction of improvements, destruction or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition of the property by a public entity. Recording of an assessment agreement complying with this subsection constitutes notice of the assessment agreement to a subsequent purchaser or encumbrancer of the land or any part of it, whether voluntary or involuntary, and is binding upon a subsequent purchaser or encumbrancer.

Sec. 2. Section 403.8, subsections 1 and 2, Code 1983, are amended to read as follows:

1. A municipality may sell, lease or otherwise transfer real property or any interest ~~therein~~ in real property acquired by it, and may enter into contracts for such purposes, in an urban renewal area for residential, recreational, commercial, industrial or other uses, or for public use, subject to ~~such~~ covenants, conditions and restrictions, including covenants running with the land, as it ~~may deem~~ deems to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas, or to otherwise carry out the purposes of this chapter. ~~Provided However, that such the~~ sale, lease, other transfer, or retention, and any agreement relating ~~thereto to it~~, may be made only after the approval of the urban renewal plan by the local governing body. The purchasers or lessees and their successors and assigns shall be ~~obligated to~~ devote ~~such the~~ real property only to the uses specified in the urban renewal plan, and they may be obligated to comply with ~~such other~~ requirements as the municipality ~~may determine~~ determines to be in the public interest, including the ~~obligation~~ requirement to begin within a reasonable time any improvements on ~~such the~~ real property required by the urban renewal plan. ~~Such The~~ real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban renewal plan except as provided in section 3 of this Act. In determining the fair value of real property for uses in accordance with the urban renewal plan, a municipality shall take into account and give consideration ~~to:~~ to the uses provided in ~~such the~~ plan; the restrictions upon, and the covenants, conditions and obligations assumed by the purchaser or lessee or by the municipality retaining the property; and the objectives of ~~such the~~ plan for the prevention of the recurrence of slum or blighted areas. The municipality in ~~any an~~ instrument of conveyance to a private purchaser or lessee may provide that ~~such the~~ purchaser or lessee shall be ~~without power to not~~ sell, lease or otherwise transfer the real property, without the prior written consent of the municipality, until ~~he the~~ purchaser or lessee has completed the construction of any or all improvements which ~~he the~~ purchaser or lessee has become obligated himself to construct thereon. Real property acquired by a municipality which, in accordance with ~~the provisions of~~ the urban renewal plan, is to be transferred, shall be transferred as rapidly as feasible in the public interest, consistent with the carrying out of the ~~provisions of the~~ urban renewal plan. ~~Any A~~ contract for ~~such a~~ transfer under the urban renewal plan, or ~~such a~~ part or parts of ~~such the~~ contract or plan as the municipality ~~may determine~~ determines, may be recorded in the land records of the county in ~~such a~~ manner as to afford actual or constructive notice ~~thereof of the contract or plan~~.

2. A municipality may dispose of real property in an urban renewal area to private persons only under ~~such~~ reasonable competitive bidding procedures as it shall prescribe, or as ~~hereinafter~~ provided in this subsection. A municipality, by public notice by publication in a newspaper having a general circulation in the community, thirty days prior to the execution of ~~any a~~ contract to sell, lease or otherwise transfer real property, and prior to the delivery of ~~any an~~ instrument of conveyance with respect ~~thereto to the real property~~ under the ~~provisions~~ of this section, may invite proposals from and make available all pertinent information to any persons interested in undertaking to redevelop or rehabilitate an urban renewal area, or ~~any a~~ part ~~thereof of the area~~. ~~Such The~~ notice shall identify the area, or portion ~~thereof of the area~~, and shall state that proposals shall be made by those interested within thirty days after

the date of publication of said the notice, and that such further information as is available may be obtained at such the office as shall be designated in said the notice. The municipality shall consider all such redevelopment or rehabilitation proposals, and the financial and legal ability of the persons making such the proposals to carry them out, and the municipality may negotiate with any persons for proposals concerning the purchase, lease or other transfer of any real property acquired by the municipality in the urban renewal area. The municipality may accept such the proposal as it deems to be in the public interest and in furtherance of the purposes of this chapter: Provided However, that a notification of intention to accept such the proposal shall be filed with the governing body not less than thirty days prior to any such the acceptance. Thereafter, the municipality may execute such a contract in accordance with the provisions of subsection 1 of this section and may deliver deeds, leases and other instruments and may take all steps necessary to effectuate such the contract.

However, this subsection does not apply to real property disposed of for the purpose of development or redevelopment as an industrial building or facility, facilities for use as a center for export for international trade, a home office or regional office facility for a multistate business or which meets the criteria set forth in section 3 of this Act.

Sec. 3. Section 403.8, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. The requirement that real property or an interest in real property transferred or retained for the purpose of a development or redevelopment be sold, leased, otherwise transferred, or retained at not less than its fair market value does not apply if the developer enters into a written assessment agreement with the municipality pursuant to section 1 of this Act and the minimum actual value contained in the assessment agreement would indicate that there will be sufficient taxable valuations to permit the collection of incremental taxes as provided in subsection 2 of section 403.19 to cause the indebtedness and other costs incurred by the municipality with respect to the property or interest transferred or retained to be repayable as to principal within four tax years following the commencement of full operation of the development.

Approved May 7, 1984

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## CHAPTER 1211

### ATTORNEY FEES FOR MODIFICATION OF DISSOLUTION OF MARRIAGE ORDERS

*H.F. 2373*

**AN ACT** relating to attorney fees in proceedings to modify orders or decrees relating to dissolution of marriage.

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

Section 1. NEW SECTION. 598.36 ATTORNEY FEES IN PROCEEDING TO MODIFY ORDER OR DECREE. In a proceeding for the modification of an order or decree under this chapter the court may award attorney fees to the prevailing party in an amount deemed reasonable by the court.

Approved May 7, 1984

**CHAPTER 1212**  
**SURETY BOND FOR EMPLOYMENT AGENCY**  
*H.F. 2172*

**AN ACT** relating to the surety bond required for an employment agency license.

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

Section 1. Section 95.2, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Application for ~~such~~ a license shall be made in writing to the commission provided in section 95.1. It shall contain the name of the applicant, and if ~~the~~ applicant ~~be~~ is a firm, the names of the members, and if it ~~be~~ is a corporation, the names of the officers ~~thereof~~; and the name, number and address of the building and place where the employment agency is to be conducted. It shall be accompanied by the affidavits of at least two reputable citizens of the state in no way connected with the applicant, certifying to the good moral character and reliability of the applicant, or, if a firm or corporation, of each of the members or officers ~~thereof~~, and that the applicant is a citizen of the United States, if a natural person; also a surety company bond in the sum of ~~two~~ twenty thousand dollars when an employee is required to contribute to the payment of fees to be approved by the labor commissioner and conditioned to pay any damages that may accrue to any person ~~or persons~~ because of ~~any~~ a wrongful act, or violation of law, on the part of the applicant in the conduct of ~~said~~ the business. There shall also be filed with the application a schedule of fees to be charged for services rendered to patrons, which schedule shall not be changed during the term of license without consent being first given by the commission.

Approved May 7, 1984

**CHAPTER 1213**  
**TAKING OF WILDLIFE**  
*H.F. 2306*

**AN ACT** permitting the conservation commission to alter or restrict the taking of wildlife.

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

Section 1. Section 109.38, subsections 1 and 2, Code 1983, are amended to read as follows:

1. The commission may upon its own motion and after an investigation, alter, limit, or restrict the methods or means employed and the instruments or equipment used in taking deer, ~~raccoon~~ wild mammals, wild turkey, pheasant, quail, ~~trout or rough~~ fish, reptiles, and amphibians, if the investigation reveals that ~~such~~ the action would be desirable or beneficial in promoting the interests of conservation, or the commission may, after an investigation when it is found there is imminent danger of loss of fish through natural causes, authorize the taking of fish by ~~such~~ means as they may deem found advisable to salvage ~~such~~ imperiled fish populations.

2. If following an investigation the commission finds that the number of hunters licensed to take deer or wild turkey should be limited ~~or~~, further regulated, or expanded, the commission shall conduct a drawing to determine which applicants shall receive a license. If further deer depopulation is warranted in localized areas, the commission shall consider additional hunting days and additional any sex deer licenses shall be issued for those areas. Applications for licenses shall be received and accepted during a ~~thirty-day~~ forty-five day period established by the commission. At the end of ~~such~~ the period the drawing shall be conducted. If the quota has not been filled, licenses shall ~~then~~ be issued in the order in which ~~such~~ applications are received and shall continue to be issued until ~~such~~ the quota has been met or until a date fifteen days prior to the opening day of the season, whichever first occurs. If an applicant receives a deer license which is more restrictive than licenses issued to others for the same period and place, the applicant shall receive a certificate with ~~his or her~~ the license entitling the applicant to priority in the drawing for the less restrictive deer licenses the following year. The certificate must accompany that person's application the following year, or the applicant will not receive this priority. Persons purchasing a deer license for the gun season as ~~provided~~ under this section and under section 110.1 ~~shall are~~ not be eligible for a gun deer-hunting license under the ~~provisions~~ of section 110.24. This subsection ~~shall~~ does not apply to the hunting of wild turkey on game breeding and shooting preserves licensed under chapter 110A.

Approved May 7, 1984



**CHAPTER 1214****COMMITMENT OF CHILDREN AND CERTAIN ADULTS***H.F. 2425*

**AN ACT** relating to the commitment of children and certain adults either to the state training school or the appropriate adult correctional facility.

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

Section 1. Section 217A.31, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** If the juvenile court waives its jurisdiction over a child over thirteen and under eighteen years of age pursuant to section 232.45 so that the child may be prosecuted as an adult and if the child is convicted of a public offense in the district court and committed to the custody of the director under section 901.7, the director may request transfer of the child to the state training school under this section. If the director of a division of the department of human services consents and approves the transfer, the child may be retained in temporary custody by the state training school until attaining the age of eighteen, at which time the child shall be returned to the custody of the director of the department of corrections to serve the remainder of the sentence imposed by the district court. If the child becomes a security risk or becomes a danger to other residents of the state training school at any time before reaching eighteen years of age, the director of the division of the department of human services may immediately return the child to the custody of the director of the department of corrections to serve the remainder of the sentence.

Sec. 2. Sections 242.6 and 245.5, Code 1983, are repealed.

Approved May 7, 1984

**CHAPTER 1215**  
**PRIORITY OF CONSTRUCTION MORTGAGE LIEN**  
*H.F. 2463*

**AN ACT** relating to the priority of construction mortgage liens.

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

Section 1. Section 572.18, Code 1983, is amended to read as follows:

572.18 **PRIORITY OVER OTHER LIENS.** Mechanics' liens shall be preferred to all other liens which may attach to or upon any a building or improvement and to the land upon which it is situated, except liens of record prior to the time of the original commencement of the work or improvements; ~~but the.~~ However, construction mortgage liens shall be preferred to all mechanics' liens of claimants who commenced their particular work or improvement subsequent to the date of the recording of the construction mortgage lien. For purposes of this section, a lien is a "construction mortgage lien" to the extent that it secures loans or advancements made to directly finance work or improvements upon the real estate which secures the lien. The rights of purchasers, encumbrancers, and other persons who acquire interests in good faith and for a valuable consideration, and without notice, after the expiration of the time for filing claims for such mechanics' liens, shall be are prior to the claims of all contractors or subcontractors who have not, at the dates such rights and interests were acquired, filed their claims for such liens.

Approved May 7, 1984

**CHAPTER 1216****BENEFITED LAW ENFORCEMENT DISTRICT LEVY***H.F. 2525*

**AN ACT** to increase the authorized property tax levy for a benefited law enforcement district.

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

Section 1. Section 357D.8, Code 1983, is amended to read as follows:

357D.8 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~~ one dollar 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 357D.4. 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 chapter, but the elections shall be conducted in accordance with chapter 49 where not in conflict with this chapter. 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. 2. Section 357D.10, Code 1983, is amended to read as follows:

357D.10 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 chapter.~~ This levy is optional with the trustees, but the levy shall not be made unless first approved by the voters as provided in section 357D.8. 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.

Approved May 7, 1984

**CHAPTER 1217****COLLECTION OF DISHONORED NEGOTIABLE INSTRUMENTS***S.F. 420*

**AN ACT** relating to the collection of dishonored checks, drafts, or other negotiable instruments.

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

Section 1. Section 554.3507, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 5.** The holder of a dishonored instrument may assess against the maker of that instrument a surcharge of not more than ten dollars for each dishonored instrument. The surcharge authorized by this section shall not be assessed unless the holder clearly and conspicuously posts a notice at the usual place of payment, or in the billing statement of the holder, stating that a surcharge will be assessed and the amount of the surcharge. However, such a surcharge shall not be assessed against the maker if the reason for the dishonor of the instrument is that the maker has stopped payment pursuant to section 554.4403.

Sec. 2. Section 625.22, unnumbered paragraph 2, Code 1983, is amended to read as follows:

In an action against the maker to recover payment on a dishonored check, or draft, or written instrument written in violation of chapter 714 as defined in section 554.3104, the plaintiff, if successful, may recover, in addition to all other costs or surcharges provided by law, all court costs incurred, including a reasonable attorney's fee, or an individual's cost of processing a small claims recovery such as lost time and transportation costs from the maker of the check, or draft, or written instrument. Any such additional charges shall be determined by the court. If the defendant is successful in the action and the court determines the action was frivolous, the court may award the defendant reasonable attorney's fees.

Approved May 7, 1984

**CHAPTER 1218**  
**POLITICAL CAMPAIGNS STUDY COMMITTEE**  
*S.F. 2014*

**AN ACT** to provide for an independent study of campaign financing of candidates for state offices and the independent expenditures of political committees.

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

Section 1.

1. There is established a political campaigns study committee which shall consist of eleven members. The members shall be as follows:

- a. Two members appointed by the majority leader of the senate.
- b. Two members appointed by the minority leader of the senate.
- c. Two members appointed by the speaker of the house of representatives.
- d. Two members appointed by the minority leader of the house of representatives.
- e. One member appointed by each chairperson of a state statutory political committee under chapter 43.
- f. The chairperson of the campaign finance disclosure commission.

A member of the general assembly is ineligible for appointment to the committee.

2. The members of the political campaigns study committee shall be reimbursed for their travel and other necessary expenses incurred in the performance of their official duties. The members of the committee who are not public employees shall also be paid a per diem of forty dollars. The per diem and expenses shall be paid from the funds appropriated under section 2.12.

3. The political campaign study committee shall conduct a study on the financing of political campaigns of candidates and the independent expenditures of political committees. The study committee shall examine the effects of political action committees and the desirability of limiting political action committee contributions to candidates, the policies of other states regarding campaign financing and the possibility and desirability of public financing, in whole or in part, of campaigns for state offices.

4. The appointments under subsection 1 shall be made within thirty days of the effective date of this Act. The meetings of the political campaigns study committee are subject to the approval of the legislative council. The study committee may request that the legislative council provide staff for the study committee from the staff of the legislative service bureau. The campaign finance disclosure commission shall provide assistance and information for the activities of the study committee.

5. The political campaign study committee shall transmit copies of its final report to the legislative council by January 2, 1985 which shall include its findings of fact and recommendations.

Approved May 7, 1984

**CHAPTER 1219**  
**CODE CORRECTIONS**  
*S.F. 2238*

**AN ACT** making Code corrections which strike or replace incorrect references, strike expired provisions, and make statutes consistent, including statutes relating to penalties.

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

Section 1. Section 8.15, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Before a warrant or its equivalent is issued for a claim payable from the state treasury, the department shall file an itemized voucher showing in detail the items of service, expense, thing furnished, or contract for which payment is sought. The claimant's original invoice shall be attached to a department's approved voucher. The comptroller shall adopt rules specifying the form and contents for invoices submitted by a vendor to a department. The requirements apply to acceptance of an invoice by a department. A department, ~~the general assembly, or the courts~~ shall not impose additional or different requirements on submission of invoices than those contained in rules of the comptroller unless the comptroller exempts the department from the invoice requirements or a part of the requirements upon a finding that compliance would result in poor accounting or management practices.

Sec. 2. Section 49.113, Code 1983, is amended to read as follows:

**49.113 OFFICIAL NEGLIGENCE OR MISCONDUCT.** ~~Any A~~ public officer upon whom a duty is imposed by this chapter, who ~~shall willfully neglect neglects~~ to perform ~~such the~~ duty, or who ~~shall willfully perform performs~~ it in ~~such~~ a way as to hinder the object ~~thereof of it~~, or ~~shall disclose discloses~~ to anyone, except as may be ordered by ~~any a~~ court of competent jurisdiction, the manner in which ~~any a~~ ballot ~~may have~~ has been voted, ~~shall be punished by a fine of not less than five dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment is guilty of a serious misdemeanor.~~

Sec. 3. Section 53.40, unnumbered paragraphs 1 and 3, Code 1983, are amended to read as follows:

Request in writing for a ballot for the primary election and for the general election may be made by any member of the armed forces of the United States who is or will be a qualified voter on the day of the election at which ~~said~~ the ballot is to be cast, at any time prior to either of ~~said~~ the elections, the request stating for which election the request is made. In the case of the general election ~~such~~ request may ~~likewise~~ be made, not more than seventy days before ~~said~~ the election, for and on behalf of a voter in the armed forces of the United States by a spouse, parent, parent-in-law, adult brother, adult sister, or adult child of ~~any such~~ the voter, residing in the county of ~~said~~ the voter's residence, ~~provided that any such.~~ However, a request made by other than the voter may be required to be made on forms prescribed by the Iowa servicemen's ballot commission state commissioner.

The commissioner shall immediately on the fortieth day prior to the particular election transmit ballots to the voter by mail or otherwise, postage prepaid, as ~~may be~~ directed by the Iowa servicemen's ballot commission state commissioner, requests for which are in his the commissioner's hands at that time, and thereafter so transmit ballots immediately upon receipt of requests for same. A request for ballot for the primary election which does not state the party affiliation of the voter making the request ~~shall be~~ is void and of no effect. A request which does not show that the person for whom a ballot is requested will be a qualified voter in the precinct in which ~~said the~~ ballot is to be cast on the day of the election for which the ballot is requested, shall not be honored; ~~provided that.~~ However, a request which states the age and the city, including street address, if any, or township, and county ~~wherein where~~ the voter resides, and which shows a sufficient period of residence, ~~shall be~~ is sufficient to show that ~~he the person is~~ such a qualified voter. A request by the voter containing substantially the information required herein ~~shall be~~ is sufficient.

Sec. 4. Chapter 79, Code 1983, is amended by adding the following new section:

**NEW SECTION. REPRISALS PROHIBITED.** A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for a disclosure of information by that employee to a member of the general assembly, the legislative service bureau, the legislative fiscal bureau or the respective caucus staffs of the general assembly, or a disclosure of information which the employee reasonably believes evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. This subsection does not apply if the disclosure of that information is prohibited by statute.

Sec. 5. Section 125.78, unnumbered paragraph 1, Code 1983, is amended to read as follows:

As soon as practical after the filing of an application for involuntary commitment ~~for or~~ treatment, the court shall:

Sec. 6. Section 172C.1, subsection 11, paragraph a, Code 1983, is amended to read as follows:

a. In which a majority interest in the trust is held by and the majority of the beneficiaries are persons related to each other as spouse, parent, grandparent, lineal ~~descendants ascen-~~ dants 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

Sec. 7. Section 172D.1, subsection 2, Code 1983, is amended to read as follows:

2. "Department" means the department of environmental quality in a reference to a time before July 1, 1983, and the department of water, air and waste management in a reference to a time on or after July 1, 1983, and includes any officer or agency within that department.

Sec. 8. Section 172D.3, subsection 2, paragraph b, subparagraphs (3) and (4), Code 1983, are amended to read as follows:

(3) A rule of the department adopted after November 1, 1976 ~~shall does~~ not apply to a feedlot holding any DEQ a wastewater permit from the department and having an established date of operation prior to the effective date of the rule until either the expiration of the term of the permit in effect on the effective date of the rule, or ten years from the established date of operation of the feedlot, whichever time period is greater.

(4) A rule of the department adopted after November 1, 1976 ~~shall does~~ not apply to a feedlot not previously required to hold a DEQ wastewater permit from the department and having an established date of operation prior to the effective date of the rule for either a

period of ten years from the established date of operation of the feedlot or five years from the effective date of the rule, whichever time period is greater.

Sec. 9. Section 217A.2, subsections 5, 6, and 7, Code Supplement 1983, are amended to read as follows:

5. North central medium security correctional facility at Rockwell City.
6. Mount Pleasant medium security correctional facility.
7. Clarinda correctional treatment facility.

Sec. 10. Section 220.38, subsection 2, Code 1983, is amended to read as follows:

2. Only individuals who meet the principal requirements for an original mortgagor ~~shall be~~ are eligible to assume a tax exempt mortgage loan issued under this chapter.

Sec. 11. Section 233.2, Code 1983, is amended to read as follows:

233.2 PENALTY - BAR. A violation of section 233.1 ~~shall be punishable by a fine of not exceeding one hundred dollars or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment is a simple misdemeanor. Said A conviction shall does not bar a prosecution of such the convicted person for an indictable offense when the acts which caused or contributed to the delinquency or dependency of such the child are indictable.~~

Sec. 12. Section 263.11, subsection 2, Code 1983, is amended to read as follows:

2. Persons who are not eligible for admission to the schools already established for the deaf, blind, epileptic, or feeble minded mentally retarded.

Sec. 13. Section 273.8, subsection 1, Code 1983, is amended to read as follows:

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 commences at the organization meeting.~~

Sec. 14. Section 273.8, subsection 3, Code 1983, is amended to read as follows:

3. ORGANIZATION. The board of directors of each area education agency shall meet and organize 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~~ 277.28 at or before the organization meeting.

The provisions of section 280A.12 relating to organization, officers, appointment of secretary and treasurer, and meetings of the merged area board ~~shall~~ apply to the area education agency board.

Sec. 15. Section 280A.11, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The governing board of a merged area ~~shall be~~ is a board of directors composed of one member elected from each director district in the area by the electors of the respective district. Members of the board shall be residents of the district from which elected. Successors shall be chosen at the annual school elections for members whose terms expire ~~on the first Monday in October following such elections. Terms of members~~ The term of a member of the board of directors shall be is three years and commences at the organization meeting. Vacancies on the board which occur more than ninety days prior to the next regular school election may be filled at the next regular meeting of the board by appointment by the remaining members of the board. A member so chosen shall be a resident of the district in which the vacancy occurred and shall serve until a member ~~shall be~~ is elected pursuant to section 69.12 to fill the vacancy for the balance of the unexpired term. A vacancy ~~shall be~~ is defined as in section 277.29. ~~No A member shall not serve on the board of directors who is a member of a board of directors of a local school district or a member of an area education agency board.~~



Sec. 16. Section 291.9, subsection 4, Code 1983, is amended to read as follows:

4. The name, sex, age, and disability of every physically handicapped or feeble-minded mentally retarded person of school age, with the name and post-office address of the parent or guardian.

Sec. 17. Section 291.10, subsection 11, Code 1983, is amended to read as follows:

11. The name, age and post-office address of each person resident of the corporation, without regard to age, so blind as to be unable to acquire an education in the common schools, and of each person between the ages of five and thirty-five whose faculties with respect to speech and hearing are so deficient as to prevent ~~him~~ the person from obtaining an education in the common schools, and the name, sex, age, and disability of every physically handicapped or feeble-minded mentally retarded person of school age, with the name and post-office address of the parent or guardian.

Sec. 18. Section 312.3, subsection 1, Code 1983, is amended to read as follows:

1. Apportion among the counties in the ratio that the needs of the secondary roads of each county bear to the total needs of the secondary roads of the state ~~for the twenty-year improvement program developed by the automotive safety foundation and filed with the Iowa highway study committee created by chapter 426, Acts of the Fifty-eighth General Assembly, through the period ending June 30, 1979, and for each fiscal year beginning July 1, 1979, based upon the total needs of secondary roads of the state as shown in the latest quadrennial need study report developed by the state department of transportation, and which is on record at the department, sixty percent of the allocation from road use tax funds which is credited to the secondary road fund of the counties, and apportion among the counties in the ratio that the area of ~~such~~ each county bears to the total area of the state, forty percent of the allocation from road use tax funds which is credited to the secondary road fund of the counties. However, for a hold harmless period each county shall be is guaranteed a base year amount. The amount in the secondary road fund of the counties in each fiscal year during the hold harmless period in excess of the sum of the base period amounts allocated to all counties shall be distributed proportionally based on the relative needs and area factors to only those counties entitled to receive more than the base year amount.~~

For the purposes of this subsection:

- a. "Hold harmless period" means the fiscal years beginning July 1, 1979 and ending June 30, 1985.
- b. "Base year amount" means the amount of the secondary road fund of the counties received by a county for the fiscal year beginning July 1, 1977.

Sec. 19. Section 312.5, unnumbered paragraphs 3 and 4 and paragraphs a and b, Code 1983, are amended to read as follows:

Need allotment farm-to-market road funds shall be allotted among the counties in the ratio that the needs of the farm-to-market roads in each county bear to the total needs of the farm-to-market roads in the state ~~for the twenty-year program developed by the automotive safety foundation and filed with the Iowa highway study committee created by chapter 426, Acts of the Fifty-eighth General Assembly, through the period ending June 30, 1979, and for each fiscal year beginning July 1, 1979, based upon the total needs of the farm-to-market roads in the state as shown in the latest quadrennial need study report developed by the state department of transportation, and which is on record at the department. However, for a hold harmless period each county shall be guaranteed a base year amount. The amount in the farm-to-market road fund in each fiscal year during the hold harmless period in excess of the sum of the base period amounts allocated to all counties shall be distributed proportionally based on~~

the relative needs and area factors to only those counties entitled to receive more than the base year amount.

For the purposes of this section:

a. "Hold harmless period" means the fiscal years beginning July 1, 1979 and ending June 30, 1983.

b. "Base year amount" means the amount of the farm-to-market road fund received by a county for the fiscal year beginning July 1, 1977.

Sec. 20. Section 317.19, Code Supplement 1983, is amended to read as follows:

317.19 ROAD CLEARING APPROPRIATION. The board of supervisors may appropriate moneys to be used for the purposes of cutting, burning, or otherwise destroying all weeds, second, or undergrowth brush between the fence rows on the county trunk roads and local county roads in time to prevent reseeding.

The board of supervisors may purchase or hire necessary equipment or contract with the adjoining landowner to carry out the purposes of this section.

Sec. 21. Section 321.1, subsection 2, Code Supplement 1983, is amended to read as follows:

2. a. "Motor vehicle" means every a vehicle which is self-propelled, but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires, but and are not operated upon rails. The terms "car," "new car," "used car" or "automobile" shall be synonymous with the term "motor vehicle."

b. "Used motor vehicle" or "second-hand motor vehicle" means any a motor vehicle of a type subject to registration under the laws of this state which have has been sold "at retail" as defined in chapter 322 and previously registered in this or any other state.

c. "New car" means every motor vehicle designed primarily for carrying nine passengers or less, excluding motorcycles, a car which has not been sold "at retail" as defined in chapter 322.

d. "Used car" means every motor vehicle designed primarily for carrying nine passengers or less, excluding motorcycles, a car which has been sold "at retail" as defined in chapter 322 and previously registered in this state or any other state.

e. "Car" or "automobile" means a motor vehicle designed primarily for carrying nine passengers or less, excluding motorcycles and motorized bicycles.

Sec. 22. Section 321.135, Code 1983, is amended to read as follows:

321.135 WHEN FEES DELINQUENT. Such delinquencies shall Delinquencies begin and penalty penalties accrue the first of the month following the purchase of a new vehicle, and the first of the month following the date ears are a vehicle is brought into the state, except as herein otherwise provided.

Sec. 23. Section 321.184, Code 1983, is amended to read as follows:

321.184 APPLICATIONS OF UNMARRIED MINORS. The application of any an unmarried person under the age of eighteen years for an instruction permit, operator's license, motorized bicycle license, restricted license, or permit school license issued under section 321.194 shall contain the verified consent and confirmation of the applicant's birthday by either parent of the applicant, the guardian of the applicant, or a person having custody of the minor applicant under chapter 600A may consent. Officers and employees of the department are authorized to may administer the oaths without charge.

Sec. 24. Section 321.194, unnumbered paragraphs 1 and 2, Code Supplement 1983, are amended to read as follows:

Upon certification of a special need by the school board or the superintendent of the applicant's school, the department may issue a restricted school license to a person between the ages of fourteen and eighteen years. The license shall entitle the holder, while having the

license in 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 schools of enrollment and between schools of enrollment for the purpose of attending duly scheduled courses of instruction and extracurricular activities at the schools 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 restricted license under section 321.178, subsection 2 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 the board and superintendent are not responsible for actions of the applicant which pertain to the use of the restricted school 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 school license. The fact that the applicant resides at a distance less than one mile from the applicant's schools of enrollment is prima-facie evidence of the nonexistence of necessity for the issuance of a license.

Sec. 25. Section 321.196, unnumbered paragraph 3, Code 1983, is amended by striking the unnumbered paragraph.

Sec. 26. Section 321.215, subsection 3, Code 1983, is amended to read as follows:

3. A temporary restricted permit ~~shall be~~ is valid only if the department is in receipt of records required by this section. The permit shall be canceled upon conviction of a moving traffic violation ~~as defined in section 321.181~~, or upon ~~any~~ a violation of ~~the terms~~ a term of the permit.

Sec. 27. Section 321.366, unnumbered paragraph 1 and subsections 1 through 5, Code 1983, are amended to read as follows:

It is unlawful for ~~any~~ a person, except a person operating highway maintenance equipment or an authorized emergency vehicle, to do any of the following on fully controlled access facilities:

1. Drive a vehicle over, upon, or across ~~any~~ a curb, central dividing section, or other separation or dividing line ~~on fully controlled access facility~~.
2. Make a left turn or a semicircular or U-turn at a maintenance cross-over where an official sign prohibits the turn.
3. Drive ~~any~~ a vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section, or line.
4. Drive ~~any~~ a vehicle into the ~~fully controlled access~~ facility from a local service road.
5. Stop, park, or leave standing ~~any~~ a vehicle, whether attended or unattended, upon the paved portion, the shoulders, or the right of way except at designated rest areas or in case of an emergency or other dire necessity.

Sec. 28. Section 321B.2, unnumbered paragraph 2, Code 1983, is amended to read as follows:

As used in this chapter and sections 29B.106, 321.209, 321.281, ~~321.494~~ and 690.2 the words "alcoholic beverage" include alcohol, wine, spirits, beer, or any other beverage which contains ethyl alcohol and is fit for human consumption.

Sec. 29. Section 327A.19, Code 1983, is amended to read as follows:

**327A.19 FEE FOR OPERATION.** ~~No~~ A certificate of convenience and necessity shall not be issued nor continued in force until the holder thereof ~~shall have~~ has paid to the board authority an annual certificate fee for each motor vehicle operated ~~thereunder~~ under the certificate in the amount of five dollars, except that the fee for a tractor or truck tractor ~~shall be~~ is fifteen dollars, and except that the fee ~~herein provided~~ shall not be imposed on any a trailer or semitrailer. Fees collected pursuant to the ~~provisions~~ of this section shall be remitted to the treasurer of state and credited to the road use tax fund.

Sec. 30. Section 331.302, subsection 2, Code 1983, is amended to read as follows:

2. A county shall not provide a penalty in excess of a one hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. The criminal penalty surcharge required by section 911.2 shall be added to a county fine and is not a part of the county's penalty.

Sec. 31. Section 364.3, subsection 2, Code Supplement 1983, is amended to read as follows:

2. A city ~~may~~ shall not provide a penalty in excess of a one hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. An amount equal to ten percent of all fines collected by ~~municipal corporations~~ cities shall be remitted quarterly to the county treasurer of the county in which the ~~municipal corporation~~ city is located. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city. The criminal penalty surcharge required by section 911.2 shall be added to a city fine and is not a part of the city's penalty.

Sec. 32. Section 427.3, subsections 1 and 2, Code Supplement 1983, are amended to read as follows:

1. The property, not to exceed eleven thousand one hundred eleven dollars in taxable value, ~~and poll tax of any~~ an honorably discharged union soldier, sailor, or marine of the Mexican war or the war of the rebellion.

2. The property, not to exceed six thousand six hundred sixty-seven dollars in taxable value, ~~and poll tax of any~~ an honorably discharged soldier, sailor, marine or nurse of the war with Spain, Tyler Rangers, Colorado volunteers in the war of the rebellion, 1861 to 1865, Indian wars, Chinese relief expedition or the Philippine insurrection.

Sec. 33. Section 427.8, Code 1983, is amended to read as follows:

**427.8 PETITION FOR EXEMPTION.** ~~Whenever~~ If a person, by reason of age or infirmity, is unable to contribute to the public revenue, ~~such~~ the person may file a petition, duly sworn to, with the board of supervisors, stating ~~such~~ that fact and giving a statement of property, real and personal, owned or possessed by ~~such applicant~~ the petitioner, and ~~such~~ other information as the board may require. The board of supervisors may ~~thereupon~~ order the county treasurer to suspend the collection of the taxes assessed against ~~such~~ the petitioner, ~~his polls~~ or ~~the petitioner's~~ estate, or both, for the current year, or ~~such~~ the board may cancel and remit ~~said~~ the taxes; ~~provided, however, that such.~~ However, the petition shall must first have been approved by the council of the city in which the property of the petitioner is located, or by the township trustees of the township in which ~~said~~ the property is located.

Sec. 34. Section 427.10, Code 1983, is amended to read as follows:

**427.10 ADDITIONAL ORDER.** The board of supervisors may, if in their judgment it is for the best interests of the public and the petitioner referred to in section 427.8, or the public and the ~~aged~~ person referred to in section 427.9, cancel and remit the taxes assessed against the petitioner referred to in section 427.8, or the ~~aged~~ person referred to in section 427.9, ~~his polls~~ or ~~the petitioner's~~ or person's estate or both, even though ~~said~~ the taxes have previously been suspended as provided in sections 427.8 ~~and~~ or 427.9.

Sec. 35. Section 427.12, Code 1983, is amended to read as follows:

427.12 SUSPENDED TAX LIST. The county treasurer shall ~~keep and maintain in his office~~ a book which shall be known as the "suspended tax list" and in which ~~he the treasurer~~ shall enter the following data relative to all taxes, ~~and polls~~, the collection of which ~~have has~~ been suspended by order of the board of supervisors, ~~to wit~~:

1. A governmental or platted description of the land on which the said tax has been levied or on which it is a lien.
2. The name of the owner of said the land.
3. The amount, and current year, of said the tax.
4. The date of the order suspending collection of said the tax.

Said The book shall be so prepared, ruled, and headed that all entries of taxes and polls against the land in a given section or in a given city plat, addition, or auditor's plat shall be separate from the entry of taxes against the land in any other section, or city plat, addition, or auditor's plat.

The county treasurer shall, prior to January 1, 1946, enter in said book the aforesaid data as to all unpaid, uncanceled and unremitted taxes, and polls, the collection of which have been ordered suspended by the board of supervisors since July 4, 1921. The data relative to all other suspended taxes and polls shall be entered immediately following the entry of such suspension.

If a tax or poll on said the book be is paid, or be subsequently legally canceled and remitted, the treasurer shall enter in said the book and over his the treasurer's official signature a notification of satisfaction thereof.

Said The suspended tax list shall be considered is the only official record of suspended tax list of taxes in the county. When any a suspension, heretofore or hereafter ordered by the board of supervisors for any reason provided by law, has been entered therein, such in the suspended tax list, the entry shall, on and after its date of said entry, be is a lien and notice thereof of a lien in accordance with the provisions of sections 427.9 and section 445.10. Such entries of suspended taxes shall and is not be required to be entered in or carried forward to any other book or tax list, notwithstanding any provision of law to the contrary.

Sec. 36. Section 602.6501, subsection 3, Code Supplement 1983, is amended to read as follows:

3. A member of a magistrate appointing commission shall be reimbursed for actual and necessary expenses reasonably incurred in the performance of official duties. Reimbursements are payable ~~out of the court expense fund of by~~ the county in which the member serves, upon certification of the expenses to the county auditor by the clerk of the district court. The district judges of each judicial district may prescribe rules for the administration of this subsection.

Sec. 37. Section 805.8, subsection 1, Code Supplement 1983, is amended to read as follows:

1. APPLICATION. Except as otherwise indicated, violations of sections of the Code specified in this section are scheduled violations, and the scheduled fine for each of those violations is as provided in this section, whether the violation is of state law or of a county or city ordinance. The criminal penalty surcharge required by section 911.2 shall be added to the scheduled fine.

Sec. 38. Section 902.9, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The criminal penalty surcharge required by section 911.2 shall be added to a fine imposed on a class "C" or class "D" felon, and is not a part of

or subject to the maximums set in this section.

Sec. 39. Section 903.1, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The criminal penalty surcharge required by section 911.2 shall be added to a fine imposed on a misdemeanor, and is not a part of or subject to the maximums set in this section.

Sec. 40. Section 905.11, Code Supplement 1983, is amended to read as follows:

905.11 BIENNIAL PLAN. The Iowa department of ~~human services~~ corrections shall prepare a biennial plan relating to the management of the community-based corrections programs and services.

The plan shall include:

1. Goals, objectives, operations, and funding allocations for programs and projects to accomplish the requirements of this chapter and the orderly development of the community-based corrections programs and services.

2. The plans for coordination with the state agencies responsible for substance abuse services, mental health services, employment programs and other programs needed to improve the availability of services.

The plan shall be prepared and submitted by the Iowa department of ~~human services~~ corrections to the ~~council on human services~~ board of corrections. The ~~council board~~ shall submit the plan to the governor and the general assembly in January of each odd-numbered year.

Sec. 41. Sections 144.57, 321.494 and 600.23, Code 1983, and chapter 221, Code Supplement 1983, are repealed.

Approved May 7, 1984

**CHAPTER 1220**  
**GAMES OF CHANCE AND SKILL**  
*H.F. 2015*

**AN ACT** relating to the holding of games of skill, chance, and raffles including bingo and providing penalties.

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

Section 1. **NEW SECTION. 99B.9A EXCEPTIONS FOR CERTAIN AREAS.** The department may, at its discretion, allow a qualified organization under section 99B.7 to hold a game of bingo in a building where another qualified organization also holds a game of bingo or where the building is adjacent, but not intraconnected, with an establishment holding a liquor license and the building is located in a municipality of a recorded census of less than two thousand people and the municipality is not located adjacent to another municipality.

Sec. 2. **NEW SECTION. 99B.20 DIVISION OF CRIMINAL INVESTIGATION.** The division of criminal investigation of the department of public safety may investigate to determine licensee compliance with the requirements of this chapter. Investigations may be conducted either on the division's own initiative or at the request of the department. The division and the department shall cooperate to the maximum extent possible on an investigation.

Sec. 3. Section 99B.1, subsections 3 and 6, Code 1983, are amended to read as follows:

3. "Raffle" means a lottery in which each participant buys a ticket for a chance at a prize with the winner determined by a random method and the winner is not required to be present to win. "Raffle" does not include a slot machine.

6. "Net receipts" means gross receipts less amounts awarded as prizes and state sales tax paid upon the gross receipts. Reasonable expenses, charges, fees, taxes other than the state sales tax, and deductions allowed by the department of revenue shall not exceed twenty-five percent of net receipts.

Sec. 4. Section 99B.2, Code 1983, is amended to read as follows:

**99B.2 LICENSING—RECORDS REQUIRED.**

1. The department is the agency responsible for issuing any a license required by this chapter. A license shall not be issued, except upon submission to the department of an application on forms furnished by the department, and the required license fee. A license may be issued to any applicant who is an eligible applicant. However, a license shall not be issued to an applicant who has been convicted of or pled guilty to a violation of this chapter, or who has been convicted of or pled guilty to a violation of chapter 123 that resulted, at any time, in revocation of a license issued to the applicant under chapter 123 or that resulted, within the twelve months preceding the date of application for a license required by this chapter, in suspension of a license issued under chapter 123. To be eligible for a two year license under section 99B.7, an organization shall have been in existence at least five years prior to the date of issuance of the license. A license also shall not be issued for a location for which a previous license issued under this chapter or chapter 123 has been revoked within the preceding two years. Except as otherwise provided in this chapter, a license is valid for a period of two years

from the date of issue. The license fee is not refundable, but shall be returned to the applicant if an application is not approved. When a bingo license has been issued by the department the licensee shall be notified by the department of the renewal date for the license ten days prior to that date.

2. A licensee other than one issued a license pursuant to section 99B.6 or section 99B.9 shall maintain proper books of account and records showing in addition to any other information required by the department, gross receipts and the amount of the gross receipts taxes collected or accrued with respect to gambling activities, all expenses, charges, fees and other deductions, and the cash amounts, or the cost to the licensee of goods or other noncash valuables, distributed to participants in the licensed activity. If the licensee is a qualified organization, the amounts dedicated and the date and name and address of each person to whom distributed also shall be kept in the books and records. The books of account and records shall be made available to the department or a law enforcement agency for inspection at reasonable times, with or without notice. A failure to permit inspection is a serious misdemeanor.

3. A qualified organization conducting bingo occasions under a two year license and expecting to have annual gross receipts of more than ten thousand dollars shall establish and maintain one regular checking account designated the "bingo account" and may also maintain one or more interest-bearing savings accounts designated as "bingo savings account".

a. Funds derived from the conduct of bingo, less the amount awarded as cash prizes, shall be deposited in the bingo account. No other funds except limited funds of the organization deposited to pay initial or unexpected emergency expenses shall be deposited in the bingo account. Deposits shall be made no later than the next business day following the day of the bingo occasion on which the receipts were obtained. Accounts shall be maintained in a financial institution in Iowa.

b. Funds from the bingo account shall be withdrawn by preprinted, consecutively numbered checks or share drafts, signed by a duly authorized representative of the licensee and made payable to a person or organization. Checks shall be imprinted with the words "Bingo Account" and shall contain the organization's gambling license number on the face of the check. There shall also be noted on the face of the check or share draft the nature of the payment made. A check or slip shall not be made payable to "cash," "bearer," or a fictitious payee. Checks, including voided checks and drafts, shall be kept and accounted for.

c. Checks shall be drawn on the bingo account for only the following purposes:

(1) The payment of necessary and reasonable bona fide expenses permitted under section 99B.7, subsection 3, paragraph "b", incurred and paid in connection with the conduct of bingo.

(2) The disbursement of net proceeds derived from the conduct of bingo to charitable purposes as required by section 99B.7, subsection 3, paragraphs "b" and "c".

(3) The transfer of net proceeds derived from the conduct of bingo to a bingo savings account pending disbursement to a charitable purpose.

(4) To withdraw initial or emergency funds deposited under section 99B.2, subsection 3, paragraph "a".

(5) To pay prizes if the qualified organization decides to pay prizes by check rather than cash.

d. The disbursement of net proceeds on deposit in a bingo savings account to a charitable purpose shall be made by transferring the intended disbursement back into the bingo account and then withdrawing the amount by a check drawn on that account as prescribed in this section.



e. Except as permitted by section 99B.2, subsection 3, paragraph "a", gross receipts derived from the conduct of bingo shall not be commingled with other funds of the licensed organization. Except as permitted by paragraph "c", subparagraphs (3) and (4), gross receipts shall not be transferred to another account maintained by the licensed organization.

3 4. Each A licensee required by subsection 2 to maintain records shall submit quarterly reports to the department on forms furnished by the department. These reports shall be due thirty days following the end of each calendar quarter. The reports shall contain a compilation of the information required to be recorded by subsection 2, and shall include all of the transactions occurring during the three-month period for which the report is submitted. Failure to submit the quarterly reports is grounds for revocation of the license. Willful failure to submit quarterly reports is a serious misdemeanor. However, the time for filing of reports may be extended for thirty days if the licensee makes written request to the department for an extension which request shows good cause for granting the extension. The making of any A person who intentionally files a false or fraudulent report or application with intent to defeat or evade any tax assessment, fee, or charitable dedication and distribution required by law is a serious misdemeanor the department commits a fraudulent practice.

5. An organization receiving funds reported as being dedicated by a qualified organization shall maintain proper books of account and records showing both the receipt and the use of the funds. These records shall be made available to the department or a law enforcement agency for inspection with or without notice at reasonable times. A failure to permit inspection is a serious misdemeanor.

Sec. 5. Section 99B.7, subsection 1, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Except as otherwise provided in section 99B.8, games of skill, games of chance and raffles lawfully may be conducted at a location specified in specified location meeting the requirements of subsection 2 of this section, but only if all of the following are complied with:

Sec. 6. Section 99B.7, subsection 1, paragraph c, Code Supplement 1983, is amended to read as follows:

c. Cash prizes may be awarded in the game of bingo and shall not exceed one hundred dollars. Merchandise prizes may be awarded in the game of bingo, however, the actual retail value of the prize, or if the prize consists of more than one item, unit or part, the aggregate retail value of all items, units or parts, shall not exceed one hundred dollars. A jackpot bingo game may be conducted once during any twenty-four hour period in which the prize doubles if not won at one may be increased by not more than one hundred dollars after each day's game. However, the cost of play in a jackpot bingo game shall not be increased and the jackpot shall not amount to more than five hundred dollars in cash or actual retail value of merchandise prizes. A jackpot bingo game is not prohibited by paragraph "h" of this subsection. A bingo occasion shall not last for longer than four consecutive hours. A qualified organization shall not hold more than fourteen bingo occasions per month. Bingo occasions held under a limited license shall not be counted in determining whether a qualified organization has conducted more than fourteen bingo occasions per month, nor shall bingo occasions held under a limited license be limited to four consecutive hours. With the exception of a limited license bingo, no more than three bingo occasions per week shall be held within a structure or building and only one person licensed to conduct games under this section may hold bingo occasions within a structure or building. However, a qualified organization whose gross receipts for the previous four quarters were three thousand five hundred dollars or less may hold more than fourteen bingo occasions per month and more than three bingo occasions per week within the same structure or building, and bingo occasions conducted by such a qualified organization may last for longer than four consecutive hours. However, a qualified organization, which is a senior citizens' center or a residents' council at a senior citizen housing project

or a group home, may hold more than fourteen bingo occasions per month and more than three bingo occasions per week within the same structure or building, and bingo occasions conducted by such a qualified organization may last for longer than four consecutive hours, if the majority of the patrons of the qualified organization's bingo occasions also participate in other activities of the senior citizens' center or are residents of the housing project. At the conclusion of each bingo occasion, the person conducting the game shall announce both the gross receipts received from the bingo occasion and the use permitted under subsection 3, paragraph "b", of this section to which the net receipts of the bingo occasion will be dedicated and distributed.

Sec. 7. Section 99B.7, subsection 1, paragraph 1, Code Supplement 1983, is amended to read as follows:

1. During the entire time that games permitted by this section are being engaged in, no other gambling is engaged in at the same location and no free prize or other gift is given to a participant. However, one or more door prizes of a value not to exceed ten dollars each may be given by random drawing.

Sec. 8. Section 99B.7, subsection 1, Code Supplement 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. o. A person shall not conduct, promote, administer, or assist in the conducting, promoting or administering of a bingo occasion, unless the person regularly participates in activities of the qualified organization other than conducting bingo occasions or participates in an educational, civic, public, charitable, patriotic, or religious organization to which the net receipts are dedicated by the qualified organization.

Sec. 9. Section 99B.7, subsection 3, paragraph b, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Proceeds given to another charitable organization to satisfy the seventy-five percent dedication requirement shall not be used by the donee to pay any expenses in connection with the conducting of bingo by the donor organization, or for any cause, deed, or activity that would not constitute a valid dedication under this section.

Sec. 10. Section 99B.7, subsection 3, paragraph c, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If permission is granted to hold the net receipts, the person shall, as a part of the quarterly report required by section 99B.2, report the amount of money currently being held and all expenditures of the funds. This report shall be filed even if the person no longer holds a gambling license.

Sec. 11. Section 99B.7, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Proceeds coming into the possession of a person under this section are deemed to be held in trust for payment of expenses and dedication to charitable purposes as required by this section.

a. A person shall not be compensated for services rendered in connection with a game of skill, game of chance, or raffle conducted under this section. This section forbids payment of compensation to persons including, but not limited to, managers, callers, cashiers, floor workers, janitorial personnel, accountants and bookkeepers. The privilege of selling merchandise on the premises during a bingo occasion is deemed to be compensation. This section does not prohibit the employment of one or more individuals to serve as security officers. A person who knowingly pays or receives compensation in violation of this section commits a fraudulent practice.

b. A licensee or agent who willfully fails to dedicate the required amount of proceeds to charitable purposes as required by this section commits a fraudulent practice.

c. Violations of paragraphs "a" and "b" may be considered as a single fraudulent practice and the value may be the total value of all money, property and services involved.

Sec. 12. Section 99B.14, Code 1983, is amended to read as follows:

99B.14 REVOCATION OF LICENSE. The department shall revoke a license issued pursuant to this chapter if the licensee or ~~any an~~ agent of the licensee violates or permits a violation ~~of any of the provisions~~ a provision of this chapter, or departmental rules adopted pursuant to chapter 17A, or if any cause exists for which the director would have been justified in refusing to issue a license, or upon the conviction of any person of a violation of this chapter or rules adopted under this chapter which occurred on the licensed premises.

Revocation proceedings shall be held only after giving notice and an opportunity for hearing to the licensee. Notice shall be given at least ten days in advance of the date set for hearing. If the department finds cause for revocation, the license shall be revoked and thereafter no license may be issued to the person, or to the agent of the person found to be in violation of this chapter for a period not to exceed two years.

Sec. 13. Section 99B.19, Code 1983, is amended to read as follows:

99B.19 ATTORNEY GENERAL AND COUNTY ATTORNEY. Upon request of the department of revenue or the division of criminal investigation of the department of public safety, the attorney general shall institute in the name of the state the proper proceedings against a person charged by the either department with violating a provision of this chapter, and a county attorney, at the request of the attorney general, shall appear and prosecute an action when brought in the county attorney's county.

Approved May 8, 1984

**CHAPTER 1221**  
**ADMINISTRATION OF PROPERTY TAX LAWS**  
*H.F. 2478*

**AN ACT** relating to the administration of special assessments and other property tax laws.

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

Section 1. Section 384.84, subsection 1, Code Supplement 1983, is amended to read as follows:

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise and, when revenue bonds or pledge orders are issued and outstanding pursuant to this division, shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient at all times to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance. All rates or charges for the services of sewer systems, sewage treatment, solid waste collection, solid waste disposal, or any of these, if not paid as provided by ordinance of council, or resolution of trustees, are a lien upon the premises served by any of these services upon certification to the county treasurer that the rates or charges are due. The lien shall not be less than five dollars. The county treasurer may charge two dollars for each lien certified as an administrative expense, which amount shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor and credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county ~~auditor~~ treasurer and collected in the same manner as taxes, and is not divested by a judicial sale.

Sec. 2. Section 427.5, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The failure of a person to file a claim under this section before July 1 of the year for which the person is first claiming the exemption or to have the evidence of satisfactory service, separation, retirement, furlough to reserve, inactive status, or honorable discharge recorded in the office of the county recorder does not disqualify the claim if the person claiming or through whom the exemption is claimed is otherwise qualified. The belated claim shall be filed with the appropriate assessor before the succeeding July 1 and, if approved by the board of supervisors, the county treasurer shall file an amended certificate of military service tax credits with the director of revenue before the director certifies the total credits claimed by each county to the state comptroller as provided in section 426A.4.

Sec. 3. Section 445.8, subsection 2, Code 1983, is amended to read as follows:

2. The treasurer shall cause to be compiled a list of all delinquent personal property taxes for the current assessment year, as shown by the delinquent personal property tax list. Such list shall show the amount of the taxes delinquent when the amount of the tax is more than five dollars and the amount of penalty, interest and costs thereon, the name of the owner, if known, or the person, if any, to whom it is taxed, and shall be published in some newspaper in the county once each week for two consecutive weeks, the last of which shall be not more than two weeks before the first third Monday in June, and by immediately posting a copy of the first publication thereof at the door of the courthouse, if there be one, if not, at the door of the place where the last term of district court was held. The provisions of sections 446.10 and 446.11 shall prevail in connection with the publication of such notice. The treasurer shall obtain a copy of the notice as published, and a certificate of the publication thereof from the printer or publisher, and file it in the office of the auditor.

Sec. 4. Section 445.24, Code 1983, is amended to read as follows:

445.24 EFFECT OF CERTIFICATE STATEMENT AND RECEIPT. Such certificate The statement received under section 445.23, with the treasurer's receipt showing the payment of all the taxes therein specified in the statement, and the auditor's treasurer's certificate of redemption from the tax sales therein mentioned in the statement, shall be is conclusive evidence for all purposes, and against all persons, that the parcel of real estate in said certificate the statement and receipt described was, at the date thereof of the receipt, free and clear of all taxes and assessments, and sales for taxes or assessments, except sales whereon where the time of redemption had already expired and the tax purchaser had received his the deed.

Sec. 5. Section 446.7, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Annually, on the third Monday in June the treasurer shall offer at his the treasurer's office at public sale all lands, city lots, or other real property on which taxes of any description, regular, special, and those charges certified pursuant to section 384.84, for the preceding fiscal year or years are delinquent, which sale shall be made for the total amount of taxes, interest, and costs due and unpaid thereon, including all prior suspended taxes, ~~provided, however, that no. However,~~ property, against which the county holds a tax sale certificate, shall not be offered or sold. ~~No interest~~ Interest or penalty on suspended taxes shall not be included in the sale price, except that six percent interest per annum from the date of suspension shall be included as to taxes suspended under the provisions of section 427.8.

Sec. 6. Section 446.9, Code 1983, is amended to read as follows:

446.9 NOTICE OF SALE—SERVICE. Notice of the time and place of the sale shall be given by the treasurer by publication in a newspaper in the county once each week for two consecutive weeks, the last of which is not more than two weeks before the day of sale. The notice shall contain a description of each separate tract to be sold as taken from the tax list, the amount of delinquent taxes for which it is liable for each year, and the amount of penalty, interest, and costs accrued, and the name of the owner, if known, or the person, if any, to whom it is taxed. A description of each separate tract to be sold shall be construed to permit only one description of each separate tract of real estate to be sold, and all All of the delinquent tax, both regular, and special and those charges certified pursuant to section 384.84, existing against the property for the year in which the tax sale is held shall be listed as a single sum. All property which has previously been advertised and remains unsold and against which there remains delinquent taxes, shall be indicated by an asterisk.

Sec. 7. Section 633.480, Code 1983, is amended to read as follows:

**633.480 CERTIFICATE TO COUNTY AUDITOR AND COUNTY RECORDER FOR TAX PURPOSES WITH ADMINISTRATION.** After discharge as provided in section 633.479, the clerk shall issue a certificate under 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 the certificate to the county auditor and the county recorder of the county in which the real estate is situated. The county recorder shall deliver the certificate to the county auditor as provided in section 558.58.

Sec. 8. Section 633.481, Code 1983, is amended to read as follows:

**633.481 CERTIFICATE TO COUNTY AUDITOR AND COUNTY RECORDER FOR TAX PURPOSES WITHOUT ADMINISTRATION.** ~~Whenever~~ When an inventory or report is filed under section 450.22, without administration of the estate of ~~a~~ the 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. The county recorder shall deliver the certificates and appropriate fees to the county auditor as provided in section 558.58.

Approved May 8, 1984

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## CHAPTER 1222

### FRUIT-TREE AND FOREST RESERVATIONS

*H.F. 2481*

**AN ACT** relating to the taxation, valuation, and qualification of a fruit-tree or forest reservation for property tax purposes.

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

Section 1. Section 161.3, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**161.3 FOREST RESERVATION.** A forest reservation shall contain not less than two hundred growing forest trees on each acre. If the area selected is a forest containing the required number of growing forest trees, it shall be accepted as a forest reservation under this chapter provided application is made or on file on or before April 15 of the exemption year. If any buildings are standing on an area selected as a forest reservation under this section or a fruit-tree reservation under section 161.7 one acre of that area shall be excluded from the tax exemption. However, the exclusion of that acre shall not affect the area's meeting the acreage requirement of section 161.2.

Sec. 2. Section 161.7, Code 1983, is amended to read as follows:

161.7 FRUIT-TREE RESERVATION. A fruit-tree reservation shall contain on each acre, at least forty apple trees, or seventy other fruit trees, growing under proper care and annually pruned and sprayed. Such a reservation may be claimed as such a fruit-tree reservation, under this chapter, for a period of eight years after planting provided application is made or on file on or before April 15 of the exemption year.

Sec. 3. Section 161.10, Code 1983, is amended to read as follows:

161.10 RESTRAINT OF LIVESTOCK AND LIMITATION ON USE. Cattle, horses, mules, sheep, goats, and hogs shall not be permitted upon a fruit-tree or forest reservation. Fruit-tree and forest reservations shall not be used for economic gain other than the gain from raising fruit or forest trees.

Sec. 4. Section 161.12, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The appropriate county conservation board or, in a county without a county conservation board, the assessor shall inspect the area for which an application is filed for a fruit-tree or forest reservation tax exemption before the application is accepted. The application can only be accepted if it meets the criteria established by the state conservation commission to be a fruit-tree or forest reservation. Once the application has been accepted, the area shall continue to receive the tax exemption during each year in which the area is maintained as a fruit-tree or forest reservation without the owner having to refile. If the property is sold or transferred, the buyer or transferee does not have to refile for the tax exemption. The tax exemption shall continue to be granted for the remainder of the eight-year period for fruit-tree reservation and for the following years for forest reservation or until the property no longer qualifies as a fruit-tree or forest reservation. The area may be inspected each year by the county conservation board or, in a county without a county conservation board, the assessor to determine if the area is maintained as a fruit-tree or forest reservation. If the area is not maintained or is used for economic gain other than as a fruit-tree reservation during any year of the eight-year exemption period and any year of the following five years or as a forest reservation during any year for which the exemption is granted and any of the five years following those exemption years, the assessor shall assess the property for taxation at its fair market value as of January 1 of that year and in addition the area shall be subject to a recapture tax. However, the area shall not be subject to the recapture tax if the owner, including one possessing under a contract of sale, and the owner's direct antecedents or descendants have owned the area for more than ten years. The tax shall be computed by multiplying the consolidated levy for each of those years, if any, of the five preceding years for which the area received the exemption for fruit-tree or forest reservation times the assessed value of the area that would have been taxed but for the tax exemption. This tax shall be entered against the property on the tax list for the current year and shall constitute a lien against the property in the same manner as a lien for property taxes. The tax when collected shall be apportioned in the manner provided for the apportionment of the property taxes for the applicable tax year.

Sec. 5. Section 427.1, subsection 36, unnumbered paragraphs 1 and 2, Code Supplement 1983, are amended to read as follows:

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.

Sec. 6. Section 427.1, subsection 36, unnumbered paragraph 5, Code Supplement 1983, is amended to read as follows:

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:

Sec. 7. Section 427.1, subsection 36, lettered paragraph e, Code Supplement 1983, is amended by striking the lettered paragraph.

Sec. 8. Section 441.22, Code 1983, is amended to read as follows:

**441.22 FOREST AND FRUIT-TREE RESERVATIONS.** Forest and fruit-tree 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 at market value shall be exempt from taxation. Fruit-tree reservations fulfilling the conditions of sections 161.1 to 161.13 shall be assessed on a taxable valuation of twenty dollars 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 the property because of such improvements.

Sec. 9. This Act is effective for valuations established for assessment years beginning on or after January 1, 1985.

Approved May 8, 1984

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**CHAPTER 1223**  
**TAXABLE VALUE OF REPAIRS**  
*H.F. 2444*

**AN ACT** to provide that the taxable value of a building shall not be increased where the dollar amount of normal and necessary repairs to the building does not exceed two thousand five hundred dollars.

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

Section 1. Section 441.21, subsection 9, paragraph a, Code 1983, is amended to read as follows:

a. Any normal and necessary repairs to any a building, not amounting to structural replacements or modification, shall not increase the taxable value of such the building. ~~The provisions of this~~ This paragraph shall apply applies only to repairs of two thousand five hundred dollars or less per building per year.

Approved May 8, 1984

**CHAPTER 1224**  
**INSPECTION OF GRAIN DEALERS**  
*H.F. 2385*

**AN ACT** relating to the frequency of inspection of grain dealers.

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

Section 1. Section 542.3, subsection 4, paragraph b, Code Supplement 1983, is amended to read as follows:

b. The grain dealer shall submit, as required by the commission, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the commission may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the commission. The grain dealer may elect, however, to submit a financial statement satisfying the requirements of subsection 5, paragraph "b," in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the commission shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 542.9.

Sec. 2. Section 542.9, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The commission may inspect the premises used by any grain dealer in the conduct of his or her the dealer's business at any time, and the books, accounts, records and papers of every grain dealer which pertain to grain purchases ~~shall be~~ are subject to inspection by the commission during ordinary business hours. The commission shall cause the business premises and books, accounts, records and papers of every grain dealer to be inspected not less than once during each twelve-month period, provided that but not more than three times in a twenty-four month period without good cause. However, if a class 1 grain dealer elects to submit the unaudited financial statement under section 542.3, subsection 4, paragraph "b," the commission shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause. The transporter of grain in transit shall ~~have~~ possess bills of lading or other documents covering the grain in his or her ~~possession~~, and shall present them to any law enforcement officer or to a person designated as an enforcement officer under section 542.13 on demand. ~~Where~~ If there is good cause to believe that a person is engaged without a license in the business of a grain dealer in this state, the commission may inspect the books, papers, and records of the person which pertain to grain purchases.

Approved May 8, 1984

**CHAPTER 1225**  
**PUBLIC UTILITY ADVERTISING**  
*H.F. 2068*

**AN ACT** requiring certain public utilities to include in each of their ads a listing of the percentage of the ad's expenses which are to be charged to customers and the percentages which are to be charged to the stockholders.

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

Section 1. Section 476.18, subsection 3, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Every ad which is published, broadcast, or otherwise displayed or disseminated to the public by a public utility which is to be charged to the customers of the public utility and which is not required by the commerce commission or by other state or federal regulation shall include a statement in the ad that the costs of the ad are being charged to the customers of the public utility. This paragraph does not apply to a utility's product or service that is or becomes subject to competition as determined by the commerce commission.

Approved May 8, 1984

**CHAPTER 1226**  
**TOWING OF CERTAIN TRAILERS**  
*H.F. 2272*

**AN ACT** to authorize certain motor trucks and motor homes to tow a four-wheeled trailer with a steering axle and more than one trailer or semitrailer or both, subject to penalties provided by law.

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

Section 1. Section 321.310, unnumbered paragraph 1, Code 1983, is amended to read as follows:

No A motor vehicle shall not tow any a four-wheeled trailer with a steering axle, or more than one trailer or semitrailer, or both in combination, ~~with the exception that.~~ However, this section ~~shall~~ does not apply to any a motor home, multipurpose vehicle, motor truck, truck tractor or road tractor registered at a combined gross weight of ten tons or more nor to a farm tractor towing a four-wheeled trailer, ~~or~~ nor to any a farm tractor or motor vehicle towing implements of husbandry, ~~or~~ nor to a wagon box trailer used by a farmer in transporting produce, farm products or supplies hauled to and from market.

Approved May 8, 1984

**CHAPTER 1227****INVESTIGATIONS OF HEALTH CARE FACILITIES***H.F. 2340*

**AN ACT** relating to the investigations and findings of a complaint filed against a health care facility.

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

Section 1. Section 135C.16, subsection 3, Code Supplement 1983, is amended to read as follows:

3. An inspector of the department may enter any licensed health care facility without a warrant, and may examine all records pertaining to the care provided residents of the facility. An inspector of the department may contact or interview any resident, employee, or any other person who might have knowledge about the operation of a health care facility. An inspector of the department of human services shall have the same right with respect to any facility where one or more residents are cared for entirely or partially at public expense and the state fire marshal or a deputy appointed pursuant to section 135C.9, subsection 1, paragraph "b" shall have the same right of entry into any facility and the right to inspect any records pertinent to fire safety practices and conditions within that facility. If any such inspector has probable cause to believe that any institution, ~~place~~, building, or agency not licensed as a health care facility is in fact a health care facility as defined by this chapter, and upon properly identifying himself he producing identification that the individual is an inspector is denied entry thereto for the purpose of making an inspection, he the inspector may, with the assistance of the county attorney of the county in which the purported health care facility is located, apply to the district court for an order requiring the owner or occupant to permit entry and inspection of the premises to determine whether there have been any violations of this chapter.

Sec. 2. Section 135C.19, subsection 1, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

1. Following an inspection of a health care facility by the department pursuant to this chapter, the department's final findings with respect to compliance by the facility with requirements for licensing shall be made available to the public in a readily available form and place. Other information relating to a health care facility obtained by the department which does not constitute the department's findings from an inspection of the facility shall not be made available to the public except in proceedings involving the citation of a facility for a violation under section 135C.40, or the denial, suspension, or revocation of a license under this chapter. The name of a person who files a complaint with the department shall be confidential.

Sec. 3. Section 135C.37, Code 1983, is amended to read as follows:

**135C.37 COMPLAINTS ALLEGING VIOLATIONS.** ~~Any~~ **A** person may request an inspection of ~~any~~ **a** health care facility by filing with the department or care review committee of the facility a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to it. A copy of a complaint filed with the care review committee shall

be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a statement of the nature of the complaint shall be delivered to the facility involved at the time of or prior to the inspection. The name of the person who files a complaint with the department or care review committee shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

Sec. 4. Section 135C.40, subsection 1, Code 1983, is amended to read as follows:

1. If the commissioner determines, based on the findings of an inspection or investigation of a health care facility, that the facility is in violation of this chapter or rules adopted under this chapter, the commissioner within five working days after making the determination, ~~shall~~ may issue a written citation to the facility. The citation shall be served upon the facility personally or by certified mail, except that a citation for a Class III violation may be sent by ordinary mail. Each citation shall specifically describe the nature of the violation, identifying the Code section or subsection or the rule or standard violated, and the classification of the violation under section 135C.36. Where appropriate, the citation shall also state the period of time allowed for correction of the violation, which shall in each case be the shortest period of time the department deems feasible. Failure to correct a violation within the time specified, unless the licensee shows that the failure was due to circumstances beyond the licensee's control, shall subject the facility to a further penalty of fifty dollars for each day that the violation continues after the time specified for correction.

Approved May 8, 1984

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## CHAPTER 1228

### INTEREST OF CITY EMPLOYEE IN CONTRACTS

*H.F. 2389*

**AN ACT** relating to the interest of a city officer or employee in contracts for the purchase of goods and services by a city.

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

Section 1. Section 362.5, subsection 4, Code 1983, is amended to read as follows:

4. Contracts made by a city of ~~less than ten thousand population~~, upon competitive bid in writing, publicly invited and opened.

Sec. 2. Section 362.5, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** 11. Contracts not otherwise permitted by this section, for the purchase of goods or services by a city having a population of less than ten thousand, which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of one thousand dollars in a fiscal year.

Approved May 4, 1984

**CHAPTER 1229****TRANSPORTATION CONTRACTS SET-ASIDE***H.F. 2398*

**AN ACT** allowing a maximum set-aside of ten percent of the total dollar amount of federal aid contracts let by the state department of transportation for bidding by prequalified disadvantaged business enterprises.

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

**Section 1. NEW SECTION. 314.14 CONTRACTS SET ASIDE FOR DISADVANTAGED BUSINESS ENTERPRISES.**

**1. DEFINITIONS.** As used in this section:

a. "Disadvantaged business enterprise" means a small business concern which meets either of the following:

(1) Is at least fifty-one percent owned by one or more socially and economically disadvantaged individuals.

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

b. "Small business concern" means a business which is independently owned and operated and which is not dominant in its field of operation.

c. "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or who are lawfully admitted permanent residents and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, or any other minority or individuals found to be disadvantaged by the United States small business administration. However, the department may also determine, on a case-by-case basis, that an individual who is not a member of one of the enumerated groups is socially and economically disadvantaged. A rebuttable presumption exists that individuals in the following groups are socially and economically disadvantaged.

(1) "Black Americans" which includes persons having origins in any of the black racial groups of Africa.

(2) "Hispanic Americans" which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

(3) "Native Americans" which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.

(4) "Asian-Pacific Americans" which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the United States Trust Territories of the Pacific, and the Northern Marianas.

(5) "Asian-Indian Americans" which includes persons whose origins are from India, Pakistan, and Bangladesh.

d. "Prequalified" means that the disadvantaged business enterprise is currently approved by the department as a disadvantaged business enterprise, is a recognized contractor engaged in the class of work provided for in the plans and specifications, possesses sufficient resources

to complete the work, and is able to furnish a performance bond for one hundred percent of the contract.

2. SET-ASIDE. Notwithstanding section 314.1, there may be set aside for bidding by pre-qualified disadvantaged business enterprises a percentage of the total annual dollar amount of public contracts let by the department. The annual dollar amount set aside for bidding by pre-qualified disadvantaged business enterprises shall not exceed ten percent of the total dollar amount of federal aid highway construction contracts let by the department and federal aid transit dollars administered by the department. The director may estimate the set-aside amount at the beginning of each fiscal year and a suit shall not be brought by any party as a result of this estimate. Set-aside contracts will be awarded to the lowest responsible pre-qualified disadvantaged business enterprise. This section shall not be construed as limiting the commission's right to refuse any or all disadvantaged business enterprise bids.

Sec. 2. Section 314.14 created under this Act is repealed at such time as section 105(f) of the Surface Transportation Assistance Act of 1982, Pub. L. No. 97-424, 96 Stat. 2100, expires pursuant to its own terms or by an act of congress.

Approved May 8, 1984

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**CHAPTER 1230**  
INVESTMENT OF PUBLIC FUNDS  
*S.F. 2220*

**AN ACT** relating to financial institutions by allowing savings and loan associations, savings banks and credit unions to accept public funds, providing for the investment of idle public funds, requiring a commitment to community reinvestment to receive state public funds, providing for the giving of notice on minimum interest rates for public funds, providing for the pledging of assets, providing for the dissolution of the state sinking fund, expanding the deposit limits for bank holding companies, and providing reciprocity for credit unions.

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

Section 1. Section 175.6, subsection 9, Code 1983, is amended to read as follows:

9. Subject to ~~any~~ an agreement with bondholders or noteholders, invest or deposit moneys of the authority in ~~any~~ a manner determined by the authority, notwithstanding ~~the provisions of chapters chapter~~ chapter 452, or 453 ~~or~~ 454.

Sec. 2. Section 220.5, subsection 9, Code 1983, is amended to read as follows:

9. Subject to ~~any~~ an agreement with bondholders or noteholders, invest or deposit moneys of the authority in ~~any~~ a manner determined by the authority, notwithstanding ~~the provisions of chapters chapter~~ chapter 452, or 453 ~~or~~ 454.

Sec. 3. Section 307B.7, subsection 11, Code Supplement 1983, is amended to read as follows:



11. Invest or deposit moneys of the authority, subject to ~~any an~~ agreement with bondholders or noteholders, in ~~any~~ a manner determined by the authority, notwithstanding the provisions of chapter 452, or 453 or 454.

Sec. 4. Section 452.10, Code 1983, is amended to read as follows:

452.10 CUSTODY OF PUBLIC FUNDS—INVESTMENT OR DEPOSIT. The treasurer of state and the treasurer of each political subdivision shall at all times keep all funds coming into their possession as public money, in a vault or safe, to be provided for that purpose, or in ~~some~~ bank legally designated as a depository for such funds ~~one or more~~ depositories. However, the treasurer of state and the treasurer of each political subdivision shall invest, unless otherwise provided, any of the public funds not currently needed for operating expenses in notes, certificates, bonds, ~~prime eligible bankers acceptances, commercial paper rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A, perfected repurchase agreements, or other evidences of indebtedness which are obligations of or guaranteed by the United States of America or any of its agencies; or make in time deposits of such funds in banks depositories as provided in chapter 453 and receive time certificates of deposit therefor; or in savings accounts in banks depositories. The total investment in commercial paper of any one corporation is limited to an amount not more than twenty percent of the total stockholders' equity of that corporation.~~ The treasurer of state may invest any of the funds in ~~his the~~ treasurer's custody in any of the investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b" except that investment in common stocks ~~shall is not be~~ permitted. As used in this section, "depository" means a financial institution designated as a legal depository under chapter 453.

Sec. 5. Section 453.1, Code Supplement 1983, 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 one or more~~ depositories first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, sheriff, 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; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter 303B, by the regional board of library trustees; and for an electric power agency as defined in section 28F.2, 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 are matters~~ of public record. "Bank" means a bank or a private bank, as defined in section 524.103. As used in this chapter, "depository" means a bank or any office thereof whose accounts are insured by the federal deposit insurance corporation, or a savings and loan association or any branch thereof or a savings bank or any branch thereof whose accounts are insured by the federal savings and loan insurance corporation, or a credit union insured by the national credit union administration.

Sec. 6. Section 453.2, Code 1983, is amended to read as follows:

453.2 APPROVAL—REQUIREMENTS. The approval of a bank financial institution as a depository shall be by written resolution or order which shall be entered of record in the minutes of the approving board, and which shall distinctly name each bank depository approved, and specify the maximum amount which may be kept on deposit in each such bank depository.

Sec. 7. Section 453.3, Code 1983, is amended to read as follows:

453.3 INCREASE CONDITIONALLY PROHIBITED. The maximum amount so permitted approved under section 453.2 to be deposited in a named bank depository shall not be increased except with the approval of the treasurer of state.

Sec. 8. Section 453.4, Code 1983, is amended to read as follows:

453.4 LOCATION OF DEPOSITORIES. Deposits by the treasurer of state shall be in banks depositories located in this state; by a county officer or county public hospital officer or merged area hospital officer, in banks depositories located in his the county or in an adjoining county within this state; by a memorial hospital treasurer, in a bank depository located within this state which shall be selected by such the memorial hospital treasurer and approved by the memorial hospital commission; by a city treasurer or other city financial officer, in banks or bank depositories offices located in the city county in which the city is located or in an adjoining county, but in the event if there is no bank or bank depository office in such the city county in which the city is located or in an adjoining county then in any other bank or bank depository office located in this state which shall be selected as such a depository by the city council; by a school treasurer or by a school secretary in a bank depository within this state which shall be selected by the board of directors or the trustees of such the school district; by a township clerk in a bank depository located within this state which shall be selected by such the township clerk and approved by the trustees of such the township. Provided, that However, deposits may be made in banks depositories outside of Iowa for the purpose of paying principal and interest on bonded indebtedness of any municipality when such the deposit is made not more than ten days before the date such the principal or interest becomes due. Further, the treasurer of state may maintain an account outside the state of Iowa for the purpose of providing custodial services for the state and state retirement fund accounts.

Sec. 9. Section 453.5, Code 1983, is amended to read as follows:

453.5 REFUSAL OF DEPOSITS—PROCEDURE. If the duly approved banks depositories will not accept the deposits under the conditions prescribed or authorized in this chapter, the funds may be deposited, on the same or better terms as were offered to the depositories, in any one or more approved bank or banks depositories conveniently located within the state.

If a governmental unit makes in writing to all qualified, approved depositories a bona fide proffer to deposit public funds either in a savings account, or in a time certificate of deposit, and the proffer is not then accepted, then and only then may the governmental unit invest the funds so declined, on the same or better terms as were offered to the depositories, in bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America or by any agency or instrumentality thereof. However, public funds that will not be deposited or invested for a term of at least fifteen days may be invested, without prior offer to an approved depository, in notes, certificates, bonds, or other direct obligations of the United States or any of its agencies.

In addition to the investments herein authorized, the The treasurer of state may invest in any of the investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b" except that investment in common stocks shall not be permitted. This section does not affect the investment of funds as provided in sections 453.9 and 453.10.

Sec. 10. Section 453.6, Code 1983, is amended to read as follows:

453.6 INTEREST RATE. Public deposits shall be deposited with reasonable promptness in a depository legally designated as depository for the funds. A committee composed of the superintendent of banking, the auditor of state or a designee, and the treasurer of state shall meet on or about the first of each month or at other times as the committee may prescribe and by majority action shall establish a minimum rate to be earned on state funds placed in time deposits. State funds invested in bank depository time certificates of deposit shall draw interest at not less than the rate established, effective on the date of investment. An interest rate established by the committee under this section shall be in effect commencing on the eighth calendar day following the day the rate is established and until a different rate is established and takes effect. The committee shall give advisory notice of an interest rate established under this section. This notice may be given by publication in one or more newspapers, by publication in the Iowa administrative bulletin, by ordinary mail to persons directly affected, by any other method determined by the committee, or by a combination of these. In all cases, the notice shall be published in the Iowa administrative bulletin. The notice shall contain the following words:

"The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens."

The notice shall also provide the name and address of a state official to whom inquiries can be sent. Actions of the committee under this section and section 453.6A are exempt from chapter 17A.

Public funds invested in bank depositories time certificates of deposit by a public body or officer other than the treasurer of state shall draw interest at rates to be determined by the public body or officer and the bank depository, which rates shall not be less than the minimum rate set under this section for state funds.

Sec. 11. NEW SECTION. 453.6A ELIGIBILITY FOR STATE PUBLIC FUNDS.

1. Public funds of the state shall not be deposited in a financial institution which does not demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services.

2. In addition to establishing a minimum interest rate for public funds pursuant to section 453.6, the committee composed of the superintendent of banking, the auditor of state or a designee and the treasurer of state shall develop a list of financial institutions eligible to accept state public funds. The committee shall require that a financial institution seeking to qualify for the list shall annually provide the committee a written statement that the financial institution has a commitment to community reinvestment consistent with the safe and sound operation of a financial institution. To qualify for the list a financial institution must demonstrate a continuing commitment to meet the credit needs of the local community in which it is chartered.

3. The committee shall develop procedures to ensure that the financial institution's statement is available and accessible for examination by citizens. The committee shall adopt procedures for both of the following:

- a. To receive information relating to a financial institution's commitment to community reinvestment.
- b. To receive challenges from any person to a financial institution's continued eligibility to receive state public funds.

4. At least once a year the committee shall review any challenges that have been filed pursuant to subsection 2. The committee may hold a public hearing to consider the challenge. In considering a challenge, the committee shall review documents filed with federal regulatory authorities pursuant to the Community Reinvestment Act, 12 U.S.C. 2901 et seq. and regulations adopted pursuant to the Act, as amended to January 1, 1984. In addition, consistent with the confidentiality of financial institution records the committee shall consider other factors including, but not limited to, the following:

- a. Activities conducted to determine the credit needs of the community.
- b. Marketing and special credit-related programs to make citizens in the community aware of the credit services offered.
- c. Practices intended to discourage application for types of credit set forth in the Community Reinvestment Act statement.
- d. Geographic distribution of credit extensions, credit applications and credit denials.
- e. Evidence of prohibited discriminatory or other illegal credit practices.
- f. Participation in local community development and redevelopment projects.
- g. Origination or purchase of residential mortgage loans, housing rehabilitation loans, home improvement loans and business or farm loans within the community.
- h. Ability to meet various community credit needs based on financial condition, size, legal impediments, and local economic conditions.

Sec. 12. Section 453.7, subsection 1, Code 1983, is amended to read as follows:

1. ~~No bank or trust company~~ A depository shall, not directly or indirectly, by any device whatsoever, pay any interest to any a public officer on any a demand deposit of public funds, and no a public officer shall not take or receive any interest whatsoever on demand deposits of public funds. This provision shall does not apply to interest on time certificates of deposit or savings accounts for public funds.

Sec. 13. Section 453.8, Code 1983, is amended to read as follows:

453.8 LIABILITY OF PUBLIC OFFICERS. ~~No An officer who is referred to in section 453.1 shall be is not liable for loss of funds by reason of the insolvency of the depository bank institution when said the funds have been deposited or invested as herein provided in this chapter. Any deposit or investment in a lawful depository upon which interest is paid to a governmental unit under the provisions of this chapter shall be considered legal deposits for the purposes of chapter 454.~~

Sec. 14. Section 453.9, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The governing council or board ~~who which~~ by law are is authorized to direct the depositing of funds ~~shall be authorized to may~~ direct the treasurer or other designated financial officer to invest any fund not an active fund needed for current use and which is being accumulated as a sinking fund for a definite purpose, the interest on which is used for the same purpose, in savings accounts in banks, in the certificates or warrants provided by section 454.10, or make time deposits of such funds as provided in this chapter and receive time certificates of deposit therefor, or in bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof, or in local certificates or warrants issued by any municipality or school district within the county, or in municipal or school district bonds which constitute a general liability, and the treasurer or other officer when so directed shall so invest such fund in investments authorized in section 452.10.

Sec. 15. Section 453.10, Code 1983, is amended to read as follows:

453.10 INVESTMENT OF FUNDS CREATED BY ELECTION. The governing council or board, who by law have control of any fund created by direct vote of the people, may invest any portion thereof of the fund not currently needed, in ~~bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof, or make time deposits of such funds and receive time certificates of deposit therefor, or in savings accounts investments authorized in section 452.10.~~ The treasurer of state may invest in any of the investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b" except that investment in common stocks shall not be permitted. Interest or earnings on such funds shall be credited as provided in section 453.7, subsection 2.

Sec. 16. Section 453.12, Code 1983, is amended to read as follows:

453.12 SERVICE CHARGE BY BANK DEPOSITORY. A ~~bank depository~~ may make reasonable service charges with respect to the handling of any public funds, but ~~such the~~ service charges shall not be greater than ~~said bank the depository~~ customarily requires from other ~~patrons~~ depositors for similar services.

Sec. 17. NEW SECTION. 453.13 DEPOSIT NOT MEMBERSHIP. Notwithstanding chapter 534, the deposit of public funds in an association defined in section 533.1 or 534.2 does not constitute being a shareholder, stockholder, or owner of a corporation in violation of Article VIII of the Constitution of the State of Iowa or any other provision of law.

Sec. 18. Section 453.14, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The board of directors of a school corporation may invest any portion of the proceeds of bonds issued and not currently needed in ~~United States government bonds or make time deposits~~ as provided in ~~this chapter~~ section 452.10.

Sec. 19. NEW SECTION. 453.15 COLLATERAL CONDITIONS. A local government shall not require a pledge of collateral for that portion of the local government's deposits in a depository institution that is covered by insurance of a federal agency or instrumentality including the federal deposit insurance corporation, the federal savings and loan insurance corporation, or the national credit union administration.

Sec. 20. NEW SECTION. 453.16 SECURITY FOR DEPOSIT OF PUBLIC FUNDS.

1. Before a deposit of public funds is made by a public officer with a depository institution in excess of the amount insured by federal deposit insurance or federal savings and loan insurance, and before the investment of public funds in investments authorized in section 452.10 which either are not obligations of or guaranteed by the United States government or any of its agencies, are in excess of the amount insured by federal deposit insurance or federal savings and loan insurance, or are investments by the treasurer of state specifically authorized by section 452.10 to be made as additional investments under section 97B.7, subsection 2, paragraph "b", the public officer shall obtain security for the deposit or investment by one or more of the following:

a. The depository institution may give to the public officer a corporate surety bond of a surety corporation approved by the treasury department of the United States and authorized to do business in this state, which bond shall be in an amount equal to the public funds on deposit at any time. The bond shall be conditioned that the deposit shall be paid promptly on the order of the public officer making the deposit and shall be approved by the officer making the deposit.

b. The depository institution may deposit, maintain, pledge and assign for the benefit of the

public officer in the manner provided in this chapter, securities approved by the public officer, the market value of which is not less than one hundred ten percent of the total deposits of public funds placed by that public officer in the depository institution. The securities shall consist of any of the following:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

(2) Public bonds or obligations of this state or a political subdivision of this state.

(3) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America.

2. If public funds are secured by both the assets of a depository institution and a bond of a surety company, the assets and bond shall be held as security for a rateable proportion of the deposit on the basis of the market value of the assets and of the total amount of the surety bonds.

**Sec. 21. NEW SECTION. 453.17 DEPOSIT OF SECURITIES.**

1. A depository institution which receives public funds shall pledge securities owned by it as required by this chapter in one of the following methods:

a. The securities shall be deposited with the county, city, or other public officers at the option of the officers.

b. The securities shall be deposited pursuant to a bailment agreement with a financial institution having facilities for the safekeeping of securities and doing business in the state. A financial institution which receives securities for safekeeping is liable to the public officer to whom the securities are pledged for any loss suffered by the public officer if the financial institution relinquishes custody of the securities contrary to the provisions of this chapter or the instrument governing the pledge of the securities.

c. The securities shall be deposited with the federal reserve bank of Chicago, Illinois or the federal home loan bank of Des Moines, Iowa pursuant to a bailment agreement.

d. The securities may be deposited by any combination of methods specified in paragraphs "a", "b", and "c".

2. A deposit of securities shall not be made in a facility owned or controlled directly or indirectly by the financial institution which deposits the securities.

3. All deposits of securities, other than deposits of securities with the appropriate public officer, shall have a joint custody receipt taken for the securities with one copy delivered to the public officer and one copy delivered to the depository institution. A depository institution pledging securities with a public officer may cause the securities to be examined in the officer's office to show the securities are placed with the officer as collateral security and are not transferable except upon the conditions provided in this chapter.

4. Upon written request from the appropriate public officer but not less than quarterly, a depository institution shall report the par value and the market value of any pledged collateral and the total deposits of public funds of that officer in the depository institution.

**Sec. 22. NEW SECTION. 453.18 CONDITION OF SECURITY.** The condition of the surety bond or the deposit of securities, instruments, or a joint custody receipt, must be that the depository institution will promptly pay to the parties entitled public funds, including any interest on the funds, in its custody upon lawful demand and, when required by law, pay the funds to the public officer who made the deposit.

**Sec. 23. NEW SECTION. 453.19 WITHDRAWALS, EXCHANGES OF SECURITY.**

1. Securities pledged pursuant to this chapter may be withdrawn on application of the pledging depository institution and upon approval of the public officer to whom the securities are pledged if the deposit of securities is no longer necessary to comply with this chapter, or is required for collection by virtue of its maturity or for exchange. The depository institution shall replace securities so withdrawn for collection or exchange.

2. In an exchange of deposited securities for new securities, the amount of security on deposit at any time shall not be decreased below that otherwise required by this chapter.

3. In the event of substitution or exchange of securities, the holder or custodian of the securities shall, on the same day, forward by certified mail, return receipt requested, to the public officer and the depository institution, a receipt specifically describing and identifying both the substituted securities and those released and returned to the depository institution.

4. The public officer which deposits public funds with a depository institution shall require, if the market value of the securities deposited with or for the benefit of the officer falls below one hundred ten percent of the deposit liability to the public officer, the deposit of additional security to bring the total market value of the security to one hundred ten percent of the amount of public funds held by the depository.

**Sec. 24. NEW SECTION. 453.20 DEPOSITORY INSTITUTION LIABILITY; PROCEDURE UPON DEFAULT; SALE OF SECURITY.**

1. The depository institution, and the security given for the public funds in its hands, are liable for payment if the depository institution fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order or certificate of deposit, or any funds entrusted to it by the public officer.

2. The deposit of securities by a depository institution pursuant to this chapter constitutes consent by the depository institution to the disposition of the securities in accordance with this section.

3. When a depository institution is closed by order of its primary regulatory agency, the public officer shall demand and receive from each custodian the securities pledged to secure deposits of public funds and, with the advice and counsel of the committee referred to in section 453.6, liquidate in an orderly manner the securities or part of the securities as determined advisable at public or private sale and distribute the proceeds as provided in this section.

4. The claim of a public officer for purposes of this section shall be the amount of the officer's deposits plus interest to the date the funds are distributed to the public officer at the rate the depository institution agreed to pay on the funds reduced by the portion of the funds which is insured by federal deposit insurance.

5. The public officer shall remit to the depository institution any of its collateral or the proceeds of its collateral in excess of the amount so distributable to public officers.

6. If the net proceeds of the collateral are inadequate after all other available sources are applied, to meet the total claims of the public officials entitled to the proceeds, the public officers may make claims against the depository institution as general creditors.

Sec. 25. Section 524.1802, Code 1983, is amended to read as follows:

**524.1802 LIMITATION. No**

1. A bank holding company shall not directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of any a bank, or the power to control in any manner the election of a majority of the directors of any a bank, if upon such the acquisition the banks so owned or controlled by the bank holding company would have, in the aggregate, more than eight ten percent of the total time and demand deposits, both time and demand, of all banks in this state, as determined by the superintendent on the basis of the

most recent reports of the banks in the state to their supervisory authorities which are available at the time of the acquisition.

2. ~~No~~ A bank holding company shall not directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of ~~any~~ a savings and loan association or savings bank, or the power to control in any manner the election of a majority of the directors of ~~any~~ a savings and loan association or savings bank, if upon ~~such~~ the acquisition the associations so owned or controlled by the bank holding company would have, in the aggregate, more than ~~eight~~ ten percent of the total time and demand deposits, ~~both time and demand~~, of all associations and savings banks 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. 26. Section 533.4, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 22. Receive public funds pursuant to chapter 453.

NEW SUBSECTION. 23. Engage in any activity authorized by the administrator which would be permitted if the credit union were federally chartered and which is consistent with state law.

Sec. 27. NEW SECTION. 533.39 RECIPROCITY. Subject to rules of the administrator, a credit union chartered in another state may do business in Iowa subject to the applicable provisions of this chapter if credit unions chartered in Iowa may do business in the state in which the out-of-state credit union is chartered.

Sec. 28. The treasurer of state shall close the sinking fund created by section 454.1 within one hundred twenty days after the closing of any receiverships relating to any bank failures prior to the effective date of this Act and shall pay all sums remaining in the sinking fund on that date to depository institutions in Iowa within ninety days after the sinking fund is closed in proportion to the amounts which were assessed against the depository institutions during 1983 for the benefit of the sinking fund pursuant to chapter 454.

Sec. 29. Chapter 454, Code 1983, and Code Supplement 1983, is repealed. However, if pledging to secure the deposit of public funds has not been properly completed by July 1, 1984, then chapter 454 is not repealed until July 1, 1985.

Approved May 8, 1984



**CHAPTER 1231**  
**FEDERAL FUNDS IN DEPARTMENTAL BUDGETS**  
*S.F. 2298*

**AN ACT** to require the state department of transportation and other state departments to include all estimated federal funds in its annual or biennial budget which funds are subject to appropriation to the department.

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

Section 1. Section 307.10, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Include in its annual or biennial budget all estimated federal funds to be received or allocated to the department.

Sec. 2. Section 8.22, subsection 2, lettered paragraph e, Code 1983, is amended to read as follows:

e. A statement of federal funds received in the form of block or categorical grants which were not included in the governor's budget for the previous fiscal biennium and a statement of anticipated block grants and categorical grants. The budget shall indicate how the federal funds will be used and the programs to which they will be allocated. The amount of state funds required to implement the programs to which the federal funds will apply shall also be indicated. The departments shall provide information to the comptroller on the anticipated federal block grants and categorical grants to be received on or before November 1 of each year. The comptroller shall use this information to develop an annual update of the statement of federal funds received which shall be provided to the general assembly.

Approved May 8, 1984

**CHAPTER 1232**  
**WAREHOUSES AND DISTRIBUTION CENTERS**  
*S.F. 2043*

**AN ACT** to provide a partial property tax exemption for warehouses and distribution centers on which improvements have been made and allow cities and counties to contract with persons whose real property is exempt or partially exempt from property taxation to provide certain services.

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

Section 1. Chapter 364, Code 1983, is amended by adding the following new section:

**NEW SECTION.** A city council or county board of supervisors may enter into a contract with a person whose property is totally or partially exempt from taxation under chapter 404, section 427.1, or section 427B.1, for the city or county to provide specified services to that person including but not limited to police protection, fire protection, street maintenance, and waste collection. The contract shall terminate as of the date previously exempt property becomes subject to taxation.

Sec. 2. Section 427B.1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A city council, or a county board of supervisors as authorized by section 427B.2, 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, warehouses, distribution centers 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 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. Warehouse means a building or structure used as a public warehouse for the storage of goods pursuant to sections 554.7101 through 554.7603, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail. Distribution center means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw

agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.

Sec. 3. Section 427B.3, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The actual value added to industrial real estate for the reasons specified in section 427B.1 is eligible to receive a partial exemption from taxation for a period of five years. However, if property ceases to be classified as industrial real estate or ceases to be used as a warehouse or distribution center, the partial exemption for the value added shall not be allowed for subsequent assessment years. "Actual value added" as used in this chapter means the actual value added as of the first year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the assessor as of January 1 of each year for which the exemption is received. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

Approved May 8, 1984

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**CHAPTER 1233**  
**LEAVES OF ABSENCE**  
*S.F. 190*

**AN ACT** relating to leaves of absence for persons who are elected to municipal, county, state, or federal offices and providing penalties.

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

Section 1. **NEW SECTION. LEAVE OF ABSENCE.** A person who is elected to a municipal, county, state, or federal office shall, upon written application to the employer of that person, be granted a leave of absence from regular employment to serve in that office except where prohibited by the federal law. The leave of absence may be granted without pay and shall be granted without loss of net credited service and benefits earned. This section shall not be construed to require an employer to pay pension, health or other benefits during the leave of absence to an employee taking a leave of absence under this section.

A leave of absence for a person regularly employed pursuant to chapter 19A is subject to section 19A.18.

An employee shall not be prohibited from returning to regular employment before the period expires for which the leave of absence was granted. This section applies only to employers which employ twenty or more full-time persons. The leave of absence granted by this section need not exceed six years. The leave of absence granted by this section does not apply to an elective office held by the employee prior to the election.

Temporary substitute teachers and teachers hired on a temporary basis to replace teachers who have been granted leaves of absence pursuant to this section are not subject to the provisions of chapter 279 relating to the termination of continuing contracts.

Sec. 2. NEW SECTION. PENALTIES. A person violating this Act is guilty of a simple misdemeanor. Each day in which the violation continues is a separate offense.

Approved May 8, 1984

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**CHAPTER 1234**  
**SENIOR JUDGE PROGRAM**  
*S.F. 407*

**AN ACT** relating to the eligibility for and annuities of the senior judge program.

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

Section 1. Section 602.9208, subsection 3, Code Supplement 1983, is amended to read as follows:

3. A person who relinquishes a senior judgeship in the manner provided in subsection 1 ~~or who is removed as provided in subsection 2~~ shall be paid a retirement annuity in an amount determined according to section 602.9107 in lieu of section 602.9204, commencing that commences on the effective date of the relinquishment ~~or removal~~, and shall be based upon the number of years the person served as a senior judge. A person who serves six or more years as a senior judge shall be paid a retirement annuity that is in an amount equal to the amount of the annuity the person is receiving on the effective date of the relinquishment in lieu of an amount determined according to section 602.9204. If the person serves less than six years as a senior judge, the person shall be paid a retirement annuity that is in an amount equal to an amount determined according to section 602.9107 added to an amount equal to the number of years the person served as a senior judge, divided by six, multiplied by the difference between the amount of the annuity the person is receiving on the effective date of the relinquishment and the amount determined according to section 602.9107. A person who is removed from a senior judgeship as provided in subsection 2 shall be paid a retirement annuity that commences on the effective date of the removal and is in an amount determined according to section 602.9107 in lieu of section 602.9204, and for such purposes any service and annuity of the person as a senior judge is disregarded.

Sec. 2. Section 602.9209, Code Supplement 1983, is amended to read as follows:

**602.9209 SURVIVOR'S ANNUITY.**

1. A survivor of a senior judge, ~~or a retired senior judge, or a person who relinquished a senior judgeship under section 602.9208, subsection 1,~~ shall be paid an annuity in lieu of that specified in section 602.9115, which is equal to one-half the amount of the annuity the senior judge, ~~or retired senior judge, or person who relinquished a senior judgeship~~ was receiving at the time of his ~~or her~~ death, provided the survivor is qualified under section 602.9115 to receive an annuity.

2. A survivor of a person whose name is stricken from the roster of senior judges because of removal from a senior judgeship under section 602.9208, subsection 2, shall be paid an annuity equal to one-half of the amount the person was receiving at the time of his ~~or her~~ death, provided the survivor is qualified under section 602.9115 to receive an annuity.

Approved May 8, 1984

**CHAPTER 1235****PRIVATE INVESTIGATIONS AND SECURITY AGENCIES***S.F. 449*

**AN ACT** relating to licensing private investigative agencies and private security agencies, and providing a penalty.

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

Section 1. **NEW SECTION. 80A.1 DEFINITIONS.** As used in this chapter unless the context otherwise requires:

1. "Commissioner" means the commissioner of public safety.
2. "Department" means the department of public safety.
3. "Licensee" means a person licensed under this chapter.
4. "Person" means an individual, partnership, corporation, or other business entity.
5. "Private investigative agency" means a person engaged in a private investigation business.
6. "Private investigation business" means the business of making, for hire or reward, an investigation for the purpose of obtaining information on any of the following matters:
  - a. Crime or wrongs done or threatened.
  - b. The habits, conduct, movements, whereabouts, associations, transactions, reputations, or character of a person.
  - c. The credibility of witnesses or other persons.
  - d. The location or recovery of lost or stolen property.
  - e. The cause, origin, or responsibility for fires, accidents, or injuries to property.
  - f. The truth or falsity of a statement or representation.
  - g. Detection of deception.
  - h. The business of securing evidence to be used before authorized investigating committees, boards of award or arbitration, or in the trial of civil or criminal cases.
7. "Private security agency" means a person engaged in a private security business.
8. "Private security business" means a business of furnishing, for hire or reward, guards, watch personnel, armored car personnel, patrol personnel, or other persons to protect persons or property, to prevent the unlawful taking of goods and merchandise, or to prevent the misappropriation or concealment of goods, merchandise, money, securities, or other valuable documents or papers, and includes an individual who for hire patrols, watches, or guards a residential, industrial, or business property or district.
9. "Uniform" means a manner of dress of a particular style and distinctive appearance as distinguished from ordinary clothing customarily used and worn by the general public.

Sec. 2. **NEW SECTION. 80A.3 PERSONS EXEMPT.** This chapter does not apply to the following:

1. An officer or employee of the United States, of a state, or a political subdivision of the United States or of a state while the officer or employee is engaged in the performance of official duties.

2. A peace officer engaged in the private security business or the private investigation business with the knowledge and consent of the chief executive officer of the peace officer's law enforcement agency.

3. A person employed full or part-time by one employer in connection with the affairs of the employer.

4. An attorney licensed to practice in Iowa, while performing duties as an attorney.

5. A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons.

6. A person exclusively employed in making investigations and adjustments for insurance companies.

7. A person who is the legal owner of personal property which has been sold under a security agreement or a conditional sales agreement, or a secured party under the terms of a security interest while the person is performing acts relating to the repossession of the property.

Sec. 3. NEW SECTION. 80A.4 LICENSE REQUIRED. A person shall not operate a private investigation business or private security business or employ persons in the operation of such a business unless the person is licensed by the commissioner. A license issued under this chapter expires two years from the date issued.

Sec. 4. NEW SECTION. 80A.5 LICENSE REQUIREMENTS.

1. Applications for a license or license renewal shall be submitted to the commissioner in the form the commissioner prescribes. A license shall not be issued unless the applicant:

a. Is eighteen years of age or older.

b. Is not a peace officer.

c. Has never been convicted of a felony or aggravated misdemeanor.

d. Is not addicted to the use of alcohol or a controlled substance.

e. Does not have a history of repeated acts of violence.

f. Is of good moral character and has not been judged guilty of a crime involving moral turpitude.

g. Has not been convicted of a crime described in sections 708.3, 708.4, 708.5, 708.6, 708.8, or 708.9.

h. Has not been convicted of illegally using, carrying or possessing a dangerous weapon.

i. Has not been convicted of fraud.

j. Complies with other qualifications and requirements the commissioner adopts by rule.

2. If the applicant is a corporation, partnership, or association the requirements of subsection 1 apply to each officer, director, partner, and person who directly or indirectly owns or controls ten percent or more of any class of stock or has an interest of ten percent or more in the ownership or profits of the corporation, partnership, or association. Under this section an individual and spouse are regarded as one person.

3. Each employee of an applicant or licensee shall possess the same qualifications required by subsection 1 of this section for a licensee.

Sec. 5. NEW SECTION. 80A.6 LICENSEE FEE. An applicant for a license shall deposit with each application the fee for the license. If the application is approved the deposited amount shall be applied on the license fee. If the application is disapproved, the deposited amount shall be refunded to the applicant. The fee for a two-year private investigative agency and private security agency license is one hundred dollars.

Sec. 6. NEW SECTION. 80A.7 DISPLAY OF LICENSE. A private investigation agency and private security agency shall conspicuously display the license in the principal place of business of the agency.

Sec. 7. NEW SECTION. 80A.8 IDENTIFICATION CARDS. The department shall issue to each licensee and to each employee of the licensee an identification card in a form approved by the commissioner. It is unlawful for a person to act in the private investigation business or private security business unless the person has in the person's immediate possession an identification card issued under this section.

The licensee is responsible for the use of identification cards by the licensee's employees and shall return an employee's card to the department upon termination of the employee's service. Identification cards remain the property of the department. The fee for each card is three dollars.

A county sheriff may issue temporary identification cards valid for fourteen days to a person employing individuals on a temporary basis for private security business in the county. The fee for each card is three dollars. The form of the temporary identification cards shall be approved by the commissioner.

Sec. 8. NEW SECTION. 80A.9 DUPLICATE LICENSE. A duplicate license shall be issued by the commissioner upon the payment of a fee in the amount of five dollars and upon receiving for filing, in the form prescribed, a statement under oath that the original license has been lost or destroyed and that, if the original license is recovered, the original or the duplicate will be returned immediately to the commissioner for cancellation.

Sec. 9. NEW SECTION. 80A.10 BADGES — UNIFORMS. A licensee or an employee of a licensee shall not use a badge in connection with the activities of the licensee's business unless the badge has been prescribed or approved by the commissioner. A licensee or an employee of a licensee shall not use an identification card other than the card issued by the department or make a statement with the intent to give the impression that the licensee or employee is a peace officer.

A uniform worn by a licensee or employee of a licensee shall conform with rules adopted by the commissioner.

Sec. 10. NEW SECTION. 80A.11 LICENSEE'S BOND. A license shall not be issued unless the applicant files with the department a surety bond in an amount determined by the number of employees of the applicant. If an applicant has from one to three employees, the bond shall be in the amount of ten thousand dollars. If an applicant has from four to thirty employees, the bond shall be in the amount of twenty-five thousand dollars. If an applicant has more than thirty employees, the bond shall be in the amount of fifty thousand dollars. The bond shall be issued by a surety company authorized to do business in this state. The bond shall be conditioned on the faithful, lawful, and honest conduct of the applicant and those employed by the applicant in carrying on the business licensed. The bond shall provide that a person injured by a breach of the conditions of the bond may bring an action on the bond to recover legal damages suffered by reason of the breach. However, the aggregate liability of the surety for all damages shall not exceed the amount of the bond. Bonds issued and filed with the department shall remain in force and effect until the surety has terminated future liability by a written thirty-day notice to the department.

Sec. 11. NEW SECTION. 80A.12 WRITTEN REPORT. The licensee shall furnish, upon the client's request, a written report describing all the work performed by the licensee for that client.

Sec. 12. NEW SECTION. 80A.13 SUSPENSION OR REVOCATION. The commissioner may refuse to issue, or may suspend or revoke a license issued, for any of the following reasons:

1. Fraud in applying for or obtaining a license.
2. Violation of any of the provisions of this chapter.
3. If a licensee or employee of a licensee has been adjudged guilty of a crime involving moral turpitude, a felony, or an aggravated misdemeanor.
4. If a licensee willfully divulges to an unauthorized person information obtained by the licensee in the course of the licensed business.

5. Upon the disqualification or insolvency of the surety on the licensee's bond, unless the licensee files a new bond with sufficient surety within fifteen days of the receipt of notice from the commissioner.

6. If the applicant for a license or licensee or employee of a licensee fails to meet or retain any of the other qualifications provided in section 80A.5.

7. If the licensee fails to maintain the general liability insurance coverage required in section 80A.11.

8. If the applicant for a license or licensee knowingly makes a false statement or knowingly conceals a material fact or otherwise commits perjury in an original application or a renewal application.

9. Willful failure or refusal to render to a client services contracted for and for which compensation has been paid or tendered in accordance with the contract.

Sec. 13. NEW SECTION. 80A.14 CAMPUS WEAPON REQUIREMENTS. An individual employed by a college or university, or by a private security business holding a contract with a college or university, who performs private security duties on a college or university campus and who carries a weapon while performing these duties shall meet all of the following requirements:

1. File with the sheriff of the county in which the campus is located evidence that the individual has successfully completed an approved firearms training program under section 724.9.

2. Possess a permit to carry weapons issued by the sheriff of the county in which the campus is located under sections 724.6 through 724.11.

3. File with the sheriff of the county in which the campus is located a sworn affidavit from the employer outlining the nature of the duties to be performed and justification of the need to go armed.

Sec. 14. NEW SECTION. 80A.15 DEPOSIT OF FEES. Fees received by the commissioner shall be paid to the treasurer of state and deposited in the operating account of the department to offset the cost of administering this chapter. Any unspent balance as of June 30 of each year shall revert to the general fund as provided by section 8.33.

Sec. 15. NEW SECTION. 80A.16 RULES. The commissioner may adopt administrative rules pursuant to chapter 17A to carry out this chapter.

Sec. 16. NEW SECTION. 80A.17 PENALTIES. A person who violates any of the provisions of this chapter where no other penalty is provided is guilty of a simple misdemeanor. A person who makes a false statement or representation in an application or statement filed with the commissioner, as required by this chapter, or a person who falsely states or represents that the person has been or is a private investigator or private security agent or advertises as such is guilty of a fraudulent practice. A person who engages in a private investigation or private security business as defined in this chapter, without possessing a current valid license as provided by this chapter, is guilty of a serious misdemeanor.

Sec. 17. Section 724.6, Code Supplement 1983, is amended to read as follows:

724.6 PROFESSIONAL PERMIT TO CARRY WEAPONS. A person may be issued a permit to carry weapons when the person's employment in a private investigation business or private security business licensed under chapter 80A, or a person's employment as a peace officer, correctional officer, security guard, private detective licensed under chapter 80A, bank messenger or other person transporting property of a value requiring security, or in police work, reasonably justifies that person going armed. The permit shall be on a form prescribed and published by the commissioner of public safety, shall identify the holder, and



shall state the nature of the employment requiring the holder to go armed. A permit so issued, other than to a peace officer, shall authorize the person to whom it is issued to go armed anywhere in the state, only while engaged in the employment, and while going to and from the place of the employment. A permit issued to a certified peace officer shall authorize that peace officer to go armed anywhere in the state at all times. Permits shall expire twelve months after the date when issued except that permits issued to peace officers and correctional officers are valid through the officer's period of employment unless otherwise canceled. When the employment is terminated, the holder of the permit shall surrender it to the issuing officer for cancellation.

Sec. 18. Chapter 80A, Code 1983, is repealed and sections 1 through 16 of this Act are inserted in lieu thereof.

Sec. 19. This Act takes effect January 1 following its enactment.

Approved May 8, 1984

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## CHAPTER 1236

### FAMILY FARM DEVELOPMENT AUTHORITY

*S.F. 2102*

**AN ACT** relating to the executive director, staff, and administrative expenses of the Iowa family farm development authority.

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

Section 1. Section 175.7, subsections 1 and 2, Code 1983, are amended to read as follows:

1. ~~The executive director and staff of the Iowa housing finance authority shall also serve as executive director and staff of the authority, respectively governor, subject to confirmation by the senate, shall appoint an executive director of the authority, who shall serve at the pleasure of the governor. The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation.~~ The executive director shall not, directly or indirectly, exert influence to induce any other officers or employees of the state to adopt a political view, or to favor a political candidate for office.

2. The executive director shall advise the authority on matters relating to agricultural land and property and agricultural finance, and carry out all directives from the authority, and ~~may~~ shall hire and supervise ~~additional the~~ the authority's staff pursuant to its directions and under the provisions of chapter 19A, except that principal administrative assistants with responsibilities in beginning farm loan programs, accounting, mortgage loan processing, and investment portfolio management are exempt from that chapter.

Sec. 2. Section 220.10, subsection 1, Code Supplement 1983, is amended to read as follows:

1. All moneys declared by the authority to be surplus moneys which are not required to service bonds and notes issued by the authority, to pay administrative expenses of the authority,

or to accumulate necessary operating or loss reserves, shall be used by the authority to pay administrative expenses of or provide loans to the Iowa family farm development authority in connection with the programs authorized in the Iowa family farm development Act or to provide grants, subsidies, and services to lower income families and very low income families through any of the programs authorized in this chapter, or to provide funds for the residential mortgage interest reduction program established pursuant to section 220.81.

Approved May 8, 1984

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**CHAPTER 1237**  
**FINANCE CHARGES ON OPEN-END CREDIT**  
*S.F. 2366*

**AN ACT** relating to the finance charges permitted in open-end credit accounts including credit cards and retail credit sales.

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

Section 1. Section 537.2202, subsection 3, Code 1983, is amended to read as follows:

3. If the billing cycle is monthly, the charge may not exceed an amount equal to one and one-half point ~~sixty-five percent of that part of the maximum amount pursuant to subsection 2 which is five hundred dollars or less and one and one-fourth percent of that part of the maximum amount which is more than five hundred dollars.~~ If the billing cycle is not monthly, the maximum charge for the billing cycle shall bear the same relation to the applicable monthly maximum charge as the number of days in the billing cycle bears to three hundred sixty-five divided by twelve. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from the regular date.

Sec. 2. Section 537.2402, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION. 5.** Notwithstanding any other provision of this chapter or chapter 535, a creditor may contract for and receive a finance charge without limitation as to amount or rate with respect to a loan pursuant to open-end credit obtained pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer.

**NEW SUBSECTION. 6.** If the differential treatment of this section based on the number of persons honoring a credit card is found to be unconstitutional, a creditor may contract for and receive a finance charge not to exceed twenty-two percent per year for a loan pursuant to open-end credit.

Sec. 3. Section 537.3205, subsection 2, Code 1983, is amended to read as follows:

2. Unless authorized by a ~~provision of this chapter or unless agreed to by the consumer,~~ no a creditor shall not change the terms of an open end credit account, with respect to any a balance incurred before the effective date of the change, which results in an increase of the

rate of the finance charge or other charge or an increase in the amount of a periodic payment due, or which otherwise adversely affects the interests of the consumer with respect to such the balance. The use by the consumer of an open-end account after the effective date of the change constitutes the agreement of the consumer if the consumer is notified as provided in subsection 1 that the use will constitute the agreement of the consumer.

Approved May 8, 1984

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**CHAPTER 1238**  
**ZONING OF MANUFACTURED HOUSING**  
*S.F. 2228*

**AN ACT** prohibiting zoning regulations or other ordinances which disallow plans and specifications of a proposed residential dwelling solely because the proposed dwelling is a manufactured home.

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

Section 1. Chapter 358A, Code 1983, is amended by adding the following new section:

**NEW SECTION. MANUFACTURED HOME.** A county shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. As used in this section, "manufactured home" means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. sec. 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home as defined in section 135D.1 is not a manufactured home, unless it has been converted to real property as provided in section 135D.26, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

Sec. 2. Chapter 414, Code 1983, is amended by adding the following new section:

**NEW SECTION. MANUFACTURED HOME.** A city shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a foundation system, set-back, and minimum square footage which would apply to a site-built, single

family dwelling on the same lot. As used in this section, "manufactured home" means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. sec. 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home as defined in section 135D.1 is not a manufactured home, unless it has been converted to real property as provided in section 135D.26, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

Approved May 9, 1984

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**CHAPTER 1239**  
**COLLECTION OF COURT ORDERED PAYMENTS**  
*S.F. 2268*

**AN ACT** relating to collection of court ordered payments by providing for the mandatory assignment of a person's income when the person is delinquent in paying court-ordered support and providing a penalty, and providing for the collection of unpaid alimony, and providing for limits to garnishment, and providing for the validity of garnishment notices.

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

Section 1. NEW SECTION. 252C.1 DELINQUENT SUPPORT PAYMENTS—ASSIGNMENT OF INCOME.

1. All orders of support shall direct the payment of the support to the clerk of the district court pursuant to section 598.22.

2. If support payments ordered under section 598.21 or 675.25 are not paid to the clerk of the district court pursuant to section 598.22 and become delinquent in an amount equal to the payment for one month, the clerk or the child support recovery unit established under section 252B.2 may certify a default to the court. The court shall order the defaulting person to assign to the clerk that portion of the person's periodic earnings, trust income, or other income sufficient to pay the support obligation. The assignment of income is binding on an existing or future employer, trustee, or other payor ten days after the receipt of the order by certified mail. The amount of an assignment of income shall not exceed the amount specified in 15 U.S.C. sec. 1673b. The assignment of income has priority over a garnishment or an assignment for a purpose other than the support of the dependents in the court order being enforced. The court may modify or revoke the order upon the request of the child support recovery unit and may modify or revoke the order at any other time.

3. A person entitled by court order to receive support payments or a person responsible for enforcing such a court order may petition the court for an assignment of income. If the petition is verified and establishes that support payments are delinquent in an amount equal to the payment for one month and if the court determines, after providing an opportunity for a hearing, that notice of the mandatory assignment of income as provided in section 252C.3 has

been given, the court shall declare a default and order an assignment of income under subsection 2.

**Sec. 2. NEW SECTION. 252C.2 MOTION TO QUASH.**

1. A petitioner under section 252C.1, subsection 3 may move to quash the order of assignment at any time by asserting that the delinquency did not occur or has been paid. A person whose income has been assigned under section 252C.1 may move to quash the order of assignment by filing the motion to quash and notice of the motion to quash with the court within ten days after the employer, trustee, or other payor delivers a copy of the order of assignment to the person under section 252C.4, subsection 1. The clerk of the district court shall schedule a hearing on the motion to quash for a time not later than seven days after the filing of the motion to quash and the notice of the motion to quash. The clerk shall mail to the parties copies of the motion to quash, the notice of the motion to quash, and the order scheduling the hearing.

2. The payor shall withhold and transmit the amount specified in the order of assignment to the clerk of the district court until the notice that the motion to quash has been granted is received.

**Sec. 3. NEW SECTION. 252C.3 NOTICE OF ASSIGNMENT.** All court orders for support entered on or after the effective date of this Act shall notify the person ordered to pay support of the mandatory assignment of income required under section 252C.1 upon the person's default. However, for court orders for support entered before the effective date of this Act, the clerk of the district court, the child support recovery unit, or the person entitled by the court order to receive the support payments, shall notify each person ordered to pay support under such orders of the mandatory assignment of income required under section 252C.1 upon the person's default. The notice shall be sent by certified mail to the person's last known address or the person shall be personally served with the notice in the manner provided for service of an original notice at least fifteen days prior to the filing of a petition under section 252C.1, subsection 3 or the entering of a default under section 252C.1, subsection 2 or 3. A person ordered to pay support may waive the right to receive the notice at any time.

**Sec. 4. NEW SECTION. 252C.4 DUTIES OF PAYOR.**

1. The employer, trustee, or other payor who receives an order of assignment by certified mail pursuant to section 252C.1, subsection 2 shall deliver, on the next working day, a copy of the order to the person named in the order. The payor may deduct not more than one dollar from each payment as a reimbursement for the payor's costs relating to the assignment. The payor's compliance with the order of assignment satisfies the payor's obligation to the person for the amount of income withheld and transmitted to the clerk of the district court.

2. An employer who willfully discharges an employee or refuses to hire a person because of the entry of an order of assignment under this chapter is guilty of a simple misdemeanor.

**Sec. 5. NEW SECTION. 252C.5 OTHER REMEDIES.** The remedies provided in this chapter do not exclude the use of other civil or criminal remedies in enforcing child support obligations.

**Sec. 6. NEW SECTION. 252C.6 COURT CERTIFICATION.** Upon application, the court may certify unpaid alimony payments for the support of a spouse or former spouse and direct execution, levy, and garnishment as authorized by law.

**Sec. 7.** Sections 1 through 6 of this Act apply to all support obligations which are or become delinquent on or after the effective date of this Act.

Sec. 8. NEW SECTION. 630.3A HEARING TO DETERMINE JUDGMENT DEBTOR'S INCOME. At any time after the rendition of judgment the court, upon application of the judgment creditor or the judgment debtor and upon notice to the adverse party as the court shall direct, shall conduct a hearing to determine the reasonably expected annual earnings of the judgment debtor for the current calendar year and the applicable limitation upon garnishment as provided in section 642.21. The court shall also consider in the interest of justice whether a greater amount than provided in section 642.21 shall be exempt from garnishment. In making the determination the court shall consider the age, number and circumstances of the dependents of the debtor, existing federal poverty level guidelines, the debtor's maintenance and support needs, the debtor's other financial obligations and any other relevant information. An order reducing the garnishment may be modified or vacated upon the application of a party to the court, notice to the adverse party, and a showing at a hearing of changed circumstances. An additional filing fee shall not be assessed for proceedings under this section.

Sec. 9. Section 642.5, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Do you compensate the defendant in this suit for any personal services whether denominated as wages, salary, commission, bonus or otherwise, including periodic payments pursuant to a pension or retirement program? If so, state the amount of the compensation reasonably anticipated to be paid defendant during the calendar year.

Sec. 10. Section 642.14, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The notice required by this section shall contain the full text of section 630.3A.

Sec. 11. Section 642.21, subsection 1, Code 1983, is amended to read as follows:

1. The disposable earnings of an individual ~~shall be~~ are exempt from garnishment to the extent provided by the federal Consumer Credit Protection Act, Title III, 15 U.S.C. secs. 1671-1677. The term "Consumer Protection Act" means the Act of Congress approved May 29, 1968, 82 Stat. 163, officially cited as the "Consumer Credit Protection Act, Title III." The maximum amount of an employee's earnings which may be garnished during any one calendar year is two hundred fifty dollars for each judgment creditor, except as provided in section 627.12 or when those earnings are reasonably expected to be in excess of twelve thousand dollars for that calendar year as determined from the answers taken by the sheriff or by the court pursuant to section 642.5, subsection 4. When the employee's earnings are reasonably expected to be more than twelve thousand dollars the maximum amount of those earnings which may be garnished during a calendar year for each creditor is as follows:

a. Employees with expected earnings of twelve thousand dollars or more, but less than sixteen thousand dollars, not more than four hundred dollars may be garnished.

b. Employees with expected earnings of sixteen thousand dollars or more, but less than twenty-four thousand dollars, not more than eight hundred dollars may be garnished.

c. Employees with expected earnings of twenty-four thousand dollars or more, but less than thirty-five thousand dollars, not more than one thousand five hundred dollars may be garnished.

d. Employees with expected earnings of thirty-five thousand dollars or more, but less than fifty thousand dollars, not more than two thousand dollars may be garnished.

e. Employees with expected earnings of fifty thousand dollars or more, not more than ten percent of an employee's expected earnings.

Sec. 12. NEW SECTION. 642.22 VALIDITY OF GARNISHMENT NOTICE. A notice of

garnishment served upon a garnishee is effective without serving another notice until the earliest of the following:

1. The annual maximum permitted to be garnished under section 642.21 has been withheld.
2. The writ of execution expires.
3. The judgment is satisfied.
4. The garnishee is served with a notice that the garnishment shall cease.

Approved May 9, 1984

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**CHAPTER 1240**  
STATE INHERITANCE TAX  
*S.F. 2323*

**AN ACT** relating to the state inheritance tax by changing the due date of the tax, providing for monthly interest, providing for a period of limitations for assessments and refunds, requiring recording to give a lien preference after a release of the lien is issued, taxing gifts made within three years of death, providing that property transferred to the state or political subdivision as payment of the tax shall have been included in the decedent's gross estate, and making technical corrections.

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

Section 1. Section 450.3, subsection 2, Code 1983, is amended to read as follows:

2. By deed, grant, sale, gift or transfer made in contemplation within three years of the death of the grantor or donor, and any such transfer of property made by any person within three years prior to the death of the grantor or donor shall, unless shown to the contrary, be deemed to have been made in contemplation of death which is not a bona fide sale for an adequate and full consideration in money or money's worth and which is in excess of the annual gift tax exclusion allowable for each donee under section 2503, subsections a and e of the Internal Revenue Code of 1954 as defined in section 422.4.

Sec. 2. Section 450.6, Code 1983, is amended to read as follows:

450.6 ACCRUAL OF TAX — MATURITY — EXTENSION OF TIME. The tax imposed (is) by this chapter accrues at the death of the decedent owner, and shall be paid to the department of revenue within nine months on or before the last day of the ninth month after the death of the decedent owner except when if otherwise provided in this chapter. When If in the opinion of the director of revenue additional time should be granted for payment to avoid hardship, the director may extend the period to a date not exceeding ten years from the date of last day of the month in which the death of the decedent occurred. In the case of any an extension the tax shall bear bears interest at the rate in effect under section 421.7 from the expiration of nine months from the date of the last day of the ninth month after the decedent's death. Interest shall be computed on a monthly basis with a fraction of a month counted as a full month.

Upon the approval of the executive council, the tax liability of any a beneficiary, heir, surviving joint tenant or other transferee may be paid, in lieu of money, in whole or in part by the transfer of real property or tangible personal property to the state or a political subdivision of the state to be used for public purposes. Before the tax liability may be paid by transfer of property to a political subdivision, the governing body of the political subdivision shall also approve the transfer. ~~If the~~ The property transferred in payment of tax ~~is shall have been included in the decedent's gross estate for inheritance tax purposes, and its value for the payment of the tax shall be the same as its value for inheritance tax purposes.~~ Property transferred in payment of the tax which is not included in the decedent's gross estate for inheritance tax purposes shall be valued by agreement of the executive council and the taxpayer. The acceptance or rejection of the property in payment of the tax liability and the agreed value of the property shall be certified by the executive council to the director of revenue. The acceptance of the property transferred ~~shall act~~ acts as payment and satisfaction of the inheritance tax liability to the extent of the value of the transferred property, but notwithstanding any other provision, the taxpayer ~~shall is not be~~ entitled to a refund if the transferred property has a value in excess of the tax liability.

Sec. 3. Section 450.7, subsection 2, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Notice of the lien is not required to be recorded. The rights of the state under the lien have priority over all subsequent mortgages, purchases, or judgment creditors; and a conveyance after the decedent's death of the property subject to a lien does not discharge the property except as otherwise provided in this chapter. However, if additional tax is determined to be owing under this chapter or chapter 451 after the lien has been released under paragraph "a" or "b", the lien does not have priority over subsequent mortgages, purchases, or judgment creditors unless notice of the lien is recorded in the office of the recorder of the county where the estate is probated, or where the property is located if the estate has not been administered. The department of revenue may release the lien by filing in the office of the clerk of the court in the county where the property is located, the decedent owner died, or the estate is pending or was administered, one of the following:

Sec. 4. Section 450.8, Code 1983, is amended to read as follows:

450.8 TRANSFERS IN CONTEMPLATION OF DEATH TRUST. If the decedent makes transfer of, or creates a trust with respect to, any property in contemplation of his death passing under section 450.3, subsection 2, or intended to take effect after his death, (except in the case of a bona fide sale for a fair consideration in money or money's worth), and if the tax in respect ~~thereto to the~~ transfer is not paid when due, the transferee or trustee ~~shall be is~~ personally liable for such the tax, and ~~such the~~ property, to the extent of the decedent's interest ~~therein in the~~ property at the time of his death, ~~shall be is~~ subject to a lien for the payment of such the tax.

Sec. 5. Section 450.45, Code Supplement 1983, is amended to read as follows:

450.45 LIFE AND TERM ESTATES—VALUATION. ~~When If~~ If an estate or interest for life or term of years in real property is given to a party other than those especially exempt by this chapter, the property shall be valued as provided in section 450.37 as is provided in ordinary cases, and the party entitled to the estate or interest shall, within nine months on or before the last day of the ninth month from the death of the decedent owner, pay the tax, and in default the court shall order the estate or interest, or as much as necessary to pay the tax, penalty, and interest, to be sold.

Sec. 6. Section 450.46, Code Supplement 1983, is amended to read as follows:

450.46 DEFERRED ESTATE—VALUATION. Upon the determination of any a prior estate or interest, when the remainder or deferred estate or interest or any a part of it is subject to tax and the tax upon the remainder or deferred interest has not been paid, the persons



entitled to the remainder or deferred interest shall immediately report to the department of revenue the fact of the determination of the prior estate, and upon receipt of the report, or upon information from any source, of the determination of ~~any~~ a prior estate when the remainder interest has not been valued for the purpose of assessing tax, the property shall be valued as provided in like cases in section 450.44 and the tax upon the remainder interest shall be paid by the person who owns the remainder interest ~~within nine months on or before the last day of the ninth month~~ after the determination of the prior estate. If the tax is not paid within this time the court shall then order the property, or as much as necessary to pay the tax, penalty, and interest, to be sold.

Sec. 7. Section 450.47, Code Supplement 1983, is amended to read as follows:

450.47 LIFE AND TERM ESTATES IN PERSONAL PROPERTY. ~~When If~~ an estate or interest for life or term of years in personal property is given to one or more persons other than those ~~especially~~ exempt by this chapter and the remainder or deferred estate to others, the property devised or conveyed shall be valued under section 450.37 as provided in ordinary estates and the value of the estates or interests devised or conveyed shall be determined as provided in section 450.51, and the tax upon the estates or interests liable for the tax shall be paid to the department of revenue from the property valued or by the persons entitled to the estate or interest ~~within nine months from on or before the last day of the ninth month after the death of the testator, grantor, or donor.~~ However, payment of the tax upon ~~any~~ a deferred estate or remainder interest may be deferred until the determination of the prior estate by the giving of a good and sufficient bond as provided in section 450.48.

Sec. 8. Section 450.55, Code Supplement 1983, is amended to read as follows:

450.55 MEANS TO COLLECT TAX. ~~Sections~~ The provisions of sections 422.26 and 422.30, pertaining to the lien ~~except the requirements of recording, collection of tax, jeopardy assessments, and distress warrants,~~ apply to the unpaid tax, penalty, and interest imposed under this chapter. In addition the director of revenue may bring, or cause to be brought in the director's name of office, suit for the collection of the tax, penalty, interest, and costs, against the personal representative or against the person entitled to property subject to the tax, or upon any bond given to secure payment of the tax, either jointly or severally, and upon obtaining judgment may cause execution to be issued as is provided by statute in other cases. The proceedings shall conform as nearly as may be to those for the collection of ordinary debt by suit.

Sec. 9. Section 450.94, subsection 3, Code Supplement 1983, is amended to read as follows:

3. If the amount paid is greater than the correct tax, penalty and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at the rate in effect under section 421.7, under the ~~provisions of~~ rules prescribed by the director. However, the director shall not allow a claim for refund or credit that has not been filed with the department within ~~five~~ three years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is the later. A determination by the department of the amount of tax, penalty and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within ninety days from the postmark date of the notice of determination of tax, penalty and interest due or refund owing. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty and interest or refund due, and notify the appellant of the decision by certified mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the postmark date of the notice of the director's decision.

Sec. 10. Section 450.94, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. The amount of tax imposed under this chapter shall be assessed according to one of the following:

a. Within three years after the return is filed with respect to property reported on the final inheritance tax return.

b. At any time after the tax became due with respect to property not reported on the final inheritance tax return, but not later than three years after the omitted property is reported to the department on an amended return or on the final inheritance tax return if one was not previously filed.

Sec. 11. Section 451.12, Code 1983, is amended to read as follows:

451.12 APPLICABLE STATUTES. All the provisions of chapter 450 with respect to the lien provisions of section 450.7, and the determination, imposition, payment and collection of the tax imposed, under that chapter, including penalty and interest upon delinquent taxes, are applicable to the provisions of this chapter, except as they are in conflict with this chapter. The director of revenue shall adopt and promulgate rules necessary for the enforcement of this chapter.

Sec. 12. This Act, except for section 8, applies to the estates of persons dying on or after its effective date.

Sec. 13. Section 8 of this Act applies to taxes, penalties, and interest still owing on the effective date of this Act and to taxes, penalties, and interest becoming due on or after that effective date.

Approved May 9, 1984

**CHAPTER 1241**  
**SALES TAX ON DISCOUNT**  
*S.F. 2327*

**AN ACT** relating to what constitutes discounts on transactions occurring between June 1, 1982 and July 1, 1984 involving farm tractors and farm equipment for purposes of the state sales, services, and use tax, relating to refund, and providing retroactive effect.

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

Section 1. For purposes of the state sales, services, and use tax, a retail sale of farm tractors and farm equipment occurring between June 1, 1982 and July 1, 1984, which is partially paid for in money shall be treated as having a discount taken in the amount of the non-monetary portion of the sale. The amount of this discount is not subject to the state sales, services, and use tax.

Sec. 2. Claims for refunds as a result of this Act for sales, services, and use taxes paid on transactions occurring between June 1, 1982 and July 1, 1984 involving the retail sales of farm tractors and farm equipment shall be filed between July 1, 1984 and January 1, 1985, notwithstanding any other provision of law. Notwithstanding any other provision of law, the total amount of refunds that shall be paid pursuant to this section shall not exceed the sum of seventy-five thousand dollars. If the total dollar amount of the allowable claims for refunds exceeds seventy-five thousand dollars the director of revenue shall prorate the seventy-five thousand dollars among the claimants of the allowable claims by paying each claimant a percent of the amount of the claimant's allowable claim equal to the percent that seventy-five thousand dollars is of the total amount of all the allowable claims.

Sec. 3. This Act is retroactive to June 1, 1982.

Approved May 9, 1984

**CHAPTER 1242**  
**PATERNITY AND CHILD SUPPORT JURISDICTION**  
*H.F. 2423*

**AN ACT** establishing court jurisdiction over certain nonresidents in paternity and child support cases.

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

Section 1. **NEW SECTION. 252B.12 JURISDICTION OVER NONRESIDENT PARENTS.** In an action to establish paternity or to establish or enforce a child support obligation, a nonresident person is subject to the jurisdiction of the courts of this state upon service of process of original notice in accordance with the rules of civil procedure, Iowa court rules, second edition, if any of the following circumstances exists:

1. Any circumstance in which the nonresident has the necessary minimum contact with this state for the exercise of jurisdiction, consistent with the constitutions of this state and the United States.
2. The affected child was conceived in this state while at least one of the parents was a resident of this state and the nonresident is the parent or alleged parent of the child.
3. The affected child resides in this state as a result of the acts or directives or with the approval of the nonresident.
4. The nonresident has resided with the affected child in this state.

Approved May 9, 1984

**CHAPTER 1243**  
**MOTOR VEHICLE REQUIREMENTS**  
*H.F. 2180*

**AN ACT** relating to vehicle requirements by allowing a county treasurer to transfer title by operation of law in the county of the new owner's residence, and making odometer statement requirements affect model years after the eleventh year prior to the current registration year.

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

Section 1. Section 321.47, unnumbered paragraph 1, Code 1983, is amended to read as follows:

In the event of the transfer of ownership of ~~any~~ a vehicle by operation of law as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or ~~whenever when~~ the engine of a motor vehicle is replaced by another engine, or ~~whenever~~ a vehicle is sold to satisfy an artisan's lien as provided in chapter 577, ~~or is sold to satisfy~~ a landlord's lien as provided in chapter 570, or a storage lien as provided in chapter 579, or repossession is had upon default in performance of the terms of a security agreement, the ~~treasurer of the county in which the last certificate of title to any such vehicle was issued~~ county treasurer in the transferee's county of residence, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to ~~such~~ the vehicle and upon payment of a fee of two dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a registration card for ~~such~~ the vehicle and a certificate of title ~~thereto to it~~. The ~~person or~~ persons entitled under the laws of descent and distribution of an intestate's property to the possession and ownership of a vehicle owned in whole or in part by a decedent, upon filing an affidavit stating the name and date of death of the decedent, the right to possession and ownership of the persons filing ~~said~~ the affidavit, and that there has been no administration of the ~~said~~ decedent's estate, which instrument shall also contain an agreement to indemnify ~~any~~ creditors of the decedent who would be entitled to levy execution upon ~~said~~ the motor vehicle to the extent of the value of ~~said~~ the motor vehicle, ~~shall be are~~ entitled upon fulfilling the other requirements of this chapter, to the issuance of a registration card for the interest of the decedent in ~~such~~ the vehicle and a certificate of title ~~thereto to it~~. No requirement of either chapter 450 or 451 shall be considered satisfied by the filing of the affidavit provided for in this section. If, from the records in the office of the county treasurer, there appear to be any ~~lien or~~ liens on ~~such~~ the vehicle, ~~such~~ the certificate of title shall contain a statement of such liens unless the application is accompanied by proper evidence of their satisfaction or extinction. Evidence of extinction may consist of, but is not limited to, an affidavit of the applicant stating that a security interest was foreclosed as provided in Uniform Commercial Code, chapter 554, Article 9, Part 5.

Sec. 2. Section 321.71, subsection 7, Code 1983, is amended to read as follows:

7. As to motor vehicles of a model year subsequent to the model year 1968 less than eleven model years old which were equipped with an odometer by the manufacturer, no certificate of title shall be issued unless an odometer statement which is in compliance with federal law and regulations has been made by the transferor of such a vehicle and is furnished with the application for certificate of title. The new certificate of title shall record on the its face thereof the odometer reading and if the odometer reading is not the true mileage or the true mileage is unknown, then the word "unknown" shall be recorded. However, a certificate of title may be issued for a motor vehicle to a person who moves into this state if such the person acquired ownership of the motor vehicle prior to moving to this state. The provisions of this This subsection shall does not apply to motor vehicles transferred by operation of law pursuant to section 321.47 nor to motor vehicles having a registered gross vehicle weight of more than sixteen thousand pounds.

Sec. 3. Section 321.71, subsection 9, Code 1983, is amended to read as follows:

9. An Iowa licensed motor vehicle dealer shall not have in his possession as inventory for sale any a used motor vehicle acquired by the dealer after January 1, 1972 the eleventh model year prior to the current registration year, for which he the dealer does not have in his possession possess an odometer statement by the transferor which is in compliance with federal law and regulations unless a certificate of title has been issued for such the vehicle in the name of the dealer.

Approved May 9, 1984

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## CHAPTER 1244

### CORRECTIONAL PROCEDURES

H.F. 2348

**AN ACT** relating to correctional procedures by expanding the circumstances under which home work release may be granted, providing for the duty of counties to comply with state requests for temporary confinement of alleged parole or work release violators, allowing a designee of the warden or superintendent to hear appeals of hearing officers, extending the time for the board of directors of a judicial district department of correctional services to file its annual report, and providing for the penalty of contempt for violations of parole.

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

Section 1. Section 247A.2, Code Supplement 1983, is amended to read as follows:

247A.2 PROGRAM. The Iowa department of corrections shall establish a work release program under which inmates sentenced to an institution under the jurisdiction of the department may be granted the privilege of leaving actual confinement during necessary and reasonable hours for the purpose of working at gainful employment. Under appropriate conditions the program may also include release for the purpose of seeking employment and attendance at an educational institution. In the case of inmates who have children in their homes

under the age of eighteen years, the program may include child care and housekeeping in their homes. An inmate may be placed on work release status in the inmate's own home, under appropriate circumstances, which may include child care and housekeeping in the inmate's own home. An inmate shall receive a unanimous vote from the work release committee to be approved for home work release.

Sec. 2. Section 247A.10, Code Supplement 1983, is amended to read as follows:

**247A.10 ALLEGED WORK RELEASE VIOLATORS — REIMBURSEMENT TO COUNTIES FOR TEMPORARY CONFINEMENT BY COUNTIES — REIMBURSEMENT.**

1. Upon request by the Iowa department of corrections a county shall provide temporary confinement for alleged violators of work release conditions if space is available.

2. The Iowa department of corrections shall negotiate a reimbursement rate with each county for the temporary confinement of alleged violators of work release conditions who are in the custody of the director of the Iowa department of corrections or who are housed or supervised by the judicial district department of correctional services. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the Iowa department of corrections.

Sec. 3. Section 903A.3, subsection 2, Code Supplement 1983, is amended to read as follows:

2. The orders of the hearing officer are subject to appeal to the superintendent or warden of the institution, or the superintendent's or warden's designee, who may either affirm, modify, remand for correction of procedural errors, or reverse an order. However, sanctions shall not be increased on appeal. A decision of the superintendent, or warden, or designee is subject to review by the director of the Iowa department of corrections who may either affirm, modify, remand for correction of procedural errors, or reverse the decision. However, sanctions shall not be increased on review.

Sec. 4. Section 905.4, subsection 4, Code Supplement 1983, is amended to read as follows:

4. File with the board of supervisors of each county in the district and with the Iowa department of corrections, within thirty ninety days after the close of each fiscal year, a report covering the district board's proceedings and a statement of receipts and expenditures during the preceding fiscal year.

Sec. 5. Section 906.17, Code Supplement 1983, is amended to read as follows:

**906.17 ALLEGED PAROLE VIOLATORS — REIMBURSEMENT TO COUNTIES FOR TEMPORARY CONFINEMENT BY COUNTIES — REIMBURSEMENT.**

1. Upon request by the Iowa department of corrections a county shall provide temporary confinement for alleged parole violators if space is available.

2. The Iowa department of corrections shall reimburse a county for the temporary confinement of alleged parole violators. The amount to be reimbursed shall be determined by multiplying the number of days confined by the average daily cost of confining a person in the county facility as negotiated by the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the Iowa department of corrections.

Sec. 6. Section 908.11, Code 1983, is amended to read as follows:

**908.11 VIOLATION OF PROBATION.** A probation officer or the judicial district department of correctional services having probable cause to believe that any person released on probation has violated the conditions of probation shall proceed by arrest or summons as in the case of a parole violation. The functions of the liaison officer and the board of parole shall

be performed by the judge or magistrate who placed the alleged violator on probation if that judge or magistrate is available, otherwise by another judge or magistrate who would have had jurisdiction to try the original offense. ~~Where~~ If the probation officer proceeds by arrest, any magistrate may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing ~~where~~ if it is not convenient for the judge who placed the alleged violator on probation to do so. The initial appearance, probable cause hearing, and probation revocation hearing, or any of them, may at the discretion of the court be merged into a single hearing when it appears that the alleged violator will not be prejudiced thereby. If the violation is established, the court may continue the probation with or without an alteration of the conditions of probation. If the defendant is an adult the court may hold the defendant in contempt of court and sentence the defendant to a jail term while continuing the probation, or may revoke the probation and require the defendant to serve the sentence imposed or any lesser sentence, and, if imposition of sentence was deferred, may impose any sentence which might originally have been imposed.

Approved May 9, 1984

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**CHAPTER 1245**  
**PSYCHOLOGICAL TESTING OF OFFICERS**  
*H.F. 2392*

**AN ACT** relating to the psychological testing of law enforcement and correctional officers.

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

Section 1. Section 80B.11, subsection 4, Code 1983, is amended to read as follows:

4. Minimum standards of physical, educational, ~~mental~~ and moral fitness which shall govern the recruitment, selection and appointment of law enforcement officers.

Sec. 2. Section 80B.11, Code 1983, is amended by adding after subsection 4 the following new subsection:

NEW SUBSECTION. 5. Minimum standards of mental fitness which shall govern the initial recruitment, selection and appointment of law enforcement officers. The rules shall include, but are not limited to, providing a battery of psychological tests to determine cognitive skills, personality characteristics and suitability of an applicant for a law enforcement career. However, this battery of tests need only be given to applicants being considered in the final selection process for a law enforcement position. For original appointments to law enforcement officer positions under chapter 400 of the Code, the "final selection process" means the point in the examination process of section 400.8 of the Code which is just prior to the certification to the city council of the list of names of the persons who qualify with the highest standing pursuant to section 400.11 of the Code.

Sec. 3. Section 80B.11, subsection 5, Code 1983, is amended to read as follows:



§ 6. Exemptions from particular provisions of this chapter in case of any state, county or city, if, in the opinion of the council, the standards of law enforcement training established and maintained by ~~such~~ the governmental agency are as high or higher than those established pursuant to this chapter; or revocation in whole or in part of such exemption, if in its opinion the standards of law enforcement training established and maintained by ~~such~~ the governmental agency are lower than those established pursuant to this chapter.

Sec. 4. Section 217A.8, subsection 1, Code Supplement 1983, is amended by adding after paragraph e the following new paragraph:

**NEW PARAGRAPH.** Establish standards of mental fitness which shall govern the initial recruitment, selection, and appointment of correctional officers. To promote these standards, the director shall by rule require a battery of psychological tests to determine cognitive skills, personality characteristics and suitability of all applicants for a correctional career.

Sec. 5. This Act shall take effect January 1, 1985.

Approved May 9, 1984

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## CHAPTER 1246

### PEACE OFFICERS AND FIRE FIGHTERS

*H.F. 123*

**AN ACT** relating to peace officers and fire fighters by expanding the scope of the crime of interference with official acts, establishing authority of the Iowa law enforcement academy director and the law enforcement academy council to enforce standards and requirements upon request, and providing penalties.

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

Section 1. Section 80B.11, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION. 6.** Grounds for revocation of a law enforcement officer's certification.

Sec. 2. Section 80B.13, subsection 3, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

3. Issue certificates to law enforcement officers who have met the requirements of this chapter and rules promulgated under provisions of chapter 17A relative to hiring and training standards.

Sec. 3. Section 80B.13, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION. 8.** Revoke a law enforcement officer's certification for the conviction of a felony. In addition the council may consider revocation proceedings when an employing agency recommends to the council that revocation would be appropriate with regard to a current or former employee.

A recommendation by an employing agency must be in writing and set forth the reasons why the action is being recommended, the findings of the employing agency concerning the matter, the action taken by the employing agency, and that the action by the agency is final. Final, as used in this section, includes all appeals through a grievance procedure available to the officer or civil service have been exhausted. The written recommendations shall be unavailable for inspection by anyone except personnel of the employing agency, the council and the affected law enforcement officer, or as ordered by a reviewing court.

The council shall establish a process for the protest and appeal of a revocation made pursuant to this subsection.

NEW SUBSECTION. 9. In accordance with chapter 17A, conduct investigations, hold hearings, appoint hearing examiners, administer oaths and issue subpoenas enforceable in district court on matters relating to the revocation of a law enforcement officer's certification.

NEW SUBSECTION. 10. Secure the assistance of the state division of criminal investigation in the investigation of alleged violations, as provided under section 80.9, subsection 1, paragraphs "c" and "g", of the provisions adopted under section 80B.11.

Sec. 4. Section 719.1, Code 1983, is amended to read as follows:

719.1 INTERFERENCE WITH OFFICIAL ACTS. A person who knowingly resists or obstructs anyone known by the person to be a peace officer or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the officer's lawful duty or authority of that officer or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a simple misdemeanor. However, if a person commits an interference with official acts, as defined in this section, and in so doing inflicts bodily injury other than serious injury, that person commits a serious misdemeanor. If a person commits an interference with official acts, as defined in this section, and in so doing purposely inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits an aggravated misdemeanor. The terms "resist" and "obstruct", as used in this section, do not include verbal harrassment\* unless the verbal harrassment\* is accompanied by a present ability and apparent intention to execute a verbal threat physically.

Approved May 10, 1984

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\*According to enrolled Act

**CHAPTER 1247**  
**DEFINITION OF BURGLARY**  
*H.F. 2334*

**AN ACT** relating to the definition of burglary and attempted burglary.

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

Section 1. Section 702.12, Code 1983, is amended to read as follows:

702.12 OCCUPIED STRUCTURE. An "occupied structure" is any building, structure, appurtenances to buildings and structures, land, water or air vehicle, or similar place adapted for overnight accommodation of persons, or occupied by persons for the purpose of carrying on business or other activity therein, or for the storage or safekeeping of anything of value. Such a structure is an "occupied structure" whether or not a person is actually present. However, for purposes of chapter 713, a box, chest, safe, changer, or other object or device which is adapted or used for the deposit or storage of anything of value but which is too small or not designed to allow a person to physically enter or occupy it is not an "occupied structure".

Sec. 2. Section 713.1, Code 1983, is amended to read as follows:

713.1 BURGLARY DEFINED. Any person, having the intent to commit a felony, assault or theft therein, who, having no right, license or privilege to do so, enters an occupied structure ~~or area enclosed in such a manner as to provide a place for the keeping of valuable property secure from theft or criminal mischief~~, such occupied structure ~~or place~~ not being open to the public, or who remains therein after it is closed to the public or after the person's right, license or privilege to be there has expired, or any person having such intent who breaks an occupied structure ~~or other place where anything of value is kept~~, commits burglary.

Sec. 3. Section 713.2, Code 1983, is amended to read as follows:

713.2 ATTEMPTED BURGLARY DEFINED. Any person, having the intent to commit a felony, assault or theft therein, who, having no right, license, or privilege to do so, attempts to enter an occupied structure ~~or area enclosed in a manner to provide a place for the keeping of valuable property secure from theft or criminal mischief~~, the occupied structure ~~or place~~ not being open to the public, or who attempts to remain therein after it is closed to the public or after the person's right, license, or privilege to be there has expired, or any person having such intent who attempts to break an occupied structure ~~or other place where anything of value is kept~~, commits attempted burglary.

Approved May 10, 1984

**CHAPTER 1248**  
**PROTECTION OF ADVANCEMENTS**  
*S.F. 2301*

**AN ACT** relating to the protection of lienholders' and certificate holders' advancements.

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

Section 1. NEW SECTION. 572.33 REQUIREMENT OF NOTIFICATION. Notwithstanding any provision to the contrary, a claim by a person furnishing only materials to a subcontractor who is furnishing only materials shall not be entitled to a lien under this chapter unless the person furnishing materials had notified the principal contractor within thirty days of the furnishing of the materials and the lien claim is supported by a certified statement that the principal contractor had been notified within thirty days after the materials were furnished. This requirement is in addition to all other requirements of this chapter.

Sec. 2. Chapter 629, Code 1983, is amended by adding the following new section:

NEW SECTION. LIENHOLDER'S ADVANCEMENTS – ENFORCEMENT. When an advancement described in section 629.1 has been made by the holder of a junior or senior lien, the amount of that expenditure plus the interest on it shall be added to the amount of the lienholder's original lien and have the same priority as the original lien and the lienholder may recover the increased amount in any action brought for the foreclosure of the junior or senior lien referred to in the verified statement.

Sec. 3. Section 629.1, Code 1983, is amended to read as follows:

629.1 LIENHOLDER'S ADVANCEMENTS PROTECTED – AFFIDAVIT FILED. The holder of a sheriff's sale certificate or junior or senior lien upon ~~any~~ real estate after the payment of any delinquency of any taxes or special assessment, or of insurance premiums or money for necessary repairs, maintenance or preservation of the property, interest on ~~any~~ a senior lien, or any sum to cure a breach of any a condition of a senior encumbrance, upon payment by him, or performance of the condition broken, shall have a lien upon said real estate for such expenditures and interest thereon of equal priority with the lien so held by him upon his filing may file with the clerk of the district court in the county in which the land is situated, a verified statement of said the expenditures and the their dates thereof, together with a description of the real estate, the name of the record owner, and a reference to the lien which he holds, and may recover the same in any action brought for the foreclosure of the junior lien referred to in said verified statement interest of the record owner.

Approved May 10, 1984

**CHAPTER 1249**  
**COMPUTER CRIMES**

*S.F. 2247*

**AN ACT** relating to the crimes of unauthorized access, computer damage, and computer theft and providing penalties.

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

Section 1. NEW SECTION. 716A.1 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Access" means to instruct, communicate with, store data in, or retrieve data from a computer, computer system, or computer network.

2. "Computer" means an electronic device which performs logical, arithmetical, and memory functions by manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, computer software, and communication facilities which are connected or related to the computer in a computer system or computer network.

3. "Computer system" means related, connected or unconnected, computers or peripheral equipment.

4. "Computer network" means a set of related, remotely connected devices and communication facilities including two or more computers with capability to transmit data among them through communication facilities.

5. "Computer program" means an ordered set of instructions or statements that, when executed by a computer, causes the computer to process data.

6. "Computer software" means a set of computer programs, procedures, or associated documentation used in the operation of a computer.

7. "Data" means a representation of information, knowledge, facts, concepts or instructions that has been prepared or is being prepared in a formalized manner and has been processed, or is intended to be processed in a computer. Data may be in any form including, but not limited to, printouts, magnetic storage media, punched cards and as stored in the memory of a computer.

8. "Property" means anything of value as defined in section 702.14, including but not limited to computers and computer data, information, software, and programs.

9. "Services" means the use of a computer, computer system, or computer network and includes, but is not limited to, computer time, data processing, and storage functions.

10. "Loss of property" means the greatest of the following:

a. The retail value of the property involved.

b. The reasonable replacement or repair cost, whichever is less.

11. "Loss of services" means the reasonable value of the damage created by the unavailability or lack of utility of the property or services involved until repair or replacement can be effected.

Sec. 2. NEW SECTION. 716A.2 UNAUTHORIZED ACCESS. A person who knowingly and without authorization accesses a computer, computer system, or computer network commits a simple misdemeanor.

Sec. 3. **NEW SECTION. 716A.3 COMPUTER DAMAGE DEFINED.** A person commits computer damage when the person knowingly and without authorization damages or destroys a computer, computer system, computer network, computer software, computer program, or any other property as defined in section 716A.1, subsection 8, or knowingly and without authorization and with the intent to injure or defraud alters any computer, computer system, computer network, computer software, computer program, or any other property as defined in section 716A.1, subsection 8.

Sec. 4. **NEW SECTION. 716A.4 COMPUTER DAMAGE IN THE FIRST DEGREE.** Computer damage is computer damage in the first degree when the damage results in a loss of property or services of more than five thousand dollars. Computer damage in the first degree is a class "C" felony.

Sec. 5. **NEW SECTION. 716A.5 COMPUTER DAMAGE IN THE SECOND DEGREE.** Computer damage is computer damage in the second degree when the damage results in a loss of property or services of more than five hundred dollars but not more than five thousand dollars. Computer damage in the second degree is a class "D" felony.

Sec. 6. **NEW SECTION. 716A.6 COMPUTER DAMAGE IN THE THIRD DEGREE.** Computer damage is computer damage in the third degree when the damage results in a loss of property or services of more than one hundred dollars but not more than five hundred dollars. Computer damage in the third degree is an aggravated misdemeanor.

Sec. 7. **NEW SECTION. 716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.** Computer damage is computer damage in the fourth degree when the damage results in a loss of property or services of more than fifty dollars but not more than one hundred dollars. Computer damage in the fourth degree is a serious misdemeanor.

Sec. 8. **NEW SECTION. 716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.** Computer damage is computer damage in the fifth degree when the damage results in a loss of property or services of not more than fifty dollars. Computer damage in the fifth degree is a simple misdemeanor.

Sec. 9. **NEW SECTION. 716A.9 COMPUTER THEFT DEFINED.** A person commits computer theft when the person knowingly and without authorization accesses or causes to be accessed a computer, computer system, or computer network, or any part thereof, for the purpose of obtaining services, information or property or knowingly and without authorization and with the intent to permanently deprive the owner of possession, takes, transfers, conceals or retains possession of a computer, computer system, or computer network or any computer software or program, or data contained in a computer, computer system, or computer network.

Sec. 10. **NEW SECTION. 716A.10 COMPUTER THEFT IN THE FIRST DEGREE.** Computer theft is computer theft in the first degree when the theft involves or results in a loss of services or property of more than five thousand dollars. Computer theft in the first degree is a class "C" felony.

Sec. 11. **NEW SECTION. 716A.11 COMPUTER THEFT IN THE SECOND DEGREE.** Computer theft is computer theft in the second degree when the theft involves or results in a loss of services or property of more than five hundred dollars but not more than five thousand dollars. Computer theft in the second degree is a class "D" felony.

Sec. 12. **NEW SECTION. 716A.12 COMPUTER THEFT IN THE THIRD DEGREE.** Computer theft is computer theft in the third degree when the theft involves or results in a loss of services or property of more than one hundred dollars but not more than five hundred dollars. Computer theft in the third degree is an aggravated misdemeanor.

Sec. 13. NEW SECTION. 716A.13 COMPUTER THEFT IN THE FOURTH DEGREE. Computer theft is computer theft in the fourth degree when the theft involves or results in a loss of services or property of more than fifty dollars but not more than one hundred dollars. Computer theft in the fourth degree is a serious misdemeanor.

Sec. 14. NEW SECTION. 716A.14 COMPUTER THEFT IN THE FIFTH DEGREE. Computer theft is computer theft in the fifth degree when the theft involves or results in a loss of services or property of not more than fifty dollars. Computer theft in the fifth degree is a simple misdemeanor.

Sec. 15. NEW SECTION. 716A.15 CHAPTER NOT EXCLUSIVE. This chapter does not preclude the applicability of any other provision of the law of this state which is not inconsistent with this chapter and which applies or may apply to an act or transaction in violation of this chapter.

Sec. 16. NEW SECTION. 716A.16 PRINTOUTS ADMISSIBLE AS EVIDENCE. In a prosecution under this chapter, computer printouts shall be admitted as evidence of any computer software, program, or data contained in or taken from a computer, notwithstanding an applicable rule of evidence to the contrary.

Approved May 10, 1984

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## CHAPTER 1250

### PRISONER OF WAR LICENSE PLATES

*S.F. 347*

**AN ACT** providing for the issuance of special registration plates to former prisoners of war which contain the letters "POW" followed by three numerals at the regular registration fee.

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

Section 1. Section 321.34, subsection 8, Code Supplement 1983, is amended to read as follows:

8. **PRISONER OF WAR PLATES.** The owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck or pickup who was a prisoner of war during the second world war at any time between December 7, 1941 and December 31, 1946, the Korean conflict at any time between June 25, 1950 and January 31, 1955 or the Vietnam conflict at any time between August 5, 1964 and June 30, 1973, all dates inclusive, may upon written application to the department, order special registration plates designed by the department in co-operation with the adjutant general which plates signify that the applicant was a prisoner of war as defined in this subsection. Each applicant applying for special registration plates under this subsection may purchase only one set of registration plates under this subsection. The application shall be approved is subject to approval by the

department, in consultation with the adjutant general, and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The fee for the special plates shall be five dollars which shall be in addition contain the letters "POW" and three numerals and shall be subject to the regular an annual registration fee of fifteen dollars. The department shall validate the special plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee.

Sec. 2. This Act takes effect December 1 following enactment for registration fees payable on or after that date for vehicle registrations for the succeeding registration year.

Approved May 10, 1984

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## CHAPTER 1251

### OWNERSHIP OF JOINT TRANSMISSION FACILITIES

*S.F. 2257*

**AN ACT** relating to the ownership of joint transmission facilities.

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

Section 1. Section 390.1, subsection 10, Code 1983, is amended to read as follows:

10. "Own and ownership" "Own" and "ownership" in the case of transmission facilities, including substations and associated facilities, which are located in whole or in part in Iowa, may include the right to the use of an amount of the capacity thereof of the facilities, if the joint agreement so provides. "Own" and "ownership" in the case of transmission facilities, including substations and associated facilities, does not include those which are located in states which are not contiguous to Iowa.

Approved May 10, 1984



**CHAPTER 1252**  
**SEMITRAILER AS AN IMPLEMENT OF HUSBANDRY**  
*S.F. 2169*

**AN ACT** including vehicles used to transport agricultural products being pulled by a tractor as implements of husbandry.

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

Section 1. Section 321.1, subsection 16, Code Supplement 1983, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** c. Any semitrailer converted to a full trailer by the use of a dolly used by the owner in the conduct of the owner's agricultural operations to transport agricultural products being towed by a farm tractor provided the vehicle is operated in compliance with the following requirements:

(1) The towing unit is equipped with a braking device which can control the movement of and stop the vehicles. When the semitrailer is being towed at a speed of twenty miles per hour, the braking device shall be adequate to stop the vehicles within fifty feet from the point the brakes are applied. The semitrailer shall be equipped with brakes upon all wheels.

(2) The towing vehicle shall be equipped with a rear view mirror to permit the operator a view of the highway for a distance of at least two hundred feet to the rear.

(3) The semitrailer shall be equipped with a turn signal device which operates in conjunction with or separately from the rear taillight and shall be plainly visible from a distance of one hundred feet.

(4) The semitrailer shall be equipped with two flashing amber lights one on each side of the rear of the vehicle and be plainly visible for a distance of five hundred feet in normal sunlight or at night.

(5) The semitrailer shall be operated in compliance with sections 321.123 and 321.463.

Approved May 11, 1984

**CHAPTER 1253**  
**REGIONAL TRANSIT SYSTEMS**  
*S.F. 2342*

**AN ACT** relating to regional transit systems by defining the systems to include systems which receive state or federal funds, by providing motor fuel and special fuel tax exemptions for these systems, and by providing free registration plates and validation stickers for these systems.

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

Section 1. Section 321.19, subsection 1, Code Supplement 1983, is amended to read as follows:

1. All vehicles owned or leased for a period of sixty days or more by the government and used in the transaction of official business by the representatives of foreign governments or by officers, boards, or departments of the government of the United States, and by the state, counties, municipalities and other political subdivisions of the state including vehicles used by an urban transit company operated by a municipality, regional transit system, and self-propelling vehicles used neither for the conveyance of persons for hire, pleasure, or business nor for the transportation of freight other than those used by an urban transit company operated by a municipality, regional transit system, and all fire trucks, providing they are not owned and operated for a pecuniary profit, are exempted from the payment of the fees imposed by this chapter, except as provided for urban transit companies in subsection 2, but are not exempt from the penalties provided in this chapter. The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa highway safety patrol vehicles shall bear the word "official," and the department shall keep a separate record. Registration plates issued for Iowa highway safety patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate which registration number shall be the officer's badge number. Registration plates issued for a county sheriff's patrol vehicles shall display one seven pointed gold star on a green background followed by the letter "S" and the call number of the vehicle. However, the director of general services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law and persons enforcing chapter 204 and other laws relating to controlled substances. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit," the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information which may be required by the department. The in-transit card shall be valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Sec. 2. Section 321.19, subsection 2, unnumbered paragraph 2, Code Supplement 1983, is amended to read as follows:

Any person, firm, corporation, or company operating an urban transit system shall pay to the county treasurer annually as a registration fee for each bus, car, or vehicle used in the transportation of passengers, five dollars, which shall be paid into the city general fund. Any urban transit company operated by a municipality is not required to pay such registration fees. The ~~motor~~ vehicle department, in accordance with subsection 1, shall furnish distinguishing plates for vehicles used by urban transit companies operated by a municipality. No other provision of law providing for the payment of taxes, registration, or license fees for vehicles shall be applicable to any bus, car, or vehicle for the transportation of passengers owned and operated by any urban transit company.

Sec. 3. Section 321.19, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 3. "Regional transit system" means a public transit system serving one county or all or part of a multicounty area whose boundaries correspond to the same boundaries as those of the regional planning areas designated by the governor, except as agreed upon by the department. Each county board of supervisors within the region is responsible for determining the service and funding within its county. However, the administration and overhead support services for the overall regional transit system shall be consolidated into one existing or new agency to be mutually agreed upon by the participating members. Privately chartered bus services and uses other than providing services that are open and public on a shared ride basis shall not be construed to be a regional transit system.

Sec. 4. Section 321.22, Code 1983, is amended to read as follows:

321.22 URBAN AND REGIONAL TRANSIT EQUIPMENT PLATES.

1. An urban transit company or system having a franchise to operate in any city and any regional transit system may make application to the ~~motor~~ vehicle department, upon forms furnished by the department, for a certificate containing a distinguishing number and for one or more pairs of transit bus plates to be attached to the front and rear of buses owned or operated by the ~~urban~~ transit company or system.

2. The department shall issue to the applicant a certificate, or certificates, containing, but not limited to, the applicant's name and address, the distinguishing number assigned to the applicant, and such other information deemed necessary by the department for proper identification of the buses.

3. The department shall issue ~~urban~~ transit bus (license) plates as applied for, which shall have imprinted thereon the words "Urban Transit Bus," and the distinguishing number assigned to the applicant. The department shall issue the certificates and plates without fee.

4. Every ~~urban~~ transit bus plate issued ~~hereunder~~ shall expire at midnight on ~~the thirtieth day of June 30~~ of each year, and new plates or validation stickers for the ensuing year may be obtained upon proper application.

Sec. 5. Section 324.3, subsection 4, Code Supplement 1983, is amended to read as follows:

4. Motor fuel used in the operation of an Iowa urban transit system or regional transit system. Any fuel sold to an Iowa urban transit system or regional transit system which is used for any a purpose other than as specified in section 324.57, ~~subsection~~ subsections 9 and 11, ~~shall is not be~~ exempt from the tax.

Sec. 6. Section 324.35, unnumbered paragraphs 3 and 4, Code 1983, are amended to read as follows:

No tax is imposed under this division on special fuel used in the operation of an Iowa urban transit system or regional transit system, except that any special fuel sold to an Iowa urban transit system or regional transit system, which is used for any purpose other than as specified in section 324.57, ~~subsection~~ subsections 9 and 11, ~~shall is not be~~ exempt from the tax.

A tax shall not be imposed under this division and the provisions of sections 324.34, 324.36, and 324.38 shall are not be applicable if special fuel is sold to the state, any of its agencies, an Iowa urban transit system, regional transit system, or any political subdivision of the state when the special fuel is delivered into storage tanks, regardless of size, and all of the special fuel is used for public purposes.

Sec. 7. Section 324.57, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 11.** "Regional transit system" means a public transit system serving one county or all or part of a multicounty area whose boundaries correspond to the same boundaries as those of the regional planning areas designated by the governor, except as agreed upon by the department. Each county board of supervisors within the region is responsible for determining the service and funding within its county. However, the administration and overhead support services for the overall regional transit system shall be consolidated into one existing or new agency to be mutually agreed upon by the participating members. Privately chartered bus services and uses other than providing services that are open and public on a shared ride basis shall not be construed to be a regional transit system.

Sec. 8. Section 325.1, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 10.** "Regional transit system" means a public transit system serving one county or all or part of a multicounty area whose boundaries correspond to the same boundaries as those of the regional planning areas designated by the governor, except as agreed upon by the department. Each county board of supervisors within the region is responsible for determining the service and funding within its county. However, the administration and overhead support services for the overall regional transit system shall be consolidated into one existing or new agency to be mutually agreed upon by the participating members. Privately chartered bus services and uses other than providing services that are open and public on a shared ride basis shall not be construed to be a regional transit system.

Sec. 9. Section 325.6, subsection 3, Code 1983, is amended to read as follows:

3. A motor carrier regional transit system providing primarily passenger service for elderly, handicapped and other transportation of disadvantaged persons shall be as defined in section 601J.1 is exempt from certification requirements of this section if it satisfies each of the following requirements:

a. The motor carrier regional transit system is not a corporation organized for profit under the laws of Iowa or any other state or the motor carrier regional transit system is a governmental organization.

b. The motor carrier regional transit system receives any operating funds from federal, state or local government sources.

c. The motor carrier regional transit system does not duplicate a transportation service provided by a motor carrier regional transit system issued a certificate of convenience and necessity.

Each motor carrier regional transit system exempt under the provisions of this subsection shall obtain a permit from the department, which shall be nontransferable. Such carriers shall comply with all safety, insurance and other rules of the department pertaining to a publicly funded transit system.

Approved May 11, 1984

**CHAPTER 1254****TAXATION OF PHOTOGRAPHIC AND PRINTING SERVICES***H.F. 2503*

**AN ACT** relating to the taxation of engraving, photography, retouching, printing, and binding 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, Code Supplement 1983, is amended by adding after subsection 3 the following new subsection and renumbering the remaining subsections:

**NEW SUBSECTION.** There is imposed a like rate of tax upon the gross receipts from the sales of engraving, photography, retouching, printing, and binding services. For the purpose of this division, the sales of engraving, photography, retouching, printing, and binding services are sales of tangible property.

Sec. 2. Section 422.43, subsection 9, Code Supplement 1983, is amended to read as follows:

9. The following enumerated services are subject to the tax 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.

Sec. 3. Section 423.1, subsection 4, Code Supplement 1983, is amended to read as follows:

4. "Tangible personal property" means tangible goods, wares, merchandise, optional service or warranty contracts, engraving, photography, retouching, printing, or binding services, and gas, electricity, and water when furnished or delivered to consumers or users within this state.

Approved May 10, 1984

**CHAPTER 1255**  
**UNEMPLOYMENT COMPENSATION**

*H.F. 2433*

**AN ACT** amending Iowa's unemployment compensation law by limiting the waiver of certain requirements in job bumping situations, by treating educational employees similarly for purposes of denying benefits during certain regular academic recesses, by switching the burden of producing evidence back to the employee in certain cases, by modifying certain special contribution rate requirements both prospectively and retroactively, by authorizing recomputation of employer rates in certain overpayment cases, by crediting certain earned interest to the temporary emergency surcharge fund, and by providing for contribution refunds in overpayment cases.

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

Section 1. Section 96.4, subsection 3, Code Supplement 1983, is amended to read as follows:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. ~~The provision of this~~ This subsection shall be is waived if the individual is deemed temporarily unemployed as defined in section 96.19, subsection 9, paragraph "c" or. ~~The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "i".~~

Sec. 2. Section 96.4, subsection 5, Code Supplement 1983, is amended to read as follows:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, subsection 6, ~~shall be~~ are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an educational institution of higher education including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave, provided for in the individual's contract, if the individual has a contract or contracts to reasonable assurance that the individual will perform services in any such capacity for any educational institution or institutions of higher education for both such academic years or both such terms.

b. Benefits based on service in employment, defined in section ~~96.19, subsection 6, and based on service after December 31, 1977 in an instructional, research, or principal administrative~~ any other capacity for an educational institution operated by including service in

or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization, shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or terms, (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such the individual performs such the services in the first of such academic years or terms and if there is a contract or has reasonable assurance that such the individual will perform services in any such capacity for any educational institution the second of such academic years or terms, or during a period of paid sabbatical leave, provided for in the individual's contract, and. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform the services for an educational institution for the second of such academic years or terms, the individual is entitled to retroactive payments of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

c. With respect to services in any other capacity for an educational institution in any capacity under paragraph a or b, benefits shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or terms if the individual performs the services in the first of such academic years or terms and there is a reasonable assurance that the individual will perform such services in the second of such academic years or terms. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before such vacation period or holiday recess, and the individual has reasonable assurance that the individual will perform the services in the period immediately following such vacation period or holiday recess.

d. With respect to any services performed after July 1, 1977, in any capacity for an educational institution other than an institution of higher education, compensation payable on the basis of such services shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such service in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such service in the period immediately following such vacation period or holiday recess. For purposes of this subsection, "educational service agency" means a governmental agency or government entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

e. With respect to services performed after December 31, 1977, in an instructional, research, or principal administrative capacity in an institution of higher education, compensation payable on the basis of such services shall be denied to any individual for any week which

commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

Sec. 3. Section 96.6, subsection 2, Code Supplement 1983, is amended to read as follows:

2. INITIAL DETERMINATION. A representative designated by the director shall promptly notify all interested parties to the claim of the ~~its~~ filing thereof, and the parties shall have ten days from the date of mailing the notice of the filing of ~~said~~ the claim by ordinary mail to the last known address to protest payment of benefits to ~~said~~ the claimant. The representative shall promptly examine the claim and any protest thereto, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not ~~such~~ the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and ~~the its~~ maximum duration thereof, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5. However, the claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "i", and subsection 10. Unless the claimant or other interested party, after notification or within ten calendar days after ~~such~~ notification was mailed to the claimant's last known address, files an appeal from ~~such~~ the decision, ~~such~~ the decision shall be ~~is~~ final and benefits shall be paid or denied in accordance ~~therewith~~ with it. If a hearing officer affirms a decision of the representative, or the appeal board affirms a decision of the hearing officer, allowing benefits, ~~such~~ the benefits shall be paid regardless of any appeal which ~~may~~ is thereafter be taken, but if ~~such~~ the decision is finally reversed, no employer's account shall be charged with benefits so paid.

Sec. 4. Section 96.7, subsection 3, paragraph d, unnumbered paragraph 6, Code Supplement 1983, is amended to read as follows:

During any rate year in which a rate table in rate tables three through nine is effective an employer assigned a contribution rate under this lettered paragraph is not required to contribute to the unemployment compensation trust fund if the employer's percentage of excess is seven point five percent or greater for the rate year and the employer has not been charged with benefit payments for any time within the twenty-four calendar quarters immediately preceding the rate computation date for the rate year. If an employer is not required to contribute for a rate year to the trust fund under this unnumbered paragraph but would be required to contribute for the next rate year under this lettered paragraph, the employer's contribution rate for the next rate year is either the employer's experience rate computed under this lettered paragraph or one and eight-tenths percent, whichever is less. For subsequent years, either the employer is not required to contribute under this unnumbered paragraph or the employer's contribution rate is the employer's experience rate computed under this lettered paragraph.

Sec. 5. Section 96.7, subsection 3, paragraph d, unnumbered paragraph 7, Code Supplement 1983, is amended by striking the unnumbered paragraph.

Sec. 6. Section 96.7, subsection 3, paragraph e, unnumbered paragraph 2, Code Supplement 1983, is amended to read as follows:



If an employer's account is has been charged with benefits in a calendar quarter prior to the rate computation date as the result of a decision allowing benefits and the decision is reversed after the rate computation date, the employer may appeal, within thirty days from the date of the next contribution rate notice, for a recomputation of the rate. If a base period employer's account has been charged with benefits paid to an employee at a time when the employee was employed by the base period employer in the same employment as in the base period, the employer may appeal, within thirty days from the date of the first notice of the employer's contribution rate which is based on the charges, for a recomputation of the rate. The department shall remove the benefit charges from the rate computation, recompute the contribution rate, and notify the employer of the recomputed contribution rate.

Sec. 7. Section 96.7, subsection 15, unnumbered paragraph 2, Code 1983, is amended to read as follows:

A special fund to be known as the temporary emergency ~~tax~~ surcharge 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~~ surcharge 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. Interest earned upon moneys in the special fund shall be deposited in and credited to the special fund.

Sec. 8. Section 96.14, subsection 5, Code 1983, is amended to read as follows:

5. REFUNDS, COMPROMISES AND SETTLEMENTS. In any case in which ~~If the department finds that an employer has paid contributions or interest thereon on contributions, which have been erroneously paid or which have been paid solely due to benefits initially charged against but later removed from an employer's account, and who the employer has filed an application for adjustment thereof, the department shall make such an adjustment, compromise, or settlement, and make such, at the employer's option, shall either refund of erroneous the payments as it finds just and equitable in the premises or treat the payments as voluntary contributions with no limitation on the payments' effects on the employer's contribution rate.~~ Refunds so made shall be charged to the fund to which the ~~erroneous~~ collections have been credited, and shall be paid to the claimant without interest. ~~Any~~ A claim for ~~such~~ refund shall be made within three years from the date of payment. For like cause, adjustments, compromises or refunds may be made by the department on its own initiative. ~~In any case in which~~ If the department finds that the contribution that has been assessed against an employer is of doubtful collectibility or may not be collected in full, the department may institute a proceeding in the district court in the county in which the ~~enterprise employer~~ against which ~~such~~ the tax is levied is located, requesting authority to compromise ~~such~~ the contribution. Notice of the filing of ~~such~~ an application shall be given to the interested parties as the court may prescribe. The court upon ~~such~~ hearing shall ~~have power to~~ may authorize the department to compromise and settle its claim for ~~such~~ the contribution and shall fix the amount to be received by the department in full settlement of ~~such~~ the claim and shall authorize the release of the department's lien for ~~such~~ the contribution.

Sec. 9. PUBLICATION. This Act, being deemed of immediate importance, takes effect from and after its publication in The Sioux City Journal, a newspaper published in Sioux City, Iowa, and in the Waterloo Courier Record, a newspaper published in Waterloo, Iowa, and is retroactive to the extent provided in section 10 of this Act.

Sec. 10. EFFECTIVE DATES. Except as otherwise provided in this section, this Act takes effect July 1 following enactment.

1. Section 2 of this Act is retroactive to April 1, 1984 and applies to benefits paid for weeks beginning on or after April 1, 1984.

2. Notwithstanding the requirement in section 6 of this Act that the recomputation appeal be made within thirty days from the date of the next contribution rate notice, an employer may appeal for a recomputation of contribution rates for calendar year 1983 or 1984, or both, within thirty days from the date of the first contribution rate notice issued on or after the effective date of this Act.

Notwithstanding the requirement in section 6 of this Act that the recomputation appeal be made within thirty days from the date of the first contribution rate notice based on the charges, an employer may appeal for a recomputation of contribution rates for calendar year 1983 or 1984, or both, within thirty days from the date of the contribution rate notice issued for calendar year 1985.

3. Sections 4 and 5 of this Act are retroactive to April 1, 1984 and apply to contributions for calendar quarters beginning on or after April 1, 1984.

4. Section 8 of this Act applies to claims for the adjustment of contributions or interest on contributions paid within the three years immediately preceding the date of the claim for adjustment.

Approved May 10, 1984

Pursuant to the authority vested in the undersigned, Secretary of State of the State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1983, there being no newspaper by the name of the Waterloo Courier Record, published in Waterloo, Iowa, I hereby designate the Waterloo Courier Cedar Falls Record published in Waterloo, Iowa to publish the foregoing Act, House File 2433.

MARY JANE ODELL, *Secretary of State*

I hereby certify that the foregoing Act, House File 2433 was published in the Waterloo Courier Cedar Falls Record, Waterloo, Iowa on June 12, 1984 and in The Sioux City Journal, Sioux City, Iowa on June 12, 1984.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 1256****DEPARTMENT OF HUMAN SERVICES INSTITUTIONS PROJECTS***S.F. 465*

**AN ACT** relating to construction, repair, and improvement projects at institutions under the control of the department of human services.

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

**Section 1. NEW SECTION. 218.58 CONSTRUCTION, REPAIR, AND IMPROVEMENT PROJECTS—EMERGENCIES—RULES.**

1. The department shall prepare and submit to the state comptroller, as provided in section 8.23, a multiyear construction program including estimates of the expenditure requirements for the construction, repair, or improvement of buildings, grounds, or equipment at the institutions listed in section 218.1.

2. The commissioner shall have plans and specifications prepared for authorized construction, repair, or improvement projects costing over twenty-five thousand dollars. An appropriation for a project shall not be expended until the department has adopted plans and specifications and has completed a detailed estimate of the cost of the project, prepared under the supervision of a registered architect or registered professional engineer. Plans and specifications shall not be adopted and a project shall not proceed if the project would require an expenditure of money in excess of the appropriation.

The commissioner may employ a registered architect or registered professional engineer, and other technical staff necessary to complete authorized projects. The commissioner may secure consultant architectural or engineering services required to complete authorized projects.

3. The commissioner shall let all contracts under chapter 23 for authorized construction, repair, or improvement of departmental buildings, grounds, or equipment. The department may advertise in a newspaper published at the seat of government in lieu of advertising in a newspaper in the county in which a project is located.

4. If the commissioner determines that emergency repairs or improvements estimated to cost more than twenty-five thousand dollars are necessary to assure the continued operation of a departmental institution, the requirements of subsections 2 and 3 for preparation of plans and specifications and competitive procurement procedures are waived. The commissioner's determination of necessity for waiver shall be in writing and shall be entered in the project record for emergency repairs or improvements. Emergency repairs or improvements shall be accomplished using plans and specifications and competitive procurement procedures to the greatest extent possible, considering the necessity for rapid completion of the project. A waiver of the requirements of subsections 2 and 3 does not authorize an expenditure in excess of an amount otherwise authorized for the repair or improvement.

5. A claim for payment relating to a project shall be itemized on a voucher form pursuant to section 8.15, certified by the claimant and the architect or engineer in charge, and audited and approved by the department. Upon approval by the department, the voucher shall be forwarded to the state comptroller, who shall draw a warrant to be paid by the treasurer of state from funds appropriated for the project. A partial payment made before completion of the project does not constitute final acceptance of the work or a waiver of any defect in the work.

6. Subject to the prior approval of the director in control of a departmental institution, minor projects costing five thousand dollars or less may be authorized and completed by the executive head of the institution through the use of day labor. A contract is not required if a minor project is to be completed with the use of inmate labor.

7. The department shall adopt rules pursuant to chapter 17A for construction, repair, and improvement projects, relating to programming and design, the bidding and letting of contracts, procurement and construction management operations, consultant services, and emergency repairs and improvements.

Sec. 2. Sections 218.59, 218.60, 218.62, and 218.63, Code 1983, are repealed. Sections 218.58, 218.61, and 218.64, Code Supplement 1983, are repealed.

Approved May 11, 1984

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## CHAPTER 1257

### MISSOURI RIVER BARGE COMPACT

*S.F. 2273*

**AN ACT** to ratify and enter into an interstate compact between Iowa, Kansas, Missouri, and Nebraska for the development of the Missouri river for barge traffic.

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

Section 1. **NEW SECTION. 307C.1 MISSOURI RIVER BARGE COMPACT.** The Missouri river interstate barge compact is enacted into law and entered into with all other states which legally join in the compact in substantially the following form:

**COMPACT BETWEEN IOWA, KANSAS, MISSOURI AND NEBRASKA  
FOR THE DEVELOPMENT OF THE MISSOURI RIVER FOR BARGE TRAFFIC**

**ARTICLE I**

The purposes of this compact are to provide for planning for the most efficient use of the waters of the Missouri river, to increase the amount of barge traffic on that segment of the Missouri river below Sioux City, Iowa, to take necessary steps to develop the Missouri river and its banks to handle more barge traffic than is presently handled, to encourage barge use on that segment of the Missouri river for transporting bulk goods, especially farm commodities, to insure that the intended increase in barge traffic does not impose unacceptable damage on the Missouri river in all its various uses, including agriculture, wildlife management, and recreational opportunities, to consider the effects of diversion of the waters of the

Missouri river on navigation, and to promote joint action between the compact parties to accomplish these purposes. The purposes of the compact do not include lobbying activities against user fees for barge traffic and such activities under this compact are prohibited.

#### ARTICLE II

It is the responsibility of the four states to accomplish the purposes in Article I through the official in each state charged with the duty of administering the public waters and to collect and correlate through those officials the data necessary for the proper administration of the compact. Those officials may, by unanimous action, adopt rules and regulations to accomplish the purposes of this compact.

#### ARTICLE III

The states of Iowa, Missouri, Kansas, and Nebraska agree that within a reasonable time they shall fulfill the obligations of this compact and that each shall authorize the proper official or agency in its state to take the necessary steps to promote barge use and develop the Missouri river as it flows between and within the compact states for additional barge traffic.

#### ARTICLE IV

This compact does not limit the powers granted in any other act to enter into interstate or other agreements relating to the Missouri river flowing between and within the compact states, alter the relations between the respective internal responsibilities of the government of a party state and its subdivisions, or impair or affect any rights, powers, or jurisdiction of the United States, or those acting by or under its authority, in, over, and to those waters of the Missouri river. Adoption of this compact by the general assembly shall not require the signatory states to adopt any legislation or to appropriate funds for its implementation.

#### ARTICLE V

Other states having an interest in the promotion of barge traffic on the Missouri river can join in this compact by unanimous consent of the member states.

Any member state can withdraw at any time by appropriate action of its legislature.

Sec. 2. NEW SECTION. 307C.2 JURISDICTION AND CONTROL. The state department of transportation has jurisdiction and authority to implement the Missouri river barge compact.

Sec. 3. NEW SECTION. 307C.3 DUTIES OF THE STATE DEPARTMENT OF TRANSPORTATION. The state department of transportation shall, with the cooperation of the Iowa development commission, the state conservation commission, the department of water, air and waste management, and the member states' officials or agencies, take the necessary steps to achieve the purposes set forth in this chapter.

Sec. 4. NEW SECTION. 307C.4 LIBERAL INTERPRETATION. This compact shall be liberally construed so as to effectuate its purposes. The compact is severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability of the compact to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability of it to any government, agency, person or circumstance shall not be affected. If this compact is held to be contrary to the constitution of any state participating in the compact, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Sec. 5. NEW SECTION. 307C.5 NO CONFLICT OF LOCAL FUNCTIONS. The Missouri river barge compact does not supersede or limit the functions, powers, duties and discretions of counties, townships, school districts, cities, levee districts, drainage districts, levee and drainage districts, or any other governmental subdivisions or of their governing officials.

Approved May 11, 1984

**CHAPTER 1258**  
**DOMESTIC ABUSE PROCEDURE FOR PEACE OFFICERS**  
*H.F. 2164*

**AN ACT** relating to the duties and responsibilities of a peace officer to a victim of domestic abuse, providing a penalty and requiring the department of public safety to submit a proposal to the general assembly by January 15, 1985 for the collection of domestic violence data and statistics to be disseminated to the department of human services.

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

Section 1. Chapter 236, Code 1983, is amended by adding the following new section:

**NEW SECTION. 236.12 PREVENTION OF FURTHER ABUSE—NOTIFICATION OF RIGHTS—PENALTY FOR VIOLATION OF POLICE ORDER.**

1. If a peace officer has reason to believe that domestic abuse has occurred, the officer shall use all reasonable means to prevent further abuse including but not limited to the following:

a. If requested, remaining on the scene as long as there is a danger to an abused person's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain on the scene, assisting the person in leaving the residence.

b. Assisting an abused person in obtaining medical treatment necessitated by an assault, including providing assistance to the abused person in obtaining transportation to the emergency room of the nearest hospital.

c. Providing an abused person with immediate and adequate notice of the person's rights. The notice shall consist of handing the person a copy of the following statement written in English and Spanish, asking the person to read the card and whether the person understands the rights:

"You have the right to ask the court for the following help on a temporary basis:

- (1) Keeping your attacker away from you, your home and your place of work.
- (2) The right to stay at your home without interference from your attacker.
- (3) Getting custody of children and obtaining support for yourself and your minor children if your attacker is legally required to provide such support.
- (4) Professional counseling.

You have the right to file criminal charges for threats, assaults, or other related crimes.

You have the right to seek restitution against your attacker for harm to yourself or your property.

If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected parties can leave or until safety is otherwise ensured."

The notice shall also contain the telephone numbers of safe shelters, support groups, or crisis lines operating in the area.

2. A peace officer may, with or without a warrant, take any or all of the following courses of action if the officer has reasonable grounds to believe that there was recent physical domestic abuse inflicted on a person:

a. The officer may make reasonable inquiry of the person upon whom the officer believes the harm has been inflicted and of any witnesses, to ascertain whether there is probable danger of further physical domestic abuse being inflicted on the injured person.

b. If the officer has reasonable grounds to believe that there is a probable danger, the officer may lawfully order the abusing party to leave the premises for a cooling-off period of up to twelve hours.

c. If the abusing party refuses to comply with the order to leave or returns to the premises before the expiration of time ordered by the peace officer, the officer may place the abuser under arrest.

The person refusing to comply with the lawful order of a peace officer under this subsection commits a violation of, and is subject to, the provisions of section 719.1.

3. A peace officer is not civilly or criminally liable for actions pursuant to this section taken in good faith.

Sec. 2. The department of public safety shall study and recommend to the general assembly by January 15, 1985 a proposal to provide for the collection of domestic violence data and statistics, through the use of the uniform crime report or a similiary reporting system, and for the dissemination of the data and statistics to the department of human services. The report of the study and recommendations shall include a summary of the data and statistical collection systems instituted by other states or private agencies within the state, specific proposals for funding, the requirements sufficient to insure the confidentiality of data and statistics and other priorities and requirements of any proposed system.

Approved May 11, 1984

**CHAPTER 1259**  
**LIABILITIES OF STATE EMPLOYEES**  
*S.F. 2271*

**AN ACT** relating to the criminal and civil liability of state employees by modifying the definition of "claim" under the state tort claims Act, modifying the requirements of representation of, indemnification for, and restitution from state employees, providing for representation of department of public safety members and reimbursement of defense costs for peace officers in criminal actions and providing for the designation of department members as department administrative hearing officers.

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

Section 1. Section 25A.2, subsection 5, paragraph b, Code Supplement 1983, is amended to read as follows:

b. Any claim against an employee of the state for money only, on account of damage to or loss of property or on account of personal injury or death, caused by the negligent or wrongful act or omission, ~~except an act of malfeasance in office or willful and wanton conduct,~~ of any employee of the state while acting within the scope of ~~his~~ the employee's office or employment.

Sec. 2. Section 25A.21, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**25A.21 EMPLOYEES DEFENDED AND INDEMNIFIED.** The state shall defend any employee, and shall indemnify and hold harmless an employee against any claim as defined in section 25A.2, subsection 5, paragraph b, including claims arising under the constitution, statutes or rules of the United States or of any state. The duty to indemnify and hold harmless shall not apply and the state shall be entitled to restitution from an employee if, in an action commenced by the state against the employee, it is determined that the conduct of the employee upon which a tort claim or demand was based constituted a willful and wanton act or omission or malfeasance in office.

Sec. 3. Section 25A.22, Code 1983, is amended to read as follows:

**25A.22 ACTIONS IN FEDERAL COURT.** The state shall defend, any employee, and shall indemnify and hold harmless an employee of the state in any action commenced in federal court under section 1983, Title 42, United States Code, against the employee for acts of the employee while acting in the scope of employment. ~~If the acts or omissions of the employee, upon which the action is based, are within the exceptions to claim as defined in section 25A.2, subsection 5, paragraph "b", the state shall not indemnify or hold harmless the employee. The duty to indemnify and hold harmless shall not apply and the state shall be entitled to restitution from an employee if, in an action commenced by the state against the employee, it is determined that the conduct of the employee upon which the claim or demand was based constituted a willful and wanton act or omission or malfeasance in office.~~

Sec. 4. **NEW SECTION. EMPLOYEES.** Employees of the state are not personally liable for any claim which is exempted under section 25A.14.



Sec. 5. Chapter 80, Code 1983, is amended by adding the following new section:

**NEW SECTION. REIMBURSEMENT OF DEFENSE COSTS.** If a peace officer employed in any division of the department is charged with the alleged commission of public offense, based on acts or omissions within the scope of the officer's lawful duty or authority, and the charge is dismissed or the officer is acquitted of the charge, the presiding magistrate or judge shall enter judgment awarding reimbursement to the officer for any costs incurred in defending against the charge, including but not limited to a reasonable attorney fee, if the court finds the existence of any of the following grounds:

1. The charge was without probable cause.
2. The charge was filed for malicious purposes.
3. The charge was unwarranted in consideration of all of the circumstances and matters of law attending the alleged offense.

The officer may apply for review of a failure or refusal to rule or an adverse ruling as to the existence of any of the above grounds. The application shall be to a district judge if the officer is seeking review of the act of a magistrate or district associate judge and it shall be to a different district judge if review is sought of an act of a district judge.

Approved May 17, 1984

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## CHAPTER 1260

### FISH AND GAME LICENSES AND PERMITS

*H.F. 406*

**AN ACT** relating to the issuing of licenses and permits for the purpose of taking wild mammals, fish, birds, amphibians, and reptiles.

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

Section 1. Section 109.38, subsection 2, Code 1983, is amended to read as follows:

2. If following an investigation the commission finds that the number of hunters licensed to take deer or wild turkey should be limited or further regulated, the commission shall conduct a drawing to determine which applicants shall receive a license. Applications for licenses shall be received and accepted during a ~~thirty-day~~ forty-five day period established by the commission. At the end of such period the drawing shall be conducted. If the quota has not been filled, licenses shall then be issued in the order in which such applications are received and shall continue to be issued until such quota has been met or until a date fifteen days prior to the opening day of the season, whichever first occurs. If an applicant receives a deer license which is more restrictive than licenses issued to others for the same period and place, the applicant shall receive a certificate with his or her license entitling the applicant to priority in the drawing for the less restrictive deer licenses the following year. The certificate must accompany that person's application the following year, or the applicant will not receive this

priority. Persons purchasing a deer license for the gun season as provided under this section and under section 110.1 shall not be eligible for a deer-hunting license under the provisions of section 110.24. This subsection shall not apply to the hunting of wild turkey on game breeding and shooting preserves licensed under chapter 110A.

Sec. 2. Section 110.1, subsections 1 through 4, Code 1983, are amended to read as follows:

1. Fishing licenses:	
a. Legal residents except as otherwise provided	\$ 6.00
	<u>8.50</u>
b. <del>Legal residents permanently disabled or sixty-five years of age or older</del>	\$ 1.25
e b. Lifetime license for legal residents permanently disabled or sixty-five years of age or older	\$ 6.00
	<u>8.50</u>
d c. Nonresident license	\$ 12.00
	<u>15.50</u>
e d. Three-day license for resident <del>or non-resident</del>	\$ 3.00
	<u>4.50</u>
e. Three-day license for nonresident	\$ 5.50
f. Special trout license <u>Trout stamp</u>	\$ 5.00
	<u>8.00</u>
2. Hunting licenses:	
a. Legal residents except as otherwise provided	\$ 6.00
	<u>8.50</u>
b. <del>Legal residents permanently disabled or sixty-five years of age or older</del>	\$ 1.25
e. Lifetime license for legal residents permanently disabled or sixty-five years of age or older	\$ 6.00
d b. Deer hunting license for residents	\$ 15.00
	<u>20.00</u>
e c. Wild turkey hunting license for residents	\$ 15.00
	<u>20.00</u>
f d. Nonresidents hunting license	\$ 35.00
	<u>47.50</u>
g. Nonresidents raccoon stamp and tags	\$ 100.00
h. Nonresidents pheasant stamp	\$ 5.00
3. Hunting and fishing combined licenses:	
a. Legal residents except as otherwise provided	\$ 11.00
	<u>15.50</u>
b. <del>Legal residents permanently disabled or sixty-five years of age or older</del>	\$ 2.50
e b. Lifetime license for residents permanently disabled or sixty-five years of age or older	\$ 8.00
	<u>15.50</u>
4. <u>Trapping Fur harvesters, dealers and game breeders licenses:</u>	
a. <u>Trapping Fur harvester</u> license for legal residents sixteen years of age or older	\$ 10.00
	<u>15.50</u>

b. <u>Trapping Fur harvester license for legal residents under sixteen years of age</u> .....	\$ 1.00
	<u>2.50</u>
c. <u>Trapping Fur harvester license for nonresidents</u> .....	\$ 100.00
	150.50
d. Fur dealers license for residents .....	\$ <del>150.00</del>
	200.00
e. Fur dealers license for nonresidents .....	\$ <del>300.00</del>
	<u>400.00</u>
f. Game breeder's license .....	\$ 10.00

Sec. 3. Section 110.3, Code 1983, is amended to read as follows:

110.3 WILDLIFE HABITAT STAMP. A resident or nonresident person required to have a hunting or trapping fur harvester license shall not hunt or trap unless he or she has on his or her person a valid wildlife habitat stamp signed in ink with his or her signature across the face of the stamp. This section shall not apply to residents who are permanently disabled or who are younger than sixteen or older than sixty-five years of age. Special wildlife habitat stamps shall be administered in the same manner as hunting and trapping fur harvester licenses except all revenue derived from the sale of the wildlife habitat stamps shall be used within the state of Iowa for habitat development and shall be deposited in the state fish and game protection fund. The revenue may be used for the matching of federal funds. The revenues and any matched federal funds shall be used for acquisition of land, leasing of land or obtaining of easements from willing sellers for use as wildlife habitats. Notwithstanding the exemption provided by section 427.1, any land acquired with the revenues and matched federal funds shall be subject to the full consolidated levy of property taxes which shall be paid from those revenues. In addition such revenue may be used for the development and enhancement of wildlife lands and habitat areas. Not less than fifty percent of all revenue from the sale of wildlife habitat stamps shall be used by the commission to enter into agreements with county conservation boards or other public agencies in order to carry out the purposes of this section. The state share of funding of those agreements provided by the revenue from the sale of wildlife habitat stamps shall not exceed seventy-five percent.

Sec. 4. Section 110.4, Code 1983, is amended to read as follows:

110.4 PERMANENTLY DISABLED DEFINED. For the purpose of obtaining a license, a person is permanently disabled if that any of the following apply:

1. The person has been found under the provisions of the federal Social Security Act, title II, or any other public or private pension system to have a total, permanent physical or mental condition which prevents that person from engaging in his or her occupation or qualifies that person for retirement.

2. The person is physically severely handicapped and has qualified for a special license under section 110.24.

Sec. 5. Section 110.10, Code 1983, is amended to read as follows:

110.10 ISSUANCE OF LICENSE. All licenses other than hunting, fishing, and trapping fur harvester licenses, shall be issued by the director upon application to the departmental office at Des Moines. Hunting, fishing, and trapping fur harvester licenses shall be issued by the recorder of each county. The licenses shall show the cost of the license and issuing fee.

Sec. 6. Section 110.11, Code 1983, is amended to read as follows:

110.11 DEPOSITARIES — BOND. The county recorder may designate various depositaries for the sale of such licenses other than the office of the county recorder. The director may designate depositaries other than those designated by the recorders of the various counties but in so doing the interest of the state shall be fully protected either by a sufficient cash deposit or a satisfactory bond. ~~Depositaries designated by the county recorder or the director may have the privilege of charging an additional twenty-five cents for each license to be retained for the service rendered in issuing the license.~~

Sec. 7. Section 110.12, unnumbered paragraph 2, Code Supplement 1983, is amended by striking the paragraph and inserting in lieu thereof the following:

Depositaries designated by the county recorder or the director shall retain twenty-five cents from the sale of each license for the service rendered in issuing the license. The county recorder shall retain a writing fee of fifty cents from the sale of each license sold by the county recorder's office and a writing fee of twenty-five cents from the sale of each license sold by a depositary designated by the county recorder. The writing fees retained by the county recorder shall be deposited in the general fund of the county. A depositary and county recorder shall not retain any amount from the sale of trout stamps, habitat stamps, and waterfowl stamps.

Sec. 8. Section 110.17, Code 1983, is amended to read as follows:

110.17 TENURE OF LICENSE. Every license, except lifetime hunting and fishing licenses and falconry licenses, shall ~~expire on December 31 following its issuance~~ be valid from the date issued to January 10 of the succeeding calendar year for which it is issued. A license shall not be issued prior to December 15 for the subsequent calendar year.

Sec. 9. Section 110.18, Code 1983, is amended to read as follows:

110.18 FORM OF LICENSE. All hunting, fishing, and ~~trapping fur harvester~~ licenses shall contain a general description of the licensee. Such licenses shall be upon such forms as the commission shall adopt. The address and the signature of the applicant and all signatures and other writing shall be in ink. All licenses shall clearly indicate the nature of the privilege granted.

Sec. 10. Section 110.24, unnumbered paragraphs 2, 3, 4, 5, and 6, Code Supplement 1983, are amended to read as follows:

Upon written application to the state conservation commission, one of the following persons shall be issued a deer or a wild turkey hunting license:

1. The owner of a farm unit; or
2. One member of the family of the farm owner; or
3. The tenant residing on the farm unit; or
4. One member of the family of the tenant, who resides on the farm unit.

The deer or wild turkey hunting permit shall be valid only for hunting on the farm unit upon which the licensee to whom it is issued resides.

The application required ~~herein~~ for the deer or wild turkey hunting license shall be on forms furnished by the conservation commission and shall be without fee.

Deer or wild turkey hunting licenses issued under this section shall be subject to all other provisions of the laws and regulations pertaining to the taking of deer and wild turkey.

~~No~~ A resident of the state under sixteen years of age or a nonresident of the state under fourteen years of age shall be is not required to have a license to fish in the waters of the state. However, residents under sixteen years of age and nonresidents under fourteen years of age must possess a valid trout stamp to possess trout or they must fish for trout with a licensed adult who possesses a valid trout stamp and limit their combined catch to the daily limit established by the commission.

Sec. 11. Section 110.26, Code 1983, is amended to read as follows:

110.26 **NONRESIDENT MAKING FALSE CLAIM.** A nonresident shall not obtain a resident license by falsely claiming residency in the state. The presumptions and provisions of section 321.1A, Code Supplement 1983, relating to residency shall apply to licenses under this chapter. 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.

Sec. 12. Chapter 110, Code 1983, is amended by adding the following new section:

**NEW SECTION. FUR HARVESTER LICENSE.** A fur harvester license is required to hunt all furbearers, except coyote and groundhog and to trap any fur-bearing animal. A hunting license is not required when hunting furbearers, except coyote and groundhog, with a fur harvester's license.

Sec. 13. A trapping license valid on the effective date of this Act shall remain valid until it expires under the provisions of the 1983 Code.

Sec. 14. This Act takes effect December 15 following enactment.

Sec. 15. Sections 110.7, and 110.38, Code 1983, are repealed.

Approved May 11, 1984

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**CHAPTER 1261**  
**PROTECTED WATER AREA SYSTEM**  
*H.F. 446*

**AN ACT** providing for the creation, management, and administration of a protected water area system in this state.

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

Section 1. Chapter 108A, Code 1983, is repealed and sections 2 and 4 through 18 of this Act are inserted in lieu thereof.

Sec. 2. **NEW SECTION. DEFINITIONS.** As used in this chapter, unless the context otherwise requires:

1. "Commission" means the state conservation commission.
2. "State plan" means a long-range comprehensive document that states the goals and objectives of the protected water area system, establishes the procedure and criteria for prospective protected water area designation, provides the format for prospective area analysis, establishes a priority system for prospective area study, recommends potential areas for inclusion into the system, institutes interagency coordination, and outlines general administrative and management needs to develop and administer this system.
3. "Management plan" means the document that states the goals and objectives of a specific protected water area which has been proposed for designation, the specific description of the

area to be protected, land use agreements with property owners, the specific management programming considerations for the area, the in-depth project evaluations, analysis, justifications, and cost estimates, the proposed acquisition of fee title and conservation easements and other agreements, and the specific design and layout of facilities.

4. "Water area" means a river, lake, wetland, or other body of water and adjacent lands where the use of those lands affects the integrity of the water resource.

5. "Prospective protected water area" means a water area designated by the commission for which an in-depth study for permanent designation as an element of the protected water area system is conducted. Such areas shall possess outstanding cultural and natural resource values such as water conservation, scenic, fish, wetland, forest, prairie, mineral, geological, historic, archaeological, recreation, education, water quality, or flood protection values.

6. "Protected water area" means a water area permanently designated by the commission for inclusion in the protected water area system.

7. "Protected water area system" means a total comprehensive program that includes the goals and objectives, the state plan, the individual management plans, the prospective protected water areas, the protected water areas, the acquisition of fee title and conservation easements and other agreements, and the administration and management of such areas.

8. "Legislature" means the Iowa general assembly.

9. "Conservation easement" means an easement as defined in section 111D.2.

Sec. 3. **PURPOSE OF THE PROTECTED WATER AREA SYSTEM.** The legislature declares that it is in the best interest of the state to maintain, preserve, and conserve water areas to help assure the protection of the soil, water, forest, prairie, fish, wildlife, geological, recreation, and archaeological resources of the state for the economic and social well-being of the state and its citizens. The legislature declares that water area habitat maintained in a healthy condition is a legitimate land use that contributes to erosion control, improves water quality, and stabilizes streamflows. The legislature further declares that it is in the public interest to prevent the forced conversion of water area environments to more intensive uses as a result of economic pressures caused by the assessment of those lands for purposes of property taxation at values incompatible with their protection as water areas or by any other economic-related conditions or circumstances.

Sec. 4. **NEW SECTION. STATE PLAN.** The commission shall maintain a state plan for the design and establishment of an administrative framework of a protected water area system and those adjacent lands needed to protect the integrity of that system.

Sec. 5. **NEW SECTION. NOMINATION OF PROSPECTIVE PROTECTED WATER AREAS.** After basic resource and user data are gathered by or provided to the commission and the commission deems an area has merit for inclusion into a protected water area system, it may nominate the area for prospective protected water area designation. Other public agencies, interest groups, or citizens, may also recommend nomination of water areas for consideration of inclusion into the protected water area system by submitting to the commission a statement which includes at minimum a general description of the area being recommended for nomination, the resources needing protection, and the benefits to be derived from protecting the resources and a list of the individuals, organizations, and public agencies supporting the nomination.

Sec. 6. **NEW SECTION. PROSPECTIVE DESIGNATION.** The commission may designate all or part of any water area having any or all of the resource values cited in section 2, subsection 5, of this Act as a prospective protected water area. The prospective designation shall be in effect for a period not to exceed two years during which a management plan is

prepared for the protection and enhancement of those values cited in section 2, subsection 5, of this Act.

Sec. 7. **NEW SECTION. PROSPECTIVE DESIGNATION PUBLIC HEARING.** After the nomination of prospective protected water areas by the commission and prior to the designation as a prospective protected water area, the commission shall conduct a public hearing in the vicinity of the water area. Notice of the hearing shall be published at least twice, not less than seven days prior to the hearing, in a newspaper having general circulation in each county in which the proposed water area is located.

Sec. 8. **NEW SECTION. MANAGEMENT PLAN.** The commission shall prepare and maintain a management plan containing the recommendations for the establishment, development, management, use, and administration of each prospective protected water area designated by the commission. The management plan shall be completed during the two-year prospective designation period.

Sec. 9. **NEW SECTION. PUBLIC HEARING.** The commission will hold a final public hearing on the completed management plan in the vicinity of the water area at least thirty days before permanent designation by the commission. Notice of the hearing shall be published at least twice, not less than seven days prior to the hearing, in a newspaper having general circulation in each county in which the water area is located.

Sec. 10. **NEW SECTION. DESIGNATION.** The commission may adopt the management plan and may permanently designate the area into the protected water area system. Upon the commission adopting the management plan and permanently designating the area as a protected water area, the commission may submit the management plan to the legislature for funding consideration.

Sec. 11. **NEW SECTION. PROTECTION METHODS.** The commission may use any one or a combination of the available methods, except condemnation, for managing and preserving a protected water area, including but not limited to fee and less than fee title acquisition techniques, such as easements, leasing agreements, covenants, and existing tax incentive programs.

Sec. 12. **NEW SECTION. LANDOWNER COOPERATION.** Recognizing that most of the protected water areas may be within privately-owned lands, the legislature encourages the commission to cooperate with the landowners within the designated areas in achieving the purposes of this chapter. Likewise, the landowners within the designated areas are encouraged to cooperate with the commission. Commission staff shall meet separately or in small groups with landowners within interim protected water areas during the preparation of the master plan to establish workable and acceptable agreements for the protection of the area and its accompanying resources in a manner consistent with the purposes of this chapter and the interest and concerns of the landowner.

Sec. 13. **NEW SECTION. JUDICIAL REVIEW.** Judicial review of action of the commission may be sought 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.

Sec. 14. **NEW SECTION. LOCAL TAX REIMBURSEMENT.** The state of Iowa shall reimburse from the general fund of the state any political subdivision the amount of tax moneys lost due to any lower assessments of property resulting from lease agreements, and the acquisition of public lands and conservation easements stemming from designation of a protected water area.

Sec. 15. NEW SECTION. INTERAGENCY COOPERATION. All state and local agencies shall cooperate with the commission and coordinate their authorities, responsibilities, and program administration in a manner which will aid in the integrity of the protected water area system as outlined in the state plan, individual management plans, and commission administrative rules.

Sec. 16. NEW SECTION. MANAGEMENT COOPERATION WITH LOCAL GOVERNMENT SUBDIVISIONS. The commission may enter into written cooperative agreements with county board of supervisors, county conservation boards, and municipal public agencies, for the management of a protected water area.

Sec. 17. NEW SECTION. PART OF A NATIONAL SYSTEM. This chapter does not preclude a component of the protected water area system from being a part of the national wild and scenic river system under the federal Wild and Scenic Rivers Act, 16 U.S.C., secs. 1271 through 1287. The commission may enter into written cooperative agreement for joint federal-state administration of rivers which may be designated under that federal Act.

Sec. 18. NEW SECTION. DEPARTMENTAL RULES. The commission shall adopt under chapter 17A and enforce the administrative rules it deems necessary to carry out this chapter.

Approved May 11, 1984

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## CHAPTER 1262

### PUBLIC OUTDOOR RECREATION AND RESOURCES PROGRAM

*H.F. 2401*

**AN ACT** relating to the creation of a public outdoor recreation and resources program, an advisory council, and a county conservation board fund.

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

Section 1. NEW SECTION. 111.79 PUBLIC OUTDOOR RECREATION AND RESOURCES FUND.

1. Fifty percent of the funds credited to the public outdoor recreation and resources fund shall be expended on land acquisition and capital improvements in carrying out the provisions of this chapter. Acquisition projects, both fee-simple and less-than-fee, from willing sellers, may be for purposes of establishment or expansion of state parks, public hunting areas, natural areas, public fishing areas, water access sites, trail corridors, and other acquisition projects that are in accord with this chapter. Notwithstanding the exemption provided by section 427.1, land acquired under this subsection is subject to the full consolidated levy of property taxes which shall be paid from revenues available to be expended under this subsection. Capital improvements may be either new developments or rehabilitative in



nature. Lake and watershed restoration projects are eligible for funding under this subsection. Not more than fifty percent of the revenues available to be expended under this subsection may be used by the commission to enter into agreements with county conservation boards and county boards of supervisors in those counties without conservation boards to carry out the purposes of this subsection. The agreement shall not provide for the payment by the commission of more than seventy-five percent of the cost of the project and the agreement shall specify that the county conservation board or county board of supervisors, whichever is applicable, shall provide funds for the remaining cost of the project covered by the agreement. Revenues available to be expended under this subsection may be used for the matching of federal funds.

2. Forty-five percent of the funds credited to the public outdoor recreation and resources fund shall be expended on the state recreation tourism grant program. This program shall provide matching grants to cities and unincorporated communities for purposes of developing or improving recreational projects or tourist attractions. A city or unincorporated community may submit an application to the conservation commission for a matching grant, except that an unincorporated community shall submit the application through the county board of supervisors. Applications shall be reviewed by the advisory council for the public outdoor recreation and resources fund. The advisory council shall submit recommendations to the conservation commission regarding possible recipients and grant amounts. Grants made to an unincorporated community shall be paid to the county board of supervisors to be used for the project of the unincorporated community. The amount of the grant shall not exceed fifty percent of the cost of the development or improvement to be made and the application must demonstrate that the city or unincorporated community will provide the required matching funds.

3. Five percent of the funds credited to the public outdoor recreation and resources fund shall be expended on advertising which shall promote the use of recreational facilities and tourist attractions in the state. The commission shall enter into an agreement with the Iowa development commission for the expenditure of these funds for this purpose.

**Sec. 2. NEW SECTION. 111.80 PUBLIC OUTDOOR RECREATION AND RESOURCES ADVISORY COUNCIL.**

1. An advisory council for the public outdoor recreation and resources fund is created. The council shall consist of a public member appointed by the governor from each congressional district, the chairperson of the state conservation commission, the director of the state conservation commission, and a designee of the state development commission. No more than three public members shall belong to the same political party. The council shall elect a chairperson annually from among their own members, and the director of the conservation commission shall serve as council secretary. Persons already serving in an elected or appointed governmental capacity are not eligible to serve as council members.

2. The advisory council shall meet annually, in July, and upon the call of the chairperson of the advisory council. The advisory council shall make policy recommendations to the conservation commission regarding the projects and programs to be funded from the public outdoor recreation and resources fund.

3. Each county conservation board of those counties which are located in a congressional district shall nominate one person from the congressional district for appointment to the advisory council. The state conservation commission shall compile a list of the nominations of the county conservation boards for each congressional district and shall provide this list to the governor. The governor shall appoint one member from each congressional district from the nominations as provided. Appointments shall be made for three-year terms beginning

July 1 in the year of appointment. A person shall not serve more than two terms. A vacancy shall be filled for the unexpired term in the same manner as the original appointment was made.

The public members of the advisory council shall be reimbursed for actual and necessary expenses for each day employed in the official discharge of their duties. The expenses shall be paid from the administration fund of the state conservation commission.

Sec. 3. Section 107.17, Code 1983, is amended to read as follows:

107.17 FUNDS. The financial resources of said the commission shall consist of three five funds:

1. A state fish and game protection fund,
2. A state conservation fund, and
3. An administration fund.
4. A public outdoor recreation and resources fund.
5. A county conservation board fund.

The state fish and game protection fund, except as otherwise provided, ~~shall consist~~ consists 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 and the public outdoor recreation and resources fund shall be credited to ~~the state fish and game protection fund~~ those funds respectively.

The public outdoor recreation and resources fund and the county conservation board fund consist of all moneys credited to them by law or appropriated to them by the general assembly.

The conservation fund, except as otherwise provided, shall consist of all other funds accruing to the conservation commission.

The administration fund shall consist of an equitable portion of the gross amount of the ~~two aforesaid funds~~ state fish and game protection fund and the state conservation fund, to be determined by the commission, sufficient to pay the expense of administration entailed by this chapter.

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

Sec. 4. Section 107.19, Code 1983, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Fifty percent of the moneys credited to the public outdoor recreation and resources fund shall be expended solely in carrying out the provisions of chapter 111. These moneys are in addition to the moneys available for those purposes in the state conservation fund. Expenditures of these moneys shall be made only upon the authorization of the general assembly.

NEW UNNUMBERED PARAGRAPH. All moneys credited to the county conservation board fund shall be used to provide grants to county conservation boards to provide funding for the purposes of chapter 111A. These grants are in addition to moneys appropriated to the conservation boards from the county boards of supervisors. The grants shall be made to the conservation boards based upon the needs of the boards. Applications shall be made to the conservation commission.

Sec. 5. Section 111A.6, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Grants provided by the state conservation commission from its county conservation board fund shall be expended solely for the purposes of carrying out the provisions of this chapter.

Sec. 6. In making the initial appointments to the public outdoor recreation and resources advisory council, the governor shall appoint two of the members to initial terms of one year and two of the members to initial terms of two years.

Sec. 7. Notwithstanding section 111.80, the advisory council for the public outdoor recreation fund shall not be appointed until there has been an appropriation to the public outdoor recreation and resources fund.

Approved May 11, 1984

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## CHAPTER 1263

### FISH AND GAME PROTECTION FUND TAX CHECKOFF

*H.F. 2274*

**AN ACT** relating to the designation of moneys to be paid to the state fish and game protection fund by a taxpayer on an income tax return.

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

Section 1. Section 56.18, subsection 3, unnumbered paragraph 3, Code Supplement 1983, is amended to read as follows:

However, before a checkoff pursuant to subsection 2 of the section shall be permitted, all liabilities on the books of the department of revenue, and accounts identified as owing under section 421.17 and the checkoff permitted under section 107.16 shall be satisfied.

Sec. 2. Section 107.16, unnumbered paragraphs 1 and 7, Code 1983, is amended to read as follows:

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. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the state fish and game protection fund, the amount designated shall be reduced to the remaining amount of refund or the remaining amount remitted with the return.

The department shall adopt rules to implement this section. However, before a checkoff pursuant to this section 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", and the political contribution allowed under section 56.18 shall be satisfied.

Sec. 3. This Act is retroactive to January 1, 1984, for the tax years beginning on or after that date.

Approved May 11, 1984

**CHAPTER 1264**  
**INTERPRETERS FOR HEARING IMPAIRED PERSONS**  
*H.F. 2447*

**AN ACT** relating to the providing of interpreters for hearing impaired persons.

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

Section 1. **NEW SECTION. 804.31 ARREST OF HEARING IMPAIRED PERSONS—USE OF INTERPRETERS.** When a hearing impaired person, as defined in section 622B.1, subsection 1, paragraph "a" is brought in for questioning or arrested for an alleged violation of a criminal law, including a local ordinance, the peace officer making the arrest or that officer's superior shall procure at the earliest possible time, unless the hearing impaired person waives the right in writing, and the waiver was made knowingly, voluntarily, and intelligently, a qualified interpreter in accordance with section 622B.2 and the rules adopted by the supreme court as required in section 622B.1, subsection 2. The interpreter shall interpret the Miranda warning, notification of rights, the interrogation proceedings, other questioning or arrest procedures, and all statements made by the hearing impaired person. This section does not prohibit a law enforcement agency from conducting a preliminary screening test pursuant to section 321B.3 prior to the arrival of a qualified interpreter.

If otherwise eligible for release, the hearing impaired person shall not be held in custody only to await the arrival of a qualified interpreter.

An answer, statement, or admission, oral or written, made by a hearing impaired person in reply to a question of a law enforcement officer or any other person having a prosecutorial function in a criminal proceeding is not admissible in court and shall not be used against the hearing impaired person if that answer, statement, or admission was not made or elicited through a qualified interpreter, unless the hearing impaired person waives this exclusion in writing, and the waiver was made knowingly, voluntarily, and intelligently. In the event of a waiver, the court shall make a special finding to determine if the waiver and any subsequent answer, statement, or admission made by the hearing impaired person was made knowingly, voluntarily, and intelligently.

When communication to any person pursuant to this section occurs through an interpreter, all questions or statements and responses thereto shall be relayed through the interpreter. The role of the interpreter is to facilitate communication between the hearing and hearing impaired parties. An interpreter shall not be compelled to answer any question or respond to any statement that serves to violate that role at the time of questioning or arrest or at any subsequent administrative or judicial proceeding.

Approved May 11, 1984

**CHAPTER 1265**  
**PARI-MUTUEL BETTING**  
*H.F. 2439*

**AN ACT** relating to pari-mutuel betting by requiring certain information from an applicant for a racing license or an occupational license, requiring the fingerprinting of an applicant, permitting warrantless searches of an applicant or an applicant's property, authorizing the state racing commission to require employees to provide certain information and to authorize employees to expel certain people from racetrack facilities, prohibiting the use or possession of certain devices or techniques to stimulate or depress a horse or dog, permitting the disclosure of confidential information to the state racing commission, setting fees for applications, and providing for penalties.

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

Section 1. Section 99D.2, Code Supplement 1983, is amended by adding the following new subsection 1 and renumbering the subsequent subsections:

1. "Applicant" means an individual applying for an occupational license or the officers and members of the board of directors of a nonprofit corporation applying for a license to conduct a race where pari-mutuel wagering would be permitted under this chapter.

Sec. 2. Section 99D.6, Code Supplement 1983, is amended to read as follows:

99D.6 CHAIRPERSON—SECRETARY—DUTIES—BOND. The commission shall elect in July of each year one of its members chairperson for the succeeding year. The commission may employ a secretary and other assistants and employees as necessary to carry out its duties. Some or all of the information required of applicants in section 99D.8A, subsections 1 and 2, may also be required of employees of the commission if the commission deems it necessary. The secretary shall keep a record of the proceedings of the commission, preserve the books, records, and documents entrusted to the secretary's care, and perform other duties as the commission prescribes. The commission shall require the secretary to post a bond in a sum it may fix, conditioned upon the faithful performance of the secretary's duties. Subject to the approval of the governor, the commission shall fix the compensation of its secretary within salary range five as set by the general assembly. The commission shall also fix the compensation of its other employees, subject to the approval of the governor. The commission shall have its headquarters in the city of Des Moines, and shall meet in July of each year and at other times and places as it finds necessary for the discharge of its duties.

Sec. 3. Section 99D.7, subsection 9, Code Supplement 1983, is amended to read as follows:

9. To authorize stewards, starters, and other racing officials to impose fines or other sanctions upon a person violating a provision of this chapter or the commission rules, orders, or final orders, including authorization to expel a tout, bookmaker, or other person deemed to be undesirable from the racetrack facilities.

Sec. 4. NEW SECTION. 99D.8A REQUIREMENTS OF APPLICANT.

1. A person shall not be issued a license to conduct races under this chapter or an occupational license unless the person has completed and signed an application on the form prescribed and published by the commission. The application shall state the full name, social

security number, residence, date of birth and other personal identifying information of the applicant that the commission deems necessary. The application shall state whether the applicant has any of the following:

- a. A record of conviction of a felony.
- b. An addiction to alcohol or a controlled substance.
- c. A history of mental illness or repeated acts of violence.

2. An applicant shall submit pictures, fingerprints, and descriptions of physical characteristics to the commission in the manner prescribed on the application forms.

3. The commission shall charge the applicant a fee set by the department of public safety, division of criminal investigation and bureau of identification, to defray the costs associated with the search and classification of fingerprints required in subsection 2. This fee is in addition to any other license fee charged by the commission.

4. A person who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

5. The applicant shall consent to authorized commission employees and agents of the division of criminal investigation to enter upon the premises within the racetrack enclosure, under control of the licensee, without a warrant, to inspect or investigate for criminal violations or violations of the rules adopted by the commission. The consent to search extends to the applicant's person, personal property and effects, and any premises which the applicant occupies or controls, or has the right to occupy or control.

Sec. 5. Section 99D.24, Code Supplement 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 5. A person commits a class "D" felony and the commission shall suspend or revoke a license held by the person if the person:

a. Uses or conspires to use a battery, buzzer, electrical, mechanical or other appliance other than the ordinary whip or spur for the purpose of stimulating or depressing a horse or dog or affecting its speed in a race or workout.

b. Sponges a horse's or dog's nostrils or windpipe or uses any method, injurious or otherwise, for the purpose of stimulating or depressing a horse or dog or affecting its speed in a race or a workout.

NEW SUBSECTION. 6. A person commits a serious misdemeanor if the person has in the person's possession within the confines of a racetrack, stable, shed, building or grounds, or within the confines of a stable, shed, building or grounds where a horse or dog is kept which is eligible to race over a racetrack licensed under this chapter, an appliance other than the ordinary whip or spur which can be used for the purpose of stimulating or depressing a horse or dog or affecting its speed at any time.

Sec. 6. Section 692.2, subsection 1, Code Supplement 1983, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The state racing commission for the purposes of section 99D.8A.

Approved May 11, 1984

**CHAPTER 1266**  
**STATE RACING COMMISSION**  
*S.F. 2328*

**AN ACT** to amend the Iowa pari-mutuel wagering act and providing that part-time and seasonal employees of the racing commission are not under the merit employment system.

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

Section 1. Section 19A.3, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 23. Part-time and seasonal employees of the state racing commission.

Sec. 2. Section 12.10, Code Supplement 1983, is amended to read as follows:

12.10 DEPOSITS BY STATE OFFICERS. All Except as otherwise provided, all elective and appointive state officers, boards, commissions, and departments, ~~except the state fair board, the state board of regents, Iowa state commerce commission, and the commissioner of the department of human services,~~ shall, within ten days succeeding the collection thereof, deposit, with the treasurer of state, or to the credit of the treasurer of state in any depository designated by the treasurer of state, ninety percent of all fees, commissions, and moneys collected or received; ~~the.~~ The balance actually collected in cash, remaining in the hands of any officer, board, or department shall not exceed the sum of five thousand dollars and money collected shall not be held more than thirty days. This section does not apply to the state fair board, the state board of regents, the Iowa state commerce commission, the commissioner of the department of human services, the Iowa housing finance authority or to the funds received by the state racing commission under section 99D.7 and 99D.14.

Sec. 3. Section 99D.2, subsection 6, Code Supplement 1983, is amended to read as follows:

6. "Race", "racing", "race meeting", "track", and "racetrack" refer to dog racing and horse racing, including, but not limited to, quarterhorse, thoroughbred, and harness racing, as approved by the commission.

Sec. 4. Section 99D.5, subsection 5, Code Supplement 1983, is amended to read as follows:

5. A member, employee, or appointee of the commission, or a family member related within the second degree of affinity or consanguinity to a member, employee, or appointee of the commission or a holder of an official's license shall not knowingly:

a. Enter directly or indirectly into any business dealing, venture, or contract with an owner or lessee of a racetrack, a licensee, or a holder of an occupational license.

b. Be employed in any capacity by a racetrack, licensee, or a holder of an occupational license.

a. Have a pecuniary, equitable, or other interest in or engage in a business or employment which would be a conflict of interest or interfere or conflict with the proper discharge of the duties of the commission including any of the following:

(1) A business which does business with a licensee.

(2) A business issued a concession operator's license.

e b. Participate directly or indirectly as an owner, owner-trainer, trainer of a horse or dog, or jockey of a horse in a race meeting conducted in this state.

d c. Place a wager on an entry in a race.

Violations A violation of this subsection shall be is a serious misdemeanor. In addition, the individual may be subject to disciplinary actions pursuant to the commission rules.

Sec. 5. Section 99D.5, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A member, employee, or appointee of the commission, spouse of a member, employee, or appointee of the commission, or a family member related within the second degree of affinity or consanguinity to a member, employee, or appointee of the commission shall not do either of the following:

a. Hold an occupational license except an official's license.

b. Enter directly or indirectly into any business dealing, venture, or contract with an owner or lessee of a racetrack.

A member who knowingly approves of a violation of this subsection is guilty of a serious misdemeanor.

Sec. 6. Section 99D.7, subsections 2 and 6, Code Supplement 1983, is amended to read as follows:

2. To identify occupations within the racing industry which require licensing and adopt standards for licensing the occupations including establishing fees for the occupational licenses. The fees shall be paid to the commission and used as required in section 99D.17 and section 99D.18.

6. To establish and provide for the disposition of fees for the testing of animals sufficient to cover the costs of the tests and to purchase the necessary equipment for the testing.

Sec. 7. Section 99D.8A, subsection 5, 1984 Iowa Acts, House File 2439, section 4, if House File 2439 becomes law, is amended to read as follows:

5. The applicant shall consent to authorized commission employees and agents of the division of criminal investigation to enter upon the premises within the race track enclosure, under control of the licensee, without a warrant, to inspect or investigate for criminal violations or violations of the rules adopted by the commission. The consent to search extends to the applicant's person, personal property and effects, and any premises which the applicant occupies or controls, or has the right to occupy or control. The licensee or a holder of an occupational license shall consent to agents of the division of criminal investigation of the department of public safety or commission employees designated by the secretary of the commission to the search without a warrant of the licensee or holder's person, personal property and effects, and premises which are located within the racetrack enclosure or adjacent facilities under control of the licensee to inspect or investigate for criminal violations of this chapter or violations of rules adopted by the commission.

Sec. 8. Section 99D.9, subsection 1, Code Supplement 1983, is amended to read as follows:

1. If the commission is satisfied that its rules and sections 99D.8 through 99D.25 applicable to licensees have been or will be complied with, it may issue a license for a period of not more than ~~one year~~ three years. The commission may decide which types of racing it will permit. The commission may permit dog racing, horse racing of various types or both dog and horse racing. The commission shall decide the number, location, and type of all racetracks licensed under this chapter. The license shall set forth the name of the licensee, the type of license granted, the place where the race meeting is to be held, and the time and number of days during which racing may be conducted by the licensee. The commission shall not approve



a license application if any part of the racetrack is to be constructed on prime farmland outside the city limits of an incorporated city. As used in this subsection, "prime farmland" means as defined by the United States department of agriculture in 7 C.F.R. sec. 657.5(a). A license is not transferable or assignable. The commission may revoke any license issued for good cause upon reasonable notice and hearing. The commission shall conduct a neighborhood impact study to determine the impact of granting a license on the quality of life in neighborhoods adjacent to the proposed racetrack facility. The applicant for the license shall reimburse the commission for the costs incurred in making the study. A copy of the study shall be retained on file with the commission and shall be a public record. The study shall be completed before the commission may issue a license for the proposed facility.

Sec. 9. Section 99D.9, subsection 2, paragraphs a and b, Code Supplement 1983, are amended to read as follows:

a. The nonprofit corporation or association shall not, by a lease, contract, understanding, or arrangement of any kind, grant, assign, or turn over to a person the operation ~~or management~~ of a race meeting licensed under this section or of the pari-mutuel system of wagering described in section 99D.11. This section does not prohibit a management contract approved by the commission.

b. The nonprofit corporation shall not in any manner permit a person other than the licensee to have a share, percentage, or proportion of the money received for admissions to the race or race meeting ~~or from the operation of the pari-mutuel system.~~

Sec. 10. Section 99D.9, subsection 6, Code Supplement 1983, is amended to read as follows:

6. A licensee may not loan ~~or give~~ to any person money or any other thing of value for the purpose of permitting that person to wager on any race.

Sec. 11. Section 99D.11, subsection 3, Code Supplement 1983, is amended to read as follows:

3. The licensee may receive wagers of money only from a person present ~~at in~~ a licensed ~~race racing enclosure~~ on a horse or dog in the race selected by the person making the wager to finish first in the race. The person wagering shall acquire an interest in the total money wagered on all horses or dogs in the race as first winners in proportion to the amount of money wagered by the person.

Sec. 12. Section 99D.11, subsection 5, Code Supplement 1983, is amended to read as follows:

5. As each race is run the licensee shall deduct sixteen percent from the total sum wagered on all horses or dogs as first winners. The balance, after deducting breakage, shall be paid to the holders of certificates on the winning horse or dog in the proportion that the amount wagered by each certificate holder bears to the total amount wagered on all horses or dogs in the race as first winners. The licensee shall likewise receive wagers on horses or dogs selected to run second, third, or both, or in combinations the commission may authorize. The method, procedure, and the authority and right of the licensee, as well as the deduction allowed to the licensee, shall be as specified with respect to wagers upon horses or dogs selected to run first. However, the commission may authorize the licensee to deduct a higher percent of the total sum wagered not to exceed twenty percent on multiple or exotic wagering involving more than one horse or dog.

Sec. 13. Section 99D.11, subsection 6, Code Supplement 1983, is amended by striking the subsection and renumbering the subsequent subsections.

Sec. 14. Section 99D.12, Code Supplement 1983, is amended to read as follows:

99D.12 BREAKAGE. A licensee shall deduct the breakage from the pari-mutuel pool which shall be distributed in the following manner to the breeders of Iowa-foaled horses and Iowa-whelped dogs in the manner described in section 99D.22. The remainder of the breakage shall be distributed as follows:

1. In horse races the breakage shall be retained by the licensee to supplement purses for the race restricted to races won by Iowa-foaled horses as provided in section 99D.22.

2. In dog races the breakage shall be distributed as follows:

a. Seventy-five percent shall be retained by the licensee to supplement purses for the race restricted to races won by Iowa-whelped dogs as provided in section 99D.22.

b. Twenty-five percent shall be retained by the licensee and shall be put into a stake race for Iowa-whelped dogs. All dogs racing in the stake race must have run in at least twelve races during the current racing season at the track sponsoring the stake race to qualify to participate.

Sec. 15. Section 99D.14, subsection 4, Code Supplement 1983, is amended to read as follows:

4. No other license tax, permit tax, occupation tax, ~~excise tax~~, or racing fee, shall be levied, assessed, or collected from a licensee by the state or by a political subdivision, except as provided in this chapter.

Sec. 16. Section 99D.14, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 5. No other excise tax shall be levied, assessed, or collected from the licensee on horse racing, dog racing, pari-mutuel wagering or admission charges by the state or by a political subdivision, except as provided in this chapter.

Sec. 17. Section 99D.15, Code Supplement 1983, is amended to read as follows:

99D.15 PARI-MUTUEL WAGERING TAX - RATE.

1. A tax of six percent is imposed on the gross sum wagered by the pari-mutuel method at each race meeting. The tax imposed by this section shall be paid by the licensee to the treasurer of state within ten days after the close of each race meeting and shall be distributed as follows:

1 a. If the racetrack is located in a city, five percent of the six percent gross sum wagered shall be deposited in the general fund of the state. One-half of one percent of the six percent gross sum wagered shall be remitted to the treasurer of the city in which the racetrack is located and shall be deposited in the general fund of the city. The remaining one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.

2 b. If the racetrack is located in an unincorporated part of a county, five and one-half percent of the six percent gross sum wagered shall be deposited in the general fund of the state. The remaining one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.

2. A tax credit of up to five percent of the gross sum wagered per year shall be granted to licensees licensed for horse races and paid into a special fund for the purpose of retiring the annual debt on the cost of construction of the licensed facility. Any portion of the credit not used in a particular year shall be retained by the treasurer of state. A tax credit shall first be

assessed against any share going to a city, then to the share going to a county, and then to the share going to the state.

Sec. 18. Section 99D.18, Code Supplement 1983, is amended to read as follows:

99D.18 SURPLUS FUNDS – HOW USED. From the balance of the funds coming into the hands of the commission pursuant to section 99D.14, fifty thousand dollars shall be used by the Iowa state university college of veterinary medicine to develop further research on the treatment of equine injuries and diseases. The remaining funds shall be divided into retained by the commission and may be distributed to a research program or project which the commission determines to be worthy and would benefit the racing industry in the state.

Sec. 19. Section 99D.21, Code Supplement 1983, is amended to read as follows:

99D.21 ANNUAL REPORT OF COMMISSION. The commission shall make an annual report to the governor, for the period ending ~~June 30~~ December 31 of each year. Included in the report shall be an account of the commission's actions, its financial position and results of operation under this chapter, the practical results attained under this chapter, and any recommendations for legislation which the commission deems advisable.

Sec. 20. Section 99D.22, Code Supplement 1983, is amended to read as follows:

99D.22 NATIVE HORSES OR DOGS.

1. A licensee shall hold at least one race on each racing day limited to ~~horses foaled or dogs whelped in Iowa~~ Iowa-foaled horses or Iowa-whelped dogs as defined by the department of agriculture using standards consistent with this section. However, if sufficient competition cannot be had among that class of horses or dogs on any day, another race for the day may be substituted. ~~Three~~ A sum equal to twelve percent of the purse won by a horse or dog in the race limited to ~~an Iowa-foaled horses horse or Iowa-whelped dogs dog~~ shall be used to promote the horse and dog breeding industries. ~~The three~~ twelve percent shall be withheld by the licensee from the ~~purse breakage~~ and shall be paid at the end of the race meeting to the state department of agriculture which in turn shall deposit it in a special fund to be known as the Iowa horse and dog breeders fund and pay it by December 31 of each calendar year to the breeder of the winning Iowa-foaled horse or Iowa-whelped dog. For the purposes of this section, the breeder of a thoroughbred horse shall be considered to be the owner of the brood mare at the time the foal is dropped.

Sec. 21. Section 99D.22, Code Supplement 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 2. For the purposes of this chapter, the following shall be considered in determining if a horse is an Iowa-foaled thoroughbred horse:

a. All thoroughbred horses foaled in Iowa prior to January 1, 1985, which are registered by the jockey club as Iowa foaled shall be considered to be Iowa foaled.

b. After January 1, 1985, eligibility for brood mare residence shall be achieved by meeting at least one of the following rules:

(1) Thirty days residency until the foal is inspected, if in foal to a registered Iowa stallion.

(2) Thirty days residency until the foal is inspected for brood mares which are bred back to registered Iowa stallions.

(3) Continuous residency from December 31 until the foal is inspected if the mare was bred by other than an Iowa registered stallion and which is not bred back to an Iowa registered stallion.

c. To be eligible for registration as an Iowa thoroughbred stallion, the following requirements shall be met:

(1) A full-year stallion residency, January 1 through December 31 for the year of registration. However, horses going to stud for their first season shall be eligible upon registration with residency to continue through December 31.

(2) At least fifty-one percent of an Iowa registered stallion shall be owned by bona fide Iowa residents.

d. State residency shall not be required for owners of brood mares.

**NEW SUBSECTION. 3.** To facilitate the implementation of this section, the department of agriculture shall do all of the following:

a. Adopt standards to qualify thoroughbred stallions for Iowa breeding. A stallion shall stand for service in the state at the time of the foal's conception and shall not stand for service at any place outside the state during the calendar year in which the foal is conceived.

b. Provide for the registration of Iowa-foaled horses and that a horse shall not compete in a race limited to Iowa-foaled horses unless the horse is registered with the department of agriculture. The department may prescribe such forms as necessary to determine the eligibility of a horse.

c. The secretary of agriculture shall appoint investigators to determine the eligibility for registration of Iowa-foaled horses.

d. Adopt a schedule of fees to be charged to breeders of thoroughbreds to administer this subsection.

**NEW SUBSECTION. 4.** To qualify for the Iowa horse and dog breeders fund, a dog shall have been whelped in Iowa and raised for the first six months of its life in Iowa. In addition, the owner of the dog shall have been a resident of the state for at least two years prior to the whelping.

Sec. 22. Section 419.1, subsection 2, paragraph a, Code Supplement 1983, is amended to read as follows:

a. Land, buildings or improvements, whether or not in existence at the time of issuance of the bonds issued under this chapter, which are suitable for the use of a 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 a private college or university, or a state institution governed under chapter 262 whether for the establishment or maintenance of the college or university, or of an industry or industries for the manufacturing, processing or assembling of agricultural or manufactured products, even though the processed products may require further treatment before delivery to the ultimate consumer, or of a 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 facility for the generation of electrical energy through the use of a renewable energy source including but not limited to hydroelectric and wind generation facilities, or of a facility engaged in research and development activities, or of a national, regional or divisional headquarters facility of a company that does multistate business, or of a museum, library, or tourist information center, or of a telephone company, or of a beginning businessperson for any purpose, or of a commercial amusement or theme park, or of a housing unit or complex for the elderly or handicapped, or of a fair or exposition held in the state, other than the Iowa state fair, which is a member of the association of Iowa fairs, or of a sports facility, or

Sec. 23. Sections 99D.16, 99D.27, 99D.28, and 556.9A are repealed.\*

Approved May 11, 1984

\*Code Supplement 1983 probably intended

**CHAPTER 1267**  
**TELEPHONE TARIFF EXEMPTION**  
*H.F. 2532*

**AN ACT** allowing telephone utilities to offer certain services without filing a tariff with the Iowa state commerce commission and providing an effective date.

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

Section 1. NEW SECTION. 476.4A EXEMPTION FROM TARIFF FILINGS FOR TELEPHONE UTILITIES. Notwithstanding contrary provisions of this chapter, a telephone utility may offer centron, centrex, intraexchange private line, or multiline variety package service without filing a tariff unless the commission determines such a procedure is not in the public interest. The telephone utility shall offer each service which is exempt from a tariff filing at a rate which exceeds the cost of the service. A telephone utility offering its services without filing a tariff shall not discriminate in an unreasonable manner for or against any customer.

A telephone utility shall provide the commission with at least thirty days notice prior to a request to offer service without filing a tariff. The commission may require the telephone utility to file its price lists, contracts, or cost allocations for services offered without a tariff. Any such price lists, contracts, or cost allocations so filed shall be afforded rebuttable presumptions that they meet the requirements of section 68A.7, subsection 6.

The commission shall consider the revenues, expenses and investment related to telephone utility services offered without a filed tariff in proceedings under section 476.3, 476.6 and 476.7.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in the Jasper County Tribune, a newspaper published in Colfax, Iowa, and in The Daily Nonpareil, a newspaper published in Council Bluffs, Iowa.

Approved April 30, 1984

I hereby certify that the foregoing Act, House File 2532 was published in The Daily Nonpareil, Council Bluffs, Iowa on May 7, 1984 and in the Jasper County Tribune, Colfax, Iowa on May 10, 1984.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 1268**  
**PHYSICAL THERAPY**  
*H.F. 2211*

**AN ACT** making changes in the practice act relating to physical therapy.

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

Section 1. Section 148A.1, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

148A.1 DEFINITION. As used in this chapter, physical therapy is that branch of science that deals with the evaluation and treatment of human capabilities and impairments. Physical therapy uses the affective properties of physical agents including, but not limited to, mechanical devices, heat, cold, air, light, water, electricity, and sound, and therapeutic exercises, and rehabilitative procedures to prevent, correct, minimize, or alleviate a physical impairment. Physical therapy includes the interpretation of performances, tests, and measurements, the establishment and modification of physical therapy programs, treatment planning, consultative services, instructions to the patients, and the administration and supervision attendant to physical therapy facilities. Physical therapy evaluation of biomechanics may be rendered by a physical therapist without a prescription or referral from a physician or dentist. Physical therapy treatment shall be rendered by a physical therapist only under prescription or referral from a physician or dentist, or referral from a chiropractor.

Sec. 2. Section 148A.3, subsection 4, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

4. Nonprofessional workers not held out as physical therapists who are employed in hospitals, clinics, offices or health care facilities as defined in section 135C.1 working under the supervision and direction of a physical therapist or physician licensed pursuant to section 148, 150 or 150A.

Sec. 3. Section 148A.4, subsection 1, Code Supplement 1983, is amended to read as follows:

1. ~~Be a graduate of an accredited high school and have completed~~ Complete a course of study in, and hold a diploma or certificate issued by, a school of physical therapy approved by accredited by the American physical therapy association or another appropriate accrediting body, and meet requirements as established by rules of the board of physical and occupational therapy examiners.

Sec. 4. Section 148A.5, Code 1983, is repealed.

Approved May 14, 1984

**CHAPTER 1269**  
**ANHYDROUS AMMONIA PLANTS**  
*H.F. 2100*

**AN ACT** relating to the location and operation of anhydrous ammonia plants and defining nuisance as the term relates to the plants.

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

Section 1. Section 200.3, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION. 20.** "Anhydrous ammonia plant" means a facility used for the manufacture or distribution of the compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the proportion of one part nitrogen to three parts hydrogen by volume.

**NEW SUBSECTION. 21.** "Established date of operation" means the date on which an anhydrous ammonia plant commenced operating. If the physical facilities of the plant are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent "established date of operation" established as of the date of commencement of the expanded operations. The commencement of expanded operations does not divest the plant of a previously established date of operation.

**NEW SUBSECTION. 22.** "Established date of ownership" means the date of the recording of an appropriate instrument of title establishing the ownership of real estate.

**NEW SUBSECTION. 23.** "Rule" means a rule as defined in section 17A.2 which materially affects the operation of an anhydrous ammonia plant. The term includes a rule which was in effect prior to July 1, 1984.

**NEW SUBSECTION. 24.** "Nuisance" means public or private nuisance as defined by statute or by the common law.

**NEW SUBSECTION. 25.** "Nuisance action or proceeding" means an action, claim or proceeding brought at law, in equity, or as an administrative proceeding, which is based on nuisance.

**NEW SUBSECTION. 26.** "Owner" means the person holding record title to real estate, and includes both legal and equitable interest under recorded real estate contracts.

Sec. 2. **NEW SECTION. 200.21 COMPLIANCE—A DEFENSE TO NUISANCE ACTIONS.** In a nuisance action or proceeding against an anhydrous ammonia plant brought by or on behalf of the person whose established date of ownership is subsequent to the established date of operation of an anhydrous ammonia plant, proof of compliance with applicable provisions of chapter 200 and applicable rules adopted pursuant to section 200.14 shall be a defense to a nuisance action or proceeding.

Approved May 14, 1984

**CHAPTER 1270**  
**WAGE COLLECTION**  
*H.F. 540*

**AN ACT** relating to chapter 91A.

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

Section 1. Section 91A.2, subsections 2 and 3, Code 1983, are amended to read as follows:

2. "Employer" means any a person, as defined in chapter 4, who in this state employs for wages a natural person. An employer does not include a client, patient, customer, or other person who obtains professional services from a licensed person who provides the services on a fee service basis or as an independent contractor.

3. "Employee" means a natural person who is employed in this state for wages by an employer. ~~Employee does not mean a licensed person employed on a contractual basis for professional services.~~ For the purposes of this chapter, the following persons engaged in agriculture ~~shall are not be deemed employees:~~

a. The spouse of the employer and relatives of either the employer or spouse residing on the premises of the employer, ~~and.~~

b. ~~Any A~~ person engaged in agriculture as an owner-operator or tenant-operator and the spouse or relatives of either who reside on the premises while exchanging labor with the operator or for other mutual benefit of any and all such persons.

c. Neighboring persons engaged in agriculture who are exchanging labor or other services.

Sec. 2. Section 91A.3, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A farm labor contractor who contracts with a person engaged in the production of seed or feed grains to remove unwanted or genetically deviant plants or corn tassels or to hand pollinate plants shall file with the commissioner a bond of at least twenty thousand dollars on behalf of the person engaged in the production of seed or feed grains, with a corporate surety approved by the commissioner, securing the payment of all wages due the employees of the farm labor contractor. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond. If the bond is not filed as required or if the farm labor contractor fails to pay all wages due the employees of the farm labor contractor, the person engaged in the production of seed or feed grains shall be liable to the employees for wages not paid by the farm labor contractor.

Sec. 3. Section 91A.10, subsection 5, Code 1983, is amended to read as follows:

5. An employer shall not discharge or in any other manner discriminate against any employee because ~~such~~ the employee has filed a complaint, assigned a claim, or brought an action under this section or has cooperated in bringing any action against an employer. Any employee may file a complaint with the commissioner alleging discharge or discrimination within thirty days after such violation occurs. Upon receipt of the complaint, the commissioner shall cause an investigation to be made to the extent deemed appropriate. If the commissioner determines from the investigation that the provisions of this subsection have been violated, the commissioner shall bring an action in the appropriate district court against such person. The district court shall have jurisdiction, for cause shown, to restrain violations of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to the former position with back pay.

Approved May 14, 1984



**CHAPTER 1271**  
**PLATTING REQUIREMENTS**  
*H.F. 2470*

**AN ACT** relating to real property by modifying the platting requirements upon the subdivision of a parcel of land and the vacating of certain public streets, alleys, and other public lands.

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

Section 1. Section 409.1, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

409.1 SUBDIVISIONS. A proprietor of a parcel of land of any size who divides the property into two parts, either of which are described by a metes and bounds description and are ten acres or less, shall have a survey made of the subdivision, unless the county recorder determines that this description is adequate and a survey is not necessary. The survey shall be prepared and recorded in accordance with sections 355.4, 355.7 and 355.16. A proprietor of a parcel of land of any size who divides the property into three or more parts, any of which are described by a metes and bounds description and are ten acres or less, shall have a plat made of the subdivision. The plat shall be made by a registered land surveyor holding a certificate under chapter 114. The plat shall make reference to monuments of record or permanent control monuments and shall give bearing and distance from a corner of the plat to two corners of the congressional division of which it is a part. The plat shall accurately describe each part of the subdivision by giving its dimensions, length and breadth and shall number the parts by progressive number.

A plat prepared pursuant to the requirements of this section shall be subject only to the requirements of sections 409.3, 409.14, 409.15, 409.16, 409.30, 409.31, 409.32, 409.33, and 409.37, and is exempt from the other provisions of this chapter, where either of the following conditions exist:

1. No street, road, alley, or other public interest is being conveyed.
2. The plat is for assessment and taxation purposes under section 441.65.

Where either of the conditions exist, the plat shall be submitted to the governing city council which shall approve the plat by resolution and affix a certified copy of the resolution for recording with the plat.

A deed, contract, or other conveyance which is presented to the county recorder in violation of this section and is not being platted for assessment and taxation purposes under section 441.65 or surveyed as required, shall not be accepted for recording until the plat or survey has been recorded as required by this section.

Sec. 2. Section 409.25, Code 1983, is amended to read as follows:

409.25 PUBLIC LANDS.

1. Vacations made under this chapter shall not be construed to affect any lands lying within any a city which have been dedicated or deeded to the public for parks or other public purposes except as provided in subsection 2.

2. A city council, by ordinance specifically referring to authority of this subsection, may vacate a street, alley, or other public land dedicated by plat if the street, alley, or other public land has been dedicated for at least ten years and has not been open to vehicular traffic or has not been used for placement of city or franchise utility equipment. The recording of a vacation ordinance is equivalent to a deed of conveyance of the vacated land proportionately to the proprietors of the adjoining land in proportion to their interests as determined by the city council in the ordinance. The county recorder shall correct the plat or part of the plat which is vacated as provided in section 409.21.

Approved May 14, 1984

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**CHAPTER 1272**  
**HOME EQUITY MORTGAGES**  
*H.F. 2415*

**AN ACT** providing for the creation of a home equity line of credit and priority of advances under mortgages securing the home equity line of credit.

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

Section 1. **NEW SECTION. 535.10 HOME EQUITY LINE OF CREDIT.**

1. As used in this chapter, the term "home equity line of credit" means an arrangement pursuant to which all of the following are applicable:

- a. The amounts borrowed and the interest and other charges are debited to an account.
- b. The interest is computed on the account periodically.
- c. The borrower has the right to pay in full at any time without penalty or to pay in the installments which are established by the loan agreement.
- d. The lender agrees to permit the borrower to borrow money from time to time with the maximum amount of each borrowing established by the loan agreement, provided that the minimum amount of each borrowing shall not be less than five hundred dollars.
- e. The account is secured by an interest in real estate. The priority of the secured interest in the real estate shall be determined by section 654.12A.

2. Except as provided in this section, a home equity line of credit is subject to chapter 537. However, sections 537.2307, 537.2402, and 537.2510 do not apply.

3. A lender may collect in connection with establishing or renewing a home equity line of credit the costs listed in section 535.8, subsection 2, paragraph "b", charges for insurance as described in section 537.2501, subsection 2, and a loan processing fee as agreed between the borrower and the lender, and annually may collect an account maintenance fee of not more than fifteen dollars. Fees collected under this subsection shall be disregarded for purposes of determining the maximum charge permitted by subsection 4.

4. The interest rate on a home equity line of credit shall not exceed one and three-quarters percent per month.

5. Real estate which is the consumer's principal dwelling shall not be subject to foreclosure when the balance secured is \$2000 or less.

Sec. 2. NEW SECTION. 654.12A PRIORITY OF ADVANCES UNDER MORTGAGES. Subject to section 572.18, if a prior recorded mortgage contains the notice prescribed in this section and identifies the maximum credit available to the borrower, then loans and advances made under the mortgage, up to the maximum amount of credit together with interest thereon, are senior to indebtedness to other creditors under subsequently recorded mortgages and other subsequently recorded or filed liens even though the holder of the prior recorded mortgage has actual notice of indebtedness under a subsequently recorded mortgage or other subsequently recorded or filed lien. The notice prescribed by this section for the prior recorded mortgage is as follows:

NOTICE: This mortgage secures credit in the amount of \$\_\_\_\_\_. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

However, the priority of a prior recorded mortgage under this section does not apply to loans or advances made after receipt of notice of foreclosure or action to enforce a subsequently recorded mortgage or other subsequently recorded or filed lien.

Approved May 14, 1984

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## CHAPTER 1273

### MORATORIUM ON UTILITY DISCONNECTIONS

*H.F. 2062*

**AN ACT** providing for a moratorium on certain disconnections of gas and electricity by regulated public utilities from November 1 to April 1 for certain residents and making civil penalties applicable.

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

Section 1. Section 476.20, subsections 2 and 3, Code Supplement 1983, are amended to read as follows:

2. The commerce commission shall establish rules requiring a regulated public utility furnishing gas or electricity to include in the utility's notice of pending disconnection of service a written statement advising the customer that the customer may be eligible to participate in the low income home energy assistance program or weatherization assistance program administered by the energy policy council. The written statement shall list the address and telephone number of the local agency which is administering the customer's low income home

energy assistance program and the weatherization assistance program. The written statement shall also state that the customer is advised to contact the public utility to settle any of the customer's complaints with the public utility, but if a complaint is not settled to the customer's satisfaction, the customer may file the complaint with the commerce commission. The written statement shall include the address and phone number of the commerce commission. If the notice of pending disconnection of service applies to a residence, the written statement shall advise that the disconnection does not apply from November 1 through April 1 for a resident who is a "head of household", as defined by law, and who has been certified to the public utility by the local agency which is administering the low income home energy assistance program and weatherization assistance program as being eligible for either the low income home energy assistance program or weatherization assistance program, and that if such a resident resides within the serviced residence, the customer should promptly have the qualifying resident notify the local agency which is administering the low income home energy assistance program and weatherization assistance program. The commerce commission shall establish rules requiring that the written notice contain such additional information as it deems necessary and appropriate.

3. The commerce commission shall establish rules which shall be uniform with respect to all public utilities furnishing gas or electricity relating to disconnection of service. This subsection applies both to regulated utilities and to municipally-owned utilities and unincorporated villages which own their own distribution systems, and violations of this subsection subject the utilities to civil penalties under section 476.51, Code Supplement 1983.

A qualified applicant for the low income home energy assistance program or the weatherization assistance program who is also a "head of household", as defined in section 422.4, subsection 11, shall be promptly certified by the local agency administering the applicant's program to the applicant's public utility that the resident is a "head of household" as defined in section 422.4, subsection 11, and is qualified for the low income home energy assistance program or weatherization assistance program. Notwithstanding subsection 1, a public utility furnishing gas or electricity shall not disconnect service from November 1 through April 1 to a residence which has a resident that has been certified under this paragraph.

Approved May 14, 1984

**CHAPTER 1274**  
**REIMBURSEMENT OF PEACE OFFICER TRAINING COSTS**  
*H.F. 2247*

**AN ACT** relating to the reimbursement of law enforcement officer training costs incurred by cities or counties.

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

Section 1. Section 384.15, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Administer a law enforcement officer training reimbursement program. The program shall provide reimbursement to a city or county for necessary and actual expenses incurred in training a law enforcement officer who resigns from law enforcement service with the city or county within four years after completion of the law enforcement training. The reimbursable training expenses include mileage, food, lodging, tuition, replacement of an officer while the officer is in training if the replacement officer is a temporary employee hired for that purpose only or is on overtime status, and salary costs of the officer while in training. The law enforcement training eligible for reimbursement is the minimum law enforcement officer training required under chapter 80B and, if funding is available, approved advanced law enforcement training. The committee shall adopt rules prescribing application forms, expense documentation, and procedures necessary to administer the reimbursement program.

a. The amount of reimbursement shall be determined as follows:

- (1) If a law enforcement officer resigns less than one year following completion of approved training, one hundred percent.
- (2) If a law enforcement officer resigns one year or more but less than two years after completion of approved training, seventy-five percent.
- (3) If a law enforcement officer resigns two years or more but less than three years after completion of the approved training, fifty percent.
- (4) If a law enforcement officer resigns three years or more but not more than four years after completion of the approved training, twenty-five percent.

b. A law enforcement training reimbursement fund is created in the state treasury. The proceeds of the fund shall be used by the committee to reimburse cities or counties for eligible law enforcement training expenses incurred as provided in this subsection. If the proceeds of the fund are insufficient to reimburse the total amount of all claims made during a fiscal year, the reimbursements shall be prorated. Any unencumbered or unobligated money remaining in the fund on June 30 of each fiscal year shall revert to the general fund of the state.

Sec. 2. Section 911.2, Code 1983, is amended to read as follows:

**911.2 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~~ fifteen 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. Section 911.3, Code Supplement 1983, is amended to read as follows:

911.3 DISPOSITION OF SURCHARGE. When a court assesses a surcharge under section 911.2, 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 one-third of the money in the law enforcement training reimbursement fund established under section 384.15 and the remaining two-thirds of 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 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.

Approved May 14, 1984

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## CHAPTER 1275

### ALCOHOLIC BEVERAGES AND BEER

*H.F. 2472*

**AN ACT** relating to the transportation of open containers of alcoholic beverages and beer, the hours of sale of alcoholic beverages and beer, the notification of parents or legal guardians of a child that appears before the court for a violation of section 123.47, the motor vehicle license or nonoperator's identification card\* issued to a person under nineteen years of age, and providing penalties.

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

Section 1. Section 123.28, Code 1983, is amended to read as follows:

123.28 TRANSPORTATION PERMITTED. It ~~shall be~~ is lawful to transport, carry, or convey alcoholic liquors from the place of purchase by the department to ~~any a~~ state warehouse, store, or depot established by the department or from one such place to another and, when so permitted by this chapter, it ~~shall be~~ is lawful for ~~any a~~ common carrier or other person to transport, carry, or convey alcoholic liquor sold by a vendor from a state warehouse, store, depot or point of purchase by the state to any place to which ~~such~~ the liquor may be lawfully delivered under this chapter. Notwithstanding section 321.230, sections 321.225 and 321.226 do not apply to department employees in the regular course of their employment. A common carrier or other person shall not break or open or allow to be broken or opened ~~any a~~ container or package containing alcoholic liquor or use or drink or allow to be used or drunk any alcoholic liquor while it is being transported or conveyed, but this section ~~shall~~ does not prohibit a private person from transporting individual bottles or containers of alcoholic liquor exempted pursuant to section 123.22 and individual bottles or containers bearing the identifying mark prescribed in section 123.26 which have been opened previous to the commencement of ~~such~~ the transportation. This section ~~shall~~ does not affect the right of ~~any a~~ special permit or liquor control license holder to purchase, possess, or transport alcoholic liquors subject to the provisions of this chapter.

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\*According to enrolled Act

A person driving a motor vehicle shall not knowingly possess in a motor vehicle upon a public street or highway any open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage or beer with the intent to consume the alcoholic beverage or beer while the motor vehicle is upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an open or unsealed receptacle containing an alcoholic beverage or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion.

Sec. 2. Section 123.36, subsection 6, Code Supplement 1983, is amended to read as follows:

6. Any club, hotel, motel, or commercial establishment holding a liquor control license for whom the sale of goods and services other than alcoholic liquor or beer constitutes fifty percent or more of the gross receipts from the licensed premises, subject to the provisions of section 123.49, subsection 2, paragraph "b", may sell and dispense alcoholic liquor to patrons on Sunday for consumption on the premises only, and beer for consumption on or off the premises between the hours of ~~noon~~ ten a.m. and ten p.m. twelve midnight on Sunday. For the privilege of selling beer and alcoholic liquor on the premises on Sunday the liquor control license fee of the applicant shall be increased by twenty percent of the regular fee prescribed for the license pursuant to this section, and the privilege shall be noted on the liquor control license. The department shall prescribe the nature and the character of the evidence which shall be required of the applicant under this subsection.

Sec. 3. Section 123.49, subsection 2, paragraph b, Code 1983, is amended to read as follows:

b. Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit the its consumption thereon between the hours of two a.m. and six a.m. on ~~any~~ a weekday, and between the hours of two a.m. on Sunday and six a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense ~~such~~ alcoholic liquor or beer between the hours of ~~noon~~ ten a.m. and ten p.m. twelve midnight on Sunday.

Sec. 4. Section 123.50, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** 4. A person, other than a licensee or permittee or a minor, who violates section 123.47 is guilty of a serious misdemeanor punishable by a minimum fine of one hundred dollars for a first offense, two hundred and fifty dollars for a second offense, and five hundred dollars for a third and subsequent offense, and a maximum fine for any offense of not more than one thousand dollars.

Sec. 5. Section 123.134, subsection 5, Code 1983, is amended to read as follows:

5. Any club, hotel, motel, or commercial establishment holding a class "B" beer permit for whom the sale of goods and services other than beer constitutes fifty percent or more of the gross receipts from the licensed premises, subject to the provisions of section 123.49, subsection 2, paragraph "b", may sell and dispense beer to patrons on Sunday for consumption on the premises and for consumption of beer off the premises between the hours of ~~noon~~ 10 a.m. and ten p.m. twelve midnight on Sunday. Any class "C" beer permittee may sell beer for consumption off the premises between the hours of ~~noon~~ ten a.m. and ten p.m. twelve midnight on

**Sunday.** For the privilege of selling beer on Sunday the beer permit fees of the applicant shall be increased by twenty percent of the regular fees prescribed for the permit pursuant to this section and the privilege shall be noted on the beer permit. The department shall prescribe the nature and character of the evidence which shall be required of the applicant under this subsection.

Sec. 6. Section 232.8, subsection 1, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Violations by a child of provisions of chapters 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, violations of county or municipal curfew or traffic ordinances, and violations by a child of the provisions of section 123.47, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. The court may advise appropriate juvenile authorities and may refer violations of section 123.47 to the juvenile court when there is reason to believe that the child regularly abuses alcohol and may be in need of treatment. The court shall notify the parents or legal guardians of a child that appears before it for a violation of section 123.47.

Sec. 7. Section 602.6405, subsection 1, Code Supplement 1983, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, and small claims. They also have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and 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 also have jurisdiction over violations of section 123.47 and section 123.49, subsection 2, paragraph "h".

Approved May 14, 1984



**CHAPTER 1276**  
**AID TO DEPENDENT CHILDREN**  
*H.F. 558*

**AN ACT** revising Iowa's aid to dependent children law to conform to federal law and the practices of the department of human services.

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

Section 1. Section 239.1, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

239.1 DEFINITIONS. As used in this chapter:

1. "Assistance" means a money payment made under this chapter on behalf of a dependent child.

2. "Dependent child" means a needy child under the age of eighteen years, or a needy person eighteen years of age who meets the additional eligibility criteria established by federal law or regulation, who has been deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity, or partial or total unemployment of the parent. However, a child is not a dependent child solely by reason of a parent's absence from the home due to the parent's performance of active duty in the uniformed services of the United States.

3. "Department" means the department of human services.

4. "Director" means the director of the division of the department of human services to which the commissioner of human services assigns responsibility for the aid to dependent children program.

5. "Division" means the division of the department of human services to which the commissioner of human services assigns responsibility for the aid to dependent children program.

6. "Protective payee" means a protective payee selected in accordance with 45 C.F.R. sec. 234.60.

7. "Recipient" is a person to whom the assistance grant is made or a person whose needs are included in granting assistance.

8. "Specified relative" means a relative specified in 42 U.S.C. sec. 606 and in federal regulations adopted pursuant to that section.

9. "Vendor payment" means assistance paid to a third party and not to a specified relative with whom a dependent child is residing.

Sec. 2. Section 239.2, unnumbered paragraph 1, and subsections 1, 2, and 3, Code Supplement 1983, are amended by striking the paragraph and the subsections and inserting in lieu thereof the following:

Assistance shall be granted under this chapter to a dependent child who:

1. Is living in a suitable family home maintained by a specified relative.

2. Is living in this state other than for a temporary purpose, with a specified relative who is living in this state voluntarily with the intent of making the relative's home in this state and not for a temporary purpose.

Sec. 3. Section 239.3, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

~~Application~~ An application for assistance under this chapter shall be made to the county board of the county in which the dependent child resides or will reside in the event assistance is granted department. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the state director. ~~Such~~ The application shall be made by an adult person or a person eighteen years of age or older the specified relative with whom the dependent child resides or will reside, and shall contain such the information as may be required by said on the application form. One application may be made for several children of the same family if they reside or will reside with the same person specified relative.

Sec. 4. Section 239.4, Code 1983, is amended to read as follows:

239.4 INVESTIGATION OF APPLICATION. Whenever a county board If the department receives a notification of the dependency of that a child is a dependent child or receives an application for assistance, an investigation and record of the circumstances shall promptly be made in order to ascertain the dependency of if the child is a dependent child and to ascertain the facts supporting the application.

In cases involving physical or mental incapacity or unfitness of either parent, the county board of social welfare department may require as a condition for granting assistance hereunder that such incapacity or unfitness be determined by a board of doctors which shall be selected by the county board of social welfare physician or be supported by pertinent medical evidence.

Sec. 5. Section 239.5, Code Supplement 1983, is amended to read as follows:

239.5 GRANTING OF ASSISTANCE AND AMOUNT OF ASSISTANCE—CO-OPERATION OF PARENT.

1. Upon the completion of an investigation the department shall decide whether the child is eligible for assistance under this chapter and determine the amount of the assistance. The department shall, within thirty days, notify the person specified relative with whom the child is living or will be living, of the decision. The department may petition the Iowa district court sitting in probate to establish, pursuant to chapter 633, a conservatorship over any recipient eligible for assistance under this chapter. If a conservatorship is established the recipient's assistance payments shall be made to the conservator. In addition to the assistance granted under this chapter, an amount not to exceed ten dollars per case per month may be allowed for conservatorship or guardianship fees if authorized by court order. The dependent child for whom the grant is made shall be originally charged to the county in which the child resides when application is made.

2. The county board, in accordance with rules and standards established by the state department of human services, shall fix the amount of assistance necessary for any dependent child. In determining the amount of assistance, the county board department shall take into consideration the income and resources of any the dependent child, the dependent child's parent or stepparent, or any other needy specified relative claiming assistance under this chapter. However, in fixing determining the amount of assistance for any child or family recipients, the county board, in accordance with rules established by the state department of human services, may disregard a reasonable amount of the income of the child or the family and resources, in order to encourage the family or any of its members recipients to become self-supporting. The term "income" as used herein means income remaining after deduction of expenses reasonably attributable to the earning or securing of that income in accordance with standards established by the department.

3. The county board, under the supervision of the state department of human services, shall establish services to help families and persons receiving assistance under this chapter to recipients become self-supporting; shall participate in the work and training program established by chapter 249C; and shall co-operate with other public agencies and with private agencies to secure employment, education, and vocational training for members of such families recipients. Assistance, when granted, shall be paid at least monthly to an adult person or a person eighteen years of age or older within the specified degrees of relationship and relative with whom the child is living, from the fund for aid to dependent children established by this chapter residing, upon the order of the state division, except that the county board.

4. The department may order the assistance payments made paid to another individual who is interested in or concerned with the welfare of the child or the person with whom the child is living when a protective payee if it has been demonstrated that the person specified relative with whom the child is living residing is unable to manage the assistance payments in the best interest interests of the child. Such A protective payments payment shall not be made beyond one year two years, except as provided in 45 C.F.R. sec. 234.60, and shall otherwise conform to the requirements of 42 U.S.C. sec. 606(b)(2) and the regulations established under the provisions of Title IV of the Social Security Act as amended by Public Law 90-248 adopted pursuant to that section. If consistent with these regulations, the department may petition the Iowa district court sitting in probate to establish, pursuant to chapter 633, a conservatorship over a recipient. If a conservatorship is established the recipient's assistance shall be paid to the conservator. In addition to the assistance, an amount not to exceed ten dollars per case per month may be allowed for conservatorship or guardianship fees if authorized by court order.

No payment for aid to dependent children shall be made unless and until the county board of social welfare, with the advice of the county attorney shall certify that the parent receiving the aid for the children is co-operating in legal actions and other efforts to obtain support money for said children from the persons legally responsible for said support.

5. A vendor payment may be made if the department determines payment to a third party is essential to assure the proper use of assistance on behalf of a recipient. A vendor payment shall be made in accordance with 45 C.F.R. sec. 234.60.

6. The division shall provide for the prompt notification of the department's child support recovery unit if assistance is provided to a child whose parent is absent from the home. An applicant for or a recipient of assistance shall, as a condition of eligibility, cooperate with the child support recovery unit and the department in identifying and locating the parent of the child, in enforcing rights to periodic support payments, and, if necessary, in establishing paternity of the child, unless the applicant or recipient has good cause for refusing to cooperate, as determined by the department in accordance with the best interests of the child and with standards prescribed in 45 C.F.R. sec. 232.40, et seq. If a specified relative with whom a child is residing is found to be ineligible for assistance because of failure to comply with the cooperation requirements of this subsection, assistance, determined without regard to the needs of the specified relative, shall be provided to a protective payee for the child. A protective payment made under this subsection is not subject to the two-year restriction in subsection 4.

7. The state comptroller shall, no later than January 1, 1977 and upon receipt of a written signed request from the person entitled to receive assistance established by this chapter a recipient, shall order that payments be made directly to a bank, savings and loan association, or credit union of his or her the recipient's choice.

Sec. 6. Section 239.6, Code 1983, is amended to read as follows:

**239.6 PERIODIC RECONSIDERATION, CHANGES, AND TERMINATION OF GRANTS ASSISTANCE.** Any or all assistance grants made under this chapter shall be Assistance is subject to reconsideration at any time the county board deems necessary every six months and shall may be reinvestigated and reconsidered by the county board as more frequently as may be required. After any such further an investigation, the county board shall make further report to the state director. Upon such report, assistance may be continued, renewed, suspended, changed in amount, or entirely withdrawn, as the findings of such reports the investigation warrant. As a condition of eligibility, the department may require periodic reports from recipients concerning their income, resources, family composition, and other circumstances.

Sec. 7. Section 239.8, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**239.8 OUT-OF-STATE ASSISTANCE.** Out-of-state assistance shall be made only to a recipient who retains residency in this state and remains otherwise eligible for assistance. The department shall periodically determine eligibility for assistance to out-of-state recipients.

Sec. 8. Section 239.9, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

**239.9 FUNERAL EXPENSES.** The department may pay, from funds appropriated to it for the purpose, a maximum of four hundred dollars toward funeral expenses on the death of a child who is receiving or has been authorized to receive assistance, provided:

1. The decedent does not leave an estate which may be probated with sufficient proceeds to allow for payment of the funeral claim.

2. Payments which are due the decedent's estate or beneficiary by reason of the liability of a life insurance, death or funeral benefit company, association, or society, or in the form of United States social security, railroad retirement, or veterans' benefits upon the death of the decedent, are deducted from the department's liability under this section.

Sec. 9. Section 239.12, Code Supplement 1983, is amended to read as follows:

**239.12 AID TO DEPENDENT CHILDREN ACCOUNT.** There is established in the state treasury an account to be known as the "Aid to Dependent Children Account" to which shall be credited all funds appropriated by the state for the payment of assistance and benefits under this chapter, and all other moneys received at any time for such purposes. Moneys assigned to the department under section ~~239.12~~ 239.3 and received by the child support recovery unit pursuant to section 252B.5 and 42 U.S.C. sec. 664 shall be credited to the account in the fiscal year in which the moneys are received. All assistance and benefits under this chapter shall be paid from the account.

Sec. 10. Section 239.17, Code 1983, is amended to read as follows:

**239.17 RECOVERY OF ASSISTANCE OBTAINED BY FRAUDULENT ACT.** Whosoever A person who obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or representation, or by impersonation or any fraudulent device, any assistance as defined in this chapter to which the recipient is not entitled, shall be is personally liable for the amount of assistance thus obtained. Such The amount of the assistance may be recovered from the offender or his the offender's estate in an action brought or by claim filed in the name of the state, and upon recovery the state shall pay the county a portion thereof equal to the amount paid by the county with respect to such assistance and return the balance of such recovery to the fund for aid to dependent children and the recovered funds shall be deposited in the aid to dependent children account. The action or claim filed in the name of the state shall not be considered an election of remedies to the exclusion of other remedies.

Sec. 11. Section 239.18, Code Supplement 1983, is amended to read as follows:

**239.18 STATE CONTROL EXCLUSIVE RULES.** Questions of policy and control respecting administration of this chapter shall vest and remain in the state division of child and family services of the department of human services of the state of Iowa and the state director of said division for the purposes of administering all provisions of this chapter. In order to provide a uniform state-wide program for aid to dependent children, the state director department shall promulgate such adopt rules and regulations as may be pursuant to chapter 17A necessary to make the provisions of implement this chapter uniform in all of the counties of this state and to ensure federal financial participation in the program.

Sec. 12. Section 239.20, Code 1983, is amended to read as follows:

**239.20 COUNTY ATTORNEY TO ENFORCE.** It is the intent of the general assembly that violations Violations of law relating to the aid to dependent children, medical assistance, and supplemental assistance program shall be prosecuted by county attorneys. Area prosecutors of the office of the attorney general shall provide such assistance in prosecution as may be required assistance. It is the intent of the general assembly that the first priority for investigation and prosecution for which funds are provided by this Act shall be for fraudulent claims or practices by health care vendors and providers.

Sec. 13. Section 239.15, Code 1983, is repealed.

Approved May 14, 1984

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**CHAPTER 1277**  
**IOWA VETERANS HOME**  
*H.F. 2440*

**AN ACT** relating to the Iowa veterans home and its administration.

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

Section 1. Section 219.1, Code 1983, is amended to read as follows:

**219.1 PURPOSE OF HOME—FOR WHOM MAINTAINED.**

1. The Iowa veterans home, located in Marshalltown, shall be maintained as a long-term health care facility providing multiple levels of care, with attendant health care services, for honorably discharged veterans and ~~for the~~ their dependent spouses and for surviving spouses of such honorably discharged veterans. Eligibility requirements for admission to the Iowa veterans home shall coincide with the eligibility requirements for hospitalization in a United States veterans administration facility pursuant to title 38, United States Code, ~~sections 210 and section~~ section 610, and regulations promulgated under such provisions that section as amended to January 1, ~~1975~~ 1984.

2. As used in this chapter:

- a. "Commissioner" means the commissioner of the department of human services.
- b. "Member" means a patient or resident of the home.

Sec. 2. Section 219.2, Code 1983, is amended to read as follows:

**219.2 RIGHT TO ADMISSION.** All persons named

1. Persons described in section 219.1 who do not have sufficient means for their own support, or who are disabled by disease, wounds, old age or otherwise, or who and are unable to earn a livelihood, and who have been residents and citizens of the state of Iowa for the three years immediately preceding the date of the application and who are residents of the state of Iowa at the time on the date of the application and immediately preceding the date the application is accepted, may be admitted to the home as members thereof under such rules and regulations as may be adopted by the director commissioner. Eligibility determinations are subject to approval by the commissioner.

2. A person shall not be received or retained in the home who has been diagnosed by a qualified mental health professional as acutely mentally ill and considered dangerous to self or others, is an acute inebriate, or is addicted to the use of drugs, and whose documented behavior is continuously disruptive to the operation of the facility.

Sec. 3. Section 219.3, Code 1983, is amended to read as follows:

**219.3 ELIGIBILITY—RULES—GENERAL MANAGEMENT.** The director shall have power to determine the eligibility of applicants for admission to the home in accordance with the provisions of this chapter, and commissioner shall adopt all the necessary rules and regulations for the preservation of order and enforcement of discipline, the promotion of health and well-being of all the members and for the management and control of the home and the its grounds thereof.

Sec. 4. Section 219.4, Code 1983, is amended to read as follows:

**219.4 MARRIED COUPLES—QUARTERS.**

1. When a married person is or becomes a member of the home, the spouse, if married to the person for at least one year and is otherwise eligible under this chapter, may be admitted as a member of the home subject to all the rules of said the home. Husband and wife Veteran and spouse members may be permitted to occupy, together, cottages or other quarters on the grounds of the home.

2. The cottages may be made available to persons on the staff of the home at a rental rate determined by the commissioner.

Sec. 5. Section 219.5, Code 1983, is amended to read as follows:

**219.5 SURVIVING SPOUSES OF VETERANS.** If any a deceased veteran, who would be entitled to admission to the home if the deceased veteran were living, has left a surviving spouse, such the spouse shall be is entitled to admission to the home with the same rights, privileges and benefits as though if the veteran were living and a member of the home, provided, however, that such if the spouse has been was married to said the veteran for at least one year immediately prior to the veteran's death, and has reached the age of fifty years or is found by the commandant to be totally and permanently disabled, and the spouse does not have sufficient means or does not possess sufficient funds for support and maintenance, and provided further that the surviving spouse has been for the three years preceding the date of application, is a resident of the state of Iowa, and has not married at any time since the death of the veteran spouse except to a member of the home on the date of the application and immediately preceding the date the application is accepted.

Sec. 6. Section 219.6, Code 1983, is amended to read as follows:

219.6 CERTIFICATE OF ELIGIBILITY. Before admission, each applicant shall file with the commandant an affidavit signed by two members of the commission of veteran affairs of the county in which ~~such~~ the person resides, stating that ~~such~~ the person to the best of their knowledge and belief is a resident of ~~such~~ that county ~~as required under this chapter~~ and that ~~such~~ the person is unable to earn a livelihood and ~~his~~ the person's income, ~~is less than twelve hundred dollars per annum~~ exclusive of pension, compensation, war risk insurance payments, or pensions or annuities under the social security Act and the railroad retirement Acts. ~~Such, is less than is sufficient to provide the type of health care necessary for the person's welfare. The affidavit shall be is conclusive evidence of the residence of such persons and the person but is prima facie only in all other matters affecting the eligibility of the applicant and the liability of the county with respect to the expense of any such~~ the person for which the county may be liable. All records of admission shall show the residence of the applicant.

Sec. 7. Section 219.7, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

219.7 CONTRIBUTING TO OWN SUPPORT.

1. Except as otherwise provided in chapter 249A and other provisions of this chapter, a member of the home who receives a pension, compensation or gratuity from the United States government, or income from any source of more than twenty-five dollars per month, shall contribute to the member's own maintenance or support while a member of the home. The amount of the contribution and the method of collection shall be determined by the commissioner, but the amount shall in no case exceed the actual cost of keeping and maintaining the person in the home.

2. Sums paid to and received by the commandant for the support of members of the home shall be paid monthly by the commandant to the treasurer of state and credited to the general fund of the state.

3. The commissioner may require any member of the home to render assistance in the care of the home and its grounds as the member's psycho-social and physical condition will permit, as a phase of that member's rehabilitation program. The commissioner shall compensate each member who furnishes assistance at rates established by the commissioner.

Sec. 8. Section 219.8, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

219.8 CONDITIONAL ADMITTANCE. The commissioner may, if there is room for all dependent members and applicants, admit and allow to remain in the home persons who have sufficient means for their own support but are otherwise eligible to become members of the home, on payment of the cost of their support. The cost and method of collection shall be determined by the commissioner.

Sec. 9. Section 219.9, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

219.9 COUNTY OF SETTLEMENT UPON DISCHARGE. A member of the home does not acquire legal settlement in the county in which the home is located unless the member is voluntarily or involuntarily discharged from the home, continuously resides in the county for a period of one year subsequent to the discharge, and during that year is not readmitted to the home or does not receive any services from the home.

Sec. 10. NEW SECTION. 219.10 PAYMENT TO DEPENDENTS. Except as otherwise provided in chapter 249A and other provisions of this chapter, a member of the home who receives a pension or compensation and who has a child, as defined in section 234.1, or a spouse

who is dependent upon employment or others for support shall deposit with the commandant on receipt of the member's pension or compensation check one-half of its amount, which shall be sent at once to the spouse or, if there is no spouse, to the guardian of the child. The commandant, if satisfied that the spouse has deserted the member of the home, may pay the money deposited to the guardian of the child.

Sec. 11. NEW SECTION. 219.11 HANDLING OF PENSION MONEY AND OTHER FUNDS.

1. Pension money deposited with the commandant is not assignable for any purpose except as provided in sections 219.10 and 219.19, or in accordance with subsection 2 of this section.

2. The commandant, if authorized by a member of the home, and pursuant to policies adopted by the commissioner, may act on behalf of that member in receiving, disbursing, and accounting for personal funds of the member received from any source. The authorization may be given by the member at any time and shall not be a condition of admission to the home.

Sec. 12. NEW SECTION. 219.12 BANK ACCOUNT FOR MEMBERS' DEPOSITS.

1. The Iowa veterans home, for the convenience of its members, may maintain a commercial account with a federally insured bank for the individual personal deposits of its members. The account shall be known as the Iowa veterans home membership account. The commandant shall record each member's personal deposits individually and shall deposit the funds in the membership account, where the members' deposits shall be held in the aggregate.

2. The commandant, if authorized by a member of the home, and pursuant to policies adopted by the commissioner, may make withdrawals against that member's personal account to pay regular bills and other expenses incurred by the member. The authorization may be given by the member at any time and shall not be a condition of admission to the home.

Sec. 13. Section 219.13, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

219.13 COMMANDANT.

1. The commissioner shall appoint a commandant who shall be the person responsible for handling veterans affairs for the department of human services, shall serve as the chief executive of the home and shall have the immediate custody and control, subject to the orders of the commissioner or the commissioner's designee, of all property used in connection with the home.

2. The commandant must be a resident of the state of Iowa and an honorably discharged veteran who served in the armed forces of the United States during a conflict or war. As used in this section, the dates of service in a conflict or war shall coincide with the dates of service established by the Congress of the United States.

3. The commandant shall receive an annual salary as the commissioner may determine. In addition to salary, the commissioner shall furnish the commandant with a dwelling house or with appropriate quarters and additional allowances, as provided in section 218.14 for executive heads of state institutions.

Sec. 14. Section 219.18, Code 1983, is amended to read as follows:

219.18 RULES ENFORCED—POWER TO DISMISS SUSPEND AND EXPEL MEMBERS. The commandant shall administer and enforce all rules and regulations adopted by the ~~director~~ commissioner, including rules of discipline, and, ~~shall have power to dismiss~~ subject to these rules, may immediately suspend the membership of and expel any member person from the home for infraction of ~~such the rules and regulations subject to the approval of the director~~ when the commandant determines that the health, safety or welfare of the residents of the home is in immediate danger and other reasonable alternatives have been exhausted. The suspension and expulsion are temporary pending action by the



commissioner. Judicial review of the action of the commissioner may be sought in accordance with chapter 17A.

Sec. 15. Section 219.19, Code 1983, is amended to read as follows:

219.19 DUAL CONVICTION – PROBATION. Any A person who, while a member of the home, is twice convicted of an offense against the statutes of the state, or twice found guilty by the commandant or a court martial of intoxication or other infraction of the rules of the home, shall be required to deposit all of his the person's pension money with the commandant immediately upon receipt of his the pension check or warrant. In lieu of trial by the commandant the member may demand a court martial. Sueh The pension money shall be deposited by the commandant in a separate account for and in behalf of sueh the pensioner and the commandant shall, under sueh the rules as the director may provide commissioner provides, pay the same money out with the consent of the pensioner in sueh the manner and for sueh purposes as the director may approve commissioner approves. If, after a period of six months, the pensioner shall conduct himself in an pensioner's conduct is orderly and sober manner, said the deposit shall be returned to him the pensioner. If the pensioner be is discharged from the home the balance of sueh the deposit shall be paid to said the pensioner within thirty days after his discharge.

Sec. 16. Section 219.21, Code 1983, is amended to read as follows:

219.21 REPORT BY DIRECTOR COMMISSIONER. The director commissioner shall, biennially, on or before October 1, prior to the meeting of the general assembly, make a full and detailed report to the governor showing the condition of the home, the number of members in the home, the order and discipline enforced, and the needs of the home financially and otherwise, together with an itemized statement of all receipts and disbursements and any and all other matters of importance in the management and control of the home.

Sec. 17. Section 218.9, unnumbered paragraph 3, Code Supplement 1983, is amended to read as follows:

The superintendent or warden shall have immediate custody and control, subject to the orders and policies of the division director in charge of the institution, of all property used in connection with the institution except as provided in this chapter or section 219.7. The tenure of office shall be at the pleasure of the appointing authority. The appointing authority may transfer a superintendent or warden from one institution to another.

Sec. 18.

1. Sections 219.14, 219.15, 219.16, 219.17, 219.20 and 219.23, Code 1983, are repealed.
2. Section 219.24, Code Supplement 1983, is repealed.

Approved May 14, 1984

**CHAPTER 1278**  
**CHILD SUPPORT DEBT PROCEDURES**

*H.F. 2467*

**AN ACT** relating to administrative procedures for the establishment, determination, and collection of certain child support debts.

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

Section 1. NEW SECTION. 252C.1 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Caretaker" means a parent, relative, guardian, or another person who is responsible for paying foster care costs pursuant to chapter 234 or whose needs are included in an assistance payment made pursuant to chapter 239.
2. "Court order" means a judgment or order of a court of this state or another state requiring the payment of a set or determinable amount of monetary support.
3. "Department" means the department of human services.
4. "Dependent child" means a person who meets the eligibility criteria established in chapter 234 or 239 and whose support is required by chapter 234, 239, 252A, 598, or 675.
5. "Director" means the director of the child support recovery unit of the department of human services, or the director's designee.
6. "Public assistance" means foster care costs paid by the department pursuant to chapter 234 or assistance provided pursuant to chapter 239.
7. "Responsible person" means a parent, relative, guardian, or another person legally liable for the support of a child or a child's caretaker.

Sec. 2. NEW SECTION. 252C.2 ASSIGNMENT—CREATION OF SUPPORT DEBT—SUBROGATION.

1. By accepting public assistance for or on behalf of a dependent child or a dependent child's caretaker, the recipient is deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearages owed to or for the child or caretaker up to the amount of public assistance paid for or on behalf of the child or caretaker.
2. The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department by the responsible person in an amount equal to the public assistance payment, except that the support debt is limited to the amount of a support obligation established by court order or by the director. If a court order has not been entered, the director may establish a support debt in an amount determined to be consistent with the debtor's ability to pay and the needs of the dependent child, both as to amounts accrued and accruing, and with the schedule of minimum support guidelines in section 252C.10. However, a support debt is not created in favor of the department against a responsible person for the period during which the responsible person is a recipient on the person's own behalf of public assistance for the benefit of the dependent child or the dependent child's caretaker.

3. The provision of child support collection or paternity determination services under chapter 252B to an individual, even though the individual is ineligible for public assistance, creates a support debt due and owing to the individual or the individual's child or ward by the responsible person in the amount of a support obligation established by court order or by the director. If a court order has not been entered, the director may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person, in an amount determined to be consistent with the responsible person's ability to pay and the needs of the dependent child, both as to amounts accrued and accruing, and with the schedule of minimum support guidelines in section 252C.10.

4. The department is subrogated to the rights of a dependent child or a dependent child's caretaker to bring a court action or to execute an administrative remedy for the collection of support. The director may petition an appropriate court for modification of a court order on the same grounds as a party to the court order can petition the court for modification.

**Sec. 3. NEW SECTION. 252C.3 NOTICE OF SUPPORT DEBT—ADMINISTRATIVE HEARING, DETERMINATION, AND ORDER.**

1. In the absence of a court order, the director may issue a notice establishing and demanding payment of an accrued or accruing support debt due and owed to the department or an individual under section 252C.2. The notice shall be served upon the responsible person in accordance with the rules of civil procedure. The notice shall include all of the following:

- a. The amount of any monthly public assistance creating a support debt.
- b. A computation of the support debt.
- c. The name of a public assistance recipient and the name of the dependent child or caretaker for whom the public assistance is paid.
- d. A demand for immediate payment of the support debt.
- e. (1) A statement that if the responsible person desires to discuss the amount of support that the responsible person should be required to pay, the responsible person may, within ten days after being served, contact the office of the child support recovery unit which sent the notice and request a negotiation conference.  
(2) A statement that if a negotiation conference is requested, then the responsible person shall have ten days from the date set for the negotiation conference or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the office of the child support recovery unit which issued the notice.  
(3) A statement that after the holding of the negotiation conference, the director may issue a new notice and finding of financial responsibility to be sent to the responsible person by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney.  
(4) A statement that if the director issues a new notice and finding of financial responsibility, then the responsible person shall have ten days from the date of issuance of the new notice or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the office of the child support recovery unit which issued the notice.
- f. A statement that if the responsible person objects to all or any part of the notice or finding of financial responsibility and no negotiation conference is requested, then within twenty days of the date of service, the responsible person shall send to the office of the child support recovery unit which issued the notice a written response setting forth any objections and requesting a hearing.
- g. A statement that if a timely written request for a hearing is received by the office of the child support recovery unit which issued the notice, the responsible person shall have the

right to a hearing to be held in district court; and that if no timely written response is received, the director may enter an order in accordance with the notice and finding of financial responsibility.

h. A statement that, as soon as the order is entered, the property of the responsible person is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

i. A statement that the responsible person shall notify the director of any change of address or employment.

j. A statement that if the responsible person has any questions, the responsible person should telephone or visit an office of the child support recovery unit or consult an attorney.

k. Such other information as the director finds appropriate.

2. The time limitations for requesting a hearing in subsection 1 may be extended by the director.

3. If a timely written response setting forth objections and requesting a hearing is received by the appropriate office of the child support recovery unit, a hearing shall be held in district court.

4. If timely written response and request for hearing is not received by the appropriate office of the child support recovery unit, the director may enter an order in accordance with the notice, and shall specify all of the following:

a. The amount of monthly support to be paid, with directions as to the manner of payment.

b. The amount of the support debt accrued and accruing in favor of the department.

c. The name of the custodial parent or agency having custody of the dependent child and the name and birth date of the dependent child for whom support is to be paid.

d. That the property of the responsible person is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

5. The responsible person shall be sent a copy of the order by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney. The order is final, and action by the director to enforce and collect upon the order, including arrearages, may be taken from the date of issuance of the order.

**Sec. 4. NEW SECTION. 252C.4 CERTIFICATION OF ORDER TO DISTRICT COURT—HEARING—DEFAULT UPON FAILURE TO APPEAR.**

1. If a timely written request for a hearing is received, the director shall certify the matter to the district court in the county in which the order has been filed, or if no such order has been filed, then to a district court in the county where the dependent child resides.

2. If the matter has not been heard previously by the district court, the certification shall include true copies of the notice and finding of financial responsibility or notice of the support debt accrued and accruing, the return of service, the written objections and request for hearing, and true copies of any administrative orders previously entered.

3. The court shall set the matter for hearing and notify the parties of the time and place of hearing.

4. The court shall consider the schedule of minimum support guidelines in section 252C.10 in establishing the monthly support payment and the amount of the support debt accrued and accruing.

5. If a party fails to appear at the hearing, upon a showing of proper notice to that party, the court may find that party in default and enter an appropriate order.

Sec. 5. NEW SECTION. 252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY ORDER—ORDER EFFECTIVE AS DISTRICT COURT DECREE. A true copy of any order entered by the director pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the district court in the county in which the dependent child resides. Upon filing, the clerk shall enter the order in the judgment docket, and the order shall have all the force, effect, and attributes of a docketed order or decree of the district court.

Sec. 6. NEW SECTION. 252C.6 INTEREST ON SUPPORT DEBTS. Interest accrues on support debts at the rate provided in section 535.3 for court judgments. The director may collect the accrued interest but is not required to maintain interest balance accounts. The department may waive payment of the interest if the waiver will facilitate the collection of the support debt.

Sec. 7. NEW SECTION. 252C.7 EMPLOYERS—ASSIGNMENTS OF EARNINGS. In addition to other remedies provided by law for the enforcement of a support obligation, the employer of a responsible person owing a support debt shall honor a duly executed assignment of current or future earnings presented by the director to the employer as a plan to satisfy or retire the support debt. The assignment is effective until released in writing by the director. The employer is entitled to receive from the debtor a fee of one dollar for each remittance under the assignment. Payment of moneys pursuant to the assignment of earnings is a full acquittance under a contract of employment. The director is released from liability for improper receipt of moneys under an assignment of earnings upon the return of the moneys.

Sec. 8. NEW SECTION. 252C.8 PREVENTION OF TRANSFER OF ASSETS OR COMPLIANCE WITH ORDER. If the director reasonably believes that the responsible person is not a resident of this state, is about to move from this state, or is concealing the responsible person's whereabouts, or that the responsible person has removed or is about to remove, secrete, waste, or otherwise dispose of property which could be made subject to collection procedures to satisfy the support debt, the director may petition the district court for a temporary restraining order barring the removal, secretion, waste, or disposal. However, if the responsible person furnishes a bond satisfactory to the court, the temporary restraining order shall be vacated.

Sec. 9. NEW SECTION. 252C.9 COURT ORDER PREVAILS. If an order issued pursuant to this chapter conflicts with an order of a court, to the extent of the conflict the court order prevails.

Sec. 10. NEW SECTION. 252C.10 SCHEDULE OF MINIMUM SUPPORT GUIDELINES.

1. As used in this section, "monthly net income" means gross monthly income minus payroll taxes as defined in section 85.61, subsection 10, mandatory pension contributions, health insurance or health benefit payments for dependents, and deductions not to exceed twenty-five dollars per month for a responsible person's health insurance, health benefit payments, or medical expenses.

2. In ordering a responsible person to pay reasonable and necessary child support, the director shall set the monthly amount of the child support by multiplying the responsible person's monthly net income by the percentage indicated in the following guidelines, unless the director makes express findings of fact as to the reason for deviating from the guidelines. However, the director may set the child support above the amount in the guidelines without making express findings of fact if the parties expressly agree to the amount of the child support.

Monthly Net Income of Re- sponsible Person	Number of Dependent Children						
	1	2	3	4	5	6	7 or more
\$ 400 and below	Order based on the ability of the responsible person to provide support at these income levels, or at higher levels, if the responsible person has the ability to earn more.						
\$ 401 - 500	14%	17%	20%	22%	24%	26%	28%
\$ 501 - 550	15%	18%	21%	24%	26%	28%	30%
\$ 551 - 600	16%	19%	22%	25%	28%	30%	32%
\$ 601 - 650	17%	21%	24%	27%	29%	32%	34%
\$ 651 - 700	18%	22%	25%	28%	31%	34%	36%
\$ 701 - 750	19%	23%	27%	30%	33%	36%	38%
\$ 751 - 800	20%	24%	28%	31%	35%	38%	40%
\$ 801 - 850	21%	25%	29%	33%	36%	40%	42%
\$ 851 - 900	22%	27%	31%	34%	38%	41%	44%
\$ 901 - 950	23%	28%	32%	36%	40%	43%	46%
\$ 951 - 1000	24%	29%	34%	38%	41%	45%	48%
\$1001 and over	25%	30%	35%	39%	43%	47%	50%

3. In applying the guidelines, the director shall consider the following criteria:

(1) All earnings, income, and resources of the responsible parent, including real and personal property.

(2) The basic living needs of the responsible person.

(3) The financial needs of the dependent child or children to be supported.

(4) The amount of public assistance for which the dependent child or children could be eligible.

4. In applying the guidelines, the director may consider previous support or maintenance orders which the responsible person is currently paying.

Approved May 14, 1984

**CHAPTER 1279**  
**CHILD PROTECTION**  
*S.F. 2293*

**AN ACT** relating to child protection by creating foster care review boards for a four-year period, creating a foster care registry, providing for rehabilitation for a child receiving foster care and the child's family unit, amending provisions relating to a court's dispositional order, amending Iowa's child abuse, delinquency, and child-in-need-of-assistance laws, by requiring registered family or group day care providers to report child abuse, requiring foster parent training, permitting a peace officer to remove a child from a child day care facility under certain circumstances, permitting child care financial assistance funds to go to licensed and registered child day care facilities and organizations and agencies which serve day care facilities, and establishing penalties.

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

Section 1. Section 232.2, Code Supplement 1983, is amended by adding the following new subsection as subsection 4 and renumbering the subsequent subsections:

**NEW SUBSECTION. 4.** "Case permanency plan" means the plan, mandated by Pub. L. No. 96-272, as codified in 42 U.S.C., secs. 671(a)(16), 627(a)(2)(B), and 675(1),(5), designed to achieve placement in the least restrictive, most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child. The plan shall specifically include all of the following:

- a. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.
- b. The type and appropriateness of the placement and services to be provided to the child.
- c. The care and services that will be provided to the child, natural parents, and foster parents.
- d. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.

Sec. 2. Section 232.2, subsection 5, Code Supplement 1983, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH. m.** Who is in need of treatment to cure or alleviate chemical dependency and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.

Sec. 3. Section 232.37, subsection 2, Code 1983, is amended to read as follows:

2. Notice of the pendency of the case shall be served upon the known ~~parent~~ parents, ~~guardian~~ guardians or ~~legal custodian~~ custodians of a child if ~~this person is~~ these persons are not summoned to appear as provided in subsection 1. Notice shall also be served upon the child and upon the child's guardian ad litem, if any. The notice shall attach a copy of the petition and shall give notification of the right to counsel provided for in section 232.11.

Sec. 4. Section 232.69, subsection 1, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

The following classes of persons shall make a report, within 24 hours and as provided in section 232.70, of cases of child abuse:

Sec. 5. Section 232.52, Code Supplement 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 5. If the court orders the transfer of custody of the child to the department of human services or other agency for placement, the department or agency responsible for the placement of the child shall submit a case permanency plan to the court and shall make every effort to return the child to the child's home as quickly as possible.

NEW SUBSECTION. 6. When the court orders the transfer of legal custody of a child pursuant to section 232.52, subsection (2), paragraphs "d", "e", or "f", the order shall state that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home.

Sec. 6. Section 232.69, subsection 1, paragraph b, Code Supplement 1983, is amended to read as follows:

b. Every self-employed social worker, every social worker under the jurisdiction of the department of human services, any social worker employed by a public or private agency or institution, public or private health care facility as defined in section 135C.1, certified psychologist, certificated school employee, employee or operator of a licensed day care facility, child care center or registered group day care home or registered family day care home, member of the staff of a mental health center, or peace officer, who, in the course of employment, examines, attends, counsels or treats a child and reasonably believes a child has suffered abuse. Whenever such If a person is required to report under this section as a member of the staff of a public or private institution, agency or facility, that person shall immediately notify the person in charge of such the institution, agency or facility, or that person's designated agent, and the person in charge of the institution, agency, or facility, or the designated agent shall make the report.

Sec. 7. Section 232.71, subsection 4, Code Supplement 1983, is amended to read as follows:

4. The department of human services may request information from any person believed to have knowledge of a child abuse case. The county attorney, and any law enforcement or social services agency in the state, and any mandatory reporter shall co-operate and assist in the investigation upon the request of the department of human services. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child.

Sec. 8. Section 232.71, subsections 9 and 13, Code Supplement 1983, are amended to read as follows:

9. If, upon completion of the investigation, the department of human services determines that the best interests of the child require juvenile court action, the department shall take the appropriate action to initiate such action under this chapter. The county attorney shall assist the county department of human services in the preparation of the necessary papers to initiate such action and shall appear and represent the department at all juvenile court proceedings.

13. If a fourth report is received from the same person who made three earlier unsubstantiated unfounded 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, again unfounded, due to the report's spurious or frivolous nature and may in its discretion terminate its investigation.

Sec. 9. Section 232.78, subsections 1 and 2, Code 1983, are amended to read as follows:



1. The juvenile court may enter an ex parte order directing a peace officer to remove a child from ~~his or her~~ the child's home or a child day care facility before or after the filing of a petition under this chapter provided all of the following apply:

a. The parent, guardian, ~~or~~ legal custodian, or employee of the child day care facility is absent, or though present, was asked and refused to consent to the removal of the child and was informed of an intent to apply for an order under this section; ~~and~~.

b. It appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health; ~~and~~.

c. There is not enough time to file a petition and hold a hearing under section 232.95.

2. The order shall specify the facility to which the child is to be brought. Except for good cause shown or unless the child is sooner returned to the place where ~~he or she~~ the child was residing or permitted to return to the child day care facility, a petition shall be filed under this chapter within three days of the issuance of the order.

Sec. 10. Section 232.79, subsection 1, Code Supplement 1983, is amended to read as follows:

1. A peace officer may remove a child from ~~his or her~~ the child's home or a child day care facility or a physician treating a child may keep the child in custody without a court order as required under section 232.78 and without the consent of a parent, guardian, or custodian provided that both of the following apply:

a. The child is in such circumstance or condition that ~~his or her~~ the child's continued presence in the residence or the child day care facility or in the care or custody of the parent, guardian, or custodian presents an imminent danger to the child's life or health; ~~and~~.

b. There is not enough time to apply for an order under section 232.78.

Sec. 11. Section 232.91, Code 1983, is amended to read as follows:

**232.91 PRESENCE OF PARENTS AND GUARDIAN AD LITEM AT HEARINGS.** Any hearings or proceedings under this division subsequent to the filing of a petition shall not take place without the presence of the child's parent, guardian, ~~or~~ custodian, or guardian ad litem in accordance with and subject to ~~the provisions of~~ section 232.38. A parent without custody may petition the court to be made a party to proceedings under this division.

Sec. 12. **NEW SECTION. 232.94A** Juvenile court records, social records, and the material required to be recorded pursuant to section 232.94 shall be maintained and shall be a part of each hearing relating to the child so long as and whenever the child is a child in need of assistance.

Sec. 13. Section 232.95, subsection 2, paragraph a, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** If removal is ordered, the order shall, in addition, contain a statement that removal from the home is the result of a determination that continuation therein would be contrary to the welfare of the child, and that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home.

Sec. 14. Section 232.97, subsections 1 and 3, Code Supplement 1983, are amended to read as follows:

1. The court shall not make any a disposition of the petition until a social report has been submitted to and considered by the court. The court may direct either the juvenile court officer, or the department of human services or any other agency licensed by the state to conduct a social investigation and to prepare a social report which may include any evidence provided by an individual providing foster care for the child. A report prepared shall include any founded reports of child abuse.

3. The social report shall not be disclosed except as provided in this section and except as otherwise provided in this chapter. Prior to the hearing at which the disposition is determined, the court shall permit counsel for the child, and counsel for the child's parent, guardian or custodian, and the guardian ad litem to inspect any social report to be considered by the court. The court may in its discretion order such counsel not to disclose parts of the report to the child, or to the parent, guardian or custodian if disclosure would seriously harm the treatment or rehabilitation of the child or would violate a promise of confidentiality given to a source of information.

Sec. 15. Section 232.98, subsection 1, unnumbered paragraph 5, Code 1983, is amended to read as follows:

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. The court shall require that notice be provided to the child's guardian ad litem of the counseling sessions and of the participants and results of the sessions.

Sec. 16. Section 232.102, subsection 3, paragraph b, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The order shall, in addition, contain a statement that removal from the home is the result of a determination that continuation therein would be contrary to the welfare of the child, and that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home.

Sec. 17. Section 232.102, subsection 5, Code Supplement 1983, is amended to read as follows:

5. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of human services or other agency for placement, the department or agency shall submit a case permanency plan to the court a specific plan for placement of the child and shall make every effort to return the child to his or her the child's home as quickly as possible. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency shall consider placing the child in the same licensed foster care facility. If the court orders the transfer of custody to a relative or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian or custodian in order to enable them to resume custody of the child.

Sec. 18. Section 232.102, subsection 6, Code Supplement 1983, is amended to read as follows:

6. The duration of any placement made after an order pursuant to this section shall be for an initial period of six months. At the expiration of that period and every six months thereafter, the court shall hold a hearing and review the placement in order to determine whether the child should be returned home, an extension of the placement should be made, or a termination of the parent-child relationship proceeding should be instituted. The placement ~~should~~ shall be terminated and the child returned to his or her the child's home if the court finds by a preponderance of the evidence that the child will not suffer harm in the manner

specified in section 232.2, subsection 5. If the placement is extended, the court ~~should~~ shall determine whether additional services are necessary to facilitate the return of the child to ~~his or her~~ the child's home, and if the court determines such services are needed, the court shall order the provision of such services. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency responsible for the placement of the child shall consider placing the child in the same licensed foster care facility.

Sec. 19. Section 232.116, subsection 4, paragraphs b and d, Code 1983, are amended to read as follows:

b. The custody of the child has been transferred from ~~his or her~~ the child's parents for placement pursuant to section 232.102 and ~~such~~ the placement has lasted for a period of at least six consecutive months, but less than twelve consecutive months; and

d. There is clear and convincing evidence that the parents have not maintained contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so.

Sec. 20. Section 232.116, subsection 5, paragraph b, Code 1983, is amended to read as follows:

b. The custody of the child has been transferred from ~~his or her~~ the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months; and

Sec. 21. Section 232.117, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If the court orders the termination of parental rights and transfers guardianship and custody under subsection 3, the department of human services or the agency responsible for the placement shall submit a case permanency plan to the court and shall make every effort to establish a stable placement for the child by adoption or other permanent placement. The child's placement shall be reviewed by the court every six months until the child is adopted.

Sec. 22. Section 234.11, Code 1983, is amended to read as follows:

234.11 DUTIES OF THE COUNTY BOARD—FOOD STAMP PROGRAM. The county board ~~shall be vested with the authority to may~~ direct emergency relief with only ~~such~~ the powers and duties as are prescribed in the laws relating thereto and shall determine the allocation of funds to child day care centers facilities, organizations, and agencies pursuant to sections 237A.14 to 237A.18. Organizations and agencies which serve day care facilities and any licensed or registered facilities may apply for the funds. The board shall act in an advisory capacity on programs within the jurisdiction of the department of human services. The board shall review policies and procedures of the local departments of human services and make recommendations for changes to insure that effective services are provided in their respective communities. The county board may also make recommendations for new programs which it is believed would meet needs in the community. The state department shall establish a procedure to insure that county board recommendations receive appropriate review at the level of policy determination.

Sec. 23. Section 235A.17, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department of human services shall notify orally the mandatory reporter in an individual child abuse case of the results of the case investigation and of the confidentiality provisions of section 235A.15 and 235A.21. The department may subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235A.18.

Sec. 24. Section 235A.18, subsection 2, Code Supplement 1983, is amended to read as follows:

2. Child abuse information ~~may~~ shall be expunged where the probative value of the information is so doubtful as to outweigh its validity one year after the receipt of the initial report of such abuse if the information cannot be determined by a preponderance of the evidence to be founded or unfounded. Child abuse information shall be expunged if the information is determined to be unfounded as a result of any of the following:

- a. The investigation of a report of suspected child abuse by the department.
- b. A successful appeal as provided in section 235A.19.
- c. A court adjudication.

Sec. 25. **NEW SECTION. FOSTER PARENT TRAINING.** As a condition for initial licensure, each individual licensee shall complete twelve hours of foster parent training offered or approved by the department. The training shall include but not be limited to physical care, education, learning disabilities, referral to and receipt of necessary professional services, behavioral assessment and modification, self-assessment, self-living skills, and biological parent contact. An individual licensee may complete the training as part of an approved training program offered by a public or private agency with expertise in the provision of child foster care or in related subject areas.

Sec. 26. **NEW SECTION. 237.15 DEFINITIONS.** For the purposes of this division unless otherwise defined:

1. "Local board" means a local foster care review board created pursuant to section 237.19.

2. "State board" means the state foster care review board created pursuant to section 237.16.

3. "Child receiving foster care" means a child defined in section 234.1 whose foster care placement is the financial responsibility of the state pursuant to section 234.35, subsection 1, 2, or 4 or 234.36 or who is under the guardianship of the department.

4. "Person or court responsible for the child" means the department, including but not limited to the department of human services, agency, or individual who is the guardian of a neglected, dependent, or delinquent child by court order and has the responsibility of the care of the child, or the court having jurisdiction over the child.

5. "Family" means the social unit consisting of the child and the biological or adoptive parent, stepparent, brother, sister, stepbrother, stepsister, and grandparent of the child.

6. "Case permanency plan" means the plan, mandated by Pub. L. No. 96-272, as codified in 42 U.S.C., secs. 671(a)(16), 627(a)(2)(B), and 675(1)(5), designed to achieve placement in the least restrictive, most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child. The plan shall specifically include all of the following:

a. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.

b. The type and appropriateness of the placement and services to be provided to the child.

c. The care and services that will be provided to the child, natural parents, and foster parents.

d. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.

Sec. 27. **NEW SECTION. 237.16 STATE FOSTER CARE REVIEW BOARD.** The state foster care review board is created. The state board consists of seven members appointed by the governor, subject to confirmation by the senate and directly responsible to the governor and shall not be located within a current department or agency of the state. Vacancies on the state board shall be filled in the same manner as original appointments.

The members of the state board shall annually select a chairperson, vice chairperson, and other officers the members deem necessary. The members shall not receive per diem but shall receive reimbursement for actual and necessary expenses incurred in their duties as members. The state board shall meet at least twice a year.

An employee of the department, an employee or board member of a child-placing agency, an employee of an agency with which the department contracts for services for children under foster care, a foster parent providing foster care, or an employee of the district court is not eligible to serve on the state board.

**Sec. 28. NEW SECTION. 237.17 FOSTER CARE REGISTRY.** The state board shall establish a registry of the placements of all children receiving foster care in the two judicial districts with local boards. The department shall notify the state board of each placement within three working days of the department's notification of the placement. The notification to the state board shall include information identifying the child receiving foster care and placement information for that child.

Within thirty days of the placement the agency responsible for the placement shall submit the case permanency plan to the state board. All subsequent revisions of the case permanency plan shall be submitted when the revisions are developed. In cases where the agency responsible for the placement is not the department, the case permanency plan shall also be submitted to the department.

**Sec. 29. NEW SECTION. 237.18 POWERS AND DUTIES OF STATE BOARD.** The state board shall:

1. Review the activities and actions of local boards.
2. Adopt rules pursuant to chapter 17A to:
  - a. Establish a central recordkeeping facility for the files of local review boards including individual case reviews.
  - b. Accumulate data and develop an annual report regarding children in foster care. The report shall include:
    - (1) Personal data regarding the total number of days of foster care provided and the characteristics of the children receiving foster care.
    - (2) The number of placements of children in foster care.
    - (3) The frequency and results of court reviews.
    - (4) Contrasts between the foster care placement policies by judicial district, with special emphasis upon districts with and without local review boards.
  - c. Evaluate the judicial and administrative data collected on foster care and disseminate the data to the governor, the supreme court, the chief judge of each judicial district, the department, and child-placing agencies.
  - d. Establish mandatory training programs for members of the state and local review boards including an initial training program and periodic in-service training programs. Training shall focus on, but not be limited to, the following:
    - (1) The history, philosophy and role of the juvenile court in the child protection system.
    - (2) Juvenile court procedures under the juvenile justice act.
    - (3) The foster care administrative review process of the department of human services.
    - (4) The role and procedures of the citizen's foster care review system.
    - (5) The Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272.
    - (6) The purpose of case permanency plans, and the type of information that will be available in those plans.
    - (7) The situations where the goals of either reuniting the child with the child's family or adoption would be appropriate.

- (8) The legal processes that may lead to foster care placement.
  - (9) The types and number of children involved in those legal processes.
  - (10) The types of foster care placement available, with emphasis on the types and number of facilities available on a regional basis.
  - (11) The impact of specific physical or mental conditions of a child on the type of placement most appropriate and the kind of progress that should be expected in those situations.
- e. Establish procedures for the local review board consistent with the provisions of section 237.20.
  - f. Establish grounds and procedures for removal of a local review board member.
3. Assign the case of each child receiving foster care within the judicial district selected in section 237.19, subsection 1, to the appropriate local board.
  4. Assist local boards in reviewing each case of a child receiving foster care, as provided in section 237.20.
  5. Employ a state director and appropriate staff in accordance with available funding.

The state board shall make recommendations to the general assembly, the department, to child-placing agencies, the governor, the supreme court, the chief judge of each judicial district, and to the judicial department. The recommendations shall include, but are not limited to, necessary changes relating to the data collected and the annual report made under subsection 2, paragraph "b".

Sec. 30. NEW SECTION. 237.19 LOCAL FOSTER CARE REVIEW BOARDS.

1. The state board shall establish local foster care boards in two judicial districts in the state to review cases of children receiving foster care. These districts shall be selected to allow comparison of the effectiveness of local boards in different types of counties in the state. The department shall discontinue its foster care review process for those children reviewed by local boards in at least one of these districts when the local foster care review boards are established and operating. The state board shall select five members and two alternate members to serve on each local board in consultation with the chief judge of each judicial district. The actual number of local boards needed and established shall be determined by the state board. However, the state board shall seek to establish a sufficient number of boards to ensure no board must evaluate more than one hundred cases annually. The members of each local board shall consist of persons of the various social, economic, racial, and ethnic groups and various occupations of their district. A person employed by the state board or the department, the district court, an employee of an agency with which the department contracts for services for children under foster care, a foster parent providing foster care, or a child-placing agency shall not serve on a local board. The state board shall provide the names of the members of the local boards to the department.

2. Vacancies on a board shall be filled in the same manner as original appointments. The members shall not receive per diem but shall receive reimbursement for actual and necessary expenses incurred in their duties as members.

Sec. 31. NEW SECTION. 237.20 LOCAL BOARD DUTIES. A local board shall:

1. Review every six months the case of each child receiving foster care assigned to the local board by the state board to determine whether satisfactory progress is being made toward the goals of the case permanency plan pursuant to section 237.22. As much as is possible, review shall be conducted immediately prior to court reviews of the case.

During each six month review, the local board shall review all of the following:

- a. The past, current, and future status of the child and placement as shown through the case permanency plan and case progress reports submitted by the agency responsible for the placement of the child and other information the board may require.

b. The efforts of the agency responsible for the placement of the child to locate and provide services to the biological or adoptive parents of the child.

c. The efforts of the agency responsible for the placement of the child to facilitate the return of the child to the home or to find an alternative permanent placement other than foster care if reunion with the parent or previous custodian is not feasible. The agency shall report to the board all factors which either favor or mitigate against a decision or alternative with regard to these matters.

d. Any problems, solutions, or alternatives which may be capable of investigation, or other matters with regard to the child which the agency responsible for the placement of the child or the board feels should be investigated with regard to the best interests of the state or of the child.

Each review shall include written testimony of any person notified pursuant to subsection 4, and may include oral testimony from those persons when determined to be relevant and material to the child's placement. Oral testimony may, upon the request of the testifier or upon motion of the local board, be given in a private setting when to do so would facilitate the presentation of evidence.

Written testimony from other interested parties may also be considered by the board in its review.

Access to all information considered by the local board shall be provided to the child, the parents, or their attorneys, and the county attorney.

2. Submit to the appropriate court within ten days after the review under subsection 1, the findings and recommendations of the review. The findings and recommendations shall include the proposed date of the next review by the local board. The local board shall notify the persons specified in subsection 4 of the findings and recommendations.

3. Encourage placement of the child in the most appropriate setting reflecting the provisions of chapter 232.

4. Notify the following persons at least ten days before the review of a case of a child receiving foster care:

- a. The person, court, or agency responsible for the child.
- b. The parent or parents of the child unless termination of parental rights has occurred pursuant to section 232.117.
- c. The foster care provider of the child.
- d. The child receiving foster care if the child is fourteen years of age or older.
- e. The guardian ad litem of the foster child.
- f. The department.
- g. The county attorney.

**Sec. 32. NEW SECTION. 237.21 CONFIDENTIALITY OF RECORDS — PENALTY.**

1. The information and records of or provided to a local board or the state board regarding a child receiving foster care and the child's family when relating to the foster care placement are not public records pursuant to chapter 68A. The state board and local boards, with respect to hearings involving specific children receiving foster care and the child's family, are not subject to chapter 28A.

2. Information and records relating to a child receiving foster care shall be provided to a local board or the state board by the department or child-care agency upon request by either board. A court having jurisdiction of a child receiving foster care shall release the information and records the court deems necessary to determine the needs of the child, if the information and records are not obtainable elsewhere, to a local board or the state board upon request by either board.

3. Members of the state board and local boards and the employees of the department are subject to standards of confidentiality pursuant to sections 217.30 and 235A.15. Members of the state and local boards and employees of the department who disclose information or records of the board or department, other than as provided in subsection 2, are guilty of a serious misdemeanor.

Sec. 33. NEW SECTION. 237.22 CASE PERMANENCY PLAN. The agency responsible for the placement of the child shall create a case permanency plan. The plan shall include, but not be limited to:

1. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care;
2. The type and appropriateness of the placement and services to be provided to the child;
3. The care and services that will be provided to the child, natural parents, and foster parents; and
4. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.

Sec. 34. Section 237A.13, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Funds appropriated to the department to assist child day care centers facilities shall be apportioned among the counties as follows:

Sec. 35. Section 237A.13, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Organizations and agencies which serve day care facilities and any licensed or registered facilities may apply for the funds.

Sec. 36. Section 237A.14, Code 1983, is amended to read as follows:

237A.14 ALLOCATION BY THE COUNTY. The county board shall determine how the funds received by that county under this chapter shall be allocated among existing or planned child day care centers facilities in the county on the basis of the following factors as applied to each child day care center facility considered for financial assistance under this chapter:

1. The demonstrated need for child care services in the community served by the center facility.
2. The proportion of low-income families among all families served by the center facility.
3. The demonstrated need of the center facility for additional equipment, and improvement, enlargement or relocation of the center's facility's physical facilities designed to bring the center facility into compliance with local health, fire and zoning laws.
4. The manner in which the center facility derives its support, other than funds made available to it under this chapter, and in particular the extent to which it is supported from sources other than tuition or fees paid by the parents or guardians of the children served by the center facility.

5. Organizations and agencies which serve day care facilities and any licensed or registered facilities may apply for the funds.

Sec. 37. Section 237A.15, subsections 1 and 2, Code 1983, are amended to read as follows:

1. Prescribe forms for use by licensed centers or registered facilities in applying to their respective county boards for funds appropriated by the general assembly.
2. Establish a procedure by which a licensed center or registered facility aggrieved by a decision of a county board under section 237A.17 may appeal the decision to the commissioner or his the commissioner's designee, however, the judgment of the county board on the merits of any an application shall not be overturned in the absence of a determination that the county board has misinterpreted any of the provisions of this chapter, has acted arbitrarily or capriciously, or both.

Sec. 38. Section 237A.16, Code 1983, is amended to read as follows:

237A.16 USE OF FUNDS. A child care center Organizations and agencies which serve day



care facilities and licensed or registered facilities may use funds received pursuant to this chapter only for the following purposes:

1. To acquire or improve physical facilities to house the center facility, organization, or agency.

2. To acquire recreational or educational equipment or supplies.

3. To purchase assistance to child day care centers facilities, organizations, or agencies for program development and staff development in meeting standards for child day care centers facilities established under this chapter.

Sec. 39. Section 237A.17, Code 1983, is amended to read as follows:

237A.17 DISTRIBUTION. The county board shall consider all applications which are submitted by child day care centers facilities, organizations, or agencies in the county for funds allocated to the county under this chapter, and shall determine the distribution of the funds. Each child day care center facility, organization, or agency submitting an application shall indicate the amount of money requested and the intended use of the money. The county board may establish a deadline for submission of applications, which shall not be earlier than thirty days after it is notified by the department of the amount initially allocated to the county pursuant to section 237A.13.

Sec. 40. Section 237A.18, Code 1983, is amended to read as follows:

237A.18 RESTRICTIONS ON FUNDING. Funds shall be distributed only to licensed centers or registered facilities which serve primarily low-income families and which do not prohibit admission of children on the basis of race, creed, religion, sex, or national origin or to organizations and agencies which serve day care facilities.

Sec. 41. Section 238.1, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For this chapter, "Case permanency plan" means the plan, mandated by Pub. L. No. 96-272, as codified in 42 U.S.C., secs. 671(a)(16), 627(a)(2)(B), and 675(1),(5), designed to achieve placement in the least restrictive, most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child. The plan shall specifically include all of the following:

a. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.

b. The type and appropriateness of the placement and services to be provided to the child.

c. The care and services that will be provided to the child, natural parents, and foster parents.

d. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.

Sec. 42. A copy of the dispositional order pursuant to section 232.102, subsection 6, shall be submitted to the state foster care review board and the local foster care review boards in the two judicial districts in which local foster care review boards are established.

Sec. 43. The twelve-hour training requirement in section 25 of this Act applies to all individuals licensed to provide child foster care on or after the effective date of this Act.

Sec. 44. Sections 26 through 33 of this Act are enacted as a new division of chapter 237 entitled "Foster Care Review". Sections 26 through 33 of this Act are repealed July 1, 1988.

Sec. 45. The state foster care review board shall adopt administrative rules under sections 17A.4, subsection 2 and section 17A.5, subsection 2, paragraph "b", relating to the initial actions by the board pursuant to section 237.18 and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules.

**CHAPTER 1280**  
**OFFENDERS PERFORMING COMMUNITY SERVICE**  
*S.F. 2098*

**AN ACT** relating to unpaid community service by specifying that the state assumes liability for injuries to offenders performing unpaid community service and for the torts committed by offenders performing unpaid community service.

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

Section 1. Section 85.59, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** For purposes of this section, the term "inmate" excludes a person who is performing unpaid community service under section 907.13 or a work assignment of value or to the public under chapter 232.

Sec. 2. **NEW SECTION. 232.13 LIABILITY FOR PUBLIC WORK ASSIGNMENTS.** The state of Iowa is liable, according to and under chapter 25A, for a tortious act committed by a child given a work assignment of value to the state or the public under this chapter.

Sec. 3. Section 907.13, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION. 5.** The state of Iowa is exclusively liable, according to and under chapter 25A, for a tortious act committed by a defendant while performing unpaid community service.

**NEW SUBSECTION. 6.** The state of Iowa is exclusively liable for and shall pay any compensation becoming due any person under section 85.59.

Approved May 14, 1984

**CHAPTER 1281**  
**IOWA HOUSING FINANCE AUTHORITY**  
**S.F. 2332**

**AN ACT** relating to the Iowa finance authority.\*

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

Section 1. Section 220.1, subsection 2, Code Supplement 1983, is amended to read as follows:

2. "Low or moderate income families" means families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use, and also includes, but is not limited to, (1) elderly families, families in which one or more persons are handicapped or disabled, lower income families and very low income families, and (2) families purchasing or renting qualified residential housing.

Sec. 2. Section 220.1, subsection 28, paragraph b, Code Supplement 1983, is amended to read as follows:

b. It has either twenty or fewer full-time equivalent positions or not more than the equivalent of ~~one~~ three million dollars in annual gross revenues in as computed, for the preceding fiscal year or as the average of the three preceding fiscal years.

Sec. 3. Section 220.1, subsection 28, unnumbered paragraph 2, Code Supplement 1983, is amended to read as follows:

For purposes of this definition "dominant in its field of operation" means having more than twenty full-time equivalent positions and more than ~~one~~ three 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. 4. Section 220.1, subsection 32, first unnumbered paragraph, Code Supplement 1983, is amended to read as follows:

The authority shall establish by rule further definitions applicable to this chapter, and clarification of the definitions in this section, as necessary to assure eligibility for funds available under federal housing laws, or to assure complying with federal tax laws relating to the issuance of tax exempt mortgage subsidy bonds pursuant to section 103A of the Internal Revenue Code, as defined in section 422.3, or relating to the issuance of tax exempt residential rental property bonds for qualified residential housing under section 103 of the Internal Revenue Code.

Sec. 5. Section 220.1, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** "Qualified residential housing" means any of the following:

a. Owner-occupied residences purchased in a manner which satisfies the requirements contained in section 103A of the Internal Revenue Code in order to be financed with tax exempt mortgage subsidy bonds.

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\*According to enrolled Act

b. Residential property qualifying pursuant to section 103(b)(4) of the Internal Revenue Code to be financed with tax exempt residential rental property bonds.

c. Housing for low or moderate income families, elderly families, and families which include one or more persons who are handicapped or disabled.

Sec. 6. Section 220.2, subsection 1, Code 1983, is amended to read as follows:

1. The Iowa housing finance authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions, ~~established to undertake programs which assist in attainment of adequate housing for low or moderate income families, elderly families, and families which include one or more persons who are handicapped or disabled, and to undertake the Iowa homesteading program and the small business loan program.~~ The powers of the authority ~~shall be~~ are vested in and shall be exercised by a board of nine members appointed by the governor subject to confirmation by the senate. 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 community and housing development industries, housing finance industries, the real estate sales industry, elderly families, minorities, lower income families, very low income families, handicapped and disabled families, average taxpayers, local government, and any other person specially interested in community housing.

Sec. 7. Section 220.26, subsection 1, Code Supplement 1983, 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~~ shall not have a total principal amount of bonds and notes outstanding at any time in excess of ~~five~~ six hundred ~~fifty~~ million dollars plus a total of fifty million dollars for property improvement loans to finance solar and other renewable energy systems in housing as authorized by section 220.37 and to finance loans to provide solar and other renewable energy systems for and to increase the energy efficiency of small businesses under the Iowa small business loan program. ~~One~~ Two hundred ~~fifty~~ million dollars of the total principal amount of bonds and notes may be issued pursuant to the small business loan program. 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. 8. Section 220.8, Code 1983, is repealed.

Approved May 14, 1984

**CHAPTER 1282**  
**BOARDS OF CERTAIN HEALTH SERVICE CORPORATIONS**  
*S.F. 2277*

**AN ACT** relating to the selection process of subscriber and provider directors of a board of a hospital service corporation, medical service corporation, dental service corporation, or pharmaceutical or optometric corporation by requiring the commissioner of insurance to adopt rules to establish criteria for the selection of nominees and to permit the nomination process by a petition, requiring the subscriber members of the board of such corporations to establish procedures to permit nomination by petition, and exempting the independent subscriber nominating committee from chapter 17A and prohibiting the members of such committee from receiving per diem and expenses and providing an effective date.

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

Section 1. Section 514.4, unnumbered paragraph 5, Code Supplement 1983, is amended to read as follows:

The commissioner of insurance shall adopt rules pursuant to chapter 17A to implement the process of the election of subscriber directors of the board of directors of a corporation to ensure the representation of a broad spectrum of subscriber interest on each board and establish criteria for the selection of nominees. The rules shall provide for an independent subscriber nominating committee to serve until the composition of the board of directors meets the percentage requirements of this section. Once the composition requirements of this section are met, the nominations for subscriber directors shall be made by the subscriber directors of the board under procedures the board establishes which shall also permit nomination by a petition of at least fifty subscribers. The board shall also establish procedures to permit nomination of provider directors by petition of at least fifty participating providers. A member of the board of directors of a corporation subject to this chapter shall not serve on the independent subscriber nominating committee. The nominating committee shall consist of subscribers as defined in this section ~~and procedures to~~. The rules of the commissioner of insurance shall also permit nomination of subscriber directors by a petition of at least fifty subscribers or providers, and nomination of provider directors by a petition of at least fifty participating providers. These petitions shall be considered only by the independent nominating committee during the duration of the committee. Following the discontinuance of the committee, the petition process shall be continued and the board of directors of the corporation shall consider the petitions. The independent subscriber nominating committee is not subject to chapter 17A. The nominating committee shall not receive per diem or expenses for the performance of their duties.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in the Kossuth County Advance, a newspaper published in Algona, Iowa, and in The Treynor Record, a newspaper published in Treynor, Iowa.

Approved May 15, 1984

I hereby certify that the foregoing Act, Senate File 2277 was published in The Treynor Record, Treynor, Iowa on May 24, 1984 and in the Kossuth County Advance, Algona, Iowa on June 2, 1984.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 1283

### NEW MOTOR VEHICLE REPAIR OR REPLACEMENT

*H.F. 2234*

**AN ACT** requiring repair or replacement of a new motor vehicle which does not conform to express warranties.

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

Section 1. NEW SECTION. NEW MOTOR VEHICLE WARRANTIES.

1. As used in this section:

a. "Consumer" means the original purchaser, other than for purposes of resale, of a motor vehicle for a personal, family, household, or agricultural purpose, any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle, and any other person entitled by the terms of the warranty to enforce the obligations of the warranty.

b. "Motor vehicle" means a new car or pickup as defined in section 321.1.

2. If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent or its authorized dealer during the term of the express warranties or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever term or period ends earlier, the manufacturer, its agent or its authorized dealer shall make repairs as are necessary to conform the vehicle to express warranties, notwithstanding the fact that repairs are made after the expiration of the term or the one-year period.

3. If the manufacturer, or its agents or authorized dealers are unable after a reasonable number of attempts to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and value of the motor vehicle to the consumer, the manufacturer shall replace the motor vehicle with a

comparable new motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price including all collateral charges, less a reasonable allowance for the consumer's use of the vehicle. Replacement of the motor vehicle with a new motor vehicle shall only take place upon the return of the motor vehicle by the consumer accompanied by either the certificate of title free of liens, or an agreement of any lienholder to release the lien on the motor vehicle and substitute a lien on the new motor vehicle. The fact that there is a lien on the title of the motor vehicle will not be a bar to a decision by the consumer to return the motor vehicle for replacement by a comparable new motor vehicle rather than receive a refund of the purchase price, if the lienholder is or is owned by the manufacturer, is a subsidiary of the manufacturer, or is under common ownership with the manufacturer. Refunds shall be made to the consumer, and lienholder if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the first report of the nonconformity to the manufacturer, agent or dealer and during any subsequent period when the vehicle is not out of service by reason of repair. It is an affirmative defense to a claim under this section that an alleged nonconformity does not substantially impair the use and value of the motor vehicle to the consumer or that a nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of a motor vehicle.

4. It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties, if the same nonconformity has been subject to repair four or more times by the manufacturer or its agents or authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever period ends earlier, but the nonconformity continues to exist, or if the vehicle is out of service by reason of repair for a cumulative total of thirty or more calendar days during the applicable term or period. However, the presumption shall not operate against a manufacturer unless the manufacturer has received prior direct notice of the defect from or on behalf of the consumer and has had an opportunity to correct the defect alleged. The term of an express warranty, the one-year period and the thirty-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion or strike, or fire, flood or other natural disaster.

5. This section does not limit the rights or remedies which are otherwise available to a consumer under any other law.

6. If a manufacturer has established an informal dispute settlement procedure which complies in all respects with 16 C.F.R. part 703, the provisions of subsection 3 or this section concerning refunds or replacement does not apply to a consumer who has not first resorted to the dispute settlement procedure.

7. Any action brought under this section shall be commenced within six months following either the expiration of the express warranty term, or one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date.

8. All new cars sold in this state shall have affixed thereto in writing at the time of delivery of the new car to the purchaser the following statement: "The purchaser of this new car is protected under the warranty provisions of House File 2234. For further information contact the Consumer Protection Division of the Iowa Attorney General's Office."

Approved May 15, 1984

**CHAPTER 1284**  
**HOSPICE PROGRAMS**  
*H.F. 2436*

**AN ACT** relating to the licensure and operation of a hospice program.

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

Section 1. Sections 2 through 8 of this Act are created as a new division of chapter 135 entitled "Licensed Hospice Programs".

Sec. 2. NEW SECTION. 135.90 DEFINITIONS. For the purposes of this division unless otherwise defined:

1. "Department" means the state department of health.
2. "Hospice program" means a centrally coordinated program of home and inpatient care provided directly or through an agreement under the direction of an identifiable hospice administration providing palliative care and supportive medical and other health services to terminally ill patients and their families. A licensed hospice program shall utilize a medically directed interdisciplinary team and provide care to meet the physical, emotional, social, spiritual, and other special needs which are experienced during the final stages of illness, dying, and bereavement. Hospice care shall be available twenty-four hours a day, seven days a week.
3. "Hospice patient" or "patient" means a diagnosed terminally ill person with an anticipated life expectancy of six months or less, as certified by the attending physician, who, alone or in conjunction with a unit of care as defined in subsection 5, has voluntarily requested and received admission into the hospice program. If the patient is unable to request admission, a family member may voluntarily request and receive admission on the patient's behalf.
4. "Hospice patient's family" means the immediate kin of the patient, including a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, child, or stepchild. Additional relatives or individuals with significant personal ties to the hospice patient may be included in the hospice patient's family.
5. "Unit of care" means the patient and the patient's family within a hospice program.
6. "Interdisciplinary team" means the hospice patient and the hospice patient's family, the attending physician, and all of the following individuals trained to serve with a licensed hospice program:
  - a. A licensed physician pursuant to chapter 148, 150, or 150A.
  - b. A licensed registered nurse pursuant to chapter 152.
  - c. An individual with at least a baccalaureate degree in the field of social work providing medical social services.
  - d. Trained hospice volunteers.Providers of special services, including but not limited to, a spiritual counselor, a pharmacist, or professionals in the fields of mental health may be included on the interdisciplinary team as deemed appropriate by the hospice.



7. "Core services" means physician services, nursing services, medical social services, counseling services, and volunteer services. These core services, as well as others deemed necessary by the hospice in delivering safe and appropriate care to its case load, can be provided through either direct or indirect arrangement by the hospice.

8. "Volunteer services" means the services provided by individuals who have successfully completed a training program developed by a licensed hospice program.

9. "Palliative care" means care directed at managing symptoms experienced by the hospice patient, as well as addressing related needs of the patient and family as they experience the stress of the dying process. The intent of palliative care is to enhance the quality of life for the hospice patient and family unit, and is not treatment directed at cure of the terminal illness.

Sec. 3. NEW SECTION. 135.91 LICENSE APPLICATION—FEES. A person or governmental unit, acting severally or jointly with any other person may establish, conduct, or maintain a hospice program in this state and receive license from the department after meeting the requirements of this division. The application shall be on a form prescribed by the department and shall require information the department deems necessary. Nothing in this division shall prohibit a person or governmental unit from establishing, conducting, or maintaining a hospice program without a license. Each application for license shall be accompanied by a nonrefundable biennial license fee determined by the department.

The hospice program shall meet the criteria pursuant to section 135.95 before a license is issued. The department is responsible to provide the necessary personnel to inspect the hospice program, the home care and inpatient care provided and the hospital or facility used by the hospice to determine if the hospice complies with necessary standards before a license is issued. Hospices that are certified as medicare hospice providers by the department or are accredited as hospices by the joint commission for accreditation of hospitals, shall be licensed without inspection by the department.

Sec. 4. NEW SECTION. 135.92 DENIAL—REVOCATION. The department may deny, suspend, or revoke a license if the department determines there is failure of the program to comply with this division or the rules adopted under this division. The suspension or revocation may be appealed under chapter 17A. The department may reissue a license following a suspension or revocation after the hospice corrects the conditions upon which the suspension or revocation was based.

Sec. 5. NEW SECTION. 135.93 SCOPE OF LICENSE. Licenses for hospice programs shall be issued only for the premises, person, hospital, or facility named in the application and are not transferable or assignable. A license, unless sooner suspended or revoked, shall expire two years after the date of issuance and shall be renewed biennially upon an application by the licensee. Application for renewal shall be made in writing to the department, accompanied by the required fee required to cover the cost of administering the program, at least thirty days prior to the expiration of the license. The fee for a license renewal shall be determined by the department. Licensed hospice programs which have allowed their licenses to lapse through failure to make timely application for renewal shall pay an additional fee of twenty-five percent of the biennial license fee.

Sec. 6. NEW SECTION. 135.94 INSPECTION. The department shall make or be responsible for inspections of the hospice program, the home care and the inpatient care provided in the hospice program, and the hospital or facility before a license is issued. The department shall inspect the hospice program periodically after initial inspection.

Sec. 7. NEW SECTION. 135.95 BASIC REQUIREMENTS. A licensed hospice program shall include:

1. A planned program of hospice care, the medical components of which shall be under the direction of a licensed physician.
2. Centrally administered, coordinated hospice core services provided in home, outpatient, or institutional settings.
3. A mechanism that assures the rights of the patient and family.
4. Palliative care provided to a hospice patient and family under the direction of a licensed physician.
5. An interdisciplinary team which develops, implements, and evaluates the hospice plan of care for the patient and family.
6. Bereavement services.
7. Accessible hospice care twenty-four hours a day, seven days a week in all settings.
8. An ongoing system of quality assurance and utilization review.

Sec. 8. NEW SECTION. 135.96 RULES. Except as otherwise provided in this division, the commissioner shall adopt rules pursuant to chapter 17A necessary to implement this division. Formulation of the rules shall include consultation with Iowa hospice organization representatives and other persons affected by the division.

Approved May 15, 1984

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**CHAPTER 1285**  
**RETIREMENT AND BENEFIT SYSTEMS**  
*H.F. 2528*

**AN ACT** relating to the administration and benefits of certain public retirement and benefit systems and to make an appropriation.

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

Section 1. Section 97.51, Code 1983, is amended by adding the following new subsection:  
NEW SUBSECTION. Effective July 1, 1984, a person receiving benefits, on or after July 1, 1984, under this chapter, shall receive a monthly increase in benefits equal to ten percent of the monthly benefits received for June 1984 or which the person was eligible to receive for June 1984, except as otherwise provided in this subsection. A person who becomes eligible for benefits under chapter 97, Code 1950, on or after July 1, 1984 shall receive the ten percent increase.

A person eligible to receive benefits under this chapter on June 30, 1984, may elect in writing to the Iowa department of job service not to receive the monthly benefit increase granted in this subsection.

There is appropriated annually from the general fund of the state to the Iowa old-age and survivors' insurance liquidation fund from funds not otherwise appropriated an amount sufficient to pay the benefit increases provided in this subsection.

Sec. 2. Section 97A.6, subsection 14, paragraph a, subparagraph (2), Code 1983, is amended to read as follows:

(2) Twenty percent for members with five or more years of membership service who are receiving an ordinary disability retirement allowance. However, effective July 1, 1984, for members who retired before July 1, 1979, twenty-five percent shall be used for members who are receiving an ordinary disability retirement allowance.

Sec. 3. Section 97B.7, subsection 2, paragraph b, subparagraph (6), unnumbered paragraph 2, Code 1983, is amended to read as follows:

In the event of If there is loss on the redemption or sale of securities, where invested as prescribed by law, neither the treasurer nor the department shall be is personally liable, but such the loss shall be charged against the retirement fund and there is hereby appropriated from such the retirement fund an amount as may be so required for the loss. Expenses incurred in the sale and purchase of securities belonging to the retirement fund shall be charged to the retirement fund and there is hereby appropriated from such the retirement fund an amount as may be so required and investment for the expenses incurred. Investment management expenses shall be charged to the investment income of the retirement fund and such expense shall otherwise be budgeted and appropriated in the same manner as administrative expenses for the rest of the system there is appropriated from the retirement fund an amount as required for the investment management expenses, subject to the limitations stated in this subparagraph. The amount appropriated for a fiscal year under this subparagraph shall not exceed one-half percent of the market value of the retirement fund. The department shall report the investment management expenses for a fiscal year as a percent of the market value of the retirement fund in the annual report to the governor required in section 97B.4.

Sec. 4. Section 97B.41, subsection 1, paragraph b, subparagraph (6), Code Supplement 1983, is amended to read as follows:

(6) For each the calendar year from January 1, 1986 and thereafter through December 31, 1986, wages not in excess of twenty-two thousand dollars.

Sec. 5. Section 97B.41, subsection 1, paragraph b, Code Supplement 1983, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (6A) For the calendar year from January 1, 1987 through December 31, 1987, wages not in excess of twenty-three thousand dollars.

NEW SUBPARAGRAPH. (6B) For each calendar year from January 1, 1988 and thereafter, wages not in excess of twenty-four thousand dollars.

Sec. 6. Section 97B.41, subsection 3, paragraph b, subparagraph (7), Code Supplement 1983, is amended to read as follows:

(7) Persons employed under the federal Comprehensive Employment Training Act as amended to January 1, 1978 Job Training Partnership Act of 1982, Pub. L. No. 97-300 unless such these employees shall make an application to the department to be covered under the provisions of this chapter.

Sec. 7. Section 97B.41, subsection 3, paragraph b, subparagraph (9), Code Supplement 1983, is amended to read as follows:

(9) Members of the ministry, rabbinate, or other religious order who have taken the vow of poverty unless, within one year of commencing employment or no later than July 1, 1985 for individuals who are members of the system on July 1, 1984, a member makes an application to the department to be covered under this chapter.

Sec. 8. Section 97B.41, subsection 3, paragraph b, Code 1983, is amended by adding the following new subparagraphs:

**NEW SUBPARAGRAPH.** Employees of the Iowa dairy industry commission established under chapter\* 179, the Iowa beef cattle producers association established under chapter 181, the Iowa swine producers association established under chapter 183, the Iowa turkey marketing council established under chapter 184A, the Iowa soybean promotion board established under chapter 185, the Iowa corn promotion board established under chapter 185C, and the Iowa egg council established under chapter 196A.

**NEW SUBPARAGRAPH.** Judicial hospitalization referees appointed under section 229.21.

Sec. 9. Section 97B.49, subsection 8, paragraph a, unnumbered paragraphs 1 and 2, Code Supplement 1983, is amended to read as follows:

Notwithstanding 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 section 341.1, Code 1981, or section 331.903, and who retires 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, 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 is sixty years of age and has completed twenty-five years of membership service 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.

A peace officer who retires on or after July 1, 1984 and has not completed twenty-five years of membership service as required under this subsection is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent multiplied by a fraction of years of service as a peace officer. For the purpose 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 as a peace officer, divided by twenty-five years. On or after July 1, 1984, if the peace officer has not reached sixty years of age at retirement, the monthly retirement allowance shall be reduced by five-tenths of one percent per month for each month that the peace officer's retirement precedes the date on which the peace officer attains sixty years of age.

For the purpose of this paragraph, "fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service as a peace officer, divided by twenty-five years.

Sec. 10. Section 97B.49, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** a. Each member who retired from the system between January 1, 1976 and June 30, 1982, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1984 and the November 1985 monthly benefit payments a retirement dividend equal to fifty percent of the monthly benefit payment the member received for the preceding June. The retirement dividend does not affect the amount of a monthly benefit payment.

b. Each member who retired from the system between July 4, 1953 and December 31, 1975, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1984 and the November 1985 monthly benefit payments a retirement dividend equal to

\*According to enrolled Act

seventy-five percent of the monthly benefit payment the member received for the preceding June. The retirement dividend does not affect the amount of a monthly benefit payment.

Sec. 11. Section 97B.50, subsection 1, paragraph b, Code 1983, is amended to read as follows:

b. For a member who is at least sixty-two years of age and less than sixty-five years of age who has not completed thirty-five years of membership service and prior service, by twenty-five hundredths of one percent per month for each month that the early retirement date precedes the normal retirement date.

Sec. 12. Section 97B.50, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A member who is at least sixty-two years of age and less than sixty-five years of age who has completed thirty-five or more years of membership service and prior service shall receive full benefits under section 97B.49 determined as if the member had attained sixty-five years of age.

Sec. 13. Section 97B.51, subsection 5, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

5. At retirement, a member may designate that upon the member's death, a specified amount of money shall be paid to a named beneficiary, and the member's monthly retirement allowance will be reduced by an actuarially determined amount to provide for the lump sum payment. The amount designated by the member must be in thousand dollar increments, and the amount designated shall not lower the monthly retirement allowance of the member by more than one-half the amount payable under section 97B.49, subsection 1 or 5.

Sec. 14. Section 97B.52, subsection 1, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

1. If a member dies prior to the date the member's first retirement allowance is payable under the system, the accumulated contributions of the member at the date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by thirty shall be paid to the member's beneficiary in a lump sum payment. However, a lump sum payment made to a beneficiary under this subsection due to the death of a member shall not be less than the amount that would have been payable on the death of the member on June 30, 1984 under this subsection as it appeared in the 1983 Code.

Effective July 1, 1978, a method of payment under this subsection filed with the department by a member does not apply.

Sec. 15. Section 97B.52, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Following written notification to the department, a beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would otherwise be entitled under sections 97B.51 and this section. Upon receipt of the waiver, the department shall pay to the estate of the deceased member the amount designated to be received by the beneficiary.

Sec. 16. Section 97B.53, subsection 5, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A member shall not be considered as having ~~has not~~ terminated his employment if he the member accepts other employment in the state of Iowa under which he the member is eligible to membership in the Iowa public employees' retirement system, within ~~three months~~ thirty days after he the member has left public employment.

Within sixty days after a member has been issued payment for a refund of the member's accumulated contributions, the member may repay the accumulated contributions plus interest that would have accrued, as determined by the department, and receive credit for membership service for the period covered by the refund payment.

Sec. 17. **NEW SECTION. 97B.66 FORMER MEMBERS.** A vested or retired member who was a member of the teachers insurance and annuity association-college retirement equity fund at any time between July 1, 1967 and June 30, 1971 and who became a member of the system on July 1, 1971, upon submitting verification of service and wages earned during the period of service under the teachers insurance and annuity association-college retirement equity fund, may make employer and employee contributions to the system based upon the covered wages of the member and the covered wages and the contribution rates in effect for that period of service and receive credit for membership service under this system equivalent to the number of years of service in the teachers insurance and annuity association-college retirement equity fund. In addition, a member making employer and employee contributions because of membership in the teachers insurance and annuity association-college retirement equity fund under this section who was a member of the system on June 30, 1967 and withdrew the member's accumulated contributions because of membership on July 1, 1967 in the teachers insurance and annuity association-college retirement equity fund, may make employee contributions to the system for the period of service under the system prior to July 1, 1967.

The contributions paid by the vested or retired member shall be equal to the accumulated contributions as defined in section 97B.41, subsection 13, by the member for that period of service, and the employer contribution for that period of service under the teachers insurance and annuity association-college retirement equity fund, that would have been or had been contributed by the vested or retired member and the employer, if applicable, plus interest on the contributions that would have accrued for the period from the date the previous service commenced under this system or from the date the service of the member in the teachers insurance and annuity association-college retirement equity fund commenced to the date of payment of the contributions by the member equal to two percent plus the interest dividend rate applicable for each year.

Verification of service and wages earned and payment of contributions shall be made to the department not later than June 30, 1985.

Sec. 18. Section 97B.72, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Persons who are members of the ~~Sixty-eighth~~ Seventy-first General Assembly or a  succeeding general assembly who submit proof to the department of membership in the general assembly during any period beginning July 4, 1953 and ending ~~January 8, 1979~~ may make contributions to the system for service equal to the accumulated contributions as defined in section 97B.41, subsection 13, which would have been made if the member of the general assembly had been a member of the system during the member's service in the general assembly. The proof of membership in the general assembly and payment of accumulated contributions shall be transmitted to the department ~~not later than December 31, 1979~~. Persons eligible to receive retirement allowances under this section shall be eligible to commence receiving retirement allowances on ~~January 8, 1979~~ January 14, 1985.

Sec. 19. Section 97B.73, Code 1983, is amended to read as follows:

**97B.73 MEMBERS FROM OTHER PUBLIC SYSTEMS.** A vested or retired member who was a member of a public retirement system in another state but was not vested or retired under that system may, upon submitting verification of membership and service in the other public retirement system to the department ~~not later than July 1, 1979~~ for members vested on July 1, 1978 or within one year after the member becomes vested, make employer and employee contributions to the system for the period of service in the other public retirement system and receive credit for membership service in this system equivalent to the number of

years of service in the other public retirement system. The contributions paid by the vested or retired member for service in the other public retirement system shall be equal to the accumulated contributions as defined in section 97B.41, subsection 13, by the member for that period of service and the employer contribution for that period of service that would have been contributed by the vested or retired member and the employer plus interest on the contributions that would have accrued if the member had been a member of this system earning the same wages earned under the other system for the period from the date of service of the member in the other public retirement system to the date of payment of the contributions by the member equal to two percent plus the interest dividend rate applicable for each year.

This section is applicable to a vested or retired member who was a member of a public retirement system established in sections 294.8, 294.9, and 294.10 but was not vested or retired under that system. ~~However, the verification and contributions must be submitted not later than July 1, 1981 for members who were vested members on July 1, 1980 or within one year after the member becomes a vested member of this system.~~

Sec. 20. Section 97C.11, Code 1983, is amended to read as follows:

97C.11 PAYMENT—ADJUSTMENT OR REFUND. Taxes deducted by the employer from the earnings of employees or upon the employers shall be paid in a manner, at times and under conditions prescribed by the state agency. ~~However, the taxes shall be remitted monthly by the employer.~~ If more or less than the correct amount of the tax imposed upon the employer is paid or deducted, proper adjustments or refund, if adjustment is impracticable, shall be made in a manner and at times as the state agency prescribes.

Sec. 21. Section 294.15, unnumbered paragraph 1, Code 1983, is amended to read as follows:

~~Any A person having attained attaining the age of sixty-five who shall have been was an employee, holding a valid teaching certificate, in the public schools of this state with a record of service of twenty-five years or more, including a maximum of five years out-of-state service followed by at least ten years' service in this state prior to retirement and who shall have retired prior to July 4, 1953, shall be entitled to effective July 1, 1984, may receive retirement allowance payments from the state of Iowa of one hundred dollars per month and beginning July 1, 1975, shall be entitled to receive equal to two hundred twenty dollars per month. Such sums as are An amount necessary to meet this requirement shall be added to the retirement allowance payments, if any, now being received from the state of Iowa by individuals covered by the provisions of under this section. No such person shall receive retirement benefits from the state of more than two hundred dollars per month. The word "employee" as used herein shall be construed to include in this section includes persons who were state superintendents, county superintendents, or deputy county superintendents.~~

~~However, a person receiving retirement allowance payments under this section may elect in writing to the Iowa department of job service to continue to receive two hundred dollars per month.~~

Sec. 22. Section 411.1, subsection 12, Code 1983, is amended to read as follows:

12. "Earnable compensation" or "compensation earnable" shall mean the regular compensation which a member would earn during one year on the basis of the stated compensation for the member's rank or position including compensation for longevity and holidays and excluding any amount received for overtime compensation or other special additional compensation, meal and travel expenses, and uniform allowances and excluding any amount received upon termination or retirement in payment for accumulated sick leave or vacation.

Sec. 23. Section 411.6, subsection 12, paragraph a, subparagraph (2), Code 1983, is amended to read as follows:

(2) Twenty percent for members with five or more years of membership service who are receiving an ordinary disability retirement allowance. However, effective July 1, 1984, for members who retired before July 1, 1979, twenty-five percent shall be used for members who are receiving an ordinary disability allowance.

Sec. 24. Section 509A.7, Code 1983, is amended to read as follows:

509A.7 EMPLOYEE DEFINED. The word "employee" as used in this division does not include temporary or retired employees except as otherwise provided in this chapter. However, this section does not prevent a retired employee sixty-five years of age or older from voluntarily continuing in force, at the employee's own expense, an existing contract.

Sec. 25. NEW SECTION. CONTINUATION OF GROUP INSURANCE. If a governing body, a county board of supervisors, or a city council has procured for its employees accident, health, or hospitalization insurance, or a medical service plan, or has contracted with a health maintenance organization authorized to do business in this state, the governing body, county board of supervisors, or city council shall allow its employees who retired before attaining sixty-five years of age to continue participation in the group plan or under the group contract at the employee's own expense until the employee attains sixty-five years of age.

Sec. 26. Section 602.1611, subsections 1 and 2, Code Supplement 1983, are amended to read as follows:

1. Justices of the supreme court, judges of the court of appeals and district judges are members of ~~either the judicial retirement system or the Iowa public employees' retirement system,~~ as determined under ~~section 97B.69~~ and article 9, part 1.

2. District associate judges ~~who were municipal court judges prior to July 1, 1973, and who are members of the judicial retirement system under article 9 shall remain members of the system. Other district associate judges are members of, part 1, or the Iowa public employees' retirement system, except that alternate.~~ Alternate district associate judges whose appointment is authorized under section 602.6303 are not members of either the judicial retirement system or the Iowa public employees' retirement system.

Sec. 27. Section 602.1613, Code Supplement 1983, is amended to read as follows:

602.1613 COURT EMPLOYEE RETIREMENT. Court employees are members of the Iowa public employees' retirement system under chapter 97B, except as otherwise provided in that chapter 97B or this chapter.

Sec. 28. NEW SECTION. 602.11115 DISTRICT ASSOCIATE JUDGES' RETIREMENT. If a full-time judicial magistrate who became a district associate judge on January 1, 1981 pursuant to statute or a person who was appointed a district associate judge between January 1, 1981 and June 30, 1984 is a member of the Iowa public employees' retirement system on June 30, 1984, the district associate judge may elect, by informing the state court administrator by June 30, 1984, one of the following retirement benefit options to be effective July 1, 1984:

1. To remain covered under the Iowa public employees' retirement system pursuant to chapter 97B.

2. To commence coverage under the judicial retirement system pursuant to chapter 602, article 9, part 1, effective July 1, 1984, but to become an inactive member of the Iowa public employees' retirement system pursuant to chapter 97B and remain eligible for benefits under section 97B.49 for the period of membership service under chapter 97B.

3. To commence coverage under the judicial retirement system pursuant to chapter 602, article 9, part 1, retroactive to the date the district associate judge became a district associate judge or a full-time judicial magistrate, whichever was earlier, and to cease to be a member of



the Iowa public employees' retirement system, effective July 1, 1984. The Iowa department of job service shall transmit by January 1, 1985 to the state court administrator for deposit in the judicial retirement fund the district associate judge's accumulated contributions as defined in section 97B.41, subsection 13 for the judge's period of membership service as a district associate judge or full-time judicial magistrate, or both. Before July 1, 1986, or at retirement previous to that date, a district associate judge who becomes a member of the judicial retirement system pursuant to this subsection shall contribute to the judicial retirement fund an amount equal to the difference between four percent of the district associate judge's total basic salary for the entire period of service before July 1, 1984 as a district associate judge or judicial magistrate, or both, and the district associate judge's accumulated contributions transmitted by the department of job service to the state court administrator pursuant to this subsection. The district associate judge's contribution shall not be limited to the amount specified in section 602.9104, subsection 1. The state court administrator shall credit a district associate judge with service under the judicial retirement system for the period of service for which contributions at the four percent level are made.

Sec. 29. Section 602.9115, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

The survivor of a judge who was qualified for retirement compensation under the system at the time of his the judge's death, is entitled to receive an annuity of one-half the amount of the annuity the judge was receiving or would have been entitled to receive at the time of his the judge's death, or if the judge died before age sixty-five, then one-half of the amount he the judge would have been entitled to receive at age sixty-five based on his the judge's years of service. Such The annuity shall begin on the judge's death, or on the date the judge would have been sixty-five if he died earlier than age sixty-five, or upon the survivor reaching age sixty, whichever is later.

Sec. 30. Section 97B.69, Code 1983, is repealed.

Sec. 31. During the fiscal year commencing July 1, 1984, the Iowa public employees' retirement system division of the Iowa department of job service shall evaluate the present contracts it has with investment portfolio managers to determine the performance of the portfolio managers and solicit competitive bids for those services for the fiscal year commencing July 1, 1985.

Approved May 15, 1984

**CHAPTER 1286**  
**RADIATION MACHINES AND RADIOACTIVE MATERIALS**  
*H.F. 2110*

**AN ACT** relating to the regulation of radiation machines and radioactive materials and providing a civil penalty for violations.

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

Section 1. **NEW SECTION. 136C.6 DUTIES.** The department is designated the state radiation control agency and is responsible for regulating the installation and use of radiation machines and the use of radioactive materials in this state as provided in this chapter. The department shall:

1. Establish minimum criteria and safety standards for the installation, operation, and use of radiation machines and radioactive materials.

2. Establish minimum training standards for operators of radiation machines and users of radioactive materials. A state of Iowa license to practice medicine, osteopathy, chiropractic, podiatry, dentistry, dental hygiene, or veterinary medicine satisfies the minimum training standards for operation of radiation machines only.

3. Develop programs for evaluation and control of hazards associated with the use of sources of radiation with due regard for compatibility of a proposed program with federal programs regulating byproduct, source, and special nuclear materials and considering consistency of a proposed program with federal programs for regulation of radiation machines.

4. Adopt, publish, and amend rules in accordance with chapter 17A as necessary for the implementation and enforcement of this chapter. The rules may provide for the licensing and control of radioactive materials with due regard for compatibility with federal regulatory programs.

5. Issue orders as necessary in connection with licensing and registration of radiation machines and radioactive materials.

6. Advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions, and other organizations concerned with control of sources of radiation.

7. Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to control of sources of radiation.

8. Collect and disseminate information relating to control of sources of radiation. The department shall maintain the following information on file:

a. License applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations.

b. A list of persons possessing sources of radiation requiring registration under this chapter and any administrative or judicial action involving each person.

c. Departmental rules relating to regulation of sources of radiation, existing or pending, and related actions.

9. Adopt rules requiring the keeping of such records with respect to activities under licenses and registration certificates issued pursuant to this chapter as the department determines necessary to effect the purposes of this chapter.

Sec. 2. NEW SECTION. 136C.7 ACCEPTANCE OF FUNDS. The department may accept from any source loans, grants, gifts, or other funds to be used for programs authorized by this chapter.

Sec. 3. NEW SECTION. 136C.8 INSPECTIONS. The department shall inspect all radiation machines and radioactive materials located in this state, for the purpose of detecting, abating, or eliminating excessive radiation exposure hazards. The inspection shall include but shall not be limited to an evaluation of the radiation machine or radioactive material as well as the immediate environment to ensure that in using the machines or materials all unnecessary hazards for patients, personnel, and other persons who may be exposed to radiation produced by the machine or materials are avoided. The inspection shall also include an evaluation of electrical hazards as well as the adequacy of mechanical supporting and restraining devices. All defects and deficiencies noted by the inspector shall be fully disclosed and discussed with the responsible persons at the time of inspection. The department shall establish rules prescribing operating procedures for radiation machines and radioactive materials which ensure minimum radiation exposure to patients, personnel, and other persons in the immediate environment.

Sec. 4. NEW SECTION. 136C.9 REGISTRATION AND LICENSE REQUIREMENTS.

1. The department shall establish by rule a system for the registration of the possession of radiation machines and for the licensing of radioactive materials in the state. The rules may provide for the issuance of the following licenses:

a. General licenses which do not require the filing of an application or the issuance of a document but do permit designated persons to transfer, acquire, own, possess or use quantities of or equipment using radioactive materials.

b. Specific licenses issued upon application to a person named in the license to use, manufacture, produce, transfer, receive, acquire, or possess quantities of or equipment using radioactive material.

2. The department may exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements when the department finds that the exemption of the source of radiation, use, or users will not pose a significant risk to the health and safety of the public. The rules may provide for recognition of other state or federal licenses as the department may allow, subject to registration requirements as the department may prescribe.

3. A person shall not use, manufacture, produce, distribute, sell, transport, transfer, install, repair, receive, acquire, own, or possess any radioactive material without a license from the department as provided in this chapter.

Sec. 5. NEW SECTION. 136C.10 FEES. The department shall establish and collect fees for the licensing and amendment of licenses for radioactive materials, the registration of radiation machines, and the periodic inspection of radiation machines and radioactive materials. Fees shall be in amounts sufficient to defray the cost of administering this chapter. The license fee may include the cost of environmental surveillance activities to assess the radiological impact of activities conducted by licensees. Fees collected shall be remitted to the treasurer of state who shall deposit the funds in the general fund of the state. When a registrant or licensee fails to pay the applicable fee the department may suspend or revoke the registration or license or may issue an appropriate order. Fees for the license, amendment of a license, and inspection of radioactive material shall not exceed the fees prescribed by the United States nuclear regulatory commission.

Sec. 6. NEW SECTION. 136C.11 FEDERAL-STATE AGREEMENTS.

1. The governor, on behalf of the state, may enter into an agreement with the United States nuclear regulatory commission pursuant to section 274b of the Atomic Energy Act of 1954, as amended to the effective date of this Act, providing for the discontinuation of certain federal licensing and related regulatory authority over byproduct, source, and special nuclear material and the assumption of regulatory authority over these materials by the state.

2. A person who, on the effective date of an agreement made under subsection 1, possesses a license issued by the United States nuclear regulatory commission for radioactive material that come under the agreement is considered to possess the license required under this chapter. The license shall expire either ninety days after receipt from the department of a notice of expiration of the license, or on the date of expiration specified in the license issued by the nuclear regulatory commission, whichever is earlier.

Sec. 7. NEW SECTION. 136C.12 CONFLICTING LAWS. This chapter does not preempt ordinances, resolutions, or rules of a local government or of a state agency relating to radioactive material that are consistent with this chapter. This chapter does not give the department the authority to regulate a facility for the disposal of low-level radioactive waste as defined in article II of section 8C.1.

Sec. 8. NEW SECTION. 136C.13 EMERGENCIES. If the department finds that an emergency exists involving radioactive material or radiation machines that requires immediate action to protect the public health and safety, the department may, without notice or hearing, issue an order stating that an emergency exists and requiring that action be taken as necessary to meet the emergency. An emergency order shall be effective immediately. A person to whom the order is directed shall comply with the order immediately, but on application to the department shall be afforded a hearing within ten days of the date application is made. The emergency order may be continued, modified, or revoked within thirty days after the hearing, based on the evidence presented at the hearing.

Sec. 9. Chapter 136C, Code 1983, is amended by adding the following new section:

NEW SECTION. 136C.15 QUALIFIED OPERATORS—DISPLAY OF CREDENTIALS.

1. A person, other than a licensed professional, shall not operate equipment or use materials for medical treatment or diagnostic purposes unless that person has completed a course of instruction approved by the department or has otherwise met the minimum training established by the department.

2. A person, other than a licensed professional, who operates equipment or uses materials for medical treatment or diagnostic purposes shall display the credentials which indicate that person's qualification to operate equipment or use materials in the immediate vicinity of the equipment or where the materials are stored. A person who owns or controls the equipment or materials is also responsible for the proper display of credentials of those who operate the equipment or use the materials and shall not employ a person to operate equipment or use materials for medical treatment or diagnostic purposes except as provided in this section.

Sec. 10. Section 136C.1, Code 1983, is amended to read as follows:

136C.1 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Commissioner" means the commissioner of public health or a the commissioner's designee.

2. "Department" means the state department of health.

3. "Materials" means substances other than equipment which are capable of emitting radiation but does not include drugs as defined in chapter 203A.

3. "Decommissioning" means final operational activities at a site to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care.

4. "Radiation" means energy forms capable of causing ionization including alpha particles, beta particles, gamma rays, X rays, neutrons, high-speed protons, and other atomic particles, but does not include sound or radio waves, or visible light, or infrared or ultraviolet light.

5. "Radiation machine" means a device capable of producing radiation except those that produce radiation solely from radioactive material.

6. "Radioactive material" means a solid, liquid, or gaseous material that emits radiation spontaneously including accelerator-produced and naturally occurring material, and byproduct, source, and special nuclear material as defined in the Atomic Energy Act of 1954 as amended to the effective date of this Act.

"Licensed professional" means a person licensed or otherwise authorized by law to practice medicine, osteopathy, podiatry, chiropractic, dentistry, dental hygiene, or veterinary medicine.

Sec. 11. Section 136C.2, Code 1983, is amended to read as follows:

136C.2 APPLICABILITY. The provisions of this This chapter apply applies to all equipment or materials which are radiation machines and radioactive material located in this state and which are designed to emit radiation. The provisions of this chapter shall do not supersede or duplicate the authority and programs of any other agency of the state or the United States government. To avoid duplication and promote coordination of radiation protection activities, the department may enter into agreements pursuant to chapter 28E with other state and federal agencies, or with private organizations or individuals, to administer the provisions of this chapter.

Sec. 12. Section 136C.4, Code 1983, is amended to read as follows:

136C.4 PENALTIES.

1. It is unlawful to operate or utilize use radiation emitting equipment or material machines or radioactive material in violation of the provisions of this chapter or of any rule adopted pursuant to this chapter. Persons convicted of violating the provisions a provision of this chapter shall be are guilty of a simple misdemeanor.

2. In addition to criminal penalties, the department may impose a civil penalty not to exceed one thousand dollars on a person who violates a provision of this chapter or a rule or order issued under this chapter, or a term, condition, or limitation of a license or registration certificate issued under this chapter, or who commits a violation for which a license or registration certificate may be revoked under rules issued pursuant to this chapter. Each day of continuing violation constitutes a separate offense in computing the civil penalty.

3. The department shall notify a person of the intent to impose a civil penalty against the person. The notice shall be by registered or certified mail to the person's last known address and shall state the date, facts, the nature of the act or omission leading to the charge, the specific statute, rule, or license or registration provision involved, and the amount of the penalty the department proposes to impose. The notice shall advise the person that upon failure to pay the civil penalty, the penalty may be collected by civil action. The person shall have the opportunity to respond in writing, within a reasonable time as the department shall establish by rule, why the civil penalty should not be imposed.

4. The department may compromise, mitigate, or remit a civil penalty imposed under this section. A person upon whom a civil penalty is imposed may appeal the action pursuant to chapter 17A. The department shall remit moneys collected from civil penalties to the treasurer of state who shall deposit the moneys in the general fund of the state.

Sec. 13. Section 136C.5, Code 1983, is amended to read as follows:

136C.5 ENFORCEMENT.

1. Upon determination by the ~~commissioner~~ department that this chapter or any rule adopted pursuant to this chapter has been or is being violated, the ~~commissioner~~ department may order that the radiation emitting equipment or materials machine or radioactive material not be used until the necessary corrective action has been taken. ~~Should the equipment or materials continue to be used~~ If the use of the radiation machine or radioactive material continues in violation of the order of the ~~commissioner~~ department, the ~~commissioner~~ department may request the county attorney or the attorney general to make an application in the name of the state to the district court of the county in which the violations may have occurred for an order to enjoin ~~such~~ the violations or practices.

2. The department may impound or order the impounding of radioactive material in the possession of a person who is not equipped to observe or fails to observe a provision of this chapter or of a rule adopted under this chapter.

3. The department may enter at reasonable times any private or public property to determine whether there is a violation of a provision of this chapter or of a rule issued under this chapter. However, the department must have the consent of the federal government before entering an area under the jurisdiction of the federal government.

4. The department may inspect records required to be kept under section 136C.6, subsection 9. Upon request of the department a person shall submit the records to the department for inspection.

Sec. 14. Section 136C.3, Code 1983, is repealed.

Approved May 16, 1984

**CHAPTER 1287**  
**EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS**  
*H.F. 2437*

**AN ACT** relating to the regulation of advanced emergency medical technicians and paramedics and providing a penalty.

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

Section 1. Section 147A.1, subsections 1, 3, and 8, Code 1983, are amended to read as follows:

1. "Advanced emergency medical care" means such medical procedures as:
  - a. Administration of intravenous solutions.
  - b. ~~Gastric or tracheal suction or intubation~~ Intubation.
  - c. Performance of cardiac defibrillation and synchronized cardioversion.
  - d. Administration of parenteral injections of any of the following classes of emergency drugs: as provided by rule by the board.
    - (1) Antiarrhythmic agents;
    - (2) Vagolytic agents;
    - (3) Chronotropic agents;
    - (4) Analgesic agents;
    - (5) Alkalizing agents;
    - (6) Vasopressor agents;
    - (7) Anticonvulsive agents; or
    - (8) Other drugs which may be deemed necessary by the supervising physician.
  - e. Any other medical procedure designated approved by the board, by rule, as appropriate to be performed by advanced EMTs and paramedics who have been trained in the that procedure.

3. "Basic EMT" means an individual who has satisfactorily completed the United States department of transportation's prescribed course for basic EMTs, as modified for this state, and adopted by rule by the board, and has complied with any additional requirements established by the board; but who is not certified to perform any of the procedures listed in subsection 1.

8. "Department" means the state department of health.

Sec. 2. Section 147A.2, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

147A.2 COUNCIL ESTABLISHED—TERMS OF OFFICE. An advanced emergency medical care council is established in the department to advise the department and the board on the administration of this chapter.

1. The council shall consist of the commissioner, or the commissioner's designee, and eleven members appointed by the state board of health for terms of three years beginning July 1 of the year of appointment, and extending as necessary until their successors are appointed. A vacancy occurring before the expiration of a term shall be filled by the board of health from the appropriate class of persons for the balance of the unexpired term.

2. Five of the appointed members shall be physicians\* who are active participants in the delivery of emergency medical care. However, a physician's assistant, who is an active participant in the delivery of emergency medical care, may be appointed in lieu of one of the physician members.

3. Four of the appointed members shall be advanced EMTs or paramedics. Two shall be employed in either capacity on a full-time basis and two shall be members of volunteer ambulance services.

4. Two of the appointed members shall be registered nurses who are active participants in the delivery of emergency medical care.

Sec. 3. Section 147A.3, subsections 1 and 2, Code 1983, is amended to read as follows:

1. The council shall meet ~~within sixty days after the appointment of its members, and at least quarterly thereafter.~~ The commissioner shall designate the place of meeting. Special meetings may be called by the commissioner or upon the written request of any four members explaining the reason for the meeting.

2. ~~The commissioner shall convene the first meeting of the council after July 1, 1978, at which the council shall select such officers as it deems necessary. No action~~ Action shall not be taken by the council without the affirmative votes of a majority of its entire membership, except that a lesser number may adjourn or recess a meeting.

Sec. 4. Section 147A.4, subsection 1, Code 1983, is amended to read as follows:

1. The department, with the advice and assistance of the council, shall promulgate rules required or authorized by this chapter pertaining to the operation of ambulance services and rescue squad services which have ~~obtained authority received authorization~~ under section 147A.5 to utilize the services of certified advanced EMTs or paramedics. These rules shall include, but need not be limited to, requirements concerning physician supervision, necessary equipment and staffing, and reporting by ambulance services and rescue squad services which have ~~obtained such authority received the authorization~~ pursuant to section 147A.5.

Sec. 5. Section 147A.5, Code 1983, is amended to read as follows:

147A.5 APPLICATIONS FOR ADVANCED EMT AND PARAMEDIC PROGRAMS—APPROVAL—DENIAL, PROBATION, SUSPENSION OR REVOCATION.

1. ~~Any~~ An ambulance service or rescue squad service in this state, regularly engaged in transporting patients who may require, that desires to provide advanced emergency medical care before or during such the transportation, may shall apply to the department for authorization to establish a program utilizing certified advanced EMTs or paramedics for delivery of such the care at the scene of an emergency, during transportation to a hospital, or while in the hospital emergency department, and until care is directly assumed by a physician or by authorized hospital personnel. The application must bear the endorsement of a physician, but that physician shall not be liable nor responsible for the actions of the ambulance or rescue squad service nor the personnel thereof.

2. The department, with the advice and consent of the council, shall approve an application submitted in accordance with the requirements of subsection 1 when the council is satisfied that the program proposed by the application will be operated in compliance with this chapter and the rules adopted pursuant to this chapter.

3. The department may deny an application for ~~authority authorization~~ to establish, or suspend or revoke any existing authorization for, any a program utilizing the services of certified advanced EMTs or paramedics, or may place on probation, or suspend or revoke existing authorization if the council finds reason to believe the program has not been or will not be operated in compliance with this chapter and the rules adopted pursuant to this chapter, or that there is insufficient assurance of adequate protection for the public. The denial, period of

\*According to enrolled Act



probation, suspension, or revocation shall be effected, and may be appealed as provided by section ~~17A.18~~ 17A.12.

Sec. 6. Section 147A.6, Code 1983, is amended to read as follows:

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

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

2. An advanced EMT or paramedic certificate ~~shall be is~~ valid for the multiyear period determined by the board, unless sooner suspended or revoked. The certificate shall be renewed upon application of the holder and receipt of the prescribed fee if the holder has satisfactorily completed continuing medical education programs ~~established or approved by the board as required by rule.~~

Sec. 7. Section 147A.7, Code 1983, is amended to read as follows:

147A.7 DENIAL, SUSPENSION OR REVOCATION OF CERTIFICATES – ~~HEARING –~~ APPEAL.

1. The board may deny an application for issuance or renewal of an advanced EMT or paramedic certificate, or suspend or revoke ~~such a the~~ certificate when it finds that the applicant or certificate holder ~~has is~~ guilty of any of the following acts or offenses:

- a. ~~Acted negligently~~ Negligence in performing the authorized services;
- b. ~~Failed~~ Failure to follow the directions of his or her the supervising physician;
- c. ~~Rendered~~ Rendering treatment not authorized under this chapter; or
- d. ~~Violated any of the provisions of or failed to comply with pertinent requirements of this chapter or of the rules adopted pursuant to this chapter~~ Fraud in procuring certification.
- e. Professional incompetency.
- f. Knowingly making misleading, deceptive, untrue or fraudulent representation in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
- g. Habitual intoxication or addiction to the use of drugs.
- h. Fraud in representations as to skill or ability.
- i. Willful or repeated violations of this chapter or of rules adopted pursuant to this chapter.
- j. Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which relates to the practice of an advanced EMT or paramedic. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.
- k. Having certification to practice as an advanced EMT or paramedic revoked or suspended, or having other disciplinary action taken by a licensing or certifying authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.

2. A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the board orders otherwise.

3. A denial, suspension or revocation under this section shall be effected, and may be appealed, as provided by section 17A.18 in accordance with the rules of the board established pursuant to chapter 258A.

Sec. 8. Section 147A.8, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

147A.8 AUTHORITY OF CERTIFIED ADVANCED EMT OR PARAMEDIC. An advanced EMT or paramedic properly certified under this chapter may:

1. Render advanced emergency medical care, rescue, and lifesaving services in those areas for which the advanced EMT or paramedic is certified, as defined and approved in accordance with the rules of the board, at the scene of an emergency, during transportation to a hospital or while in the hospital emergency department, and until care is directly assumed by a physician or by authorized hospital personnel.

2. Function in any hospital when:

a. Enrolled as a student or participating as a preceptor in a training program approved by the board; or

b. Fulfilling continuing education requirements as defined by rule; or

c. Employed by or assigned to a hospital as a member of an authorized ambulance service or rescue squad for prehospital care, by rendering lifesaving services in the facility in which employed or assigned pursuant to the advanced EMT's or paramedic's certification and under the direct supervision of a physician or registered nurse. When the physician or registered nurse cannot directly assume emergency care of the patient, the advanced EMT or paramedic may perform without direct supervision advanced emergency medical care procedures for which that individual is certified if in the judgment of the physician or registered nurse the life of the patient is in immediate danger and such care is required to preserve the patient's life; or

d. Employed by or assigned to a hospital as a member of an authorized ambulance service or rescue squad for prehospital care to perform nonlifesaving procedures for which those individuals have been trained and are designated in a written job description. Such procedures may be performed after the patient is observed by and when the advanced EMT or paramedic is under the supervision of the physician or registered nurse and where the procedure may be immediately abandoned without risk to the patient.

Sec. 9. Section 147A.9, Code 1983, is amended to read as follows:

**147A.9 REMOTE SUPERVISION OF ADVANCED EMT OR PARAMEDIC—EMERGENCY COMMUNICATIONS COMMUNICATION FAILURE—AUTHORIZATION OF IMMEDIATE LIFESAVING PROCEDURES.**

1. When voice contact or a telemetered electrocardiogram is monitored by a physician or physician's designee, and direct communication is maintained, an advanced EMT or a paramedic may upon order of the monitoring physician or upon standing orders of a physician transmitted by the monitoring physician's designee perform any advanced emergency medical care procedure for which that advanced EMT or paramedic is certified.

2. If communications fail during an emergency situation, the advanced EMT or paramedic may perform any advanced emergency medical care procedure for which that individual is certified and which is included in written protocols if in the judgment of the advanced EMT or paramedic the life of the patient is in immediate danger and such care is required to preserve his or her the patient's life.

3. The board shall adopt rules to authorize the institution of lifesaving procedures in accordance with written protocols in instances where the establishment of communication in lieu of immediate action may cause patient harm or death.

Sec. 10. Section 147A.10, subsection 1, Code 1983, is amended to read as follows:

1. A physician or physician's designee who gives orders, either directly or via communications equipment from some other point, to an appropriately certified advanced EMT or paramedic at the scene of an emergency, and an appropriately certified advanced EMT or paramedic following such the orders, shall are not be subject to criminal liability by reason of having issued or executed such the orders, and shall are not be liable for civil damages for acts or omissions relating to the issuance or execution of such the orders unless such the acts or omissions constitute recklessness.

Sec. 11. Section 147A.11, Code 1983, is amended by adding the following new subsection as subsection 2 and renumbering the following subsection:

NEW SUBSECTION. 2. An owner of an unauthorized ambulance service or rescue squad service in this state who operates or purports to operate an authorized ambulance service or rescue squad services, or who uses any term to indicate or imply such authorization without having obtained the appropriate authorization under this chapter, is guilty of a class "D" felony.

Sec. 12. NEW SECTION. 147A.12 REGISTERED OR LICENSED PRACTICAL NURSE EXCEPTION.

1. Nothing in this chapter shall restrict a registered or licensed practical nurse, licensed pursuant to chapter 152, from staffing an authorized ambulance service or rescue squad service provided the registered nurse or licensed practical nurse can document equivalency through education and additional skills training essential in the delivery of prehospital emergency care. The equivalency shall be accepted when:

a. Documentation has been reviewed and approved at the local level by the medical director of the ambulance or rescue squad service in accordance with the rules of the board of nursing developed jointly with the board of medical examiners.

b. Authorization has been granted to that ambulance or rescue squad service by the council.

2. Section 147A.10 applies to a registered nurse or a licensed practical nurse in compliance with this section.

Approved May 16, 1984

**CHAPTER 1288**  
**TAX RATE FOR LIBRARY**  
*H.F. 2524*

**AN ACT** increasing the limit on the tax rate that may be certified by the board of directors of a school corporation to be levied on taxable property in a school district for the use of a free public library by residents of the school district.

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

Section 1. Section 298.7, Code 1983, is amended to read as follows:

**298.7 CONTRACT FOR USE OF LIBRARY.** The board of directors of ~~any~~ a school corporation in which there is no free public library may contract with ~~any~~ a free public library for the free use of ~~such the~~ library by the residents of ~~such the~~ school district, and pay ~~such the~~ library the amount agreed ~~therefor upon for the use of the library~~ as provided by law. During the existence of ~~such the~~ contract, the board shall certify annually a tax sufficient to pay ~~such the~~ library the consideration agreed upon, not exceeding ~~six and three-fourths~~ twenty cents per thousand dollars of assessed value of the taxable property of ~~such the~~ district. During the existence of ~~such the~~ contract, the school corporation ~~shall be~~ is relieved from the requirement that the school treasurer withhold funds for library purposes. This section ~~shall~~ does not apply in townships where a contract for other library facilities is in existence.

Approved May 16, 1984

**CHAPTER 1289**  
**USE OF SPECIAL RAILROAD FACILITY FUND**  
*S.F. 2356*

**AN ACT** to allow the use of special railroad facility fund moneys for purchase or upgrading railroad right of way and trackage facilities for development of railroad passenger tourism.

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

Section 1. Section 307B.23, unnumbered paragraph 1, Code 1983, is amended to read as follows:

There is created in the office of the state treasurer a "special railroad facility fund". This fund shall include moneys credited to this fund under sections 307.29, 435.9, 324A.9, and other funds which by law may be credited to the special railroad facility fund. The moneys in the special railroad facility fund are hereby appropriated to and for the purposes of the authority as provided in this chapter. The funds in the special railroad facility fund shall not be considered as a part of the general fund of the state, shall not be subject to appropriation for any other purpose by the general assembly, and in determining a general fund balance shall not be included in the general fund of the state but shall remain in the special railroad facility fund to be used for the purposes set forth herein. The state treasurer shall act as custodian of the fund and disburse amounts contained in it as directed by the authority. The state treasurer is authorized to invest the funds deposited in the special railroad facility fund at the direction of the authority and subject to any limitations contained in the bond proceedings. The income from such investment shall be credited to and deposited in the special railroad facility fund. This fund shall be administered by the authority and may be used to purchase or upgrade railroad right of way and trackage facilities or to purchase general or limited partnership interests in a partnership formed to purchase, upgrade, or operate railroad right of way and trackage facilities, to pay or secure obligations issued by the authority, to pay obligations, judgments, or debts for which the authority becomes liable in its capacity as a general partner, or for any other use authorized under this chapter. The fund may also be used to purchase or upgrade railroad right of way and trackage facilities for the development of railroad passenger tourism.

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 Ames Daily Tribune, a newspaper published in Ames, Iowa.

Approved May 16, 1984

I hereby certify that the foregoing Act, Senate File 2356 was published in The Boone News-Republican, Boone, Iowa on May 24, 1984 and in the Ames Daily Tribune, Ames, Iowa on May 21, 1984.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 1290**  
**INSURANCE FOR DIABETES EDUCATION**  
*S.F. 2262*

**AN ACT** relating to health insurance by requiring that coverage for educational programs for diabetes be offered.

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

Section 1. Section 509.3, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** A provision shall be made available to policyholders, under group policies covering hospital, medical, or surgical expenses, for payment for diabetic outpatient self-management education programs, under terms and conditions agreed upon between the insurer and the policyholder, subject to utilization controls. This subsection applies to group policies delivered or issued for delivery after July 1, 1984, and to existing group policies on their next anniversary or renewal date, or upon expiration of the applicable collective bargaining contract, if any, whichever is later. This subsection does not apply to blanket, short-term travel, accident only, limited or specified disease, or individual or group conversion policies, or policies designed only for issuance to persons for coverage under Title XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan. Coverage shall apply only to programs directed and supervised by a physician licensed under chapter 148 or 150A. Covered diabetic outpatient self-management education programs shall be provided by health care professionals including, but not limited to, physicians, registered nurses, and licensed pharmacists who are knowledgeable about the disease process of diabetes and the treatment of diabetic patients. As used in this subsection, "diabetic outpatient self-management education programs" means instruction which will enable diabetic patients and their families to gain an understanding of the diabetic disease process and the daily management of diabetic therapy thereby avoiding frequent hospitalizations and complications. Such programs shall meet standards developed by the state department of health in consultation with American diabetes association, Iowa affiliate, for certification of outpatient diabetes education programs. This subsection does not require the coverage for programs whose sole or primary purpose is weight reduction.

Sec. 2. Section 514.7, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A provision shall be available in approved contracts with hospital and medical service corporate subscribers under group subscriber contracts or plans covering medical and surgical service, for payment for diabetic outpatient self-management education programs, under terms and conditions agreed upon between the corporation and subscriber group, subject to utilization controls. This paragraph applies to group subscriber contracts delivered after July 1, 1984, and to group subscriber contracts on their anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to contracts designed only for issuance to subscribers eligible for coverage under Title XVIII of the Social

Security Act, or any other similar coverage under a state or federal government plan. Coverage shall apply only to programs directed and supervised by a physician licensed under chapter 148 or 150A. Covered diabetic outpatient self-management education programs shall be provided by health care professionals including, but not limited to, physicians, registered nurses, and licensed pharmacists who are knowledgeable about the disease process of diabetes and the treatment of diabetic patients. As used in this paragraph, "diabetic outpatient self-management education programs" means instruction which will enable diabetic patients and their families to gain an understanding of the diabetic disease process and the daily management of diabetic therapy thereby avoiding frequent hospitalizations and complications. Such programs shall meet standards developed by the state department of health in consultation with American diabetes association, Iowa affiliate, for certification of outpatient diabetes education programs. This paragraph does not require the coverage for programs whose sole or primary purpose is weight reduction.

Sec. 3. Section 514B.1, subsection 2, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The health care services available to enrollees under prepaid group plans covering hospital, medical, or surgical expenses, may include, at the option of the employer purchaser, a provision for payment for diabetic outpatient self-management education programs, under terms and conditions agreed upon between the provider and the health maintenance organization, subject to utilization controls. This paragraph applies to services provided under plans made after July 1, 1984, and to existing group plans on their next anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to enrollees eligible for coverage under Title XVIII of the Social Security Act or any other similar coverage under a state or federal government plan. Coverage shall apply only to programs directed and supervised by a physician who is under contract with or employed by a health maintenance organization and is licensed under chapter 148 or 150A. Covered diabetic outpatient self-management education programs shall be provided by health care professionals including, but not limited to, physicians, registered nurses, and licensed pharmacists who are knowledgeable about the disease process of diabetes and the treatment of diabetic patients. As used in this paragraph, "diabetic outpatient self-management education programs" means instruction which will enable diabetic patients and their families to gain an understanding of the diabetic disease process and the daily management of diabetic therapy thereby avoiding frequent hospitalizations and complications. Such programs shall meet standards developed by the state department of health in consultation with American diabetes association, Iowa affiliate, for certification of outpatient diabetes education programs. This paragraph does not require the coverage for programs whose sole or primary purpose is weight reduction.

Approved May 16, 1984

**CHAPTER 1291****ELECTION LAWS***H.F. 2468*

**AN ACT** relating to the election laws by providing a method for challenging nomination petitions, eliminating the requirement for notarization of absentee ballots, allowing the mailing of certain absentee ballots, regulating the office hours of the county commissioner of elections, revising delivery of registration forms and changes in registration, requiring identification of political advertisers, providing for assistance to certain voters and making certain technical corrections to the voting laws and providing penalties and effective dates.

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

Section 1. **NEW SECTION. 43.24 OBJECTIONS TO NOMINATION PETITIONS OR CERTIFICATES OF NOMINATION.**

1. **WRITTEN OBJECTIONS REQUIRED.** Nomination petitions or certificates of nomination filed under this chapter which are apparently in conformity with the law are valid unless objection is made in writing.

Objections to the legal sufficiency of a nomination petition or certificate of nomination filed or issued under this chapter or to the eligibility of a candidate may be filed in writing by any person who would have the right to vote for the candidate for the office in question.

Objections shall be filed with the officer with whom the nomination petition or certificate of nomination was filed, and within the following time:

a. Those filed with the state commissioner, not less than sixty days before the date of the election.

b. Those filed with the commissioner, not less than fifty days before the date of the election.

c. Objections to nominations to fill vacancies at a special election held under section 69.14, under which the forty-day notice of election provisions applies, shall be filed with the state commissioner not less than fifteen days prior to the date set for the special election. If the forty-day notice provision does not apply, objections to nominations to fill vacancies at a special election held under section 69.14 may be filed any time prior to the date set for the special election.

d. Those filed with the city clerk under chapter 43, at least thirty days prior to the municipal election.

2. **NOTICE OF OBJECTIONS.**

a. When objections have been filed, notice shall be mailed within seventy-two hours by certified mail to the candidate affected, addressed to the candidate's place of residence as stated in the candidate's affidavit of candidacy or in the certificate of nomination, stating that objections have been made, the nature of the objections, and the time and place the objections will be considered.

b. If an objection is filed to a nomination to fill a vacancy at a special election held under section 69.14, under which the forty-day notice of election provision of section 69.14 does not apply, notice of the objection shall be made to the candidate by the state commissioner as soon as practicable. Under this paragraph, failure to notify a candidate of an objection to the



candidate's nomination prior to the date set for the special election does not invalidate the hearing conducted under subsection 3. The hearing to an objection shall proceed as quickly as possible to expedite the special election.

3. HEARING. Objections filed with the state commissioner shall be considered by the secretary of state, auditor of state, and attorney general. However, if the objection is to the nomination petition, certificate of nomination, or eligibility of one or more of those officers, those officers shall be replaced, respectively, by the treasurer of state, secretary of agriculture, and lieutenant governor for the hearing.

Objections filed with the commissioner shall be considered by the county auditor, county treasurer, and county attorney. However, if the objection is to the nomination petition, certificate of nomination, or eligibility of one or more of those officers, their places shall be filled, respectively, by the county sheriff, county recorder, and chairperson of the board of supervisors. In either case, a majority vote shall decide the issue.

Objections filed with the city clerk shall be considered by the mayor and clerk and one member of the council chosen by the council by ballot, and a majority decision shall be final; but if the objection is to the certificate of nomination of either of those city officials, that official shall not pass upon said objection, but that official's place shall be filled by a member of the council against whom no objection exists, chosen as above.

Sec. 2. Section 43.115, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Objections to nomination petitions and certificates of nominations shall be filed and decided as provided in section 43.24.

Sec. 3. Section 47.2, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** The office of county auditor or county commissioner of elections in each county shall be open for at least eight hours on the Saturday preceding a general election, primary election, or special election called by the governor for the purpose of receiving absentee ballots and conducting other official business relating to the election.

Sec. 4. Section 48.3, Code 1983, is amended to read as follows:

**48.3 REGISTRATION BY MAIL FORM.** As an alternative to the method of registration prescribed by section 48.2, ~~any a~~ person entitled to register under that section may ~~submit~~ cause delivery of a completed voter registration form to the commissioner of registration in the person's county of residence ~~by postage paid United States mail~~. A registration form or the envelope containing one or more registration forms for the use of individual registrants ~~who are related to each other within the first degree of consanguinity or affinity and who reside at the same address shall~~ must be postmarked or otherwise delivered by the twenty-fifth day prior to an election or the registration will not take effect for that election. A separate registration form shall be signed by each individual registrant. Within five working days after receiving a registration by mail, the commissioner shall send the registrant a receipt of the registration by first class mail marked "do not forward". If the receipt is returned by the postal service the commissioner shall treat the registration as prescribed by section 48.31, subsection 7. An improperly addressed or delivered registration form shall be forwarded to the appropriate county commissioner of registration within two working days after it is received by any other official.

Sec. 5. Section 48.6, subsection 9, Code Supplement 1983, is amended to read as follows:

9. A statement certification in substantially the following form:

"I state certify that I am a citizen of the United States, that I am or will be an eligible elector at any election at which I attempt to vote and that all of the information I have given upon this voter registration form is true. I hereby authorize cancellation of any prior registration to vote in this or any other jurisdiction and my eligibility to vote in any jurisdiction where voter registration is not required. I am aware that fraudulently registering, or attempting to do so, is a felony an aggravated misdemeanor under Iowa law." At the time the registration is signed by the eligible elector it shall also be signed by a mobile registrar, employee of the commissioner's office, or other eligible elector.

Sec. 6. Section 48.7, subsection 1, paragraph a, Code Supplement 1983, is amended to read as follows:

a. The qualified elector may submit to the commissioner a form of the type provided for electors registering under section 48.3 providing for the elector's current name, telephone number, social security number and address and a written notice of the change of name, telephone number, or address, bearing the elector's signature. Upon receipt of the form notice, the commissioner shall change the registration records accordingly and the change shall be reflected in the election registers prepared for the next election held ten or more days after receipt of the qualified elector's notice. If the form notice received by the commissioner does not contain the information regarding name and address necessary to properly update the registration records, the commissioner shall immediately send notice to the elector, by forwardable mail directed to the elector's last known address, that the elector's registration is defective. The commissioner's notice shall advise the elector of the corrections necessary.

Sec. 7. Chapter 49, Code 1983, is amended by adding the following new section:

**NEW SECTION. POLITICAL ADVERTISEMENTS.** A person who causes the publication or distribution of published material after July 1, 1984 designed to promote or defeat the nomination or election of a candidate for public office or the passage of a constitutional amendment or public measure shall include conspicuously on the published material the identity and address of the person responsible for the material. If the person responsible is an organization, the name of one officer of the organization shall appear on the material. This section does not apply to the editorial or news articles of a newspaper or magazine which are not political advertisements.

Sec. 8. Section 49.89, Code 1983, is amended to read as follows:

**49.89 SELECTION OF OFFICIALS TO ASSIST VOTERS.** At, or before, the opening of the polls, the election board of each precinct shall select two members of the board, of different political parties in the case of any election in which candidates appear on the ballot under the heading of either of the political parties referred to in section 49.13, to assist voters who may be unable to cast their votes without assistance as described in section 49.90. Voters who are blind or physically disabled may have the assistance of any person they may select.

Sec. 9. Section 49.90, Code 1983, is amended to read as follows:

**49.90 ASSISTING VOTER.** Any voter who may declare upon oath that he or she the voter is blind, cannot read the English language, or is, by reason of any physical disability other than intoxication, unable to cast a vote without assistance, shall, upon request, be assisted by said two officers, or alternatively by any other person the voter may select if the voter is blind or physically disabled in casting the vote. Said officers, or person selected by the blind or physically disabled voter, shall cast the vote of the voter requiring assistance, and shall thereafter give no information regarding the same vote cast. If any elector because of a handicap cannot enter the building where the polling place for the elector's precinct of residence is located, the two officers shall take a paper ballot to the vehicle occupied by the handicapped elector and allow the elector to cast the ballot in the vehicle. If a handicapped

elector cannot cast a ballot on a voting machine the elector shall be allowed to cast a paper ballot, which shall be opened immediately after the closing of the polling place by the two precinct election officials designated under section 49.89, who shall register the votes cast thereon on a voting machine in the polling place before the votes cast there are tallied pursuant to section 52.21. To preserve so far as possible the confidentiality of each handicapped elector's ballot, the two officers shall proceed substantially in the same manner as provided in section 53.24. In precincts where all voters use paper ballots, those cast by handicapped voters shall be deposited in the regular ballot box and counted in the usual manner.

Sec. 10. Section 50.24, Code 1983, is amended to read as follows:

50.24 CANVASS BY BOARD OF SUPERVISORS. The county board of supervisors shall meet to canvass the vote at nine o'clock on the morning of the first Monday after the day of each election to which this chapter is applicable, unless the law authorizing the election specifies another date for the canvass. If that Monday is a public holiday, the provisions of section 4.1, subsection 22 shall control controls. Upon convening, the board shall open and canvass the tally lists and shall prepare abstracts stating, in words written at length, the number of votes cast in the county, or in that portion of the county in which the election was held, for each office ~~or~~ and on each question on the ballot for the election. The board shall also open and include in the canvass any absentee ballots which were received after the polls closed in accordance with section 53.17. The abstract shall further indicate the name of each person who received votes for each office on the ballot, and the number of votes each person named received for that office, and the number of votes for and against each question submitted to the voters at the election.

Sec. 11. Section 53.2, unnumbered paragraph 2, Code Supplement 1983, is amended to read as follows:

~~Nothing in this~~ This section shall be construed to does not require that a written communication mailed to the commissioner's office to request an absentee ballot, or any other document ~~except the absent voter's affidavit required by section 53.13,~~ be notarized as a prerequisite to receiving or marking an absentee ballot or returning to the commissioner an absentee ballot which has been voted.

Sec. 12. Section 53.8, subsection 3, unnumbered paragraphs 1 and 3, Code Supplement 1983, are amended to read as follows:

When an application for an absentee ballot is received by the commissioner of any county from a qualified elector who is a patient in a hospital in that county or a resident of any facility in that county shown to be a health care facility by the list of licenses provided the commissioner under section 135C.29, the absentee ballot shall be delivered to the elector and returned to the commissioner in the manner prescribed by section 53.22. However, if the application is received more than ten calendar days before the election and the commissioner has not elected to mail absentee ballots to the applicant as provided under section 53.22, subsection 3, the commissioner shall mail to the applicant within twenty-four hours a letter in substantially the following form:

Nothing in this subsection nor in section 53.22 shall be construed to prohibit a qualified elector who is a hospital patient or resident of a health care facility, or who anticipates entering a hospital or health care facility before the date of a forthcoming election, from casting an absentee ballot in the manner prescribed by section 53.11.

Sec. 13. Section 53.11, Code 1983, is amended to read as follows:

53.11 PERSONAL DELIVERY OF ABSENTEE BALLOT. The commissioner shall deliver an absentee ballot to any qualified elector applying in person at ~~his~~ the commissioner's office not more than forty days before the date of the general election and the primary election, and

for all other elections, as soon as the ballot is available. The qualified elector shall immediately mark the ballot, enclose and seal it in a ballot envelope, with proper subscribe to the affidavit on the reverse side of the envelope, and return the absentee ballot to the commissioner. The commissioner shall record the numbers appearing on the application and ballot envelope along with the name of the qualified elector. The commissioner of any county in which there is located a city of five thousand or more population, which is not the county seat, may permit qualified electors to appear in person at some designated place within each such city and there cast an absentee ballot in the manner prescribed by this section.

Sec. 14. Section 53.12, Code 1983, is amended to read as follows:

53.12 DUTY OF COMMISSIONER. The commissioner shall enclose the absentee ballot in an unsealed envelope, to be furnished by him the commissioner, which envelope shall bear upon its face the words "county commissioner of elections", the address of his the commissioner's office, and the same serial number appearing on the unsealed envelope shall be affixed to the application. The seal of the officer notarizing the affidavit shall, if possible, be placed on the affidavit envelope in such a manner that the ballot will not be marked by the seal, however, if the officer's seal makes an imprint on the ballot that marking shall not invalidate the ballot.

Sec. 15. Section 53.15, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The qualified elector, on receipt of an absentee ballot, shall, in the presence of the officer notarizing the affidavit, mark such the ballot in such a manner that such officer no other person will not know how such the ballot is marked.

Sec. 16. Section 53.16, Code 1983, is amended to read as follows:

53.16 TAKING AND SUBSCRIBING OATH TO AFFIDAVIT. After marking such the ballot, the voter shall, before said officer, make and subscribe to the affidavit on the reverse side of the envelope, and, in the presence of such officer, fold such the ballot, or ballots, separately, so as to conceal the markings thereon on them, and deposit the same them in said the envelope, which shall then be and securely sealed seal the envelope.

Sec. 17. Section 53.17, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

53.17 MAILING OR DELIVERING BALLOT. The sealed envelope containing the absentee ballot shall be enclosed in a carrier envelope which shall be securely sealed. The sealed carrier envelope shall be returned to the commissioner by one of the following methods:

1. The sealed carrier envelope may be delivered by the qualified elector or the elector's designee to the commissioner's office no later than the time the polls are closed on election day.

2. The sealed carrier envelope may be mailed, postage paid, to the commissioner. In order for the ballot to be counted, the carrier envelope must be clearly postmarked by an officially authorized postal service not later than the day before the election and received by the commissioner not later than the time established for the canvass by the board of supervisors for that election. The commissioner shall contact the post office serving the commissioner's office at the latest practicable hour prior to the canvass by the board of supervisors for that election, and shall arrange for absentee ballots received in that post office but not yet delivered to the commissioner's office to be brought to the commissioner's office prior to the canvass for that election by the board of supervisors.

Sec. 18. Section 53.22, subsection 1, Code 1983, is amended to read as follows:

1. a. A qualified elector who has applied for an absentee ballot, in a manner other than that prescribed by section 53.11, and who is a resident or patient in a health care facility or hospital located in the county to which the application has been submitted shall be delivered the

appropriate absentee ballot by two special precinct election officers, one of whom shall be a member of each of the political parties referred to in section 49.13, who shall be appointed by the commissioner from the election board panel for the special precinct established by section 53.20. The special precinct election officers shall be sworn in the manner provided by section 49.75 for election board members, shall receive compensation as provided in section 49.20 and shall perform their duties during the ten calendar days preceding the election and on election day if all ballots requested under section 53.8, subsection 3 have not previously been delivered and returned.

b. If an applicant under this subsection notifies the commissioner that ~~he or she~~ the applicant will not be available at the residence, health care facility or hospital address at any time during the ten-day period immediately prior to the election, but will be available there at some earlier time, the commissioner shall direct the two special precinct election officers to deliver the applicant's ballot at an appropriate time prior to the ten-day period immediately preceding the election. If a person who so requested an absentee ballot has been dismissed from the health care facility or hospital, the special precinct election officers may take the ballot to the elector if ~~he or she~~ the elector is currently residing in the county.

c. ~~The special precinct election officers shall both notarize each absent voter's affidavit as required by section 53.16; any such officer who is not a notary public shall be provided with a stamp containing that person's name and the words "special precinct election officer" and may notarize the absentee affidavits so delivered by signing them and applying the stamp. The special precinct election officers shall travel together in the same vehicle and both shall be present when an applicant casts his or her an absentee ballot. If either or both of the special precinct election officers fails fail to appear at the time the duties set forth in this section are to be performed, the commissioner shall at once appoint some other person, giving preference to persons designated by the respective county chairpersons of the political parties described in section 49.13, to carry out the requirements of this section. The persons authorized by this subsection to deliver an absentee ballot to an applicant, if requested, may assist the applicant in filling out the ballot as permitted by section 49.90. The After the voter has securely sealed the marked ballot in the envelope provided and has subscribed to the oath, the voted absentee ballots shall be deposited in a sealed container which shall be returned to the commissioner on the same day the ballots are voted. On election day the officers shall return the sealed container by the time the polls are closed.~~

Sec. 19. Section 53.22, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 3.** For any election except a primary or general election or a special election to fill a vacancy under section 69.14, the commissioner may, as an alternative to subsection 1, mail an absentee ballot to an applicant under this section to be voted and returned to the commissioner in accordance with this chapter. This subsection only applies to applications for absentee ballots from a single health care facility or hospital if there are no more than two applications from that facility or hospital.

Sec. 20. Section 53.44, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**53.44 SIGNING THE AFFIDAVIT.** The affidavit on the envelope used in connection with voting by absentee ballot under this division by members of the armed forces of the United States need not be notarized or witnessed, but the affidavit on the ballot envelope shall be completed and signed by the voter.

Sec. 21. This Act, being deemed of immediate importance, takes effect from and after its publication in the Quad City Times, a newspaper published in Davenport, Iowa, and in the Sigourney News-Review, a newspaper published in Sigourney, Iowa. Section 1 of this Act takes effect upon publication. Section 5 of this Act takes effect January 1, 1985. All other sections of this Act take effect on July 1, 1984.

Approved May 8, 1984

I hereby certify that the foregoing Act, House File 2468 was published in the Quad City Times, Davenport, Iowa on May 17, 1984 and in the Sigourney News-Review, Sigourney, Iowa on May 16, 1984.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 1292**  
**OPERATING A MOTOR VEHICLE WHILE INTOXICATED**  
*H.F. 2486*

**AN ACT** relating to the offense of operating a motor vehicle while intoxicated by providing civil penalties to be assessed against licensees or permittees, by requiring the dismissal of vendors for selling alcohol to a minor, by providing a definition of alcohol concentration, by providing a special license for persons age nineteen and under, by providing a fine or community service in addition to imprisonment for a first offense and requiring a substance abuse evaluation for a second or subsequent offense of operating a motor vehicle while intoxicated, by providing additional periods of revocation for drivers convicted of operating a motor vehicle while intoxicated who caused an accident in which there was a serious injury or death, by providing for restitution by offending drivers for any damage caused, by providing a special revocation period for persons age nineteen or under, by providing a civil penalty to be assessed against persons convicted of operating a motor vehicle while intoxicated to be used to finance the victim reparation fund, by providing access to the record of previous deferred judgments by county attorneys, and by establishing a study committee to conduct a study on present laws and penalties relating to the offense of operating a motor vehicle while intoxicated and make any recommendations for changes in the law in a report to the general assembly.

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

Section 1. Section 123.50, Code 1983, is amended by adding the following new subsections:  
**\*NEW SUBSECTION. 4.** The department shall adopt rules to establish civil penalties in the amount of one hundred dollars for a first offense, two hundred fifty dollars for a second

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\*Item veto; see message at end of this Act

offense, and five hundred dollars for a third offense which the department shall, subject to the discretion of the director, assess against licensees or permittees for violations of section 123.49 as an alternative to other penalties fixed for such violations by this section. Money collected from penalties assessed under this subsection shall be deposited with the Iowa department of substance abuse for use in substance abuse treatment programs.\*

**NEW SUBSECTION.** 5. Upon the conviction of a person acting as a vendor, as defined in section 123.24, subsection 1, for a violation of section 123.47 while in the course of the person's employment at the state liquor store, the director shall dismiss the person from the position as vendor if the person has failed to follow procedures developed by the director to prevent sales to minors.

Sec. 2. Section 321.1, Code Supplement 1983, is amended by adding the following new subsections:

**NEW SUBSECTION.** "Alcohol concentration" means the number of grams of alcohol per any of the following:

- a. One hundred milliliters of blood.
- b. Two hundred ten liters of breath.
- c. Sixty-seven milliliters of urine.

**NEW SUBSECTION.** "Alcoholic beverage" includes alcohol, wine, spirits, beer, or any other beverage which contains ethyl alcohol and is fit for human consumption.

Sec. 3. Section 321.189, subsection 1, Code 1983, is amended by inserting after unnumbered paragraph 1 the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A motor vehicle license or a nonoperator's identification card issued to a person under nineteen years of age shall be identical in form to any other motor vehicle license or nonoperator's identification card issued to any other person, except that the photograph appearing on the face of the license or card shall be a side profile of the applicant. Upon attaining the age of nineteen, and upon the payment of a one dollar fee, the person shall be entitled to a new motor vehicle license or nonoperator's identification card for the unexpired months of the motor vehicle license or the nonoperator's identification card. This paragraph is effective for licenses or cards issued after the effective date of this Act.

Sec. 4. Section 321.281, subsections 1 and 2, Code 1983, is amended to read as follows:

1. A person shall not operate a motor vehicle upon the public highways of in 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 a combination of such substances.

b. While having an alcohol concentration of 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 to be served as ordered by the court, less credit for any time the person was confined in a jail or detention facility following arrest and assessed a fine of not less than five hundred dollars nor more than one thousand dollars. As an alternative to the fine, the court may order the person to perform not less than fifty nor more than two hundred hours of unpaid community service. The court may accommodate the sentence to the work schedule of the defendant.

\*Item veto; see message at end of this Act

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 and assessed a fine of not less than seven hundred fifty dollars.

c. A class "D" felony for a third offense and each subsequent offense and assessed a fine of not less than seven hundred fifty dollars.

No conviction for, deferred judgment 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. For the purpose of determining if a violation charged is a second, third, or subsequent offense, a deferred judgment pursuant to section 907.3 for an offense under this section shall be counted as a previous violation.

On a conviction for a second or subsequent offense in violation of this section, the court shall order the defendant to undergo a substance abuse evaluation and the court may order the defendant to follow the recommendations proposed in the substance abuse evaluation for appropriate substance abuse treatment for the defendant. Court ordered substance abuse treatment is subject to the periodic reporting requirements of section 125.86. If a defendant is committed by the court to a substance abuse treatment facility, the administrator of the facility shall report to the court when it is determined that the defendant has received the maximum benefit of treatment at the facility and the defendant shall be released from the facility. 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 treatment program to which the person is committed immediately report to the court when the person has received maximum benefit from the treatment program 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. A defendant who fails to carry out the order of the court or who fails to successfully complete or attend an ordered substance abuse treatment program shall be confined in the county jail for twenty days in addition to any other imprisonment ordered by the court or may be ordered to perform unpaid community service work, and shall be placed on probation for one year with a violation of this probation punishable as contempt of court.

Sec. 5. Section 321.281, subsections 7 and 8, Code 1983, are amended to read as follows:

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 the substance was prescribed for the person and were was 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 by the means described in subsection 1, paragraph "a" of this section is alleged, evidence that there was, at the time, the defendant had an alcohol concentration of 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.



Sec. 6. Section 321.281, subsection 9, Code 1983, is amended by adding the following new paragraphs:

**NEW PARAGRAPH.** d. Upon a plea or verdict of guilty of a violation of this section during the occurrence of which there was an accident causing a serious injury in which the defendant was judged to be at fault, 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 one year in addition to any other period of suspension. 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. A person whose license to operate a motor vehicle has been 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 course of the person's employment upon the completion by the defendant of a substance abuse evaluation under section 125.33 and completion of a program of treatment if recommended.

**NEW PARAGRAPH.** e. Upon a plea or verdict of guilty of a violation of this section during the occurrence of which there was an accident which caused a loss of life for which the defendant was judged to be at fault, 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 for a period of six years shall not be eligible for a new license or permit. 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.

Sec. 7. Section 321.281, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION.** 10. The court shall order a defendant convicted of a violation of this section to make restitution for damages resulting directly from the violation.

**NEW SUBSECTION.** If a defendant is convicted of a first offense of this section and the defendant's license or permit to operate a motor vehicle is revoked under section 321.209 or chapter 321B for the occurrence from which the arrest arose, the period of revocation shall be the period provided for such a revocation or until the defendant reaches the age of nineteen whichever period is longer. 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 course of the person's employment and to attend evaluation, treatment or educational services for alcohol or drug dependency.

**NEW SUBSECTION.** A person whose motor vehicle license was revoked under this section or under chapter 321B who has been ordered by the court to perform community service work as a result of a violation of this section may be issued a temporary restricted driving permit by the department to allow the person to drive to and from the person's home and the location at which the community service work will be performed.

Sec. 8. Section 321B.1, Code 1983, is amended to read as follows:

**321B.1 DECLARATION OF POLICY.** The general assembly declares that this chapter is necessary 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 a combination of such substances, or while having an alcohol concentration of a certain amount of alcohol in the blood or more.

Sec. 9. Section 321B.2, unnumbered paragraph 2, Code 1983, is amended to read as follows:

As used in this chapter and sections 29B.106, ~~321.209~~, and 321.281, ~~321.494~~ and 690.2 the words "alcoholic beverage" include and alcohol, wine, spirits, beer, or any other beverage which contains ethyl alcohol and is fit for human consumption concentration means as defined in section 321.1.

Sec. 10. Section 321B.4, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Any person who operates a motor vehicle in this state ~~upon a public highway~~ under circumstances which give reasonable grounds to believe that the person ~~to have~~ has been operating a motor vehicle in violation of section 321.281, is deemed to have given consent to the withdrawal of specimens of the person's blood, breath, ~~saliva~~, or urine, and to a chemical test or tests of the specimens for the purpose of determining the ~~alcoholic content of the blood~~ alcohol concentration or presence of drugs, subject to this section. The withdrawal of the body substances and the test or tests shall be administered at the written request of a peace officer having reasonable grounds to believe that the person ~~to have been~~ was operating a motor vehicle in violation of section 321.281, and if any of the following conditions exist:

Sec. 11. Section 321B.4, subsection 1, paragraph d, Code 1983, is amended to read as follows:

d. The preliminary breath screening test was administered and it ~~recorded~~ indicated an alcohol concentration of ten hundredths or more of one percent by weight of alcohol in the blood.

Sec. 12. Section 321B.12, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

321B.12 STATEMENT OF OFFICER. A person who has been requested to submit to a chemical test shall be advised by a peace officer of the following:

1. If the person refuses to submit to the test, the person's license or operating privilege will be revoked by the department for the applicable period under section 321B.13.

2. If the person submits to the test and the results indicate an alcohol concentration of ten hundredths or more, the person's license or operating privilege will be revoked by the department for the applicable period under section 321B.16.

This section does not apply in any case involving a person described in section 321B.11.

Sec. 13. Section 321B.13, Code 1983, is amended to read as follows:

321B.13 REFUSAL TO SUBMIT. If a person refuses to submit to the chemical testing, a test shall not be given, but the department, upon the receipt of a sworn report of the peace officer that the officer had reasonable grounds to believe the person to have been operating a motor vehicle in violation of section 321.281, that specified conditions existed for chemical testing pursuant to section 321B.4, and that the person had refused to submit to the chemical testing, shall revoke the person's license or permit to drive and any nonresident operating privilege for a period of ~~one~~ two hundred eighty forty days if the person has no previous revocation under section 321.209, subsection 2, section 321.281, or this chapter; ~~one year~~ if the person has ~~one previous revocation under those provisions~~; and five hundred forty days if the person has ~~two~~ one 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 department shall deny to the person the issuance of a license or permit for the same period a license or permit would be revoked, subject to review as provided in this chapter. The effective date of 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 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.

The department may, on application, issue a temporary restricted license to a person whose license has been subject to revocation under section 321.209, subsection 2, section 321.281, or this chapter, for a second or subsequent time to allow the person to drive to and from the person's home and place of employment, in the course of the person's employment, and to attend evaluation, treatment or educational services for alcohol or drug dependency, upon expiration of the first three hundred and sixty days of the person's period of revocation.

Sec. 14. Section 321B.13, Code 1983, is amended by adding the following new unlettered paragraph:

NEW UNLETTERED PARAGRAPH. The department may, on application, issue a temporary restricted license to a person whose license has been revoked under this section and who has entered a plea of guilty to a charge under section 321.281 when the person's regular employment includes the operation of a motor vehicle or who cannot perform the person's 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, or to attend court ordered community service, 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. 15. Section 321B.15, Code 1983, is amended to read as follows:

321B.15 TAKING SAMPLE FOR TEST. Only a licensed physician, physician's assistant as defined in section 148C.1, subsection 6, medical technologist or registered nurse, acting at the request of a peace officer, may withdraw ~~body substances~~ a specimen of blood for the purpose of determining the ~~alcoholic or drug content of the person's blood~~ alcohol concentration or the presence of drugs. 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~~ alcohol concentration or the presence of drugs. Only new, originally factory wrapped, disposable syringes and needles, kept under strictly sanitary and sterile conditions shall be used for drawing blood.

PARAGRAPH DIVIDED. The person may have an independent chemical test or tests administered by a person of the person's own choosing and at the person's own expense 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 does not preclude the admission ~~in~~ of evidence of the results of the test or tests ~~taken administered~~ administered at the direction of the peace officer. Upon the request of the person who is tested, the results of the test or tests ~~taken administered~~ administered at the direction of the peace officer shall be made available to the person.

Sec. 16. Section 321B.16, Code 1983, is amended to read as follows:

321B.16 TEST RESULT REVOCATION. Upon certification by the peace officer that there existed reasonable grounds to believe ~~that~~ the person to have had been operating a motor vehicle in violation of section 321.281, ~~that there existed one or more of the necessary conditions for chemical testing described in section 321B.4, subsection 1,~~ and that the person submitted to chemical testing and the test results indicate indicated an alcohol concentration of 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~~ eighty days if the person has had no revocation within the

previous six years under section 321.209, subsection 2, section 321.281 or this chapter, ~~two hundred forty days if the person has one previous revocation under those provisions, and one year if the person has two had one or more previous 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. The peace officer offering a chemical test or directing who requested or directed the administration of a the chemical test may, on behalf of the department, serve immediate notice of intention to revoke and of revocation on a person when the person's whose test results indicate indicated an alcohol concentration of 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 person's 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 the officer's certificate indicating that the test results indicate indicated an alcohol concentration of 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 the person whose license has been revoked under this section when the person's regular employment includes the operation of a motor vehicle or who the person 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. 17. Section 321B.26, Code 1983, is amended to read as follows:

321B.26 HEARING. Upon the written request of a person whose privilege to drive has been revoked or denied, or who has been issued a twenty-day license pursuant to section 321B.13 or section 321B.16, the 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 ten days of the effective date of revocation or denial of driving privileges or the issuance of a temporary ~~permit~~ license. The hearing shall be before the department in the county where the alleged events occurred, 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 be limited to the issues of whether a peace officer had reasonable grounds to believe that the person to have been was operating a motor vehicle in violation of section 321.281, whether and either of the following:~~

- a. ~~Whether the person refused to submit to the test or tests.~~
- b. ~~Whether a test was administered and the test results if a person consented to a test and whether the person should be issued a temporary restricted license indicated an alcohol concentration of ten hundredths or more.~~

~~PARAGRAPH DIVIDED.~~ The department shall order that the revocation or denial be either rescinded or sustained.

Sec. 18. Section 321B.28, Code 1983, is amended to read as follows:

321B.28 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 a~~ person while operating a motor vehicle in violation of section 321.281, evidence of the amount of alcohol concentration

or the presence of drugs in the person's blood body substances at the time of the act alleged as shown by a chemical analysis of the person's blood, breath, saliva or urine is admissible. If it is established at trial that an analysis of a breath specimen was performed by a certified operator using a device and methods approved by the commissioner of public safety, no further foundation is necessary for introduction of the evidence.

Sec. 19. NEW SECTION. 321B.30 CIVIL PENALTY – VICTIM REPARATION FUND. When the department revokes a person's license or operating privilege under this chapter, the department shall assess the person a civil penalty of one hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in a separate fund dedicated to and used for the purposes of chapter 912. A temporary restricted license shall not be issued or a license or privilege to drive reinstated until the civil penalty has been paid.

Sec. 20. Section 907.4, Code 1983, is amended to read as follows:

907.4 DEFERRED JUDGMENT DOCKET. Any deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court to the supreme court administrator who shall maintain a permanent record thereof including the name of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment against the defendant. The permanent record provided for in this section shall constitute a confidential record exempted from public access under section 68A.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, and judicial magistrates, and county attorneys requesting information pursuant to this section or the designee of such justice, judge, or magistrate, or county attorney.

Sec. 21. Section 912.1, subsection 4, Code 1983, is amended to read as follows:

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 for violations of section 321.281 or when the intention is to cause personal injury or death. A plea or verdict of guilty of a charge under section 321.281 or a license revocation under section 321B.13 or 321B.16 shall be considered by the department as evidence of a violation of section 321.281 for the purposes of this chapter.

Sec. 22. Section 912.6, Code 1983, is amended to read as follows:

912.6 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 not to exceed ten thousand dollars.
2. Loss of income from work the victim would have performed and for which the victim would have received compensation for if the victim had not been injured not to exceed two thousand dollars.
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~~ two thousand five hundred dollars.

5. Loss of support for dependents resulting from death or a period of disability of the victim of sixty days or more not to exceed two thousand dollars per dependent or a total of six thousand dollars.

\*Sec. 23. Chapter 912, Code 1983, is amended by adding the following new section:

**NEW SECTION. VICTIM REPARATION FUND.** The money collected and deposited under section 321B.30 and remaining in the fund at the end of any annual or biennial period shall not revert to the state general fund but shall remain available for the payment of claims under this chapter. This fund is in addition to and may be supplemented by appropriations from the general assembly for the payment of claims or operational expenses of the program.\*

Sec. 24. Section 912.13, Code 1983, is repealed.

Sec. 25. Section 24 of this Act, being deemed of immediate importance, takes effect from and after the Act's publication in the Onawa Democrat, a newspaper published in Onawa, Iowa, and in the Diamond Trail News, a newspaper published in Sully, Iowa.

Sec. 26. **STUDY COMMITTEE CREATED.**

1. There is established a committee to study the laws and penalties relating to operating motor vehicles while intoxicated composed of ten members. The members shall be appointed as follows:

a. The chief justice of the supreme court shall select one judge to be a member and chair the committee.

b. The Iowa county attorneys association shall select one member of their organization as a member.

c. The Iowa public defenders association shall select one member of their organization as a member.

d. The department of public safety shall select an employee as a member.

e. The department of transportation shall select an employee of that department as a member.

f. The Iowa department of justice shall select an employee of that department as a member.

g. The Iowa department of substance abuse shall select an employee as a member.

h. The legislative council shall select an attorney experienced in the defense of those charged with driving while intoxicated as a member.

i. The legislative council shall select a person with professional experience in substance abuse treatment as a member.

j. The legislative council shall appoint one member of the legislature as a member.

All members of the study committee shall be appointed not later than thirty days from the effective date of this Act. The study committee shall hold its organizational meeting not more than thirty days following the appointment of its membership.

2. Public members of the study committee shall receive a per diem of forty dollars and be reimbursed for their travel and other necessary expenses actually incurred in the performance of their official duties. Public employees who are members of the study committee shall be reimbursed for travel and other expenses actually incurred in the performance of their official duties.

3. The study committee shall conduct a comprehensive study of the laws and penalties presently in the Code relating to the operation of a motor vehicle by a person who is intoxicated and make recommendations for any changes in the law the committee deems

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\*Item veto; see message at end of this Act

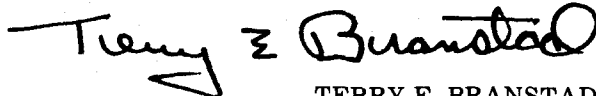
necessary. The study committee may request assistance of any state or local government agency to obtain any data or other information which the study committee deems necessary to carry out its duties. The state and local government agencies shall provide any assistance requested by the study committee.

4. The study committee may request that the legislative council provide staff for the study committee from the staff of the legislative service bureau and the legislative fiscal bureau.

5. The study committee shall transmit copies of its final report to the general assembly on January 14, 1985. The final report shall include findings of fact and its recommendations and relevant data gathered by and for the committee.

Sec. 27. The beer and liquor control commission shall submit to the general assembly on January 14, 1985, its recommendations for a revised schedule of civil penalties to be assessed upon licensees or permittees in the alternative to other penalties for violations of section 123.49 as established in section 1 of this Act. The proposed schedule of civil penalties shall be graduated on a proportional basis on both the annual dollar amount of beer and liquor sales conducted by the licensee or permittee and on the order of the violation as a first, second, or third offense.

Approved May 14, 1984, except the two items which I hereby disapprove and which are designated as that portion of section 1 which is herein bracketed in ink and initialed by me; and section 23 which is herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

I hereby certify that the foregoing Act, House File 2486 was published in the Diamond Trail News, Sully, Iowa on May 23, 1984 and in the Onawa Democrat, Onawa, Iowa on May 24, 1984.

MARY JANE ODELL, *Secretary of State*

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit House File 2486, an act relating to the offense of operating a motor vehicle while intoxicated by providing civil penalties to be assessed against licensees or permittees, by requiring the dismissal of vendors for selling alcohol to a minor, by providing a definition of alcohol concentration, by providing a special license for persons age nineteen and under, by providing a fine or community service in addition to imprisonment for a first offense and requiring a substance abuse evaluation for a second or subsequent offense of operating a motor vehicle while intoxicated, by providing additional periods of revocation for drivers convicted of operating a motor vehicle while intoxicated who caused an accident in which there was a serious injury or death, by providing for restitution by offending drivers for any damage caused, by providing a special revocation period for persons age nineteen or under, by providing a civil penalty to be assessed against persons convicted of operating a motor vehicle while intoxicated to be used to finance the victim reparation fund, by providing access to the record of previous deferred judgments by county attorneys, and by establishing a study committee to conduct a study on present laws and penalties relating to the offense of operating a motor vehicle while intoxicated and make any recommendations for changes in the law in a report to the General Assembly.

House File 2486 is approved May 14, 1984, with the following exceptions which I hereby disapprove.

I am unable to approve the items designated in the Act as Section 1, New Subsection 4, and Section 23 which read as follows:

Section 1. Section 123.50, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 4. The department shall adopt rules to establish civil penalties in the amount of one hundred dollars for a first offense, two hundred fifty dollars for a second offense, and five hundred dollars for a third offense which the department shall, subject to the discretion of the director, assess against licensees or permittees for violations of section 123.49 as an alternative to other penalties fixed for such violations by this section. Money collected from penalties assessed under this subsection shall be deposited with the Iowa department of substance abuse for use in substance abuse treatment programs.

Sec. 23. Chapter 912, Code 1983, is amended by adding the following new section:

NEW SECTION. VICTIM REPARATION FUND. The money collected and deposited under section 321B.30 and remaining in the fund at the end of any annual or biennial period shall not revert to the state general fund but shall remain



available for the payment of claims under this chapter. This fund is in addition to and may be supplemented by appropriations from the general assembly for the payment of claims or operational expenses of the program.

These earmarking provisions make a direct, ongoing appropriation to the Department of Substance Abuse and the Victim Reparation Fund. They result in the loss of oversight on the appropriations process by the executive and legislative branches of State Government. The funds not paid out in claims should be allowed to revert to the General Fund like other appropriations.

I am disappointed that, despite my earlier veto of the Victim Reparation Fund because of a similar earmarking provision, the majority in the General Assembly rejected several attempts to continue the Victim Reparation Program without earmarking.

The earmarking of funds directly from a source of revenue to an expenditure with a provision preventing any reversion to the state General Fund is an ongoing appropriation. Earmarking is a bad policy that has been consistently opposed by recent Iowa Governors. As I stated in my veto message of Senate File 2270 on April 13, 1984, "earmarking funds would set a troublesome precedent for the future."

For these reasons, I respectfully disapprove of the language designated above in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of House File 2486 are hereby approved as of this date.

Very truly yours,

A handwritten signature in black ink that reads "Terry E. Branstad". The signature is written in a cursive style with a large, looped initial "T".

Terry E. Branstad  
Governor

**CHAPTER 1293**  
**COMPARATIVE NEGLIGENCE**  
*H.F. 2487*

**AN ACT** relating to liability in tort by establishing comparative fault as the basis for liability in relation to claims for damages arising from injury to or death of a person or harm to property and modifying the liability of governmental entities.

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

Section 1. **NEW SECTION. 668.1 FAULT DEFINED.**

1. As used in this chapter, "fault" means one or more acts or omissions that are in any measure negligent or reckless toward the person or property of the actor or others, or that subject a person to strict tort liability. The term also includes breach of warranty, unreasonable assumption of risk not constituting an enforceable express consent, misuse of a product for which the defendant otherwise would be liable, and unreasonable failure to avoid an injury or to mitigate damages.

2. The legal requirements of cause in fact and proximate cause apply both to fault as the basis for liability and to contributory fault.

Sec. 2. **NEW SECTION. 668.2 PARTY DEFINED.** As used in this chapter, unless otherwise required, "party" means any of the following:

1. A claimant.
2. A person named as defendant.
3. A person who has been released pursuant to section 668.7.
4. A third-party defendant.

Sec. 3. **NEW SECTION. 668.3 COMPARATIVE FAULT—EFFECT.**

1. Contributory fault shall not bar recovery in an action by a claimant to recover damages for fault resulting in death or in injury to person or property unless the claimant bears a greater percentage of fault than the combined percentage of fault attributed to the defendants, third-party defendants and persons who have been released pursuant to section 668.7, but any damages allowed shall be diminished in proportion to the amount of fault attributable to the claimant.

2. In the trial of a claim involving the fault of more than one party to the claim, including third-party defendants and persons who have been released pursuant to section 668.7, the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, indicating all of the following:

a. The amount of damages each claimant will be entitled to recover if contributory fault is disregarded.

b. The percentage of the total fault allocated to each claimant, defendant, third-party defendant, and person who has been released from liability under section 668.7. For this purpose the court may determine that two or more persons are to be treated as a single party.

3. In determining the percentages of fault, the trier of fact shall consider both the nature of the conduct of each party and the extent of the causal relation between the conduct and the damages claimed.

4. The court shall determine the amount of damages payable to each claimant by each other party, if any, in accordance with the findings of the court or jury.

5. If the claim is tried to a jury, the court shall give instructions and permit evidence and argument with respect to the effects of the answers to be returned to the interrogatories submitted under this section.

6. In an action brought under this chapter and tried to a jury, the court shall not discharge the jury until the court has determined that the verdict or verdicts are consistent with the total damages and percentages of fault, and if inconsistencies exist the court shall do all of the following:

- a. Inform the jury of the inconsistencies.
- b. Order the jury to resume deliberations to correct the inconsistencies.
- c. Instruct the jury that it is at liberty to change any portion or portions of the verdicts to correct the inconsistencies.

Sec. 4. NEW SECTION. 668.4 JOINT AND SEVERAL LIABILITY. In actions brought under this chapter, the rule of joint and several liability shall not apply to defendants who are found to bear less than fifty percent of the total fault assigned to all parties.

Sec. 5. NEW SECTION. 668.5 RIGHT OF CONTRIBUTION.

1. A right of contribution exists between or among two or more persons who are liable upon the same indivisible claim for the same injury, death, or harm, whether or not judgment has been recovered against all or any of them. It may be enforced either in the original action or by a separate action brought for that purpose. The basis for contribution is each person's equitable share of the obligations, including the share of fault of a claimant, as determined in accordance with section 668.3.

2. Contribution is available to a person who enters into a settlement with the claimant only if the liability of the person against whom contribution is sought has been extinguished and only to the extent that the amount paid in settlement was reasonable.

Sec. 6. NEW SECTION. 668.6 ENFORCEMENT OF CONTRIBUTION.

1. If the percentages of fault of each of the parties to a claim for contribution have been established previously by the court as provided in section 668.3, a party paying more than the party's percentage share of damages may recover judgment for contribution upon motion to the court or in a separate action.

2. If the percentages of fault of each of the parties to a claim for contribution have not been established by the court, contribution may be enforced in a separate action, whether or not a judgment has been rendered against either the person seeking contribution or the person from whom contribution is sought.

3. If a judgment has been rendered, an action for contribution must be commenced within one year after the judgment becomes final. If a judgment has not been rendered, a claim for contribution is enforceable only upon satisfaction of one of the following sets of conditions:

- a. The person bringing the action for contribution must have discharged the liability of the person from whom contribution is sought by payment made within the period of the statute of limitations applicable to the claimant's right of action and must have commenced the action for contribution within one year after the date of that payment.

- b. The person seeking contribution must have agreed while the action of the claimant was pending to discharge the liability of the person from whom contribution is sought and within one year after the date of the agreement must have discharged that liability and commenced the action for contribution.

Sec. 7. NEW SECTION. 668.7 EFFECT OF RELEASE. A release, covenant not to sue, or similar agreement entered into by a claimant and a person liable discharges that person from all liability for contribution, but it does not discharge any other persons liable upon the same claim unless it so provides. However, the claim of the releasing person against other persons is reduced by the amount of the released person's equitable share of the obligation, as determined in section 668.3, subsection 4.

Sec. 8. NEW SECTION. 668.8 TOLLING OF STATUTE. The filing of a petition under this chapter tolls the statute of limitations for the commencement of an action against all parties who may be assessed any percentage of fault under this chapter.

Sec. 9. NEW SECTION. 668.9 INSURANCE PRACTICE. It shall be an unfair trade practice, as defined in chapter 507B, if an insurer assigns a percentage of fault to a claimant, for the purpose of reducing a settlement, when there exists no reasonable evidence upon which the assigned percentage of fault could be based. The prohibitions and sanctions of chapter 507B shall apply to violations of this section.

Sec. 10. NEW SECTION. 668.10 GOVERNMENTAL EXEMPTIONS. In any action brought pursuant to this chapter, the state or a municipality shall not be assigned a percentage of fault for any of the following:

1. The failure to place, erect, or install a stop sign, traffic control device, or other regulatory sign as defined in the uniform manual for traffic control devices adopted pursuant to section 321.252. However, once a regulatory device has been placed, created or installed, the state or municipality may be assigned a percentage of fault for its failure to maintain the device.

2. The failure to remove natural or unnatural accumulations of snow or ice, or to place sand, salt, or other abrasive material on a highway, road, or street if the state or municipality establishes that it has complied with its policy or level of service for snow and ice removal or placing sand, salt or other abrasive material on its highways, roads, or streets.

3. For contribution unless the party claiming contribution has given the state or municipality notice of the claim pursuant to sections 25A.13 and 613A.5.

Sec. 11. The supreme court shall submit in the manner provided in section 602.4202 changes in the rules of procedure for courts which are necessitated by the enactment of this chapter.

Sec. 12. Section 613.3, Code Supplement 1983, is repealed.

Sec. 13. Section 619.17, Code 1983, is amended to read as follows:

619.17 CONTRIBUTORY NEGLIGENCE FAULT – BURDEN. In all actions brought in the courts of this state to recover damages of a defendant in which contributory negligence of the plaintiff, actual or imputed, was heretofore a complete defense or bar to recovery, the A plaintiff shall ~~does~~ not hereafter, have the burden of pleading and proving his the plaintiff's freedom from contributory negligence, and if the fault. If a defendant relies upon negligence of the plaintiff as a complete defense or bar to plaintiff's recovery contributory fault of a plaintiff to diminish the amount to be awarded as compensatory damages, the defendant shall have has the burden of pleading and proving negligence fault of the plaintiff, if any, and that it was a proximate cause of the injury or damage. As used in this section, the term "plaintiff" shall include includes a defendant filing a counterclaim or cross-petition, and the term "defendant" shall include includes a plaintiff against whom a counterclaim or cross-petition has been filed.

Sec. 14. The commissioner of insurance shall study and report to the legislative council and the senate committee on judiciary and the house committee on judiciary and law enforcement by January 15, 1985, on the issue of insurance practices developed in response to the

adoption of comparative fault in the state of Iowa. The report shall include proposals for legislative action and an explanation of the steps taken by the department of insurance to alleviate existing or potential problems in insurance practice under comparative fault.

Sec. 15. This Act, except for section 4, applies to all cases filed on or after July 1, 1984. Section 4 of this Act applies to all cases tried on or after July 1, 1984.

Approved May 17, 1984

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## CHAPTER 1294

### SCHOOL ASBESTOS REMOVAL OR ENCAPSULATION

*H.F. 2516*

**AN ACT** to provide funding for the removal or encapsulation of asbestos by school districts.

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

Section 1. NEW SECTION. 279.43 OPTIONAL FUNDING OF ASBESTOS REMOVAL OR ENCAPSULATION.

1. The board of directors may pay the actual cost of removal or encapsulation of asbestos existing in its school buildings from any funds in the general fund of the district, funds received from the schoolhouse tax authorized under section 278.1, subsection 7, or funds from the tax levy certified under section 297.5.

2. The board of directors may also submit a proposal to the qualified electors of the school district at a regular school election held in September, 1984 or at a special election held not later than February 15, 1985, to authorize an additional tax levy to pay the actual cost of an asbestos removal or encapsulation project.

3. The election proposal shall include the following two parts:

a. Shall a tax levy be certified for not more than three consecutive years to pay the actual costs of the asbestos removal or encapsulation project?

b. If a tax levy is authorized by the electorate, which of the following tax methods shall be used to pay for the project:

(1) A property tax sufficient to pay the actual costs of the project.

(2) A combination of an enrichment property tax and a school district income surtax certified and levied as provided in sections 442.14 through 442.20.

c. If a property tax levy is selected under paragraph "b", subparagraph (1), the levy shall be certified for not more than three consecutive years commencing not later than March 15, 1985 and ending not later than March 15, 1987.

d. If a combination of an enrichment property tax and a school district income surtax is selected, the amount of tax revenue raised shall not exceed the actual cost of the removal or encapsulation of the asbestos or the maximum amount which may be raised by the levy of the combination of the taxes for the three school years beginning July 1, 1985 and ending July 1, 1987 as determined under section 442.14, subsections 3 and 4, whichever amount is less.

4. If a majority of the qualified electors voting for and against the tax authorization proposed under subsection 3, paragraph "a", favor the certification of a tax levy, the tax method receiving the largest number of votes under subsection 3, paragraph "b", shall be used to pay the actual costs of the removal or encapsulation project.

5. The taxes certified for levy under this section are in addition to any other taxes or additional enrichment amount raised for other programs as provided by law.

6. Nothing in sections 442.14 through 442.20 or this section shall be construed to require more than one favorable election to authorize the use of a property tax or the combination of an enrichment property tax and a school district income surtax to pay the actual cost of an asbestos removal or encapsulation project under this section.

Sec. 2. Section 442.5, subsection 1, paragraph b, Code 1983, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. Asbestos removal or encapsulation under section 279.43.

Approved May 17, 1984

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**CHAPTER 1295**  
**UNCLAIMED PROPERTY**  
*H.F. 2522*

**AN ACT** relating to the disposition of unclaimed property.

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

Section 1. Section 556.2, subsection 1, Code 1983, is amended to read as follows:

1. Any demand, savings, or matured time deposit made in this state with a banking organization, together with any interest or dividend ~~thereon~~, excluding any charges that may lawfully be withheld, unless the owner has, within ~~ten~~ five years:

Sec. 2. Section 556.2, subsection 1, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. Had another relationship with the bank in which the owner has:

(1) Communicated in writing with the bank.

(2) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the bank and if the bank communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship are regularly sent.

Sec. 3. Section 556.2, subsection 2, Code 1983, is amended to read as follows:

2. Any funds paid in this state toward the purchase of shares or other interest in a financial organization or any deposit made ~~therewith~~ in this state, and any interest or dividends ~~thereon~~, excluding any charges that may lawfully be withheld, unless the owner has within ~~ten~~ five years:

Sec. 4. Section 556.2, subsection 2, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. Had another relationship with the financial organization in which the owner has:

- (1) Communicated in writing with the financial organization.
- (2) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the financial organization and if the financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship are regularly sent.

Sec. 5. Section 556.2, Code 1983, is amended by inserting after subsection 2 the following new subsection:

NEW SUBSECTION. 3. Any property described in subsections 1 and 2 which is automatically renewable is matured for purposes of subsections 1 and 2 upon the expiration of its initial time period, but in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time provided for which consent was given. If at the time period for delivery in section 556.13, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time period for delivery is extended until the time when no penalty or forfeiture would result.

Sec. 6. Section 556.2, subsection 3, Code 1983, is amended to read as follows:

3. Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders, and traveler's checks, that, with the exception of traveler's checks, has been outstanding for more than ~~ten~~ five years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of traveler's checks, that has been outstanding for more than fifteen years from the date of its issuance, unless the owner has within ~~ten~~ five years, or within fifteen years in the case of traveler's checks, corresponded in writing with the banking or financial organization or business association concerned, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association. ~~Such~~ The memorandum shall be dated and may have been prepared by the banking or financial organization or business association, in which case it shall be signed by an officer of the banking or financial organization, or a member of the business association, or it may have been prepared by the owner.

Sec. 7. Section 556.2, subsection 4, Code 1983, is amended to read as follows:

4. Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than ~~ten~~ five years from the date on which the lease or rental period expired.

Sec. 8. Section 556.3, subsection 2, Code 1983, is amended to read as follows:

2. "Unclaimed funds," as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than ~~ten~~ five years after the moneys became due and payable as established from the records of the corporation under any life or

endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if ~~such~~ the policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based and shall be presumed abandoned and to be unclaimed funds as defined in this section if unclaimed and unpaid for more than two years thereafter, unless the person appearing entitled thereto has within the ~~preceeding ten years~~ two-year period, (a) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan; or (b) corresponded in writing with the life insurance corporation concerning the policy. Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

Sec. 9. Section 556.5, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**556.5 STOCKS AND OTHER INTANGIBLE INTERESTS IN BUSINESS ASSOCIATIONS.**

1. Except as provided in subsections 2 and 5, stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for seven years and the owner within seven years has not:

a. Communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest.

b. Otherwise communicated with the association regarding the interest of a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

2. At the expiration of a seven-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least seven dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If seven dividends, distributions, or other sums are paid during the seven-year period, the period leading to a presumption of abandonment commences on the date payment of the first unclaimed dividend, distribution, or other sum became due and payable. If seven dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been seven dividends, distributions, or other sums that have not been claimed by the owner.

3. The running of the seven-year period of abandonment ceases immediately upon the occurrence of a communication referred to in subsection 1. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

4. At the time an interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously abandoned, is presumed abandoned.

5. This section does not apply to any stock or other intangible ownership of interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the treasurer of state show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within seven years communicated in any manner described in subsection 1.



6. Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within five years after the date prescribed for payment or delivery, is presumed abandoned.

Sec. 10. Section 556.6, Code 1983, is amended to read as follows:

**556.6 PROPERTY OF BUSINESS ASSOCIATIONS AND BANKING OR FINANCIAL ORGANIZATIONS HELD IN COURSE OF DISSOLUTION.** Except as provided in section 496A.101, all intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization, or financial organization organized under the laws of or created in this state, that is unclaimed by the owner within ~~two years~~ one year after the date for final distribution, is presumed abandoned.

Sec. 11. Section 556.7, unnumbered paragraph 1, Code 1983, is amended to read as follows:

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within ~~ten~~ five years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary which shall have been dated and may have been prepared by the fiduciary or by the owner:

Sec. 12. Section 556.8, Code 1983, is amended to read as follows:

**556.8 PROPERTY HELD BY STATE COURTS AND PUBLIC OFFICERS AND AGENCIES.** All intangible personal property held for the owner by any court, public corporation, public authority, or public officer of this state, or a political subdivision ~~thereof~~ of the state, that has remained unclaimed by the owner for more than ~~ten~~ two years is presumed abandoned.

Sec. 13. Section 556.9, Code 1983, is amended to read as follows:

**556.9 MISCELLANEOUS PERSONAL PROPERTY HELD FOR ANOTHER PERSON.** All intangible personal property, not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than ~~ten~~ three years after it became payable or distributable is presumed abandoned.

Sec. 14. Section 556.11, subsection 2, paragraphs a and c, Code 1983, are amended to read as follows:

a. Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of ~~three~~ twenty-five dollars or more presumed abandoned under this chapter.

c. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under ~~three~~ twenty-five dollars each may be reported in aggregate.

Sec. 15. Section 556.12, subsection 2, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The published notice shall be entitled "**Notice of Names of Persons Appearing to be Owner of Abandoned Property**" and shall contain:

Sec. 16. Section 556.13, Code 1983, is amended to read as follows:

**556.13 PAYMENT OR DELIVERY OF ABANDONED PROPERTY.** Every person who has filed a report under section 556.11, within twenty days after the time specified in section 556.12 for claiming the property from the holder, or in the case of sums payable on traveler's checks or money orders presumed abandoned under section 556.2 within twenty days after the filing of the report or property for which the holder is not required to report the name of the owner shall at the time of filing the report, shall pay or deliver to the state treasurer of state all abandoned property specified in this report, except that, if the owner establishes his owner's right to receive the abandoned property to the satisfaction of the holder within the time specified in section 556.12, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the state treasurer of state, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

Sec. 17. Section 556.14, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**556.14 RELIEF FROM LIABILITY BY PAYMENT OR DELIVERY.**

1. Upon the payment or delivery of property to the treasurer of state, the state assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the treasurer of state in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which may arise or be made in respect to the property.

2. If the holder pays or delivers property to the treasurer of state in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the treasurer of state, upon written notice of the claim, shall defend the holder against any liability on the claim.

3. The holder of an interest under section 556.5 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the treasurer of state. Upon delivery of a duplicate certificate to the treasurer of state, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability in accordance with subsections 1 and 2 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the treasurer of state, for any losses or damages resulting to any person by the issuance and delivery to the treasurer of state of the duplicate certificate.

4. A holder who has paid money to the treasurer of state under this chapter may make payment to any person appearing to the holder to be entitled to payment and upon filing proof of payment and proof that the payee is entitled thereto, the treasurer of state shall reimburse the holder for the payment without imposing any fee or other charge. If reimbursement is sought for payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed under this subsection upon filing proof that the instrument was duly presented and that payment was made to a person who appeared to the holder to be entitled to payment. The holder must be reimbursed for payment made under this subsection even if the payment was made to a person whose claim was barred under section 556.16.

5. A holder who has delivered property including a certificate of any interest in a business association, other than money, to the treasurer of state may reclaim the property if the property is still in the possession of the treasurer of state without paying any fee or other charge, upon filing proof that the owner has claimed the property from the holder.

6. The treasurer of state may accept the holder's affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.

7. For purposes of this section, "good faith" means that:

a. Payment or delivery was made in a reasonable attempt to comply with this chapter.

b. The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to him, that the property was abandoned for the purposes of this chapter.

c. There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

Sec. 18. Section 556.15, Code 1983, is amended to read as follows:

**556.15 INCOME ACCRUING AFTER PAYMENT OR DELIVERY.** When property other than money is paid or delivered to the state treasurer of state under this chapter, the owner is not entitled to receive income from the treasurer of state any dividends, interest, or other increments realized or accruing thereafter on the property at or before liquidation or conversion into money.

Sec. 19. Section 556.17, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION. 4.** Unless the treasurer of state considers it to be in the best interest of the state to do otherwise, all securities, other than those presumed abandoned under section 556.5, delivered to the treasurer of state must be held for at least one year before the treasurer of state may sell them.

**NEW SUBSECTION. 5.** Unless the treasurer of state considers it to be in the best interest of the state to do otherwise, all securities presumed abandoned under section 556.5 and delivered to the treasurer of state must be held for at least three years before the treasurer of state may sell them. If the treasurer of state sells any securities delivered pursuant to section 556.5 before the expiration of the three-year period, any person making a claim pursuant to this chapter before the end of the three-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to section 556.18, subsection 2. A person making a claim under this chapter after the expiration of this period is entitled to receive either the securities delivered to the treasurer of state by the holder, if they still remain in the hands of the treasurer of state, or the proceeds received from the sale, less any amounts deducted pursuant to section 556.18, subsection 2, but no person has any claim under this chapter against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the treasurer of state.

Sec. 20. Section 556.18, subsection 1, Code Supplement 1983, is amended to read as follows:

1. Except as provided in subsection 3, all funds received under this chapter, including the proceeds from the sale of abandoned property under section 556.17, shall be deposited by the treasurer of state in the general funds of the state. However, the treasurer of state shall retain in a separate trust fund an amount not exceeding twenty-five one hundred thousand dollars from which the treasurer of state shall make prompt payment of claims duly allowed

under section 556.17 556.20. Any abandoned money or money received from the sale of abandoned property which totals twenty-five dollars or less becomes the property of the state on the date of receipt or sale as applicable and a claim filed for its recovery under section 556.19 shall not be allowed. Before making the deposit of more than twenty-five dollars, the treasurer of state shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

Sec. 21. Section 556.20, Code Supplement 1983, is amended by striking subsections 3, 4, 5, and 6.

Sec. 22. Section 556.23, Code 1983, is amended to read as follows:

556.23 EXAMINATION OF RECORDS. The ~~auditor~~ treasurer of state may at reasonable times and upon reasonable notice examine the records of any person if ~~he~~ the treasurer of state has reason to believe that ~~such~~ the person has failed to report property that should have been reported pursuant to this chapter. If an examination of the records of a person results in the disclosure of property reportable and deliverable under this chapter, the treasurer of state may assess the cost of the examination against the holder at a rate not to exceed one hundred dollars a day for each examiner, but in no case may the charges exceed the value of the property found to be reportable and deliverable.

Sec. 23. Section 556.25, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

#### 556.25 INTEREST AND PENALTIES.

1. A person who fails to pay or deliver property within the time prescribed by this chapter shall pay the treasurer of state interest at the annual rate of eighteen percent on the property or value of the property from the date the property should have been paid or delivered but in no event prior to the effective date of this chapter.

2. A person who willfully fails to pay or deliver property to the treasurer of state as required under this chapter shall pay a civil penalty equal to twenty-five percent of the value of the property that should have been paid or delivered.

Sec. 24. Chapter 556, Code 1983, is amended by inserting after section 556.27 the following new section:

#### NEW SECTION. 556.27A INTERSTATE AGREEMENTS AND COOPERATION.

1. The treasurer of state may enter into agreements with other states to exchange information needed to enable this or another state to audit or otherwise determine unclaimed property that it or another state may be entitled to subject to a claim of custody. The treasurer of state by rule may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

2. To avoid conflicts between the treasurer of state's procedures and the procedures of unclaimed property administrators in other jurisdictions that enact the Uniform Unclaimed Property Act, the treasurer of state, so far as is consistent with the purposes, policies, and provisions of this chapter, before adopting, amending or repealing rules, shall advise and consult with the unclaimed property administrators in other jurisdictions that enact substantially the Uniform Unclaimed Property Act and take into consideration the rules of unclaimed property administrators in other jurisdictions that enact the Uniform Unclaimed Property Act.

3. The treasurer of state may join with other states to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.

4. At the request of another state, the attorney general of this state may bring an action in the name of the unclaimed property administrator of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in bringing the action.

5. The treasurer of state may request that the attorney general of another state or any other person bring an action in the name of the unclaimed property administrator in the other state. The state shall pay all expenses including attorney's fees in any action under this subsection. Any expenses paid pursuant to this subsection may not be deducted from the amount that is subject to the claim by the owner under this chapter.

Sec. 25. Sections 556.30, 556.31, 556.32, 556.33, 556.34, 556.35, and 556.36, Code 1983, are repealed.

Sec. 26. All agreements to pay compensation to recover or assist in the recovery of property reported under section 556.11, made within twenty-four months after the date payment or delivery is made under section 556.13 are unenforceable.

Sec. 27. This Act, being deemed of immediate importance, takes effect from and after its publication in the Waverly Democrat, a newspaper published in Waverly, Iowa, and in the Iowa City Press-Citizen, a newspaper published in Iowa City, Iowa.

Approved May 7, 1984

I hereby certify that the foregoing Act, House File 2522 was published in the Waverly Democrat, Waverly, Iowa on May 10, 1984 and in the Iowa City Press-Citizen, Iowa City, Iowa on May 14, 1984.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 1296**  
**CONTRACTS FOR EXTRACURRICULAR WORK**  
*S.F. 2215*

**AN ACT** to provide for the issuance of an extracurricular contract by school boards, to set criteria for receipt of the contract including the establishment of a coaching authorization, and to provide for termination of the extracurricular contract.

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

Section 1. 279.19A NEW SECTION. EXTRACURRICULAR CONTRACTS.

1. School districts employing individuals to coach interscholastic athletic activities shall issue a separate extracurricular contract for each of these activities. An extracurricular contract offered under this section shall be separate from the contract issued under section 279.13. Wages for employees who coach these activities shall be paid pursuant to established or negotiated supplemental pay schedules. An extracurricular contract shall be in writing, and shall state the number of contract days, the annual compensation to be paid, and any other matters as may be mutually agreed upon. The contract shall be for a single school year.

2. An extracurricular contract shall be continued automatically in force and effect for equivalent periods, except as modified or terminated by mutual agreement of the board of directors and the employee, or terminated in accordance with this section. An extracurricular contract shall initially be offered by the employing board to an individual on the same date that contracts are offered to teachers under section 279.13. An extracurricular contract may be terminated at the end of a school year pursuant to sections 279.15 through 279.19. If the school district offers an extracurricular contract for an activity for the subsequent school year to an employee who is currently performing under an extracurricular contract for that activity, and the employee does not wish to accept the extracurricular contract for the subsequent year, the employee may resign from the extracurricular contract within twenty-one days after it has been received.

Section 279.13, subsection 3, applies to this section.

3. The board of directors of a school district may require an employee who has resigned from an extracurricular contract to accept, as a condition of employment under section 279.13, the extracurricular contract for the subsequent school year if all of the following conditions apply:

a. The employee has accepted a teaching contract issued by the board pursuant to section 279.13 for the subsequent school year.

b. The board of directors has made a good faith effort to fill the coaching position with a certificated or authorized replacement.

c. The position has not been filled by June 1 of the year in which the employee resigned the extracurricular contract.

4. As a condition of employment under section 279.13, the board of directors of a school district may require an employee who has been issued a teaching contract pursuant to section 279.13 to accept an extracurricular contract for which the employee is certificated, or may require as a condition of employment that an applicant for a teaching contract under section 279.13 accept an extracurricular contract if all of the following conditions apply:

a. The individual who held the coaching position during the year has not been issued a teaching contract by the board pursuant to section 279.13 for the subsequent school year, or has been terminated from the extracurricular contract.

b. The board of directors has made a good faith effort to fill the coaching position with a certificated or authorized replacement.

c. The position has not been filled by June 1 of the year in which the vacancy occurred for the interscholastic athletic activity.

5. By June 1 of that year, the board shall notify the employee in writing if the board intends to require the employee to accept an extracurricular contract for the subsequent school year under subsection 3 or 4. If the employee believes that the board did not make a good faith effort to fill the position the employee may appeal the decision by notifying the board in writing within seven school days after receiving the notification.

The appeal shall state why the employee believes that the board did not make a good faith effort to fill the position. If the parties are unable to informally resolve the dispute, the parties shall attempt to agree upon an alternative means of resolving the dispute.

If the dispute is not resolved by mutual agreement, either party may appeal to the district court.

6. Subsections 3, 4, and 5 do not apply if the terms of a collective bargaining agreement provide otherwise.

7. An extracurricular contract may be terminated prior to the expiration of that contract pursuant to section 279.27.

8. A termination proceeding of an extracurricular contract either by the board pursuant to subsection 2 or pursuant to section 279.27 does not affect a contract issued pursuant to section 279.13.

A termination of a contract entered into pursuant to section 279.13, or a resignation from that contract by the teacher, constitutes an automatic termination or resignation of the extracurricular contract in effect between the same teacher and the employing school board.

9. For the purposes of this section, "good faith effort" includes advertising for the position in an appropriate publication, interviewing applicants, and giving serious consideration to those certificated or authorized, and otherwise qualified, applicants who apply.

Sec. 2. NEW SECTION. 279.19B COACHING ENDORSEMENT AND AUTHORIZATION. The board of directors of a school district shall offer an extracurricular contract for varsity head coach of the interscholastic athletic activities of football, basketball, track, baseball, softball, volleyball, gymnastics, hockey, and wrestling only to an individual possessing a teaching certificate with a coaching endorsement issued pursuant to chapter 260.

The board of directors of a school district may employ for head coach of other interscholastic athletic activities or for assistant coach of any interscholastic athletic activity, an individual who possesses a coaching authorization issued by the department of public instruction. An individual who has been issued a coaching authorization and is employed by the board of directors of a school district serves at the pleasure of the board of directors and is not subject to sections 279.13 through 279.19, and 279.27. Chapter 272A and subsection 1 of section 279.19A apply to coaching authorizations.

Sec. 3. NEW SECTION. 260.31 COACHING AUTHORIZATION.

1. The minimum requirements for the board to award a coaching authorization to an applicant are:

a. Successful completion of one semester credit hour or ten contact hours in a course relating to knowledge and understanding of the structure and function of the human body in relation to physical activity.

b. Successful completion of one semester credit hour or ten contact hours in a course relating to knowledge and understanding of human growth and development of children and youth in relation to physical activity.

c. Successful completion of two semester credit hours or twenty contact hours in a course relating to knowledge and understanding of the prevention and care of athletic injuries and medical and safety problems relating to physical activity.

d. Successful completion of one semester credit hour or ten contact hours relating to knowledge and understanding of the techniques and theory of coaching interscholastic athletics.

2. The board of educational examiners shall adopt rules under chapter 17A for coaching authorizations including, but not limited to approval of courses, validity and expiration, fees, and suspension and revocation of authorizations. The board of educational examiners shall work with institutions of higher education, private colleges and universities, merged area schools, and area education agencies to insure that the courses required under subsection 1 are offered throughout the state at convenient times and at a reasonable cost.

Sec. 4. Extracurricular contracts shall be offered pursuant to this Act on or after March 15, 1985 for the school year commencing July 1, 1985.

Approved May 18, 1984

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**CHAPTER 1297**  
**MEDICAL AND SUPPLEMENTARY ASSISTANCE**  
*S.F. 2363*

**AN ACT** relating to codified provisions affecting appropriations to the department of human services for the medical assistance and state supplementary assistance programs.

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

Section 1. Section 249.9, Code Supplement 1983, is amended to read as follows:

249.9 **FUNERAL EXPENSES.** The department may pay, from funds appropriated to it for the purpose, a maximum of four hundred dollars toward funeral expenses on the death of a person receiving state supplementary assistance or who received assistance under a previous categorical assistance program prior to January 1, 1974, provided:

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

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



§ 2. Payments which are due the decedent's estate or beneficiary by reason of the liability of a life insurance, death or funeral benefit company, association or society, or in the form of United States social security, railroad retirement, or veterans' benefits upon the death of the decedent, are deducted from the department's liability under this section.

Sec. 2. Section 249A.2, Code Supplement 1983, is amended to read as follows:

249A.2 DEFINITIONS. When As used herein in this chapter:

1. The terms "department" or "state department" shall mean "Department" means the state department of human services.

2. The term "commissioner" shall mean "Commissioner" means the commissioner of the department of human services.

3. The term "county "County board" shall mean means the county board of social welfare created by chapter 234.1 appointed pursuant to section 234.9.

4. "Recipient" shall mean means a person who receives medical assistance under this chapter.

5. "Medical assistance" shall mean means payment of all or part of the costs of the care and services enumerated in required to be provided by Title XIX, United States of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), inclusive (Title XLII, United States Code and (17), as codified in 42 U.S.C. section sec. 1396d(a), paragraphs pars. (1) through (5), inclusive), as amended to January 15, 1974 and (17).

6. "Additional medical assistance" shall mean means payment of all or part of the costs of any or all of the care and services enumerated in authorized to be provided by Title XIX, United States of the federal Social Security Act, section 1905(a), paragraphs (6), (7), and (9) to (17) (Title XLII, United States Code (16), and (18), as codified in 42 U.S.C. section sec. 1396d(a), paragraphs pars. (6), (7), and (9) to (17)), as amended to January 15, 1974 (16), and (18).

7. "Discretionary medical assistance" means medical assistance or additional medical assistance provided to individuals whose income and resources are in excess of eligibility limitations but are insufficient to meet all of the costs of necessary medical care and services, provided that if the assistance includes services in institutions for mental diseases or intermediate care facility services for the mentally retarded, or both, for any group of such individuals, the assistance also includes for all covered groups of such individuals at least the care and services enumerated in Title XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), and (17), as codified in 42 U.S.C. sec. 1396d(a), pars. (1) through (5), and (17), or any seven of the care and services enumerated in Title XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (7) and (9) through (18), as codified in 42 U.S.C. sec. 1396d(a), pars. (1) through (7), and (9) through (18).

Sec. 3. Section 249A.3, subsection 2, paragraphs f and g, Code 1983, are amended by striking the paragraphs and inserting in lieu thereof the following:

f. Individuals under twenty-one years of age who qualify on a financial basis for, but who are otherwise ineligible to receive aid to dependent children.

g. Individuals and families who would be eligible under subsection 1 or 2 except for excess income or resources, or a reasonable category of those individuals and families.

Sec. 4. Section 249A.3, subsection 4, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

4. Assistance shall not be granted under this chapter to:

a. An individual or family whose income, considered to be available to the individual or family, exceeds federally prescribed limitations.

b. An individual or family whose resources, considered to be available to the individual or family, exceed federally prescribed limitations.

Sec. 5. Section 249A.3, Code 1983, is amended by adding the following new subsection after subsection 3 and renumbering the subsequent subsections:

**NEW SUBSECTION.** 4. Discretionary medical assistance, within the limits of available funds and in accordance with section 249A.4, subsections 1 and 2, may be provided to or on behalf of those individuals and families described in subsection 2, paragraph "g".

Sec. 6. Section 249A.12, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

**249A.12 ASSISTANCE TO RESIDENTS OF INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.**

1. Assistance may be furnished under this chapter to an otherwise eligible recipient who is a resident of a health care facility licensed under chapter 135C and certified as an intermediate care facility for the mentally retarded.

2. A county shall reimburse the department on a monthly basis for that portion of the cost of assistance provided under this section to a recipient with legal settlement in the county, which is not paid from federal funds, if the recipient's placement has been approved by the appropriate review organization as medically necessary and appropriate. The department shall place all reimbursements from counties in the appropriation for medical assistance, and may use the reimbursed funds in the same manner and for any purpose for which the appropriation for medical assistance may be used.

Sec. 7. Section 249A.9, Code 1983, is repealed.

Approved May 18, 1984

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**CHAPTER 1298**  
**PERSONAL PROPERTY TAX CREDIT FUND**  
*S.F. 2365*

**AN ACT** relating to the payment of funds from the additional personal property tax credit fund.

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

Section 1. Section 427A.12, subsection 7, Code Supplement 1983, is amended to read as follows:

7. The amount due each taxing district shall be paid in the form of warrants payable to the respective county treasurers by the state comptroller on May 15 of each fiscal year, taking into consideration the relative budget and cash position of the state resources. For the fiscal year beginning July 1, 1984 and ending June 30, 1985, one-half of the amount due each taxing district shall be paid to the respective county treasurers by the state comptroller on May 15, 1985. For the fiscal year beginning July 1, 1985 and ending June 30, 1986, and for each succeeding fiscal year the amount due each taxing district shall be paid in the form of warrants

payable to the respective county treasurers by the state comptroller on July 15 and May 15 of that fiscal year, taking into consideration the relative budget and cash position of the state resources. The July 15 payment shall be equal to the amount paid on May 15 of the preceding fiscal year and the payments received shall be an account receivable for each taxing district for the preceding fiscal year. The May 15 payment is equal to one-half of the amount of the additional personal property tax credit payable for the fiscal year. The county treasurer shall pay the proceeds to the various taxing districts in the county.

Sec. 2. Section 427A.13, Code 1983, is amended to read as follows:

427A.13 APPROPRIATION. There is hereby appropriated from the general fund of the state of Iowa to the personal property tax replacement fund the following sums, or so much thereof as may be necessary, to carry out the provisions of this chapter as amended by this division. For the fiscal year beginning July 1, 1973, and ending June 30, 1974, there is appropriated the sum of thirty-one million nine hundred thousand dollars. For the fiscal year beginning July 1, 1974, and ending June 30, 1975, and each succeeding fiscal year, there is appropriated the sum of thirty-five million seven hundred thousand dollars. For each year of the fiscal period beginning July 1, 1977 and ending June 30, 1979 the total appropriation shall be thirty-eight million six hundred thousand dollars. ~~and for~~ For the fiscal year beginning July 1, 1983 and ending June 30, 1984, the total appropriation shall be forty-six million two hundred thousand dollars. For the fiscal year beginning July 1, 1984 and ending June 30, 1985, the total appropriation shall be twenty-three million one hundred thousand dollars. For the fiscal year beginning July 1, 1985 and ending June 30, 1986, and each succeeding fiscal year, the total appropriation shall be an amount equal to the amount paid on May 15 of the preceding fiscal year plus one-half of the amount needed to fund the additional personal property tax credit payable in that fiscal year. In each fiscal year for which an increase in the additional personal property tax credit becomes effective as provided in this division, the appropriation under this section shall be increased by three million eight hundred thousand dollars, and such increased appropriation shall continue for each succeeding fiscal year. For the fiscal year for which the ninth increase in the additional personal property tax credit becomes effective as provided in this division, and for each succeeding fiscal year, the total appropriation shall be sixty-eight million dollars per year.

Sec. 3. If Senate File 2330 is enacted by the 1984 Session of the Seventieth General Assembly and becomes law, this Act shall prevail over any inconsistent provisions of Senate File 2330 and the inconsistent provisions of Senate File 2330 are void.

Approved May 19, 1984

**CHAPTER 1299**  
**GUARDIANSHIPS AND CONSERVATORSHIPS**  
*H.F. 2457*

**AN ACT** relating to guardianships and conservatorships by redefining what persons are subject to guardianships and conservatorships, providing that certain proposed wards are entitled to representation, revising provisions governing the powers and duties of guardians and conservators, including requirements for reporting, and eliminating special provisions for guardians of mentally retarded persons.

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

Section 1. Section 222.18, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The county attorney shall, if requested, appear on behalf of any petitioner for the ~~appointment of a guardian or~~ commitment of a person alleged to be mentally retarded under this chapter, and on behalf of all public officials and superintendents in all matters pertaining to the duties imposed upon them by this chapter.

Sec. 2. Section 222.31, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

If in the opinion of the court, or of a commission as authorized in section 222.28, the person is mentally retarded within the meaning of this chapter and the court determines that it will be conducive to the welfare of ~~such that~~ person and of the community to ~~place the person under guardianship, or to commit the person to some~~ a proper institution for treatment, training, instruction, care, habilitation, and support, the court shall by proper order:

Sec. 3. Section 222.31, subsection 1, Code Supplement 1983, is amended by striking the subsection.

Sec. 4. Section 222.34, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**222.34 GUARDIANSHIP PROCEEDINGS.** If a guardianship is proposed for a mentally retarded person, guardianship proceedings shall be initiated and conducted as provided in chapter 633.

Sec. 5. Section 222.45, Code 1983, is amended to read as follows:

**222.45 POWER OF COURT.** On the hearing, the court may discharge the mentally retarded person from all supervision, control, and care, ~~or may place him under guardianship,~~ or may transfer ~~him~~ the person from a public institution to a private institution, or vice versa, or transfer the person from a special unit to a hospital-school, or vice versa, as the court deems appropriate under all the circumstances.

Sec. 6. Section 222.51, Code 1983, is amended to read as follows:

**222.51 COSTS COLLECTED.** Costs incident to ~~guardianship and~~ to the hearings and commitment of a mentally retarded person to an institution, a hospital-school, or a special unit, may be collected from ~~such the~~ the mentally retarded person and from all persons legally chargeable with the support of ~~such the~~ the mentally retarded person.

Sec. 7. Section 222.55, Code 1983, is amended to read as follows:

222.55 PROCEDURE AS MENTALLY ILL PERSON. If it appears at any time that a person has under the provisions of this chapter been ~~placed under guardianship or~~ committed to a private institution and should be evaluated and treated in a hospital for the mentally ill, the person may be hospitalized under any of the provisions of sections 229.2 to 229.15.

Sec. 8. Section 222.56, Code 1983, is amended to read as follows:

222.56 TRANSFER TO INSTITUTION FOR MENTALLY RETARDED. When the mental condition of a person in a private institution for the mentally ill is found to be such that ~~such the~~ patient should be transferred to an institution for the mentally retarded ~~or placed under guardianship,~~ ~~such the~~ person may be proceeded against under this chapter.

Sec. 9. Section 331.756, subsection 42, Code Supplement 1983, is amended to read as follows:

42. Carry out duties relating to the ~~appointment of a guardian or~~ commitment of a mentally retarded person as provided in section 222.18.

Sec. 10. Section 633.552, subsection 2, Code 1983, is amended to read as follows:

2. That the proposed ward is a ~~minor or is incapable of caring for his own person.~~ is in either of the following categories:

a. By reason of mental, physical or other incapacity lacks sufficient capacity to make or carry out important decisions concerning the proposed ward's person or affairs, other than financial affairs, and, as a result, is in danger of substantially endangering the proposed ward's health or of becoming subject to abuse by other persons.

b. Is a minor.

Sec. 11. Section 633.554, Code 1983, is amended to read as follows:

633.554 NOTICE GOVERNED BY RULES OF CIVIL PROCEDURE. ~~In all other cases, notice~~ Notice of the filing of ~~such the~~ petition shall be served upon the proposed ward in the manner of an original notice and the Rules of Civil Procedure governing original notices shall also govern ~~such the~~ notice as to content. Notice to an attorney representing a proposed ward who is a minor in the custody of the petitioner shall be deemed notice to the proposed ward.

Sec. 12. NEW SECTION. 633.561 REPRESENTATION.

1. In a proceeding for the appointment of a guardian where the proposed ward is an adult and is not the petitioner, the proposed ward is entitled to representation. In a proceeding for the appointment of a guardian where the proposed ward is a minor, the court shall determine whether, under the circumstances of the case, the proposed ward is entitled to representation.

2. If the proposed ward is entitled to representation and desires counsel but is indigent, the court shall appoint an attorney to represent the proposed ward. The cost of court-appointed counsel for indigents shall be assessed against the county of legal settlement of the proposed ward. For purposes of this subsection, a person is indigent if the person's income and resources do not exceed one hundred fifty percent of the federal poverty level.

3. The court shall ensure that all proposed wards entitled to representation have been notified of that right and shall make findings of fact in any order of disposition setting forth the manner in which notification was provided.

4. If it appears to the court that the proposed ward is entitled to representation but is incapable of requesting counsel, the court shall appoint counsel to protect the rights of the proposed ward and represent the proposed ward in the proceeding.

5. An attorney appointed pursuant to this section shall:

a. Ensure that the proposed ward has been properly advised of the nature of the proceeding and its purpose.

- b. Ensure that the proposed ward has been properly advised of the proposed ward's rights in a guardianship proceeding.
- c. Personally interview the proposed ward.
- d. Represent the proposed ward.
- e. Ensure that the guardianship procedures conform to the statutory and due process requirements of Iowa law.
- f. Inform the proposed ward of the effects of any order entered by the court, including the effects of an order entered for appointment of guardian.
- g. Advise the ward, if an order for appointment of guardian is entered, of the ward's rights to petition for modification or termination of the guardianship.
- h. Advise the ward, if a guardian is appointed, of the rights the ward retains.

Sec. 13. Section 633.566, subsection 2, Code 1983, is amended to read as follows:

2. That the proposed ward is a minor or is incapable of managing his property. is in either of the following categories:

a. By reason of mental, physical or other incapacity lacks sufficient capacity to make or carry out important decisions concerning the proposed ward's financial affairs and, as a result, is in danger of substantially endangering the proposed ward's health or of becoming subject to abuse by other persons.

b. Is a minor.

Sec. 14. Section 633.568, Code 1983, is amended to read as follows:

633.568 NOTICE GOVERNED BY RULES OF CIVIL PROCEDURE. In all other cases, notice Notice of the filing of such the petition shall be served upon the proposed ward in the manner of an original notice and the Rules of Civil Procedure governing original notice shall also govern such the notice as to content. Notice to an attorney representing a proposed ward who is a minor in the custody of the petitioner shall be deemed notice to the proposed ward.

Sec. 15. NEW SECTION. 633.575 REPRESENTATION.

1. In a proceeding for the appointment of a conservator where the proposed ward is an adult and is not the petitioner, the proposed ward is entitled to representation. In a proceeding for the appointment of a conservator where the proposed ward is a minor, the court shall determine whether, under the circumstances of the case, the proposed ward is entitled to representation.

2. If the proposed ward is entitled to representation and desires counsel but is indigent, the court shall appoint an attorney to represent the proposed ward. The cost of court-appointed counsel for indigents shall be assessed against the county of legal settlement of the proposed ward. For purposes of this subsection, a person is indigent if the person's income and resources do not exceed one hundred fifty percent of the federal poverty level.

3. The court shall ensure that all proposed wards entitled to representation have been notified of that right and shall make findings of fact in any order of disposition setting forth the manner in which such notification was provided.

4. If it appears to the court that the proposed ward is entitled to representation but is incapable of requesting counsel, the court shall appoint counsel to protect the rights of the proposed ward and represent the proposed ward in the proceeding.

5. An attorney appointed pursuant to this section shall:

a. Ensure that the proposed ward has been properly advised of the nature of the proceeding and its purpose.

b. Ensure that the proposed ward has been properly advised of the proposed ward's rights in a conservatorship proceeding.

- c. Personally interview the proposed ward.
- d. Represent the proposed ward.
- e. Ensure that the conservatorship procedures conform to the statutory and due process requirements of Iowa law.
- f. Inform the proposed ward of the effects of any order entered by the court, including the effects of an order entered for appointment of conservator.
- g. Advise the ward, if an order for appointment of conservator is entered, of the ward's rights to petition for modification or termination of the conservatorship.
- h. Advise the ward, if a conservator is appointed, of the rights the ward retains.

Sec. 16. Section 633.635, Code 1983, is amended to read as follows:

**633.635 RESPONSIBILITIES OF GUARDIAN.** Unless otherwise directed by order of court, the guardian shall have custody of a minor ward and general supervisory responsibility for the care of a ward who has attained the age of majority.

1. A guardian may be granted the following powers and duties which may be exercised without prior court approval:

- a. Providing for the care, comfort and maintenance of the ward, including the appropriate training and education to maximize the ward's potential.
- b. Taking reasonable care of the ward's clothing, furniture, vehicle and other personal effects.
- c. Assisting the ward in developing maximum self-reliance and independence.
- d. Ensuring the ward receives necessary emergency medical services.
- e. Ensuring the ward receives professional care, counseling, treatment or services as needed.

f. Any other powers or duties the court may specify.

2. A guardian may be granted the following powers which may only be exercised upon court approval:

- a. Changing, at the guardian's request, the ward's permanent residence if the proposed new residence is more restrictive of the ward's liberties than the current residence.
- b. Arranging the provision of major elective surgery or any other nonemergency major medical procedure.

If the court determines that it would be in the ward's best interest to have legal representation with respect to proceedings under this subsection, the court may appoint an attorney to represent the ward at the expense of the ward or the ward's estate.

3. However, the The court may take into account all available information concerning the capabilities of the ward and any additional evaluation deemed necessary, and may direct that the guardian have only a specially limited responsibility for the ward. In such that event, the court shall state those areas of responsibility which shall be supervised by the guardian and all others shall be retained by the ward.

4. From time to time, upon a proper showing, the court may alter the respective responsibilities of the guardian and the ward, after notice to the ward and an opportunity to be heard.

Sec. 17. Section 633.669, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**633.669 REPORTING REQUIREMENTS—ASSISTANCE BY CLERK.**

1. A guardian appointed under this chapter shall file with the court the following reports:

- a. An initial report within sixty days of the guardian's appointment.
- b. An annual report which shall be filed within thirty days of the anniversary of the granting of the guardianship.

- c. A final report within thirty days of the termination of the guardianship.
2. Reports required by this section must include:
  - a. The current mental, physical and social condition of the ward.
  - b. The present living arrangement of the ward, including a description of each residence where the ward has resided during the reporting period.
  - c. A summary of the medical, educational, vocational and other professional services provided for the ward.
  - d. A description of the guardian's visits with and activities on behalf of the ward.
  - e. A recommendation as to the need for continued guardianship.
  - f. Other information requested by the court or useful in the opinion of the guardian.
3. The court shall develop a simplified uniform reporting form for use in filing the required reports.
4. The clerk of the court shall notify the guardian of the reporting requirements and shall provide information and assistance to the guardian in filing the reports and with respect to other responsibilities, powers and duties of the guardian.
5. Reports of guardians shall be reviewed and approved by a district court judge or referee.
6. Reports required by this section shall, if requested, be served on the attorney appointed to represent the ward in the guardianship proceeding and all other parties appearing in the proceeding.

Sec. 18. Section 633.670, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**633.670 REPORTING REQUIREMENTS—ASSISTANCE BY CLERK.**

1. A conservator appointed under this chapter shall file with the court the following reports:
  - a. An initial report within sixty days of the conservator's appointment.
  - b. An annual report which shall be filed within thirty days of the anniversary of the granting of the conservatorship.
  - c. A final report within thirty days of the termination of the conservatorship.
2. The court shall develop a simplified uniform reporting form for use in filing the required reports.
3. The clerk of court shall notify the conservator of the reporting requirements and shall provide information and assistance to the conservator in filing the reports and with respect to other responsibilities, powers and duties of the conservator.
4. Reports of conservators shall be reviewed and approved by a district court judge or referee.
5. Reports required by this section shall, if requested, be served on the attorney appointed to represent the ward in the conservatorship proceeding and all other parties appearing in the proceeding.

Sec. 19. Sections 222.33, 222.35, 633.553 and 633.567 are repealed.

Approved May 17, 1984



**CHAPTER 1300**  
**AUDITOR'S AND TREASURER'S OFFICES APPROPRIATION**  
*H.F. 2511*

**AN ACT** relating to and making appropriations to the auditor of state and the treasurer of state and providing an effective date.

*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, 1983 and ending June 30, 1984, to the auditor of state, two hundred sixty-six thousand seven hundred sixty-eight (266,768) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by 1983 Iowa Acts, chapter 196, section 2, subsection 1.

Sec. 2. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to the treasurer of state, sixty-five thousand six hundred ninety-four (65,694) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by 1983 Iowa Acts, chapter 196, section 2, subsection 16.

Sec. 3. Funds appropriated by this Act shall not be subject to the reduction of allocation under the governor's executive order 4 of September 2, 1983.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Cascade Pioneer-Advertiser*, a newspaper published in Cascade, Iowa, and in *The DeWitt Observer*, a newspaper published in DeWitt, Iowa.

Approved April 18, 1984

Pursuant to the authority vested in the undersigned Secretary of State of the State of Iowa, because of the inherent and imperative need for House File 2511 to be effective at the earliest possible date, I hereby designate that House File 2511 shall be published in the *West Des Moines Express*, a newspaper published in Des Moines, Iowa and in *The New Iowa Bystander*, a newspaper published in Des Moines, Iowa.

MARY JANE ODELL, *Secretary of State*

I hereby certify that the foregoing Act, House File 2511 was published in the *West Des Moines Express*, Des Moines, Iowa on April 20, 1984 and in *The New Iowa Bystander*, Des Moines, Iowa on April 20, 1984.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 1301****VARIOUS STATE GOVERNMENT AGENCIES APPROPRIATIONS***H.F. 2518*

**AN ACT** relating to and making appropriations to various executive, legislative and judicial departments and agencies.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the following named agencies, the following amounts, or so much thereof as necessary, to be used for the purposes designated:

	1984-1985 <u>Fiscal Year</u>
<b>1. OFFICE OF ADMINISTRATIVE RULES COORDINATOR</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 59,216
<b>2. IOWA STATE ARTS COUNCIL</b>	
For salaries, support, maintenance, and miscellaneous purposes including funds to match federal grants .....	\$ 473,473
<b>3. DEPARTMENT OF JUSTICE</b>	
<b>a. For the general office of attorney general for salaries, support, maintenance, and miscellaneous purposes .....</b>	<b>\$ 2,732,074</b>
<b>b. Prosecuting attorney training program</b>	
(1) For salaries, support, maintenance, and miscellaneous purposes which funds shall be used to attract federal and county funding .....	\$ 81,408
(2) For the payment of grants to dispute resolution programs .....	\$ 75,000

The funds appropriated under subparagraph (2) shall be used for grants to dispute resolution programs funded pursuant to 1983 Iowa Acts, chapter 204, section 1, paragraph h. A program administrator awarded funding for a dispute resolution program by the court administrator of the judicial department for the fiscal year beginning July 1, 1983, may submit an application to the executive director for funding for the fiscal year beginning July 1, 1984, on forms prescribed and furnished by the executive director. The executive director with the advice of the prosecuting attorneys training coordinator council 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 an existing dispute resolution program or that portion of a dispute resolution program which is improved or expanded shall be obtained from sources other than the grant provided under this subparagraph.

c. Prosecuting intern program; however, counties participating in the prosecuting intern program shall match funds appropriated by this paragraph ..... \$ 52,500

4. CAPITOL PLANNING COMMISSION

For per diem of forty dollars per day and expenses of the members in carrying out their duties under chapter 18A ..... \$ 3,062

5. OFFICE OF CITIZENS' AIDE

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 228,770

6. COUNCIL ON STATE GOVERNMENTS

For support of the membership assessment ..... \$ 44,600

7. EXECUTIVE COUNCIL

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 28,985

Sec. 2. DEPARTMENT OF JUSTICE—CONTINGENT APPROPRIATION.

1. In addition to the funds appropriated under section 1, subsection 3 of this Act, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1984, and ending June 30, 1985, an amount not exceeding ninety-five thousand (95,000) dollars to be used for the enforcement of the Iowa competition law under chapter 553. The expenditure of the funds appropriated under this subsection is contingent upon receipt by the general fund of the state of an amount at least equal to either the expenditures from damages awarded to the state or a political subdivision of the state by a civil judgment under chapter 553, if the judgment authorizes the use of the award for enforcement purposes or costs or attorney fees awarded the state in state or federal antitrust actions.

2. In addition to the funds appropriated under section 1, subsection 3 of this Act, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1984, and ending June 30, 1985, an amount not exceeding thirty thousand (30,000) dollars to be used for public education relating to consumer fraud. The expenditure of the funds appropriated under this subsection is contingent upon receipt by the general fund of the state of an amount at least equal to the expenditures from damages awarded to the state or a political subdivision of the state by a civil consumer fraud judgment, if the judgment authorizes the use of the award for public education on consumer fraud. Funds received in a previous fiscal year which have not been expended shall be credited to this fiscal year.

Sec. 3. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1984-1985  
Fiscal Year

1. GENERAL OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 4,264,482

The state comptroller, through the office of the inspector general, shall assist state agencies in identifying and implementing efficiency and cost-effectiveness measures, as recommended by the governor's task force on efficiencies and cost-effectiveness. Notwithstanding any conflicting provisions of chapter 8, the state comptroller may make the first two quarterly allocations to the department of general services as if the amount appropriated in this subsection

contained seven hundred thousand dollars more than actually specified, and the state comptroller may reduce the last two quarterly allocations in order to offset the first two quarterly allocations. The state comptroller may reduce quarterly allocations of funds appropriated to other agencies to reflect savings made as a result of implementing recommendations of the governor's task force on efficiencies and cost-effectiveness. Not more than seven hundred thousand dollars of the savings resulting from implementing the recommendations may be transferred by the state comptroller to the department of general services to be used for the purposes provided in this subsection.

2. FORMS MANAGEMENT

For a forms management program ..... \$ 75,000

3. UTILITY COSTS

For payment of utility costs ..... \$ 2,140,000

The department of general services may use funds appropriated under this subsection to fund energy conservation projects in the capitol complex which will have a one hundred percent payback within the fiscal year in which the funds are appropriated.

4. RENTAL SPACE

For payment of lease or rental costs of buildings and office space at the seat of government as provided in section 18.12, subsection 9, notwithstanding section 18.16 ..... \$ 968,082

Sec. 4. There is appropriated from the revolving funds designated to the department of general services for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much thereof as necessary, to be used for the purposes designated:

1984-1985  
Fiscal Year

DEPARTMENT OF GENERAL SERVICES—REVOLVING FUNDS

1. From the centralized printing permanent revolving fund established by section 18.57 for salaries, support, maintenance, and miscellaneous purposes ..... \$ 720,052

2. The remainder of the centralized printing permanent revolving fund is appropriated for the expense incurred in supplying paper stock, offset printing, copy preparation, binding, distribution costs, original payment of printing and binding claims and contingencies arising during the fiscal year beginning July 1, 1984 which are legally payable from this fund.

3. From the general service revolving fund established by section 18.9 for salaries, support, maintenance, and miscellaneous purposes ..... \$ 467,647

4. The remainder of the general service revolving fund is appropriated for the payment of expenses incurred through purchases by various state departments and for contingencies arising during the fiscal year beginning July 1, 1984 which are legally payable from this fund.

5. From the vehicle dispatcher revolving fund established by section 18.119 for salaries, support, maintenance, and miscellaneous purposes ..... \$ 457,017

6. The remainder of the vehicle dispatcher revolving fund is appropriated for the purchase of gasoline, oil, tires, repairs and all other maintenance expenses incurred in the operation of state-owned motor vehicles and for contingencies arising during the fiscal year beginning July 1, 1984 which are legally payable from this fund.

7. A contingency shall not include any purpose or project which was presented to the general assembly or any standing committee or subcommittee of a standing committee by any person by way of a bill, proposed bill, amendment to a bill, written document, or a proposal which is documented by the minutes, records, or reports of a committee or subcommittee, and which failed to be enacted into law. For the purpose of this Act a necessity of additional operating funds may be construed as a contingency.

Before any of the funds authorized to be expended by this Act shall be allocated for contingencies, it shall be determined by the executive council that a contingency exists and that the contingency was neither existent while the general assembly was in session nor reasonably foreseeable at that time, and that the proposed allocation shall be for the best interest of the state.

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

Sec. 5. There is appropriated from the general fund of the state to the office of the governor for the fiscal year commencing July 1, 1984, and ending June 30, 1985, the following amounts or so much thereof as is necessary, to be used for the purposes designated:

	1984-1985
	<u>Fiscal Year</u>
1. For salaries, support, maintenance, and miscellaneous purposes of the general office of the governor .....	\$ 648,000
2. For the governor's expenses connected with office .....	\$ 5,832
3. For salaries, support, and miscellaneous purposes of the governor's quarters at Terrace Hill .....	\$ 56,396
4. For the payment of expenses of ad hoc committees, councils and task forces appointed by the governor to research and analyze a particular subject area relevant to the problems and responsibilities of state and local government, including the employment of professional, technical and administrative staff and the payment of per diem, not exceeding forty dollars, and actual expenses of committee, council or task force members .....	\$ 24,300

Sec. 6. There is appropriated from the general fund of the state to the office of the lieutenant governor for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amount, or so much thereof as necessary, to be used for the purposes designated:

	1984-1985
	<u>Fiscal Year</u>
For salaries, support, maintenance, and miscellaneous purposes including the lieutenant governor's compensation and expenses as provided in subsection 2 of section 2.10 including service as a member of the legislative council and for per diem and expenses incurred while performing duties of the lieutenant governor when the general assembly is not in session .....	\$ 97,700

Sec. 7. There is appropriated from the general fund of the state to the Iowa state historical department for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much thereof as necessary, to be used for the purposes designated:

	<u>1984-1985</u> <u>Fiscal Year</u>
1. For salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,309,886
2. For the state historical board for per diem and expenses .....	\$ 7,691

Sec. 8. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the following named judicial department agencies, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	<u>1984-1985</u> <u>Fiscal Year</u>
<b>1. COURTS</b>	
For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates, and staff, maintenance, equipment, and miscellaneous purposes .....	\$ 11,741,199
<b>2. BOARDS AND COMMISSION— JUDICIAL DEPARTMENT</b>	
For salaries, support, maintenance, and miscellaneous purposes of the board of law examiners and board of examiners of shorthand reporters and judicial qualifications commission .....	\$ 56,124
<b>3. DISTRICT COURT ADMINISTRATORS</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,489,555
<b>4. JUDICIAL REORGANIZATION</b>	
For the payment of costs related to the court reorganization as provided in section 602.11101, Code Supplement 1983, and as provided in sections 14, 15 and 16 of this Act .....	\$ 8,310,000
It is the intent of the general assembly that the counties be aware that the state may delay the schedule of state assumption of responsibility for the fiscal year beginning July 1, 1985. If the state is unable to fully assume the 1985-1986 fiscal year component of the court system, the chairpersons of the house and senate committees on appropriations shall notify the supreme court and the counties of this possible delay by no later than February 15, 1985.	
<b>5. JUDICIAL REORGANIZATION— ADMINISTRATIVE IMPLEMENTATION</b>	
For salaries and support within the state and district court administrator's offices for the implementation of court reorganization .....	\$ 101,495

## 6. ADMINISTRATION

For salaries, support, maintenance, equipment, and miscellaneous purposes of the court administrator, and clerk of the supreme court

..... \$ 765,182

Sec. 9. Notwithstanding section 8.33, the unencumbered and unobligated funds appropriated by 1983 Iowa Acts, chapter 204, section 1, paragraph "e", shall not revert to the general fund of the state until June 30, 1985 and shall continue to be available for the purposes appropriated until that date.

Sec. 10. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, an ending June 30, 1985, except as otherwise provided, to the following named agencies, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1984-1985 Fiscal Year
<b>1. BUREAU OF LABOR</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,484,482
<b>2. LEGISLATIVE FISCAL BUREAU</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 548,545
<b>3. LEGISLATIVE SERVICE BUREAU</b>	
a. For salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,008,784
b. For drafting, research, and Code data processing programs and services .....	\$ 14,580
<b>4. NATIONAL CONFERENCE OF STATE LEGISLATURES</b>	
For support of the membership assessment .....	\$ 48,085
<b>5. IOWA LIBRARY DEPARTMENT</b>	
a. For the state library for salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,005,076
b. For state aid for the regional library system .....	\$ 1,338,635
<b>6. IOWA MERIT EMPLOYMENT DEPARTMENT</b>	
For the general office for salaries, maintenance, and miscellaneous purposes .....	\$ 1,428,460
<b>7. PIONEER LAWMAKERS</b> .....	\$ 729
<b>8. OFFICE FOR PLANNING AND PROGRAMMING</b>	
a. Iowa highway safety program	
For salaries, support, maintenance, and miscellaneous purposes to provide a cost-effective traffic safety program through the administration of federal highway safety contracts to state and local governmental agencies .....	\$ 78,312

b. Youth services administration		
For salaries, support, maintenance, and miscellaneous purposes to develop and administer employment opportunity programs for the youth .....	\$	78,759
c. General operating account		
For salaries, support, maintenance, and miscellaneous purposes to provide overall direction, planning, and administrative support to local, state, and federal programs .....	\$	542,195
d. Economic analysis and planning assistance		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	162,670
e. Iowa council for children		
For salaries, support, maintenance, and miscellaneous purposes of only the Iowa council for children notwithstanding section 8.39 .....	\$	64,147
f. Statistical analysis center		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	175,478
It is a condition of this appropriation that the center have a respected criminal justice authority independently validate the center's risk assessment model.		
g. Iowa youth corps		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	874,800
h. Community development block grant administration and related federal housing and urban development community development grant administration		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	101,424
i. Community development loan fund		
For deposit into the community development loan fund .....	\$	1,500,000
j. Cultural community grants		
For the purposes of the cultural community grants program established under 1983 Iowa Acts, chapter 207, section 92 .....	\$	300,000

Notwithstanding section 8.33, the unencumbered or unobligated balance remaining as of June 30, 1984, of the appropriation made under 1983 Iowa Acts, chapter 207, section 92 may be used to fund grants to cities and community groups for the development of community programs that would provide local jobs for Iowa residents and promote a city's historical, ethnic, and cultural heritages as provided in 1983 Iowa Acts, chapter 207, section 92 through December 31, 1984. The unencumbered or unobligated balance of the funds appropriated under 1983 Iowa Acts, chapter 207, section 92 which remain after December 31, 1984, shall revert to the general fund of the state on January 1, 1985.

However, if Senate File 2225 becomes law, this appropriation is void.



k. Job training partnership act: dislocated worker

For salaries, support, maintenance, and miscellaneous purposes to develop and administer the job training partnership act ..... \$ 1,063,600

1. If House File 2189 becomes law, the funds appropriated or allocated under this subsection to the Iowa council for children and families and the Iowa youth council shall be transferred to the commission on children, youth and families, notwithstanding any contrary provision in the appropriation.

9. IOWA ACADEMY OF SCIENCE

For support and maintenance ..... \$ 60,400

10. COMMISSION ON UNIFORM STATE LAWS

For support of the commission and expenses of members ..... \$ 10,498

11. TERRACE HILL AUTHORITY

For salaries, support, maintenance, and miscellaneous purposes for the operation of Terrace Hill and for conducting public tours ..... \$ 146,278

12. CRIMINAL AND JUVENILE JUSTICE PLANNING AGENCY

For salaries, support, maintenance, and miscellaneous purposes related to the operations of the criminal and juvenile justice planning agency which is a separate independent agency within the office of the governor, under the direct supervision of the governor, and responsible only to the governor or the general assembly as provided in chapter 80C:

- a. Criminal justice planning ..... \$ 186,911
- b. Juvenile justice planning ..... \$ 52,793
- c. Juvenile victim restitution program ..... \$ 121,500
- d. Jailer training and technical assistance ..... \$ 34,000

Sec. 11. All federal grants to and the federal receipts of the agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 12. Section 18.6, subsection 1, Code 1983, is amended to read as follows:

1. All items purchased equipment, supplies, or services procured by the department shall be purchased by a competitive bidding procedure. However, the director may exempt by regulation purchases of noncompetitive items and purchases in lots or quantities too small to be effectively purchased by competitive bidding. Preference shall be given to purchasing Iowa products and purchases from Iowa based businesses if the bids submitted therefor are comparable in price to bids submitted by out-of-state businesses and otherwise meet the required specifications. If the laws of another state mandate a percentage preference for businesses or products from that state and the effect of the preference is that bids of Iowa businesses or products that are otherwise low and responsive are not selected in the other state, the same percentage preference shall be applied to Iowa businesses and products when businesses or products from that other state are bid to supply Iowa requirements.

Sec. 13. Section 18.97, Code Supplement 1983, is amended to read as follows:

18.97 CODE, SESSION LAWS, COURT RULES, ADMINISTRATIVE RULES AND STATE ROSTER. The superintendent of printing shall make free distribution of the Code, supplements to the Code, rules of civil procedure, rules of appellate procedure, rules of criminal procedure, supreme court rules, the Acts of each general assembly, and, upon request, the Iowa administrative code, its supplements, the Iowa administrative bulletin and the state roster pamphlet as follows:

- 1. To state law library for exchange purposes ..... 100 65 copies
- 2. To law library of state University of Iowa for exchange purposes ..... 75 60 copies
- 3. To state historical department ..... 5 2 copies
- 4. To state historical society ..... 5 2 copies
- 5. To each judge of the supreme court, the court of appeals and the district court, two copies; and to each district associate judge and each judicial magistrate ..... 1 copy
- 6. To each judge of the federal courts in Iowa ..... 1 copy
- 7. To the clerk of the supreme court of Iowa ..... 1 copy
- 8. To the clerk of each federal court in Iowa ..... 1 copy
- 9. To each state institution under the control of the department of corrections, the state board of regents or the state department of human services ..... 1 copy
- 10. To each elective state officer ..... 2 copies
- 11. To the separate departments of principal state offices and each major subdivision thereof ..... 1 copy
- 12. To each member of the present and subsequent general assemblies ..... 1 copy
- 13. To chief clerk of the house ..... 1 copy
- 14. To secretary of the senate ..... 1 copy
- 15. To the chief clerk of the house and secretary of the senate such number as may be required by the house and senate.
- 15 16. To the following offices such number of copies as will enable them to perform the duties of their respective offices.
  - a. Code editor.
  - b. Attorney general.
  - c. Legislative service bureau.
  - d. Legislative fiscal bureau.
  - e. State court administrator.
  - f. Each district court administrator.
- 16 17. To the clerk of the district court and each separate office of the clerk, the county attorney, the county auditor, the county recorder, county and city assessor, the county treasurer, the sheriff and each separate office of a sheriff, the public defender's office, and the administrator of each area education agency in the state and also for use in each courtroom of the district court ..... 1 copy
- 17 18. To the library of the United States supreme court ..... 1 copy
- 18 19. To the depository library center established pursuant to section 303A.22 ..... 75 copies 1 copy for each depository library
- 19. To library of the United States department of justice ..... 1 copy
- 20. To library of the judge advocate general, United States department of defense ..... 1 copy
- 21. To library of the United States department of agriculture ..... 1 copy
- 22. To library of the United States department of labor ..... 1 copy
- 23. To legal staff, office of public debt, United States treasury department ..... 1 copy

24. To library of the United States department of state .....	1 copy
25. To law library of the United States department of the interior .....	1 copy
26. To library of the United States department of internal revenue .....	1 copy
27 20. To each member of the Iowa congressional delegation .....	1 copy
28 21. To each board of supervisors for each county .....	1 copy
29 22. To each juvenile referee .....	1 copy

In the case of copies of the free documents provided in this section to libraries, the superintendent of printing may provide microfiche copies in lieu of bound copies and may provide more copies than indicated in this section if the additional copies are microfiche copies.

Each office, agency, or person receiving a free copy of a document under this section shall receive only the number of copies indicated free at the time of initial distribution and if a replacement document is necessary, it shall be provided only after payment of the normal subscription charge for such document.

Sec. 14. Section 602.1303, subsection 7, Code Supplement 1983, is amended to read as follows:

7. A county or city shall pay the costs of its witnesses, depositions, and transcripts and the court fees and costs provided by law in criminal actions prosecuted by that county or city. A county or city shall pay witness fees and mileage in trials of criminal actions prosecuted by the county or city under county or city ordinance.

Sec. 15. Section 602.11101, subsection 1, Code Supplement 1983, is amended to read as follows:

1. On October 1, 1983 the state shall assume the responsibility for and the costs of jury and witness fees and mileage as provided in section 607.5 and on July 1, 1984 the state shall assume the responsibility for and the costs of prosecution witness fees and mileage and other witness fees and mileage assessed against the prosecution in criminal actions prosecuted under state law as provided in sections 607.5, 622.69, and 622.72, except as provided in section 331.506, subsection 2.

Sec. 16. Section 815.13, Code Supplement 1983, is amended to read as follows:

815.13 PAYMENT OF PROSECUTION COSTS. The county or city that prosecutes which has the duty to prosecute a criminal action shall pay the required fees and mileage to witnesses called on behalf of the prosecution, the costs of depositions taken on behalf of the prosecution, the costs of transcripts requested by the prosecution, the fees that are payable to the clerk of the district court for services rendered, and court costs taxed in connection with the trial of the action or appeals from the judgment. The county or city shall pay witness fees and mileage in trials of criminal actions prosecuted by the county or city under county or city ordinance. These fees and costs are recoverable by the county or city from the defendant unless the defendant is found not guilty or the action is dismissed, in which case the state shall pay the witness fees and mileage in cases prosecuted under state law. Expenditures of a county under this section may be paid out of the court expense fund in lieu of the county general fund.

Sec. 17. Section 602.11104, Code Supplement 1983, is repealed.

Sec. 18. An election made by a county employee under section 602.11104, Code Supplement 1983, during the thirty days prior to the effective date of this Act is void.

Approved May 18, 1984

**CHAPTER 1302**  
**EDUCATION AGENCIES APPROPRIATIONS**  
*H.F. 2519*

**AN ACT** relating to and making appropriations to agencies, institutions, commissions, departments, and boards responsible for education programs for this state.

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

Section 1. There is appropriated from the general fund of the state to the Iowa commission for the blind for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amount, or so much thereof as may be necessary, to be used by the following agency for the purposes designated:

	<u>1984-1985</u> <u>Fiscal Year</u>
<b>IOWA COMMISSION FOR THE BLIND</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,049,821

Sec. 2. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amount, or so much thereof as may be necessary, to be used for the funding of the following programs for the purposes designated:

	<u>1984-1985</u> <u>Fiscal Year</u>
<b>1. IOWA COLLEGE AID COMMISSION</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 424,465

<b>2. TUITION GRANT PROGRAM</b>	
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 through 261.16 .....	\$ 1,366,900

Sec. 3.

1. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of seven hundred eighty-nine thousand two hundred sixty-four (789,264) dollars, or so much thereof as may be necessary, to be paid to the university of osteopathic medicine and health services for the subvention program created pursuant to sections 261.18 and 261.19. Notwithstanding section 261.19, for fiscal year beginning July 1, 1984, the subvention shall be used for the admission and education of students enrolled in each of the four years of classes in the college of osteopathic medicine and surgery.

2. In addition to the requirements of sections 261.18 and 261.19, the availability of funds appropriated by this section is subject to the condition that one-half of the funds appropriated for fiscal year 1984-1985 shall not be released until delivery to the legislative fiscal bureau of the June 30, 1984, financial audits, conducted by an independent third party, of the university of osteopathic medicine and health services.

Sec. 4. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the sum of twenty-four thousand three hundred (24,300) dollars, or so much thereof as may be necessary, to provide for a national guard education program. Funds shall only be expended for Iowa residents who are enlisted members in good standing in the Iowa national guard who are enrolled as undergraduates in Iowa postsecondary educational institutions. Funds expended on behalf of each full-time undergraduate student shall not exceed two hundred fifty dollars per year. Funds expended on behalf of each half-time undergraduate student shall not exceed one hundred twenty-five dollars per year.

Sec. 5. There is appropriated from the general fund of the state to the Iowa department of public broadcasting for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amount, or so much thereof as may be necessary, to be used by the following agency for the purposes designated:

	1984-1985 <u>Fiscal Year</u>
<b>IOWA DEPARTMENT OF PUBLIC BROADCASTING</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 6,156,717

Sec. 6. There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amounts, or so much thereof as may be necessary, to be used in the manner designated:

	1984-1985 <u>Fiscal Year</u>
<b>1. GENERAL OFFICE ADMINISTRATION</b>	
a. For salaries, support, maintenance, and miscellaneous purposes .....	\$ 3,578,008
b. For fire service education .....	\$ 200,000
<b>2. VOCATIONAL EDUCATION ADMINISTRATION</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 878,934
<b>3. VOCATIONAL EDUCATION</b>	
For vocational education aid to secondary schools .....	\$ 3,760,668

Funds appropriated by this subsection are to be used for aid to school districts for development and the conduct of both continuing and new vocational programs, services and activities of vocational education through secondary schools, and for aid to existing jointly administered secondary vocational education programs, in accordance with chapters 258 and 280A, to purchase instructional equipment for vocational and technical courses of instruction in such schools, and to match federal reimbursement for continuing and new secondary vocational programs.

<b>4. VOCATIONAL REHABILITATION</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 2,696,181
<b>5. PROFESSIONAL TEACHING PRACTICES COMMISSION</b>	
For the use of the professional teaching practices commission to carry out the provisions of chapter 272A .....	\$ 56,984
<b>6. VOCATIONAL YOUTH ORGANIZATION FUND</b>	
To carry out the provisions of section 258.14 .....	\$ 9,720
<b>7. SCHOOL FOOD SERVICE</b>	
For the purpose of providing assistance to students enrolled in public school districts and nonpublic schools of the state for breakfasts, lunches and minimal equipment programs with the funds being used as state matching funds for federal programs and which shall be disbursed according to federal regulations .....	\$ 3,207,600
<b>8. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS</b>	
To provide funds for costs of providing textbooks to each resident pupil who attends a nonpublic school as authorized by section 301.1. Such funding shall be limited to ten dollars per pupil and shall not exceed the comparable services offered to resident public school pupils .....	\$ 388,800
<b>9. SCHOOL BUDGET REVIEW COMMITTEE</b>	
To carry out the provisions of section 442.13 .....	\$ 30,000
<b>10. NON-ENGLISH SPEAKING</b>	
To provide funding to public schools and for nonpublic school students for special instruction for non-English speaking students as provided in section 280.4 .....	\$ 194,400
<b>11. COMPUTER SOFTWARE CLEARINGHOUSE</b>	
To carry out the provisions of section 257.41 .....	\$ 200,000
<b>12. MERGED AREA SCHOOLS</b>	
a. For general state financial aid to merged areas as defined in section 280A.2 the amount of forty-one million three hundred twenty-nine thousand five hundred seventeen (41,329,517) dollars to be allocated as follows:	

(1) Merged Area I	\$	1,974,781
(2) Merged Area II	\$	2,590,979
(3) Merged Area III	\$	2,333,520
(4) Merged Area IV	\$	889,463
(5) Merged Area V	\$	3,014,365
(6) Merged Area VI	\$	2,552,085
(7) Merged Area VII	\$	2,969,603
(8) Merged Area IX	\$	3,343,494
(9) Merged Area X	\$	5,049,800
(10) Merged Area XI	\$	6,179,520
(11) Merged Area XII	\$	2,066,814
(12) Merged Area XIII	\$	2,986,618
(13) Merged Area XIV	\$	1,005,074
(14) Merged Area XV	\$	2,440,631
(15) Merged Area XVI	\$	1,932,770

b. To provide funds for matching federal reimbursement for continuing and new vocational education programs in merged area schools in accordance with chapter 258 and chapter 280A, and to purchase instructional equipment for vocational and technical courses of instruction in such schools

\$ 8,456,400

c. To provide funds for the Iowa industrial start-up training program in merged area schools

\$ 75,000

#### Sec. 7.

1. There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1985 and ending June 30, 1986, for general state financial aid to merged areas as defined in section 280A.2 the amount of thirteen million seven hundred seventy-six thousand five hundred seven (13,776,507) dollars, to be accrued as income and used for expenditures incurred by the area schools during the fiscal year beginning July 1, 1984 and ending June 30, 1985, to be allocated as follows:

a. Merged Area I	\$	658,260
b. Merged Area II	\$	863,660
c. Merged Area III	\$	777,840
d. Merged Area IV	\$	296,488
e. Merged Area V	\$	1,004,788
f. Merged Area VI	\$	850,695
g. Merged Area VII	\$	989,868
h. Merged Area IX	\$	1,114,498
i. Merged Area X	\$	1,683,267
j. Merged Area XI	\$	2,059,840
k. Merged Area XII	\$	688,938
l. Merged Area XIII	\$	995,539
m. Merged Area XIV	\$	335,025
n. Merged Area XV	\$	813,544
o. Merged Area XVI	\$	644,257

2. Funds appropriated by this section shall be allocated pursuant to this section and paid on or about August 15, 1985.

Sec. 8. General state aid paid to area schools under section 6, subsection 11,\* paragraph "a", of this Act, for expenditures incurred during the fiscal year beginning July 1, 1984 and ending June 30, 1985, shall be paid by the state comptroller in installments due on or about November 15, February 15, and May 15 of the fiscal year. The payment received by area schools on or about August 15 under section 7 of this Act is an account receivable for the previous fiscal year. The installments shall be as nearly equal as possible as determined by the state comptroller, taking into consideration the relative budget and cash position of the state resources.

Sec. 9. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amounts, or so much thereof as may be necessary for use for the following designated purposes, however, as a condition for the appropriation of these funds, the state board of regents, for purposes of implementing and administering collective bargaining pursuant to chapter 20, shall act as the exclusive representative of the state of Iowa with respect to its faculty, scientific, and other professional staff.

1984-1985  
Fiscal Year

**1. OFFICE OF STATE BOARD OF REGENTS**

a. For salaries, support, maintenance, equipment, and miscellaneous purposes, including state board of regents members receiving a per diem, not to exceed forty dollars per day ..... \$ 433,343

Funds appropriated to the state board of regents shall be allocated to the institutions to be used for instructional purposes and direct instructional support.

b. For western Iowa continuing education ..... \$ 102,060

c. For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa in amounts as may be necessary to reimburse the institutions for deficiencies in their operating funds resulting from the pledging of tuitions, student fees and charges and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at the institutions ..... \$ 15,111,842

d. For support of the quad cities graduate study center ..... \$ 7,582

**2. STATE UNIVERSITY OF IOWA**

a. General university, including lakeside laboratory.

For salaries, support, maintenance, equipment, and miscellaneous purposes and for the pediatric department of the college of medicine to continue to fund the program of research at the current level in the cause, course, treatment, cure, and management of diabetes mellitus ..... \$ 104,122,153

\*Subsection 12 probably intended



It is the intent of the general assembly that funds appropriated in this paragraph not be used to pay for efforts of the prisoner assistance clinic at the university of Iowa law school to solicit participation in the clinic by inmates at state correctional facilities.

b. University hospitals

(1) For salaries, support, maintenance, equipment, and miscellaneous purposes; for medical and surgical treatment of indigent patients as provided in chapter 255 ..... \$ 23,958,998

(2) For allocation by the dean of the college of medicine, with approval of the advisory board, to qualified participants, to carry out chapter 148C for the family practice program ..... \$ 1,353,866

c. As a condition of the appropriation made in paragraph "b", funds appropriated in this section shall not be used to perform abortions except medically necessary abortions, and shall not be used to operate the early termination of pregnancy clinic except for the performance of medically necessary abortions. For the purpose of this paragraph, an abortion is the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus, and a medically necessary abortion is one performed under one of the following conditions:

(1) The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

(2) The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

(3) The pregnancy is the result of a rape which is reported within forty-five days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

(4) The pregnancy is the result of incest which is reported within one hundred fifty days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

(5) The abortion is a spontaneous abortion, commonly known as a miscarriage, wherein not all of the products of conception are expelled.

d. As a condition of the appropriation made in paragraph "b", it is the intent of the general assembly that before the general assembly authorizes the issuance of additional bonds under chapter 263A, the determination of the necessity that the construction be funded by the issuance of bonds shall be made by the state board of regents in consultation with the state health facilities council, the health policy corporation of Iowa, or a similar statewide health planning agency that may exist.

e. Psychiatric hospital

For salaries, support, maintenance, equipment, and miscellaneous purposes and for the care, treatment and maintenance of committed and voluntary public patients ..... \$ 5,182,049

f. State hygienic laboratory

For salaries, support, maintenance, equipment, and miscellaneous purposes ..... \$ 2,027,713

g. Hospital school

For salaries, support, maintenance, equipment, and miscellaneous purposes ..... \$ 3,631,894

h. Oakdale campus		
For salaries, support, maintenance, equipment, and miscellaneous purposes .....	\$	1,708,232
3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY		
a. General university		
For salaries, support, maintenance, equipment, and miscellaneous purposes .....	\$	86,144,027
b. Agricultural experiment station		
For salaries, support, maintenance, equipment, and miscellaneous purposes .....	\$	10,151,529
c. Cooperative extension service in agriculture and home economics		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	9,658,897
d. Center for industrial research and service		
For funding the small business development centers to provide assistance to small businesses and business groups in Iowa .....	\$	500,000
e. Funds appropriated in paragraph "d" are in addition to funds already available or appropriated to the center for industrial research and service for the fiscal year beginning July 1, 1984. Any decision regarding the dispersion of funds appropriated in paragraph "d" lies directly with the center for industrial research and service. Moneys appropriated in paragraph "d" will be used to meet matching requirements for available federal or private funds developed to provide assistance to small business and which will be administered by the center for industrial research and service in conjunction with the state funds appropriated for this purpose.		
4. UNIVERSITY OF NORTHERN IOWA		
For salaries, support, maintenance, equipment, and miscellaneous purposes .....	\$	33,900,569
5. STATE SCHOOL FOR THE DEAF		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	4,241,428
6. IOWA BRAILLE AND SIGHT-SAVING SCHOOL		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	2,272,611

Sec. 10. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of twenty-one million three hundred twenty-four thousand (21,324,000) dollars for fuel and electricity purposes at institutions under the state board of regents. If the amount actually expended for fuel and electricity purposes is less than twenty-one million three hundred twenty-four thousand (21,324,000) dollars, the difference may be used for maintenance purposes. If funds appropriated in this section are used for maintenance purposes, the state board of regents shall notify the chairpersons of the house and senate committees on appropriations in writing, listing the amounts expended for maintenance and the purposes for which the moneys were expended. Section 8.33 applies to funds appropriated in this section.

Sec. 11. As a condition of the appropriation in section 9, subsection 4, the collective bargaining representatives for the faculty at the university of northern Iowa and for the university of northern Iowa shall determine the distribution of funds contained in the vitality fund for the fiscal year beginning July 1, 1984. The distribution shall be either according to the contract in effect for the fiscal year beginning July 1, 1983 or according to a different procedure that is agreeable to both parties. However, the amount of funds distributed shall not exceed the teaching faculty's share of funds contained in the vitality fund.

\*Sec. 12. The state board of regents is directed to expend not less than one hundred thousand (100,000) dollars of funds received from the sale of negotiable revenue bonds under Senate Concurrent Resolution 13, by the Seventieth General Assembly, 1983 Session, and allocated by the state board of regents to the university of northern Iowa for communication arts center construction and equipment, for renovation of the old administration building at the university of northern Iowa. Other funds available to the state board of regents for construction and renovation purposes may be expended for renovation of the old administration building.\*

\*Sec. 13. 1983 Iowa Acts, chapter 195, section 17, is amended to read as follows:

SEC. 17. There is appropriated from the general fund of the state to the state comptroller for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of two hundred fifty thousand (250,000) dollars, or so much thereof as is necessary to pay costs for the purchase of fuel and electricity which exceed the amounts appropriated to the various state agencies, or allocated by the state board of regents to institutions under its control, from the general fund for the purchase of fuel and electricity. The funds or any portion of the funds shall not be allocated to a state agency, or institution under the control of the state board of regents, unless the state comptroller determines the agency's costs for the purchase of fuel and electricity exceed the amounts appropriated or allocated for the fiscal year beginning July 1, 1983 and the agency or institution is either developing an energy conservation plan in consultation with the energy policy council, or is implementing, or has implemented, an energy conservation plan which has been approved by the energy policy council and the state comptroller determines that other money is not available to the agency or institution for fuel or electricity purposes. However, not more than one hundred thousand (100,000) dollars of the funds appropriated in this section shall be used by the state comptroller to pay costs for the purchase of fuel and electricity which exceed the amounts allocated by the state board of regents to institutions under its control for the purchase of fuel and electricity.\*

Sec. 14. Section 257.41, subsection 3, Code Supplement 1983, is amended by striking the subsection.

Sec. 15. Section 257.42, unnumbered paragraph 3, Code Supplement 1983, is amended to read as follows:

There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1983 and each succeeding fiscal year, the sum of forty thousand dollars or as much thereof as is necessary, and for the fiscal year beginning July 1, 1984, and each succeeding fiscal year, the sum of one hundred forty thousand dollars, or as much thereof as is necessary, to be allocated for the establishment of programs under this section.

Sec. 16. Section 261.12, subsection 1, paragraph b, Code Supplement 1983, is amended to read as follows:

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\*Item veto; see message at end of this Act

b. For the fiscal year beginning July 1, 1983, and each following fiscal year two thousand one hundred dollars, and for the fiscal year beginning July 1, 1984 and for each following fiscal year, two thousand two hundred fifty dollars.

Sec. 17. Section 261.45, unnumbered paragraph 3, Code Supplement 1983, is amended to read as follows:

There is appropriated from the general fund of the state to the Iowa college aid commission, the sum of thirty thousand dollars, or as much thereof as is necessary, for the fiscal year years beginning July 1, 1983 and July 1, 1984, and the sum of sixty thousand dollars, or as much thereof as is necessary, for the fiscal year beginning July 1, 1984 1985 and each succeeding fiscal year, to make the reimbursement payments required under this section.

Sec. 18. Section 261.53, Code Supplement 1983, is amended to read as follows:

261.53 APPROPRIATIONS. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year years beginning July 1, 1983 and July 1, 1984, the sum of forty thousand dollars, or as much thereof as is necessary, and for each succeeding fiscal year, the sum of one hundred forty thousand dollars, or as much thereof as is necessary, to make loans under sections ~~261.28 and 261.29~~ 261.51 and 261.52.

Sec. 19. Section 285.2, unnumbered paragraph 4, Code 1983, is amended to read as follows:

Claims for reimbursement shall be made to the department of public instruction by the public school district providing transportation or transportation reimbursement during a school year on a form prescribed by the department, and the claim shall state the services provided and the actual costs incurred. A claim shall not exceed the average transportation costs of the district per pupil transported except as otherwise provided. If transportation is provided under section 285.1, subsection 3, the amount determined under paragraph "c" of that subsection shall be the amount of the claim regardless of the average transportation costs of the district per pupil transported. Claims shall be accompanied by an affidavit of an officer of the public school district affirming the accuracy of the claim. By February 1 and by July 15 of each year the department shall certify to the state comptroller the amounts of approved claims to be paid, and the state comptroller shall draw warrants payable to school districts which have established claims. Claims shall be allowed where practical, and at the option of the public school district of the pupil's residence, subject to approval by the area education agency of the pupil's residence, under the provisions of section 285.9, subsection 3, the public school district of the pupil's residence may transport any pupil to a school located in a contiguous public school district outside the boundary lines of the public school district of the pupil's residence. The public school district of the pupil's residence may contract with the contiguous public school district or with a private contractor under the provisions of section 285.5 to transport the pupils to the school of attendance within the boundary lines of the contiguous public school district. The public school district in which the pupil resides may contract with the contiguous public school district or with a private contractor under the provisions of section 285.5 to transport the pupil from the pupil's residence or from designated school bus collection locations to the school located within the boundary lines of the contiguous public school district, subject to the approval of the area education agency of the pupil's residence. The public school district of the pupil's residence may utilize the reimbursement provisions of section 285.1, subsection 3.

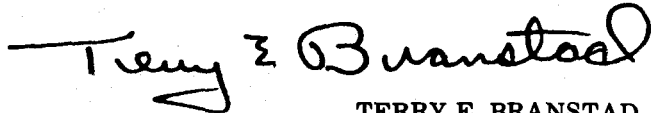
Sec. 20. Section 442.44, unnumbered paragraph 4, Code Supplement 1983, is amended to read as follows:

For the school year beginning July 1, 1984 and each succeeding school year, there is appropriated from the general fund of the state to the state comptroller an amount sufficient the sum of two million one hundred thousand (2,100,000) dollars, or so much thereof as is necessary, to make the payments to school districts required by this section. If the funds appropriated are insufficient to make the payments required under this section, the state comptroller shall prorate the payments to school districts. Moneys received by a school district under this section are miscellaneous income. Moneys received by a school district for pupils enrolled in science and mathematics courses shall be used only for purchase of equipment and supplies.

Sec. 21. All federal grants to and the federal receipts of agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts.

\*Sec. 22. This Act, being deemed of immediate importance, takes effect from and after its publication in The Record-Herald & Indianola Tribune, a newspaper published in Indianola, Iowa, and in the Ottumwa Courier, a newspaper published in Ottumwa, Iowa. However, sections 1 through 12 and 14 through 21 of this Act take effect July 1, 1984. Section 13 takes effect upon publication.\*

Approved May 18, 1984, except the three items which I hereby disapprove and which are designated as sections 12, 13, and 22, each of which is herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
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 House File 2519, an act relating to and making appropriations to agencies, institutions, commissions, departments, and boards responsible for education programs for the state.

House File 2519 is approved May 18, 1984, 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. The state board of regents is directed to expend not less than one hundred thousand (100,000) dollars of funds received from the sale of negotiable revenue bonds under Senate Concurrent Resolution 13, by the Seventieth General Assembly, 1983 Session, and allocated by the state board of regents to the university of northern Iowa for communication arts center construction and equipment, for renovation of the old administration building at the university of northern Iowa. Other funds available to the state board of regents for construction and renovation purposes may be expended for renovation of the old administration building.

Section 12 requires that the board of regents use \$100,000 of funds received from the sale of bonds authorized last year for the renovation of the Old Administration building at the University of Northern Iowa. Renovation of the Old Administration building was not included in the list of projects originally authorized by the bonding resolution, Senate Concurrent Resolution 13. All bonds for the Communication Arts Center have been issued. A diversion of revenue to the Old Administration remodeling project would violate the terms of the bond issuance agreement. Such violation could be construed as impairing the obligation of the contract, which action is denied in Article I, Section 10 of the Constitution of the United States.

I am unable to approve the item designated in the act as Section 13, which reads as follows:

Sec. 13. 1983 Iowa Acts, chapter 195, section 17, is amended to read as follows:

SEC. 17. There is appropriated from the general fund of the state to the state comptroller for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of two hundred fifty thousand (250,000) dollars, or so much thereof as is necessary to pay costs for the purchase of fuel and electricity which exceed the amounts appropriated to the various state agencies, or allocated by the state board of regents to institutions under its control, from the general fund for the purchase of fuel and electricity. The funds or any portion of the funds shall not be allocated to a state agency, or institution under the control of the state board of regents, unless the state comptroller determines the agency's costs for the purchase of fuel and electricity exceed the amounts appropriated or allocated for the fiscal year beginning July 1, 1983 and the agency or institution is either developing

an energy conservation plan in consultation with the energy policy council, or is implementing, or has implemented, an energy conservation plan which has been approved by the energy policy council and the state comptroller determines that other money is not available to the agency or institution for fuel or electricity purposes. However, not more than one hundred thousand (100,000) dollars of the funds appropriated in this section shall be used by the state comptroller to pay costs for the purchase of fuel and electricity which exceed the amounts allocated by the state board of regents to institutions under its control for the purchase of fuel and electricity.

Section 13 amends chapter 195, section 17 of the Acts of 1983 to allow the institutions under the control of the State Board of Regents to separately apply for fuel contingency funds.

As in the past the legislature made a lump sum appropriation to the Board of Regents for the purchase of fuel and electricity for 1983-84 for all the institutions. The board is authorized to distribute these funds among the institutions as is necessary to meet the various institutions' needs.

The contingency fund appropriation made last year was intended to offset any shortfall in the appropriation for fuel and electricity. Information obtained by the State Comptroller's Office indicates that the total amount of the appropriation is adequate to meet the requirements of all the Regent Institutions. Therefore the fuel deficit at any one institution could be met by reallocating fuel and electricity funds from the institutions which received allocations in excess of their needs. Since adequate funds are available within the overall appropriation for that purpose, and due to the state's difficult financial position, chapter 195, section 17 should remain as originally intended.

I am unable to approve the item designated in the act as Section 22, which reads as follows:

Sec. 22. This Act, being deemed of immediate importance, takes effect from and after its publication in The Record-Herald & Indianola Tribune, a newspaper published in Indianola, Iowa, and in the Ottumwa Courier, a newspaper published in Ottumwa, Iowa. However, sections 1 through 12 and 14 through 21 of this Act take effect July 1, 1984. Section 13 takes effect upon publication.

Section 22 is the enacting clause which would make Section 13 effective immediately. With disapproval of Section 13 this publication clause is no longer needed.

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 in House File 2519 are hereby approved as of this date.

Sincerely,



TERRY E. BRANSTAD  
Governor

**CHAPTER 1303**  
**NATURAL RESOURCES APPROPRIATIONS**  
*H.F. 2520*

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

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

Section 1. DEPARTMENT OF AGRICULTURE. There is appropriated from the general fund of the state and the trust funds indicated to the department of agriculture for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

		1984-1985 <u>Fiscal Year</u>
<b>1. GENERAL ADMINISTRATION</b>		
a. From the general fund for salaries, support, maintenance, and miscellaneous purposes .....	\$	1,330,488
b. From the fertilizer fund to be transferred to the administration division .....	\$	39,216
c. From the dairy trade practice fund to be transferred to the administration division .....	\$	68,147
d. From the commercial feed fund to be transferred to the administration division .....	\$	39,216
The department of agriculture shall establish annual subscription fees for the regular and periodic publications of the department. Fees collected from subscribers shall be deposited in the general fund of the state.		
<b>2. REGULATORY DIVISION</b>		
From the general fund for salaries, support, maintenance, and miscellaneous purposes .....	\$	3,441,227
It is a condition of the funds appropriated by this subsection that the department of agriculture is required to inspect a food service establishment only once a year, notwithstanding the provisions of section 170A.3 requiring an inspection twice a year.		
<b>3. LABORATORY DIVISION</b>		
a. From the general fund for salaries, support, maintenance, and miscellaneous purposes .....	\$	620,064
b. From the commercial feed fund to be transferred to the laboratory division .....	\$	695,379
c. From the pesticide fund to be transferred to the laboratory division .....	\$	423,803
d. From the fertilizer fund to be transferred to the laboratory division .....	\$	619,443



**Sec. 2. MULTIFLORA ROSE ERADICATION COST REIMBURSEMENT.**

1. There is appropriated from the general fund of the state to the state department of agriculture for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of fifty thousand (50,000) dollars, or as much thereof as may be necessary, to be used for the purpose of partially reimbursing agricultural landowners or tenants for the cost of herbicide for controlling or eradicating the multiflora rose which has severely infested their agricultural land. Not more than five percent of the funds appropriated under this subsection shall be used for administrative expenses.

2. A county board of supervisors desiring a share of the appropriation shall, in conjunction with the county weed commissioner and the county soil conservation district commissioners, develop a plan to combat severe infestations of multiflora rose on privately-owned land within the county. The plan shall be based upon partial reimbursement of individual landowner's costs for the purchase of herbicide from both state and county appropriations, however the share of costs reimbursed by state funds shall not exceed one-fourth. The plan shall be submitted to the secretary of agriculture for approval or recommendations for modification.

3. The secretary of agriculture, in consultation with the Iowa multiflora rose technical committee, shall evaluate the severity of the infestation of the multiflora rose in the counties of the state and allocate the funds appropriated under this section to all counties where severe infestations of the multiflora rose are located on agricultural land. The size and number of severe infestations of the multiflora rose in a county or an area of the state shall not preclude other counties or areas of the state with fewer or smaller severe infestations from receiving a reasonable share of the funds appropriated under this section. However, a share of the funds shall not be allocated to a county that does not have an approved plan. The secretary of agriculture shall adopt, by rule, the form and information requirements to be submitted by an applicant for partial reimbursement. The secretary shall also designate, by rule, the counties and areas of the state where the infestation of the multiflora rose is severe. The rules shall be adopted in accordance with chapter 17A.

4. A landowner or tenant whose agricultural land is severely infested by multiflora roses may apply to the soil conservation district commissioners of the county for partial reimbursement, according to the approved plan, of the cost of herbicide for controlling or eradicating the multiflora rose on the agricultural land. The county weed commissioner shall assist the soil conservation district commissioners in investigating the application and determining if the infestation is severe. The soil conservation district commissioners shall review and approve each application for partial cost reimbursement if the infestation is severe on the applicant's agricultural land. If the soil conservation district commissioners find the amount of reimbursement claimed to be excessive, the district commissioners may approve a lesser amount. The reasons for disapproval of an application or reduction of the amount of reimbursement shall be sent in writing to the applicant. The amount of reimbursement certified by the secretary shall be paid by warrant issued by the state comptroller.

5. Federal lands and federal land tenants are not eligible for reimbursement under this section.

**Sec. 3. STATE CONSERVATION COMMISSION.** There is appropriated from the general fund of the state and the funds indicated to the state conservation commission and its divisions for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1984-1985  
Fiscal Year

1. DIVISION OF LANDS AND WATERS

a. For deposit in the state conservation fund from the general fund of the state for salaries, support, maintenance, equipment, and miscellaneous purposes and for maintenance of state parks, waters, and forests, and including not more than one million five hundred six thousand three hundred sixty-eight (1,506,368) dollars during the fiscal year beginning July 1, 1984 which shall be available for the administration fund from the state conservation fund in compliance with section 107.17

\$ 6,250,979

b. For deposit in the state conservation fund from fees deposited under section 321G.7 not more than one hundred thousand (100,000) dollars for the development and maintenance of snowmobile facilities on lands under the jurisdiction of the commission.

2. DIVISION OF FISH AND GAME

a. From the state fish and game protection fund for salaries, support, maintenance, equipment, and miscellaneous purposes including not more than one million eight hundred seventy-one thousand one hundred fifty-nine (1,871,159) dollars during the fiscal year beginning on July 1, 1984 which shall be available each fiscal year from the state fish and game protection fund for the administration fund in compliance with section 107.17

\$ 11,889,632

b. From the fees deposited under section 321G.7 to the fish and game protection fund not more than fifty thousand four hundred sixty-one (50,461) dollars for enforcement of snowmobile laws as part of the state snowmobile program.

c. From the fees deposited under section 106.52 to the fish and game protection fund not more than seven hundred fifty-seven thousand five hundred (757,500) dollars for administration and enforcement of navigation laws and water safety.

d. Funds remaining in the fish and game protection fund during the fiscal year 1984-1985 which are not specifically appropriated by this section are appropriated and may be used for capital projects and contingencies arising during the fiscal year beginning July 1, 1984. A contingency shall not include any purpose or project which was presented to the general assembly by way of a bill or a proposed bill and which failed to be enacted into law. For the purpose of this subsection, a necessity of additional operating funds may be construed as a contingency. Before any of the funds authorized to be expended by this subsection are allocated for contingencies, it shall be determined by the executive council, that a contingency exists and that the contingency was not existent while the general assembly was in session and that the proposed allocation shall be for the best interests of the state. If a contingency arises or could reasonably be foreseen during the time the general assembly is in session, expenditures for the contingency must be authorized by the general assembly.

### 3. STATE ADVISORY BOARD FOR PRESERVES

From the general fund of the state for salaries, support, maintenance, and miscellaneous purposes for carrying out the duties of the board .....

\$ 50,093

### 4. GREEN THUMB PROGRAM

From the general fund for deposit in the green thumb fund for the green thumb program established pursuant to chapter 601H .....

\$ 145,385

Sec. 4. MARINE FUEL TAX FUND. There is appropriated from the marine fuel tax fund to the state conservation commission and its divisions for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For deposit in the state conservation fund not more than three hundred two thousand (302,000) dollars for maintenance and development of boating facilities and access to public waters.

2. For deposit in the state fish and game protection fund not more than one hundred sixty-eight thousand five hundred twenty-three (168,523) dollars for the administration and enforcement of navigation laws and boat safety.

The balance of the amounts computed as provided in section 324.84 for the fiscal year beginning July 1, 1984 and ending June 30, 1985 is appropriated for the purposes provided in section 324.79, subsections 1, 2, 3 and 5. The unencumbered or unobligated balances of funds specifically allocated for such projects for the fiscal year ending June 30, 1985, shall revert on June 30, 1987 to the fund from which appropriated.

### Sec. 5. ADMINISTRATION FUND.

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

2. The state conservation commission shall establish a priority list of watersheds above publicly-owned lakes and areas within those watersheds which are of highest importance based on soil loss to be used for the allocation of funds set aside in subsection 3 of section 16 of this Act for permanent soil conservation practices on watersheds above publicly-owned lakes.

3. Members of the state conservation commission shall be limited to the normal mileage reimbursement for travel to commission meetings. Except for out-of-state trips authorized by the executive council, state aircraft shall not be used to transport commissioners to meetings unless the individual commissioner reimburses the state for costs exceeding the amount the commissioner would have been reimbursed for mileage.

Sec. 6. OPEN SPACES SCHOOL TAX PAYMENT. There is appropriated from the general fund of the state to the state conservation commission the amount of forty-two thousand (42,000) dollars to pay school taxes for the fiscal year beginning July 1, 1984 on the lands acquired under the open spaces acquisition program, commenced in Acts of the Sixty-fifth General Assembly, 1973 Session, chapter 74, which would otherwise be subject to the levy of school taxes. The assessed value of the open spaces land shall be that determined pursuant to section 427.1, subsection 31, and the commission may protest the assessed value in the manner provided by law for any property owner to protest an assessment. For the purposes

of chapter 442, the assessed value of the open spaces land shall be included in the valuation base of the school district and the payments made pursuant to this section shall be considered as property tax revenues and not as miscellaneous income. The county treasurer shall certify the taxes due to the commission. If the total amount of taxes due certified to the commission exceeds the amount appropriated, the taxes due shall be reduced proportionately so that the total amount equals the amount appropriated.

Sec. 7. IOWA DEVELOPMENT COMMISSION. There is appropriated from the general fund of the state to the Iowa development commission for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	1984-1985 Fiscal Year
1. For salaries, support, maintenance, and miscellaneous purposes .....	\$ 3,112,025
2. HIGH TECHNOLOGY COUNCIL For support, maintenance and miscellaneous purposes .....	\$ 45,000
3. HIGH TECHNOLOGY COUNCIL For high technology research grants .....	\$ 900,000
4. From funds appropriated by subsection 1, the Iowa development commission shall allocate not to exceed thirty-five thousand (35,000) dollars for the seven regional tourism districts, not to exceed seven thousand (7,000) dollars per district for each district which provides on a dollar-to-dollar matching basis funds equal to the amount allocated by the Iowa development commission.	
5. IOWA PRODUCT DEVELOPMENT CORPORATION FUND For the purposes as provided in section 28.89 .....	\$ 200,000

Notwithstanding section 8.33, unencumbered and unobligated funds appropriated in this subsection shall not revert to the general fund.

Sec. 8. 1983 Iowa Acts, chapter 207, section 40, unnumbered paragraph 3, is amended to read as follows:

Notwithstanding section 8.33, unencumbered or unobligated funds appropriated by this section for the fiscal year beginning July 1, 1983 and ending June 30, 1984 shall not revert to the general fund of the state. However, funds relating to the operations of the high technology council except funds for operations relating to developing a mechanism for transferring jobs, which are unencumbered or unobligated on June 30, 1984 shall revert to the general fund of the state on September 30, 1984.

Sec. 9. 1983 Iowa Acts, chapter 207, section 33, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, unencumbered or unobligated funds appropriated in this section for the fiscal year beginning July 1, 1983 and ending June 30, 1984, shall not revert to the general fund of the state.

Sec. 10. Section 28.89, Code Supplement 1983, is amended to read as follows:

28.89 IOWA PRODUCT DEVELOPMENT CORPORATION FUND. There is created an "Iowa product development corporation fund". All funds of the corporation including the proceeds from the issuance of notes or sale of bonds under this division, any funds appropriated

from the general fund to the corporation, and other income derived from the exercise of authority granted to the corporation under this division shall be paid to the treasurer of state as an agent of the corporation and the treasurer shall deposit the amounts in the Iowa product development corporation fund. The money in the Iowa product development corporation fund shall be paid out by warrants signed by the ~~treasurer of state~~ state comptroller on requisition of the president of the corporation. The money in the Iowa product development corporation fund shall be used for repayment of notes and bonds issued under this division, the extension of financial aid granted by the corporation under this division, and the amount remaining may be used for the payment of the administrative and overhead costs of the corporation to the extent required.

Sec. 11. ENERGY POLICY COUNCIL. There is appropriated from the general fund of the state to the energy policy council for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1984-1985 <u>Fiscal Year</u>
<b>ENERGY POLICY COUNCIL</b>	
<b>1. OPERATIONS</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 355,125
<b>2. PUBLIC BUILDINGS ENERGY CON- SERVATION ADMINISTRATION</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 104,637

Sec. 12. STATE FAIR BOARD. There is appropriated from the general fund of the state to the Iowa state fair board for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1984-1985 <u>Fiscal Year</u>
1. For maintenance of the state fair buildings and grounds .....	\$ 39,358
2. For premiums .....	\$ 9,000
3. For state aid to agricultural societies (local fairs) .....	\$ 183,800

4. The appropriation contained in subsection 3 for state aid to agricultural societies is conditional upon full compliance with all other statutes which regulate and prescribe the conditions under which the aid is available. The moneys shall not be used for other than the payment of cash premiums, and a county shall not receive more than one thousand eight hundred thirty-eight (1,838) dollars except that in a county where there are two definitely separate county extension offices, each society shall receive state aid in the amount it would be entitled to if it were the only society in the county. In counties having more than one fair entitled to state aid, the state aid available shall be prorated to the fairs based on cash premiums paid by the fairs. If the amount appropriated does not fund all claims, the state aid shall be reduced proportionately to equal the amount appropriated.

Sec. 13. GEOLOGICAL SURVEY. There is appropriated from the general fund of the state to the Iowa geological survey for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	<u>1984-1985</u> <u>Fiscal Year</u>
1. For salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,196,710
2. For reimbursement to federal agencies for cooperative contracts .....	\$ 262,833

Sec. 14. HERBERT HOOVER BIRTHPLACE FOUNDATION. There is appropriated from the general fund of the state to the Herbert Hoover birthplace foundation for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	<u>1984-1985</u> <u>Fiscal Year</u>
For assistance with capital improvements .....	\$ 1,500

Sec. 15. MISSISSIPPI RIVER PARKWAY COMMISSION. There is appropriated from the general fund of the state to the Mississippi river parkway commission for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	<u>1984-1985</u> <u>Fiscal Year</u>
For support, maintenance, and miscellaneous purposes .....	\$ 14,580

Sec. 16. DEPARTMENT OF SOIL CONSERVATION. There is appropriated from the general fund of the state to the department of soil conservation for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	<u>1984-1985</u> <u>Fiscal Year</u>
1. For salaries, support, maintenance, assistance to soil conservation districts, and miscellaneous purposes .....	\$ 3,702,191
2. For soil conservation grants which shall be allocated by the state soil conservation committee as follows:	
a. To conduct soil surveys in conjunction with federal, state, and local agencies in Iowa .....	\$ 335,340
b. To finance the state share of the small watershed program known as the Pub. L. No. 566 program .....	\$ 24,300
c. To provide financial incentives for soil conservation practices in accordance with subsection 3 of this section .....	\$ 8,644,000

3. The following requirements apply to the funds appropriated by subsection 2, paragraph c:

a. Not more than five percent may be allocated for cost sharing to abate complaints filed under sections 467A.47 and 467A.48.

b. Not more than ten percent may be allocated for financial incentives not exceeding seventy-five percent of the approved cost of permanent soil conservation practices under chapter 467A on watersheds above publicly-owned lakes in accordance with the priority list required in subsection 2 of section 5 of this Act.

c. The committee may allocate funds to conduct research and demonstration projects to promote conservation tillage practices.

d. Not more than ten percent of a district's allocation may be allocated by the soil conservation district commissioners for one-time incentive payments on the per acre basis, but not exceeding ten dollars per acre, to encourage no-till planting methods on Iowa land that is row cropped.

e. Except for the allocations subject to paragraphs "a" and "b", these funds shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than fifty percent of the approved cost for voluntary permanent soil conservation practices and priority shall be given to family-operated farms.

4. The provisions of section 8.33 shall not apply to the funds appropriated by subsection 2, paragraph "c". Unencumbered or unobligated funds remaining on June 30, 1988 from funds appropriated for the fiscal year beginning July 1, 1984 shall revert to the general fund on September 30, 1988.

Sec. 17. 1983 Iowa Acts, chapter 207, section 54, is amended to read as follows:

SEC. 54. There is appropriated from the general fund of the state to the state soil conservation ~~commission~~ committee for each the fiscal year of the fiscal biennium beginning July 1, 1983 and ending June 30, 1985, one million (1,000,000) dollars and for the fiscal year beginning July 1, 1984, seven hundred fifty thousand (750,000) dollars to be used for the establishment of the revolving loan fund as provided in this division.

Sec. 18. DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT. There is appropriated from the general fund of the state to the department of water, air and waste management for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1984-1985  
Fiscal Year

1. For salaries, support, maintenance, and miscellaneous purposes ..... \$ 2,755,850

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

2. For salaries, support, maintenance, and miscellaneous purposes for the river coordinator who shall be staff of the department of water, air and waste management, including membership fees in the Missouri and Mississippi river basin association ..... \$ 70,000

3. For the state's contribution to the AIDEX superfund ..... \$ 50,000

4. For payments to the governing bodies responsible for publicly-owned sewage treatment facilities which are eligible for grants under section 202 of the federal Water Pollution Control Act, 33 U.S.C. 466 et seq., as amended by the federal Clean Water Act of 1977, Pub. L. No. 95-217, in an amount equal to five percent of the amount approved as the eligible cost of the project by the water, air and waste management commission ..... \$ 2,000,000

The provisions of section 8.33 shall not apply to the funds appropriated by this subsection. Unencumbered or unobligated funds remaining on June 30, 1988 from funds appropriated for the fiscal year beginning July 1, 1984, shall revert to the general fund on September 30, 1988.

Sec. 19. There is appropriated from the general fund of the state to the Iowa state water resources research institute for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of one hundred thirty-five thousand (135,000) dollars or so much thereof as is necessary for research approved by the panel created in section 20 of this Act.

Sec. 20. A panel is created to advise the Iowa state water resources research institute on the areas of research to be conducted with the funds appropriated in section 19 of this Act. The panel is composed of the administrative head of the following agencies or that person's representative: Iowa geological survey, energy policy council, department of water, air and waste management, department of soil conservation, and department of agriculture. The representative of the Iowa geological survey shall serve as the chairperson and call meetings of the panel.

Sec. 21. All federal grants to and the federal receipts, not otherwise appropriated, of the agencies appropriated funds under this Act are appropriated for the purposes set forth in the federal grants or receipts, unless otherwise provided by the general assembly.

Sec. 22. Section 93A.4, subsection 1, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Each county commission shall compile a county land use inventory of the unincorporated areas of the county by ~~January~~ July 1, 1984. The county inventories shall where adequate data is available contain at least the following:

Sec. 23. Section 93A.5, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

By ~~September 1, 1984~~ March 1, 1985, 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 93A.4 together with a set of written findings on the following factors considered by the county commission:

Approved May 18, 1984



**CHAPTER 1304****REGULATORY, ADMINISTRATIVE, AND FINANCE AGENCIES APPROPRIATIONS***H.F. 2521*

**AN ACT** relating to and making appropriations to various state regulatory, administrative and finance departments, boards and commissions.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984 and ending June 30, 1985, to the following boards the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1984-1985 <u>Fiscal Year</u>
<b>1. BOARD OF ARCHITECTURAL EXAMINERS</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 45,458
<b>2. BOARD OF LANDSCAPE ARCHITECTURAL EXAMINERS</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 10,345
<b>3. BOARD OF ACCOUNTANCY</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 270,801
<b>4. STATE BOARD OF ENGINEERING EXAMINERS</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 138,615

Sec. 2. There is appropriated from the general fund of the state to the following departments and commissions for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1984-1985 <u>Fiscal Year</u>
<b>1. AUDITOR OF STATE</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,803,249
<b>2. DEPARTMENT OF BANKING</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 3,271,343

**3. IOWA BEER AND LIQUOR CONTROL  
DEPARTMENT**

For salaries, support, maintenance, and  
other operational purposes ..... \$ 18,626,164

Not less than six ministores shall be established from the funds appropriated in this sub-  
section.

**4. CAMPAIGN FINANCE DISCLOSURE  
COMMISSION**

For salaries, support, maintenance, and  
other operational purposes ..... \$ 125,587

As a condition of receipt of this appropriation, the campaign finance disclosure commission shall promulgate rules by January 1, 1985 that a holder of or a candidate for a state office who receives a campaign contribution from a registered lobbyist or a political action committee while the general assembly is in session must disclose that contribution to the campaign finance disclosure commission within fourteen days of receipt of the contribution.

**5. IOWA STATE COMMERCE COM-  
MISSION**

For salaries, support, maintenance, and  
other operational purposes ..... \$ 5,611,319

**6. CONSUMER ADVOCATE**

For salaries, support, maintenance, and  
other operational purposes ..... \$ 874,529

**7. STATE COMPTROLLER**

**a. General Office**

For salaries, support, maintenance, and  
other operational purposes ..... \$ 1,178,029

**b. Division of Data Processing**

For salaries, support, maintenance, and  
other operational purposes ..... \$ 4,070,837

It is the intent of the general assembly that the state comptroller under its division of data processing shall not charge the secretary of state for computer costs arising as a result of the implementation of Senate File 510.

The state comptroller, through the office of the inspector general, shall assist state agencies in identifying and implementing efficiency and cost-effectiveness measures, as recommended by the governor's task force on efficiencies and cost-effectiveness. Notwithstanding any conflicting provisions of chapter 8, the state comptroller may make the first two quarterly allocations to the state comptroller as if the amount appropriated in paragraph "a" contained three hundred thousand dollars more than actually specified and in paragraph "b" contained two million dollars more than actually specified, and the state comptroller may reduce the last two quarterly allocations in order to offset the first two quarterly allocations. The state comptroller may reduce quarterly allocations of funds appropriated to other agencies to reflect savings made as a result of implementing recommendations of the governor's task force on efficiencies and cost effectiveness. Not more than three hundred thousand dollars for paragraph "a" and two million dollars for paragraph "b" of the savings resulting from implementing the recommendations may be transferred by the state comptroller to the state comptroller to be used for the purposes provided in those paragraphs.

## 8. CREDIT UNION DEPARTMENT

For salaries, support, maintenance, and  
other operational purposes ..... \$ 534,821

## 9. INDUSTRIAL COMMISSIONER

For salaries, support, maintenance, and  
other operational purposes ..... \$ 981,702

10. INSURANCE DEPARTMENT OF  
IOWA

For salaries, support, maintenance, and  
other operational purposes ..... \$ 2,691,974

The insurance department may expend additional funds, if those additional expenditures are actual expenses which exceed the funds budgeted for insurance company examinations and directly result from examinations of insurance companies. Before the department expends or encumbers an amount in excess of the funds budgeted for examinations, the state comptroller shall approve the expenditure or encumbrance. Before approval is given, the state comptroller shall determine that the examination expenses exceed the funds budgeted by the general assembly to the department and that the department does not have other funds from which examination expenses can be paid. Upon approval of the state comptroller the department may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those insurance companies being examined which caused the excess expenditures and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

11. IOWA DEPARTMENT OF JOB  
SERVICE

For salaries, support, maintenance, and  
other operational purposes for the administra-  
tion of chapter 97 and chapter 97C and section  
294.15 ..... \$ 160,398

12. OCCUPATIONAL SAFETY AND  
HEALTH REVIEW COMMISSION

For salaries, support, maintenance, and  
other operational purposes ..... \$ 48,594

13. PUBLIC EMPLOYMENT RELATIONS  
BOARD

For salaries, support, maintenance, and  
other operational purposes ..... \$ 542,838

## 14. IOWA REAL ESTATE COMMISSION

For salaries, support, maintenance, and  
other operational purposes ..... \$ 319,345

## 15. RACING COMMISSION

For salaries, support, maintenance, and  
other operational purposes ..... \$ 296,400

## 16. DEPARTMENT OF REVENUE

## General Administration

For salaries, support, maintenance, and  
other operational purposes ..... \$ 15,760,007

17. SECRETARY OF STATE

- a. For salaries, support, maintenance and other operational purposes ..... \$ 1,062,176
- b. For editing and printing the Iowa official register ..... \$ 62,500

It is the intent of the general assembly that the Iowa official register be published by April 1, if practicable.

18. TREASURER OF STATE

- For salaries, support, maintenance, and miscellaneous purposes ..... \$ 472,598

Sec. 3. There is appropriated from the general fund of the state to the moneys and credits replacement fund established in section 422.100 for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amount, or so much thereof as may be necessary, to be used for payments to counties as provided in section 422.100:

1984-1985  
Fiscal Year  
 \$ 2,500,000

Sec. 4. There is appropriated from the general fund of the state to the county government assistance fund, established in section 334A.1, for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amount, or so much thereof as may be necessary, to be used for state assistance to counties, with distribution in accordance with section 334A.2. The state comptroller, before making such distribution, shall credit to the county finance committee on July 1, 1984 the sum of fifty-five thousand five hundred thirty-three (55,533) dollars.

1984-1985  
Fiscal Year  
 \$ 5,350,000

Sec. 5. There is appropriated from the general fund of the state to the municipal assistance fund, established in section 405.1, for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amount, or so much thereof as may be necessary, to be used for state assistance to municipalities, with distribution in accordance with section 405.1. The state comptroller, before making such distribution, shall credit to the city finance committee on July 1, 1984 the sum of ten thousand eight hundred (10,800) dollars.

1984-1985  
Fiscal Year  
 \$ 14,650,000

Sec. 6. There is appropriated from the motor vehicle fuel tax fund to the department of revenue for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amount, or so much thereof as may be necessary, for salaries, support, maintenance, and other operational purposes for administration and enforcement of the provisions of chapter 324 and the motor vehicle use tax program:

1984-1985  
Fiscal Year  
 \$ 820,035

Sec. 7. There is appropriated from the Iowa public employees' retirement system fund for the fiscal year beginning July 1, 1984 and ending June 30, 1985, to the Iowa department of job service, the following amount, or so much thereof as may be necessary, to be used for the following purposes:

1984-1985  
Fiscal Year

For salaries, support, maintenance, and other operational purposes to pay the costs of administration of the Iowa public employees' retirement system .....

\$ 3,381,945

\*It is the intent of the general assembly that the department of job service and the advisory investment board of the Iowa public employees' retirement system shall evaluate their holding of stocks and the voting rights to the stock with respect to the involvement of the stock issuer in doing business with or investing in the Republic of South Africa. The list of companies that invest in or do business with the Republic of South Africa shall be developed with reference to information obtained from the United States department of commerce. The department of job service shall not give voting proxies to any candidate for a board position for a company on the list who does not support divestment. In any stockholder election involving an issue related to investments in or business with the Republic of South Africa, the department of job service shall exercise its right to vote stock in such a manner as to prohibit such investments or business. This paragraph does not require the department to send a person to attend shareholder meetings to vote stock.\*

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

\*Sec. 9.

1. It is the intent of the general assembly that after July 1, 1984 that in regard to the appropriations made in section 7 of this Act the department of job service and the advisory board of the Iowa public employees' retirement system shall not make investment in any person making an investment in South Africa. As used in this section, unless the context otherwise requires:

a. "Investment in South Africa" means either of the following:

(1) Establishing or making a loan or other extension of credit for the establishment of a business enterprise or a subsidiary, affiliate, branch, or office in South Africa.

(2) Investing funds in an existing enterprise in South Africa including making a loan or other extension of credit or exercising control in an existing enterprise, except that this paragraph does not prohibit the purchase of securities on a securities exchange.

b. "South Africa" includes the Republic of South Africa, any territory under the legal or illegal administration of the Republic of South Africa, and the Bantustans including Transkei, Bophuthatswana, Venda, Ciskei, and KwaZulu.

2. A person shall be presumed to control a corporation, partnership, or enterprise in South Africa if any of the following exist:

a. The person beneficially owns or controls either directly or indirectly more than fifty percent of the outstanding voting securities of the corporation, partnership, or enterprise.

b. The person beneficially owns or controls either directly or indirectly twenty-five percent or more of the voting securities of the corporation, partnership, or enterprise, if no other person owns or controls an equal or larger percentage.

c. The corporation, partnership, or enterprise is operated by the person pursuant to an exclusive management contract.

d. A majority of the members of the board of directors of the corporation, partnership, or enterprise are also members of the comparable governing body of the person.

\*Item veto; see message at end of this Act

e. The person has authority to appoint a majority of the members of the board of directors of the corporation, partnership, or enterprise.

f. The person has authority to appoint the chief operating officer of the corporation, partnership, or enterprise.

3. It is also the intent of the general assembly that after July 1, 1984 that in regard to the appropriation made in section 7 of this Act the department of job service and the advisory investment board of the Iowa public employees' retirement system shall maintain a list of persons making an investment in South Africa. The list shall be developed with reference to information obtained from the United States department of commerce. The department of job service and the advisory board shall not invest in any person on the list. The department shall mail written notification to each person on the list. A person ineligible to receive investments may establish eligibility if documentary evidence is submitted to the advisory board. The evidence shall be sufficient to establish that the person has adopted a written policy that prohibits the making of investments in South Africa. "Documentary evidence" includes, but is not limited to, an executed affidavit by an appropriate officer of the person in a form prepared by the advisory board, attesting to the fact that the person prohibits the making of investments in South Africa. The department of job service shall attempt to verify compliance by checking sources of information not affiliated with the person. The department of job service shall adopt rules under chapter 17A to assess civil penalties against a person who files false or misleading documentary evidence. Penalties shall be deposited in the state general fund. The civil penalties shall not exceed five thousand dollars for each violation. All civil penalties collected shall be deposited in the state general fund. If the advisory board determines that the government of the Republic of South Africa has made substantial progress toward the full participation of all the people in South Africa in the social, political, and economic life of that country and toward an end to discrimination based on race or ethnic origin, the advisory board shall submit that determination and the basis for that determination to the general assembly.\*

Sec. 10. If, on September 1, 1984, the state comptroller projects that the receipts of state general fund revenues for the fiscal year beginning July 1, 1985 will be less than seven and three-tenths percent above the receipts of state general fund revenues for the fiscal year beginning July 1, 1984, the following shall occur:

1. Notwithstanding section 442.7, subsection 4, for the budget year beginning July 1, 1985, the difference between the recomputed state percent of growth for the base year and the original computation for the base year is one percent and that percent shall be subtracted from the state percent of growth for the budget year.

\*2. Notwithstanding section 442.3, for the school year beginning July 1, 1985, the state foundation base shall be seventy-nine percent of the state cost per pupil.

3. Notwithstanding section 427A.9, the personal property tax credit allowed for the fiscal year beginning July 1, 1985 shall not exceed the amount of the personal property tax credit allowed for taxes payable in the fiscal year beginning July 1, 1984.

4. Notwithstanding section 427B.10, property acquired or purchased on or after January 1, 1983 up to and including December 31, 1983 shall not receive the benefits of sections 427B.10 through 427B.14 for taxes levied against the January 1, 1984 assessments and collected during the fiscal year beginning July 1, 1985.

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\*Item veto; see message at end of this Act

5. Notwithstanding section 602.11101, subsections 3 and 4, Code Supplement 1983, the scheduled assumptions of state responsibility for court attendants and for juvenile probation officers are delayed for a period of one year, respectively, and the delay shall be implemented as provided in section 602.11101 and the percentage remittance to the counties from the court revenue distribution account under section 602.8108 for the fiscal year beginning July 1, 1984 shall not be reduced for the fiscal year beginning July 1, 1985.\*

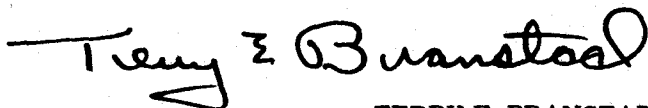
\*Sec. 11. Section 49.12, Code 1983, is amended to read as follows:

49.12 ELECTION BOARDS. There shall be appointed in each election precinct an election board which shall ordinarily consist of at least five precinct election officials. However, in precincts using only one voting machine at any one time, and in precincts voting by paper ballot where no more than one hundred votes were cast in the last preceding similar election, the board shall consist of not less than three precinct election officials; and in precincts using more than two voting machines ~~one additional precinct election official~~ officials may be appointed ~~for each such additional machine~~. Double election boards may be appointed for any precinct as provided by chapter 51. Not more than a simple majority of the members of the election board in any precinct, or of the two combined boards in any precinct for which a double election board is appointed, shall be members of the same political party or organization if one or more qualified electors of another party or organization are qualified and willing to serve on the board.

If double counting boards are not appointed for precincts using paper ballots and using only three precinct election officials a fourth precinct election official shall be appointed from the election board panel to serve beginning at 8:00 p.m. to assist in counting the paper ballots.

Sec. 12. Section 11 of this Act takes effect only if House File 2219, as enacted by the Seventieth General Assembly, 1984 Session, becomes law.\*

Approved May 19, 1984, except the items which I hereby disapprove and which are designated as Section 7, unnumbered paragraph three and which is herein bracketed in ink and initialed by me; Section 9, which is herein bracketed in ink and initialed by me; Subsections 2, 3, 4, and 5 of Section 10, which is herein bracketed in ink and initialed by me; and all of Sections 11 and 12, which are herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

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\*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 House File 2521, an act relating to and making appropriations to various state regulatory, administrative and finance departments, boards and commissions.

House File 2521 is approved May 19, 1984, with the following exceptions which I hereby disapprove.

I am unable to approve Section 7, unnumbered paragraph 3, and the entirety of Section 9, which reads as follows:

It is the intent of the general assembly that the department of job service and the advisory investment board of the Iowa public employees' retirement system shall evaluate their holding of stocks and the voting rights to the stock with respect to the involvement of the stock issuer in doing business with or investing in the Republic of South Africa. The list of companies that invest in or do business with the Republic of South Africa shall be developed with reference to information obtained from the United States department of commerce. The department of job service shall not give voting proxies to any candidate for a board position for a company on the list who does not support divestment. In any stockholder election involving an issue related to investments in or business with the Republic of South Africa, the department of job service shall exercise its right to vote stock in such a manner as to prohibit such investments or business. This paragraph does not require the department to send a person to attend shareholder meetings to vote stock.

Sec. 9.

1. It is the intent of the general assembly that after July 1, 1984 that in regard to the appropriations made in section 7 of this Act the department of job service and the advisory board, of the Iowa public employees' retirement system shall not make investment in any person making an investment in South Africa. As used in this section, unless the context otherwise requires:

a. "Investment in South Africa" means either of the following:

(1) Establishing or making a loan or other extension of credit for the establishment of a business enterprise or a subsidiary, affiliate, branch or office in South Africa.

(2) Investing funds in an existing enterprise in South Africa including making a loan or other extension of credit or exercising control in an existing enterprise, except that this paragraph does not prohibit the purchase of securities on a securities exchange.



b. "South Africa" includes the Republic of South Africa, any territory under the legal or illegal administration of the Republic of South Africa, and the Bantustans including Transkei, Bophuthatswana, Venda, Ciskei, and KwaZulu.

2. A person shall be presumed to control a corporation, partnership, or enterprise in South Africa if any of the following exist:

a. The person beneficially owns or controls either directly or indirectly more than fifty percent of the outstanding voting securities of the corporation, partnership, or enterprise.

b. The person beneficially owns or controls either directly or indirectly twenty-five percent or more of the voting securities of the corporation, partnership, or enterprise, if no other person owns or controls an equal or larger percentage.

c. The corporation, partnership, or enterprise is operated by the person pursuant to an exclusive management contract.

d. A majority of the members of the board of directors of the corporation, partnership, or enterprise are also members of the comparable governing body of the person.

e. The person has authority to appoint a majority of the members of the board of directors of the corporation, partnership, or enterprise.

f. The person has authority to appoint the chief operating officer of the corporation, partnership, or enterprise.

3. It is also the intent of the general assembly that after July 1, 1984 that in regard to the appropriation made in section 7 of this Act the department of job service and the advisory investment board of the Iowa public employees' retirement system shall maintain a list of persons making an investment in South Africa. The list shall be developed with reference to information obtained from the United States department of commerce. The department of job service and the advisory board shall not invest in any person on the list. The department shall mail written notification to each person on the list. A person ineligible to receive investments may establish eligibility if documentary evidence is submitted to the advisory board. The evidence shall be sufficient to establish that the person has adopted a written policy that prohibits the making of investments in South Africa. "Documentary evidence" includes, but is not limited to, an executed affidavit by an appropriate officer of the person in a form prepared by the advisory board, attesting to the fact that the person prohibits the making of investments in South Africa. The department of job service shall attempt to verify compliance by checking sources of information not affiliated with the person. The department of job service shall adopt rules under chapter 17A to assess civil penalties against a person who files false or misleading documentary evidence. Penalties shall be deposited in the state general fund. The civil penalties shall not exceed five thousand dollars for each violation. All civil penalties collected shall be deposited in the state general fund. If the advisory board determines that the government of the Republic of South Africa has made substantial progress toward the full participation of all the people in South Africa in the social, political, and economic life of that country and toward an end to discrimination based on race or ethnic origin, the advisory board shall submit that determination and the basis for that determination to the general assembly.

The above designated provisions in House File 2521 require the Department of Job Service and the Iowa Public Employees Retirement System (IPERS) Advisory Investment Board to take three actions with respect to IPERS investments:

1. Support only board of director candidates who favor the divestment of the company's South African investments;
2. Support stockholder initiatives to force divestment of a company's investments in South Africa;
3. Make no investment in any companies making investments or having control of companies in South Africa, after July 1, 1984.

The provisions of House File 2521 represent a radical change in the handling of the state employees' pension fund. In the past, the state has given those who manage these funds broad discretion in selecting appropriate investments and has shied away from using these funds to effect social policy.

The IPERS system is actuarially sound — something of a rarity for public pension systems. And, IPERS managers have achieved substantial investment yields earning additional retirement income for former public employees.

Despite this investment record, proponents of Sections 7 and 9 of House File 2521 urge the adoption of the above restrictions on IPERS investments due to the racial policies of the South African government.

Their goal is a laudable one. The racism inherent in the apartheid policy is wrong. I am certain that Iowans — with their history of support for racial equality — join me in condemning this policy of the South African government.

Iowans also have a history of support for free and open commerce. We witnessed the failure of the Carter Administration's effort to force change in Soviet policy through a grain embargo. Rather than harm the Russians, the embargo hamstrung American farmers.

Instead of the negative approach reflected in House File 2521, I believe we would benefit blacks in South Africa far more with a positive effort to achieve racial equality. This can best be accomplished, not by divesting our ability to exercise influence, but by capitalizing on it.

Implementation of the so-called "Sullivan Principles" is one way to exercise economic influence to achieve needed social change. These principles require desegregation of the workplace, equality of pay and opportunity for blacks, and financial aid to the employees' communities. To date, over 120 American firms doing business in South Africa have signed agreements to honor these principles and 74 percent of the workers employed by U.S. firms are covered by these principles.

In summary, I concur with the goals of those proposing Sections 7 and 9 of House File 2521. However, the restrictions on South African investments included in those sections would likely hurt, rather than help, the victims of the oppressive apartheid system. On the other hand, a positive use of American investment could work to speed up the needed social change in South Africa.

I am also unable to approve Section 10, subsections 2, 3, 4, and 5, which read as follows:

2. Notwithstanding section 442.3, for the school year beginning July 1, 1985, the state foundation base shall be seventy-nine percent of the state cost per pupil.

3. Notwithstanding section 427A.9, the personal property tax credit allowed for the fiscal year beginning July 1, 1985 shall not exceed the amount of the personal property tax credit allowed for taxes payable in the fiscal year beginning July 1, 1984.

4. Notwithstanding section 427B.10, property acquired or purchased on or after January 1, 1983 up to and including December 31, 1983 shall not receive the benefits of sections 427B.10 through 427B.14 for taxes levied against the January 1, 1984 assessments and collected during the fiscal year beginning July 1, 1985.

5. Notwithstanding section 602.11101, subsections 3 and 4, Code Supplement 1983, the scheduled assumptions of state responsibility for court attendants and for juvenile probation officers are delayed for a period of one year, respectively, and the delay shall be implemented as provided in section 602.11101 and the percentage remittance to the counties from the court revenue distribution account under section 602.8108 for the fiscal year beginning July 1, 1984 shall not be reduced for the fiscal year beginning July 1, 1985.

Each of the above designated subsections would be implemented in the event that the State Comptroller on September 1, 1984 projected that the receipts of the state general fund revenues for the fiscal year 1986 would be less than 7.3 percent above the state general fund revenues for the fiscal year 1985. While I recognize these triggers are standby in nature, I am unable to approve these items because of my strong belief that it is wrong to shift state budget problems to local governments and local property taxpayers when problems occur. The four provisions which I will comment on briefly below could boost local property taxes by nearly \$25 million. These same provisions would wreak havoc on the local government budget process, and severely damage state government's relationship and credibility with local government officials and property taxpayers. I recommended a one cent increase in our state sales tax last year to avoid this type of action.

Subsection 2, if triggered, would further delay our state's long standing commitment to reaching the eighty percent foundation level in our school aid formula. This provision alone would cost local property taxpayers \$14 million.

Subsection 3, raises the trigger on the personal property tax phaseout which was enacted in 1974. This most unfair and inequitable tax on personal property and business inventories should have been phased out by now. It has already been delayed too many times.

Presently, the personal property tax phaseout moves forward only when state revenues grow by at least 5.5 percent. In most recent years, our revenue growth has been below 5.5 percent and no progress in the phaseout has been made. Last year, I recommended and budgeted for another step in the phaseout. The legislature failed to follow that recommendation, and spent the \$3.8 million elsewhere.

Our commitment to the elimination of this most unfair tax is a significant incentive to economic development and more jobs for Iowans. Unfortunately, our state government's credibility has already been damaged by the continual interruption of this economic development incentive. I find this action to be unacceptable.

Subsection 4 requires that industrial machinery, equipment and computers purchased from January 1, 1983 through December 31, 1983 would not receive the 30 percent valuation limit for January 1, 1984 assessments.

The language of this paragraph could lead to a retroactive denial of a significant incentive designed to encourage capital investment. Many Iowa businesses would not have made machinery and computer investments in calendar year 1983 without the incentive provided for under our state's new "70/30" residual value assessment system.

Even the possibility of a retroactive denial of this investment incentive would send a negative message to the business community of our state. The Iowa Development Commission believes that this provision would be a damaging blow to our economic development efforts and could cost us thousands of Iowa jobs.

Last year I recommended, and the General Assembly approved, legislation in which the state made a commitment to gradually assume responsibility for the court system which is now funded at the county level. This action was taken to provide a unified court system and property tax relief.

Subsection 5 could delay the scheduled assumptions of state responsibility, and result in unanticipated and unbudgeted property tax increases. This language should not be left to haunt property taxpayers and local government officials.

In short, the subsections above could only serve to raise property taxes, hinder local government officials in their budgetary and other fiscal matters, and erode the confidence of those who wish to invest and create jobs in Iowa. Our state must move forward with these and other economic development incentives if we are going to be successful in the competition for jobs. We cannot afford to take significant steps backward. We must continue to move forward in our efforts to create jobs and reduce the property tax burden.

I am also unable to approve the entirety of Sections 11 and 12, which read as follows:

Sec. 11. Section 49.12, Code 1983, is amended to read as follows:

49.12 ELECTION BOARDS. There shall be appointed in each election precinct an election board which shall ordinarily consist of at least five precinct election officials. However, in precincts using only one voting machine at any one time, and in precincts voting by paper ballot where no more than one hundred votes were cast in the last preceding similar election, the board shall consist of not less than three precinct election officials; and in precincts using more than two voting machines ~~one additional precinct election official~~ officials may be appointed ~~for each such additional machine~~. Double election boards may be appointed for any precinct as provided by chapter 51. Not more than a simple majority of the members of the election board in any precinct, or of the two combined boards in any precinct for which a double election board is appointed, shall be members of the same political party or organization if one or more qualified electors of another party or organization are qualified and willing to serve on the board.

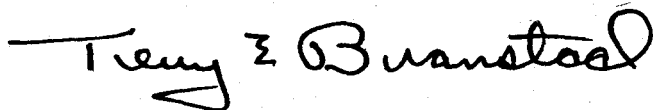
If double counting boards are not appointed for precincts using paper ballots and using only three precinct election officials a fourth precinct election official shall be appointed from the election board panel to serve beginning at 8:00 p.m. to assist in counting the paper ballots.

Sec. 12. Section 11 of this Act takes effect only if House File 2219, as enacted by the Seventieth General Assembly, 1984 Session, becomes law.

Sections 11 and 12 which would increase local property taxes are no longer necessary as a result of my disapproval of House File 2219.

For the above reasons, I respectfully disapprove of these items in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of House File 2521 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 1305**  
**FINANCING OF STATE GOVERNMENT**  
*S.F. 2330*

**AN ACT** relating to the financing of state government by providing for a reduction in general fund appropriations through reallocation of general fund financial aid to merged area schools, by reducing or eliminating certain capital appropriations for the fiscal year beginning July 1, 1983 and appropriating funds for capital projects for the fiscal year beginning July 1, 1984, by updating references to the Internal Revenue Code for individual and corporate income tax, franchise tax, and inheritance tax purposes with coordinating amendments, by restructuring the fee for operator's and chauffeur's licenses, increasing certificate of title fees, duplicate title fees, trailer and motorized bicycle fees, including allocation of those fees to the road use tax fund and county treasurers, providing for spot inspections and odometer law enforcement, funding from the road use tax fund the driver's license program of the state department of transportation and the division of the highway safety and uniformed force of the department of public safety, by providing for the creation of an Iowa economic emergency fund including its funding, by providing for the payment of one-half of the additional personal property tax credit in the fiscal year beginning July 1, 1984, by imposing the sales, service and use tax on licensed executive search agencies, beverages, electronic repair and installation and the rental of tangible personal property, and making certain provisions of the Act retroactive.

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

**DIVISION I**

Section 1. 1983 Iowa Acts, chapter 197, section 8, subsection 12, paragraph a, is amended to read as follows:

a. For general state financial aid to merged areas as defined in section 280A.2 ..... \$ 56,455,501  
42,341,626

It is the intent of the general assembly that funds appropriated in this paragraph shall be used only for allocation to merged area schools for general aid purposes. Funds appropriated in this paragraph shall not be allocated to the merged area schools pursuant to chapter 286A, but shall be allocated by a formula approved by the state board of public instruction. The formula shall provide each merged area school with the same amount of state financial aids as the merged area school received during the fiscal year beginning July 1, 1982 and ending June 30, 1983 and a proportionate amount of the remaining funds appropriated in this paragraph. The remaining funds shall be allocated to each merged area school based upon the proportion that the student contact hours of enrollment eligible to receive general state financial aid for the merged area school for the fiscal year beginning July 1, 1982 and ending June 30, 1983 bears to the total number of student contact hours of enrollment for all merged area schools for the fiscal year beginning July 1, 1982 and ending June 30, 1983.

General state aid paid to area schools under this paragraph for expenditures incurred during the fiscal year beginning July 1, 1983 and ending June 30, 1984, shall be paid by the state comptroller in installments due on or about November 15, February 15, and May 15 of the

fiscal year. The payment received on August 15 is an account receivable for the previous fiscal year. The installments shall be as nearly equal as possible as determined by the state comptroller, taking into consideration the relative budget and cash position of the state resources.

There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1984 and ending June 30, 1985, for general state aid to merged areas, as defined in section 280A.2, the amount of thirteen million seven hundred eighteen thousand six hundred eighty-seven (13,718,687) dollars to be accrued as income and used for expenditures incurred by the area schools during the fiscal year beginning July 1, 1983 and ending June 30, 1984. Funds appropriated by this paragraph shall be allocated pursuant to this paragraph and paid on or about August 15, 1984.

Sec. 2. 1982 Iowa Acts, chapter 1264, section 1, is amended to read as follows:

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~~ four thousand ~~(744,000)~~ (704,000) 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.

Sec. 3. 1983 Iowa Acts, chapter 191, section 11, is amended to read as follows:

SEC. 11. There is appropriated from the general fund of the state to the department of social services, for the fiscal year beginning July 1, 1983, and ending June 30, 1984, for capital improvements at the state hospital-schools, the following amount, or so much thereof as is necessary:

	1983-1984
	<u>Fiscal Year</u>
\$	3,000,000
	<u>2,721,550</u>

Unobligated or unencumbered funds appropriated by this section for the fiscal year beginning July 1, 1983, and ending June 30, 1984, remaining on June 30, 1987, shall revert to the general fund of the state on September 30, 1987. However, if the projects for which these funds are appropriated are completed prior to June 30, 1987, the remaining unobligated or unencumbered funds shall revert to the general fund of the state on September 30 following the end of the fiscal year in which the projects are completed.

Sec. 4. 1983 Iowa Acts, chapter 195, section 2, is amended to read as follows:

SEC. 2. There is appropriated from the federal oil overcharge funds apportioned to Iowa under Pub. L. No. 97-377, to the energy policy council, the sum of five hundred seventy-five thousand (575,000) dollars, or so much thereof as is necessary, to be used in conjunction with the funds appropriated available to the board of regents under section 1 of this Act for energy conservation projects. Unobligated or unencumbered funds remaining on June 30, 1986, from funds appropriated by this section shall revert to the general fund of the state on September 30, 1986.

Sec. 5. 1983 Iowa Acts, chapter 195, section 3, is amended to read as follows:

\*According to enrolled Act

SEC. 3. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to the state board of regents, the sum of ~~eight~~ four million ~~nine~~ six hundred ~~five~~ sixty-six thousand ~~(8,905,000)~~ (4,666,000) dollars, or so much thereof as necessary, for allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, the university of northern Iowa, and the Iowa braille and sight-saving school to undertake the following capital projects:

1. State university of Iowa:
  - a. Fire safety deficiency corrections.
  - b. Communications facility and field house/athletic office building equipment.
  - c. Chemistry/botany remodeling.
2. Iowa state university of science and technology:
  - a. Fire safety deficiency corrections.
  - b. Mechanical engineering equipment.
  - c. Planning for phase 2 of the college of education building.
3. University of northern Iowa:
  - a. Fire safety deficiency corrections.
  - b. Gilchrist hall renovations.
4. Iowa braille and sight-saving school:
 

Utility system master plan and other campus improvements.

Sec. 6. 1983 Iowa Acts, chapter 195, section 6, subsection 1, paragraph b, is amended by striking the paragraph.

Sec. 7. 1983 Iowa Acts, chapter 195, section 8, subsection 1, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of the state to the department of ~~human services, division of adult corrections,~~ for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the sum of ~~eight~~ five hundred ~~fifty-two~~ ninety-seven thousand ~~(852,000)~~ (597,000) dollars, or so much thereof as necessary for capital improvements at the Iowa state penitentiary to bring the penitentiary into compliance with the federal court order which requires such improvements, for construction at the Luster Heights work camp, for construction of an Iowa state industries' laundry facility at the medium security correctional facility at Mt. Pleasant and to renovate a bathroom for use of the handicapped at the Iowa correctional institution for women; ~~however, it is a condition of this appropriation that if funds for each project are not allocated the total sum appropriated shall revert to the general fund of the state.~~

Sec. 8. 1983 Iowa Acts, chapter 195, section 9, subsection 1, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1983, and ending June 30, 1984 for capital improvements, including major maintenance projects, at the institutions under the control of the department of human services, the following amount, or so much thereof as is necessary:

	1983-1984
	<u>Fiscal Year</u>
\$	978,000
	<u>41,000</u>

Sec. 9. 1983 Iowa Acts, chapter 195, section 12, subsection 1, paragraphs b and d, are amended to read as follows:



b. For emergency major repairs or replacements of equipment, roofs or windows ..... \$ 45,000  
20,000

d. For repair of the roof of the vehicle dispatcher building and the repair of the roof of the micrographics building ..... \$ 94,500  
4,500

Sec. 10. 1983 Iowa Acts, chapter 195, section 12, subsection 1, paragraphs e, f, and g, are amended by striking the paragraphs.

Sec. 11. 1983 Iowa Acts, chapter 195, section 12, subsection 2, paragraph b, is amended to read as follows:

b. For repair of the roof and dome of the state historical building ..... \$ 100,000  
20,000

Sec. 12. 1983 Iowa Acts, chapter 195, section 12, subsection 2, paragraphs c, d, and e, are amended by striking the paragraphs.

Sec. 13. 1983 Iowa Acts, chapter 195, section 15, subsection 3, paragraphs b and c, are amended to read as follows:

b. For Swan lake restoration ..... \$ 110,000  
15,000

c. For construction, replacement, development and alterations to state parks and preserves, state forest facilities and state waters including artificial lake development; shoreline erosion and siltation control; river, stream and lake access; and engineering and planning services or to supplement any prior appropriation for such purposes ..... \$ 906,500  
325,000

Sec. 14. 1983 Iowa Acts, chapter 195, section 18, is amended to read as follows:

SEC. 18. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984 to the treasurer of state the sum of ~~one hundred thirty-nine thousand (139,000)~~ (39,000) dollars, or so much thereof as necessary, to be used for the purchase of an investment machine and system.

Sec. 15. 1983 Iowa Acts, chapter 197, section 9, subsection 1, paragraph c, is amended to read as follows:

c. For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa in amounts as may be necessary to reimburse the institutions for deficiencies in their operating funds resulting from the pledging of tuitions, student fees and charges and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at the institutions ..... \$ 13,270,000  
12,417,696

Any unexpended funds appropriated in this section shall revert to the general fund on June 30, 1985. Such unexpended funds may be used for tuition replacement needs in the fiscal year beginning July 1, 1984.

Sec. 16. 1983 Iowa Acts, chapter 195, section 1, is repealed on the effective date of this Act.

Sec. 17. Section 8.33, 1983 Code Supplement, unnumbered paragraph 2, is amended to read as follows:

No payment of an obligation for goods and services shall be charged to an appropriation subsequent to the last day of the fiscal term for which the appropriation is made unless such goods or services are received on or before ~~the last day of the fiscal term~~ September 15 of the following fiscal year, except that repair projects, purchase of specialized equipment and furnishings, and other contracts for services and capital expenditures for the purchase of land or the erection of buildings or new construction or remodeling, which were committed and in progress prior to the end of the fiscal term are excluded from this provision.

Sec. 18. There is appropriated from the road use tax fund to the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of three million six hundred forty-eight thousand eight hundred fifty-two (3,648,852) dollars to fund the operation and administration of the driver's license program within the state department of transportation.

Sec. 19. There is appropriated from the road use tax fund to the general fund of the state for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of three million seven hundred thousand (3,700,000) dollars to fund the operation and administration of the driver's license program within the state department of transportation.

Sec. 20. There is appropriated from the general fund of the state for the administration and supervision of the public highways to the department of public safety for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amount, or so much thereof as is necessary, to be used for funding the following functions and programs for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes of the division of highway safety and uniformed force for the administration and supervision of the public highways, 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 ..... \$ 16,232,000

However, the unfunded liability of the peace officers retirement accident and disability system, as of July 1, 1984, shall in no way be considered a liability of the road use tax fund.

DIVISION II

Sec. 21. Chapter 8, Code 1983, is amended by adding the following new section:

NEW SECTION. IOWA ECONOMIC EMERGENCY FUND.

1. The Iowa economic emergency fund is created. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state, except for purposes of determining the annual inflation factor under section 422.4, subsection 18, the balance in the fund shall be considered part of the general fund of the state. The moneys in the fund shall not revert to the general fund, notwithstanding section 8.33, unless and to the extent the fund exceeds the maximum balance.

2. The maximum balance of the Iowa economic emergency fund is the amount equal to ten percent of the funds appropriated from the general fund of the state during the preceding fiscal year. There is appropriated from any surplus existing in the general fund of the state at the conclusion of the fiscal year to the Iowa economic emergency fund an amount equal to the smaller of the amount of the surplus or the amount necessary to achieve the maximum balance.

3. The moneys in the Iowa economic emergency fund may be appropriated by the general assembly only in the fiscal year for which the appropriation is made and only for a purpose for which the general assembly previously appropriated funds for that fiscal year. However, the balance in the Iowa economic emergency fund may be used in determining the cash position of the general fund of the state for the payment of state obligations.

#### DIVISION III

Sec. 22. Section 99B.7, subsection 1, paragraph m, Code Supplement 1983, is amended to read as follows:

m. The person or organization conducting the game can show to the satisfaction of the department that the person or organization is eligible for exemption from federal income taxation under either section 501(c)(3), 501(c)(5), 501(c)(6), 501(c)(10) or 501(c)(19) of the Internal Revenue Code of 1954, as defined in section 422-4 422.3. However, this paragraph does not apply to a political party as defined in section 43.2, to a nonparty political organization that has qualified to place a candidate as its nominee for statewide office pursuant to chapter 44, or to a candidate committee as defined in section 56.2.

Sec. 23. Section 175.2, subsection 7, Code Supplement 1983, is amended to read as follows:

7. "Depreciable agricultural property" means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Internal Revenue Code of 1954 as defined in section 422-4 422.3.

Sec. 24. Section 220.45, unnumbered paragraph 1, Code 1983, is amended to read as follows:

For purposes of this section, "Internal Revenue Code of 1954" means the same as defined in section 422-4 422.3, "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.

Sec. 25. Section 422.3, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 5. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, as amended to and including January 1, 1984.

Sec. 26. Section 422.4, subsection 17, Code Supplement 1983, is amended by striking the subsection.

Sec. 27. Section 422.4, subsection 19, Code Supplement 1983, is amended to read as follows:

19. For purposes of section 422-4 422.3, subsection 17 5, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

Sec. 28. Section 422.6, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

The tax imposed by section 422.5 and ~~credit for increasing research activities granted less the credits allowed under section 422.10, shall section 422.11, and the personal exemption credit allowed under section 422.12~~ apply to and ~~become~~ are a charge against estates and trusts with respect to their taxable income, and the rates ~~shall be~~ are the same as those applicable to individuals. The fiduciary shall be responsible for ~~making~~ make the return of income for the estate or trust for which the fiduciary acts, whether the income is taxable to the estate or trust or to the beneficiaries ~~thereon~~.

Sec. 29. Section 422.7, subsection 6, Code Supplement 1983, is amended to read as follows:

6. Individual taxpayers and married taxpayers who file a joint federal income tax return and who elect to file a joint return, separate returns or separate filing on a combined return for Iowa income tax purposes, may avail themselves of the sick-pay disability income exclusion and shall compute the amount of sick-pay the disability income exclusion subject to the limitations for joint federal income tax return filers provided by section 105(d) of the Internal Revenue Code of 1954. The disability income exclusion provided in section 105(d) of the Internal Revenue Code of 1954, as amended up to and including December 31, 1982, continues to apply for state income tax purposes for tax years beginning on or after January 1, 1984.

Sec. 30. Section 422.7, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 19.** Married taxpayers, who file a joint federal income tax return and who elect to file separate returns or who elect separate filing on a combined return for state income tax purposes, shall include in net income any social security benefits or tier 1 railroad retirement benefits received to the same extent as those benefits are taxable on the taxpayer's joint federal return for that year under section 86 of the Internal Revenue Code of 1954. The benefits included in net income must be allocated between the spouses in the ratio of the social security benefits or tier 1 railroad retirement benefits received by each spouse to the total of these benefits received by both spouses.

Sec. 31. Section 422.9, subsection 1, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A taxpayer who claims the optional standard deduction under this subsection may, after claiming the optional standard deduction, claim the direct charitable contribution as allowed and subject to the same limitations provided under section 170(i) of the Internal Revenue Code of 1954 for tax years ending on or before December 31, 1986. However, the deduction shall be computed as provided under section 170(i) of the Internal Revenue Code of 1954 as applied to tax year 1984. Married taxpayers who have filed a joint federal return and who elect to file separate returns or separately on a combined state return must allocate their allowable charitable deduction to each spouse in the proportion that each spouse's respective net income bears to the total combined net income. Taxpayers affected by the allocation provisions of section 422.8 shall be permitted a deduction in the amount as is fairly and equitably allocable to Iowa under rules prescribed by the director.

Sec. 32. Section 422.12, subsection 1, paragraph a, Code Supplement 1983, is amended to read as follows:

a. For an estate or trust, a single individual, or a married person filing a separate return, fifteen dollars.

Sec. 33. Section 422.32, subsection 12, Code Supplement 1983, is amended to read as follows:

12. For purposes of section ~~422.32~~ 422.3, subsection 4 5, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

Sec. 34. Section 422.32, subsection 4, Code Supplement 1983, is amended by striking the subsection.

Sec. 35. Section 425.23, subsection 3, paragraph b, Code Supplement 1983, is amended to read as follows:

b. For purposes of this subsection, a totally disabled person in computing household income shall deduct all medical and necessary care expenses paid during the twelve-month income tax accounting periods used in computing household income which are attributable to the person's total disability. "Medical and necessary care expenses" are those used in computing the federal income tax deduction under section 213 of the Internal Revenue Code of 1954 as defined in section ~~422.4~~ 422.3.

Sec. 36. Section 442.15, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The school district income surtax shall be imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year or the first half of the succeeding calendar year, and shall be imposed on all individuals residing in the school district on the last day of the applicable tax year. As used in this section, "state individual income tax" means the tax computed under section 422.5, less the deductions allowed in ~~section~~ sections 422.10, 422.11 and 422.12.

Sec. 37. Section 450.37, subsection 1, paragraph b, Code Supplement 1983, is amended to read as follows:

b. The alternate value of the property, if the personal representative so elects, that has been established for federal estate tax purposes under section 2032 of the Internal Revenue Code of 1954 as defined in section ~~422.4~~ 422.3. The election shall be exercised on the return by the personal representative or other person signing the return, within the time prescribed by law for filing the return or before the expiration of any extension of time granted for filing the return.

Sec. 38. Section 450A.1, subsection 2, Code 1983, is amended to read as follows:

2. "Internal Revenue Code of 1954" means the ~~Internal Revenue Code of 1954~~ same as defined in section ~~422.4~~ 422.3.

Sec. 39. Section 450B.1, subsection 1, Code Supplement 1983, is amended to read as follows:

1. "Internal Revenue Code of 1954" means the same as defined in section ~~422.4~~ 422.3.

Sec. 40. Section 451.1, subsection 8, Code 1983, is amended to read as follows:

8. The term "Internal Revenue Code of 1954" shall have means the same meaning as ascribed to it defined in section ~~422.4~~ 422.3.

Sec. 41. Section 634.5, Code 1983, is amended to read as follows:

**634.5 INTERNAL REVENUE CODE DEFINED.** All references to sections of the Internal Revenue Code of 1954 ~~shall mean the Code as amended to and including January 1, 1971~~ mean the Internal Revenue Code of 1954 as defined in section 422.3.

\*Sec. 42. It is the intent of the general assembly that the department of revenue shall conduct a study during the 1984 interim to determine a feasible method of disallowing certain interest expense deductions on tangible personal property which is manufactured or substantially assembled outside of the United States and which is purchased by a taxpayer. The department shall submit its report to the Seventy-first General Assembly not later than February 1, 1985.\*

Sec. 43. This Division, except sections 29, 30, and 31, is retroactive to January 1, 1983 for tax years beginning on or after January 1, 1983.

Sec. 44. Sections 29, 30, and 31 are retroactive to January 1, 1984 for tax years beginning on or after January 1, 1984.

#### DIVISION IV

Sec. 45. Chapter 307, Code 1983, is amended by adding the following new section:

**NEW SECTION. 307.36 ODOMETER LAW ENFORCEMENT.** The department shall investigate and prosecute violators of the state and federal odometer law. The department shall refer available evidence concerning a possible violation of section 321.71 or the federal

odometer law or a rule or order issued under section 321.71 or the federal odometer law to the attorney general. The attorney general, with or without the referral, may institute appropriate criminal proceedings or may direct the case to the appropriate county attorney to institute appropriate criminal proceedings. The attorney general may use those funds available to the department for this purpose and law enforcement agencies may be reimbursed for expenses incurred in the enforcement of the state and federal odometer laws with the approval of the attorney general and concurrence by the department.

Sec. 46. Section 312.2, Code Supplement 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 16.** The treasurer of state, before making the allotments provided for in this section, shall credit annually to the state department of transportation from the road use tax fund an amount equal to twenty-five cents on each title issuance for state and federal odometer law enforcement purposes. This subsection is effective for the fiscal period beginning July 1, 1984 and ending June 30, 1989.

Sec. 47. Section 321.20, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Except as provided in this chapter, every owner of a vehicle subject to registration shall make application to the county treasurer, of the county of the owner's residence, or if a nonresident, to the county treasurer of the county where the primary users of the vehicle are located, for the registration and issuance of a certificate of title for the vehicle upon the appropriate form furnished by the department, accompanied by a fee of ~~two~~ ten dollars, and every 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. 48. Section 321.23, subsections 1 and 4, Code Supplement 1983, are amended to read as follows:

1. If the vehicle to be registered is a specially constructed, reconstructed, remanufactured or foreign vehicle, such fact shall be stated in the application. A fee of ~~two~~ ten dollars shall be paid by the person making the application upon issuance of a certificate of title by the county treasurer. With reference to every specially constructed or reconstructed motor vehicle subject to registration the application shall be accompanied by a statement from the department authorizing the motor vehicle to be titled and registered in this state. The department shall cause a physical inspection to be made of all specially constructed or reconstructed motor vehicles, upon application for a certificate of title by the owner, to determine whether the motor vehicle is in a safe operating condition and that the integral component parts are properly identified and that the rightful ownership is established before issuing the owner the authority to have the motor vehicle registered and titled. With reference to every foreign vehicle which has been registered outside of this state the owner shall surrender to the treasurer all registration plates, registration cards, and certificates of title, or, if vehicle to be registered is from a nontitle state, the evidence of foreign registration and ownership as may be prescribed by the department except as provided in subsection 2.

4. Any vehicle which does not meet the equipment requirements of this chapter due to the particular use for which it is designed or intended, may be registered by the department upon payment of appropriate fees and after inspection and certification by the department that the vehicle is not in an unsafe condition and will not endanger any person. A person is not

required to have a certificate of title to register a vehicle under this subsection. If the owner elects to have a certificate of title issued for the vehicle, a fee of ~~two ten~~ ten dollars shall be paid by the person making the application upon issuance of a certificate of title. If the department's inspection reveals that that vehicle may be safely operated only under certain conditions or on certain types of roadways, the department may restrict the registration to limit operation of the vehicle to the appropriate conditions or roadways. This subsection shall not apply to snowmobiles as defined in section 321G.1. Section 321.382 does not apply to a vehicle registered under this subsection which is operated exclusively by a handicapped person who has obtained a special identification device as provided in section 601E.6, providing the special identification device is carried in the vehicle and shown to any peace officer on request.

Sec. 49. Section 321.34, subsection 5, paragraph a, Code Supplement 1983, is amended to read as follows:

a. Upon application and the payment of a fee of twenty-five dollars, the director may issue to the owner of a motor vehicle registered in this state or a trailer with a gross weight of one thousand pounds or less, personalized registration plates marked with the initials, letters, or a combination of numerals and letters requested by the owner. Upon receipt of the personalized registration plates, the applicant shall surrender the regular registration plates to the county treasurer. The fee for issuance of the personalized registration plates shall be in addition to the regular annual registration fee.

Sec. 50. Section 321.37, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. It is unlawful for the owner of a vehicle to place any frame around or over the registration plate which does not permit full view of all numerals and letters printed on the registration plate.

Sec. 51. Section 321.42, unnumbered paragraph 2, Code 1983, is amended to read as follows:

If a certificate of title is lost or destroyed, the owner or lienholder shall apply for a certified copy of the original certificate of title. The application shall be made to the department or county treasurer who issued the original certificate of title. The application shall be signed by the owner or lienholder and accompanied by a fee of ~~five ten~~ ten dollars. After five days, the department or county treasurer shall issue a certified copy to the applicant at the applicant's most recent address. The certified copy shall be clearly marked "duplicate" and shall be identical to the original, including notation of liens or encumbrances. When a certified copy has been issued, the previous certificate is void. A new purchaser or transferee is entitled to receive an original title upon presenting the assigned duplicate copy to the treasurer of the county where ~~he or she~~ the new purchaser or transferee resides. At the time of purchase, a purchaser may require the seller to indemnify the purchaser and all future purchasers of the vehicle against any loss which may be suffered due to claims on the original certificate. A person recovering an original certificate of title for which a duplicate has been issued shall surrender the original certificate to the county treasurer or the department.

Sec. 52. Section 321.46, subsection 2, Code Supplement 1983, is amended to read as follows:

2. Upon filing the application for a new registration and a new title, the applicant shall pay a title fee of ~~two ten~~ ten 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 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 issue a new certificate of title and, except for a mobile home, a 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.

Sec. 53. Section 321.47, unnumbered paragraph 1, Code 1983, is amended to read as follows:

In the event of the transfer of ownership of any vehicle by operation of law as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, or whenever the engine of a motor vehicle is replaced by another engine, or whenever a vehicle is sold to satisfy an artisan's lien as provided in chapter 577, or is sold to satisfy a landlord's lien as provided in chapter 570, or a storage lien as provided in chapter 579, or repossession is had upon default in performance of the terms of a security agreement, the treasurer of the county in which the last certificate of title to any such vehicle was issued, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to such vehicle and upon payment of a fee of ~~two~~ ten dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a registration card for such vehicle and a certificate of title thereto. The person or persons entitled under the laws of descent and distribution of an intestate's property to the possession and ownership of a vehicle owned in whole or in part by a decedent, upon filing an affidavit stating the name and date of death of the decedent, the right to possession and ownership of the persons filing said affidavit, and that there has been no administration of the said decedent's estate, which instrument shall also contain an agreement to indemnify any creditors of the decedent who would be entitled to levy execution upon said motor vehicle to the extent of the value of said motor vehicle, shall be entitled upon fulfilling the other requirements of this chapter, to the issuance of a registration card for the interest of the decedent in such vehicle and a certificate of title thereto. No requirement of either chapter 450 or 451 shall be considered satisfied by the filing of the affidavit provided for in this section. If, from the records in the office of the county treasurer, there appear to be any lien or liens on such vehicle, such certificate of title shall contain a statement of such liens unless the application is accompanied by proper evidence of their satisfaction or extinction. Evidence of extinction may consist of, but is not limited to, an affidavit of the applicant stating that a security interest was foreclosed as provided in Uniform Commercial Code, chapter 554, Article 9, Part 5.

Sec. 54. Section 321.48, subsection 2, Code Supplement 1983, is amended to read as follows:

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~~ for the vehicle 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~~ five dollars and ~~such~~ the dealer shall be exempt from the payment of any and all registration fees for ~~such~~ the vehicle. ~~Such~~ The application for certificate of title shall be made within forty-eight hours after ~~said~~ the vehicle comes within the border of the state.

Sec. 55. Section 321.50, subsection 1, Code Supplement 1983, is amended to read as follows:

1. A security interest in a vehicle subject to registration under the laws of this state or a mobile home, except trailers whose empty weight is two thousand pounds or less, and except new or used vehicles held by a dealer or manufacturer as inventory for sale, is perfected by the delivery to the county treasurer of the county where the certificate of title was issued or, in the case of a new certificate, to the county treasurer where the certificate will be issued of an application for certificate of title which lists the security interest, or an application for notation of security interest signed by the owner, or by one owner of a vehicle owned jointly by



more than one person, or a certificate of title from another jurisdiction which shows the security interest, and a fee of ~~two~~ five dollars for each security interest shown. If the owner or secured party is in possession of the certificate of title, it must also be delivered at this time in order to perfect the security interest. If a vehicle is subject to a security interest when brought into this state, the validity of the security interest and the date of perfection is determined by section 554.9103. Delivery as provided in this subsection is an indication of a security interest on a certificate of title for purposes of chapter 554.

Sec. 56. Section 321.52, subsection 4, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A vehicle rebuilder or a motor vehicle dealer licensed under chapter 322, upon acquisition of a wrecked or salvage vehicle, shall surrender the certificate of title and registration receipt or manufacturer's or importer's statement of origin properly assigned, together with an application for a salvage certificate of title to the county treasurer of the county of residence of the purchaser or transferee within fourteen days after the date of assignment of the certificate of title for the wrecked or salvage motor vehicle. This subsection applies only to vehicles with a fair market value of five hundred dollars or more, based on the value before the vehicle became wrecked or salvage. Upon payment of a fee of two dollars, the county treasurer shall issue a salvage certificate of title which shall bear the word "SALVAGE" stamped on the face of the title in bold letters and coded in a manner prescribed by the department. A salvage certificate of title may be assigned to any person. Notwithstanding any other provisions in this section a vehicle on which ownership has transferred to an insurer of the vehicle, as a result of a settlement with the owner of the vehicle arising out of damage to, or unrecovered theft of the vehicle, shall be deemed to be a wrecked or salvage vehicle and the insurer shall comply with this subsection to obtain a salvage certificate of title within fourteen days after the date of assignment of the certificate of title of the vehicle. ~~Any owner, except an insurer of vehicles, who transfers a wrecked or salvage vehicle with a fair market value less than five hundred dollars, based on the value before it became wrecked or salvage, shall comply with section 321.51.~~

Sec. 57. Section 321.60, Code 1983, is amended to read as follows:

321.60 ISSUANCE OF SPECIAL PLATES. The department shall also issue special plates as applied for, which shall ~~have displayed~~ display the general distinguishing number assigned to the applicant. Each plate so issued shall also contain a number or symbol identifying the same plate and distinguishing it from every other plate bearing the same general distinguishing number. The fee for each special plate shall be ~~ten~~ twenty dollars.

Special plates may be validated in the same manner as regular registration plates under this chapter at an annual fee of ~~ten~~ twenty dollars.

Sec. 58. Section 321.71, subsection 11, Code 1983, is amended to read as follows:

11. Any person who violates the ~~provisions of this section shall be punished by a fine of not less than four hundred dollars and not more than one thousand dollars or by imprisonment in the county jail for a period not to exceed ninety days, or punished by both such fine and imprisonment commits a fraudulent practice.~~

Sec. 59. Section 321.89, subsection 4, Code 1983, is amended to read as follows:

4. AUCTION OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided for in subsection 3, the police authority shall make a determination as to whether or not the vehicle shall be sold for use upon the highways. ~~If it is to be sold as a vehicle for use upon the highways, it shall first be inspected as required by section 321.238 and have a valid certificate of inspection affixed. If the vehicle is not sold for use upon the highways, it shall be sold for junk, or demolished and sold as scrap or sold as provided in section 321.61 with a restricted certificate of title and not for use upon the highways.~~ The police authority shall sell the vehicle at public auction. Notwithstanding any other provision of this section, any police authority, which has taken into possession any abandoned vehicle which

lacks an engine or two or more wheels or ~~other~~ another part which renders the vehicle totally inoperable may dispose of the vehicle to a demolisher for junk after complying with the notification procedures enumerated in subsection 3 and without public auction. The purchaser of the vehicle ~~shall take~~ takes title free and clear of all liens and claims of ownership, shall receive a sales receipt from the police authority, and ~~shall be~~ is entitled to register the vehicle and receive a certificate of title if sold for use upon the highways or ~~a restricted certificate of title~~. However, if the vehicle is sold or disposed of to a demolisher for junk, the sales receipt by itself ~~shall be~~ is sufficient title only for purposes of transferring the vehicle to the demolisher for demolition, wrecking, or dismantling and, when so transferred, no further titling of the vehicle ~~shall be~~ is permitted. From the proceeds of the sale of an abandoned vehicle the police authority shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing which resulted from placing the abandoned vehicle in custody, all notice and publication costs incurred pursuant to subsection 3, the cost of inspection, and any other costs incurred except costs of bookkeeping and other administrative costs. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for ninety days, and shall then be deposited in the road use tax fund. The costs to police authorities of auction, towing, preserving, storage, and all notice and publication costs, ~~inspection costs~~ and all other costs which result from placing abandoned vehicles in custody, whenever the proceeds from a sale of the abandoned vehicles are insufficient to meet these expenses and costs, shall be paid from the road use tax fund.

Sec. 60. Section 321.109, subsection 1, Code 1983, is amended to read as follows:

1. The annual fee for all motor vehicles including vehicles designated by manufacturers as station wagons, except motor trucks, motor homes, multipurpose vehicles, ambulances, hearses, motorcycles, and motor bicycles, shall be equal to one percent of the value as fixed by the department plus forty cents for each one hundred pounds or fraction thereof of weight of vehicle, as fixed by the department. The weight of a motor vehicle, fixed by the department for registration purposes, shall include the weight of a battery, heater, bumpers, spare tire, and wheel. Provided, however, that for any new vehicle purchased in this state by a nonresident for removal to the nonresident's state of residence the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of ~~five~~ ten dollars shall be paid. And provided, however, that for any used vehicle held by a registered dealer and not currently registered in this state, or for any vehicle held by an individual and currently registered in this state, when purchased in this state by a nonresident for removal to the nonresident's state of residence, the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of three dollars shall be paid. The county treasurer shall issue a nontransferable certificate of registration for which no refund shall be allowed; and the transit plates shall be void thirty days after issuance. Such purchaser may apply for a certificate of title by surrendering the manufacturer's or importer's certificate or certificate of title, duly assigned as provided in this chapter. In this event, the treasurer in the county of purchase shall, when satisfied with the genuineness and regularity of the application, and upon payment of a fee of ~~two~~ ten dollars, issue a certificate of title in the name and address of ~~such~~ the nonresident purchaser delivering the same to the person entitled ~~thereto~~ to the title as provided in this chapter.

Sec. 61. Section 321.117, Code Supplement 1983, is amended to read as follows:

321.117 MOTORCYCLE, AMBULANCE, AND HEARSE FEES. For all motorcycles the annual fee shall be ~~ten~~ twenty dollars. For all motorized bicycles the annual fee shall be ~~five~~ seven dollars. When the motorcycle is more than five model years old, the annual registration fee shall be ~~five~~ ten dollars. The annual registration fee for ambulances and hearses shall be fifty dollars. Passenger car plates shall be issued for ambulances and hearses.

Sec. 62. Section 321.119, Code 1983, is amended to read as follows:

321.119 CHURCH BUSES. For motor vehicles designed to carry nine passengers or more which are owned and used exclusively by a church or religious organization to transport passengers to and from activities of or sponsored by the church or religious organization and not operated for rent or hire for purposes unrelated to the activities of the church or religious organization, the annual fee shall be twenty-five dollars. ~~At the initial registration and at every other annual registration thereafter, the county treasurer shall not register a motor vehicle under this section unless there is affixed to the motor vehicle a valid certificate of inspection issued for the motor vehicle within the last sixty days.~~

Sec. 63. Section 321.123, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

All trailers except farm trailers and mobile homes, unless otherwise provided in this section, are subject to a registration fee of ~~four~~ six 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 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 chapter 326.

Sec. 64. Section 321.152, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

321.152 FEE FOR COUNTY. A county treasurer may retain for deposit in the county general fund the following:

1. Two point six percent of the total collection for each annual or semiannual vehicle registration and each duplicate registration card or plate issued.
2. Twenty percent of all fees collected for certificates of title.
3. Forty percent of all fees collected for certified copies of certificates of title.
4. Sixty percent of all fees collected for notation of security interests.

The moneys retained shall be deducted, and reported to the department when the county treasurer transfers the money collected under this chapter. However, a deduction is not lawful unless the county treasurer has complied with sections 321.24 and 321.153.

Sec. 65. Section 321.190, subsection 1, unnumbered paragraph 3, Code 1983, is amended to read as follows:

The fee for a nonoperator's identification card shall be ~~one dollar~~ five dollars and the card shall be valid for the purpose of identification for a period of four years from the date of issuance. A fee of ~~one dollar~~ five dollars shall be charged for the voluntary replacement of an identification card.

Sec. 66. Section 321.191, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The fee for an operator's license shall be five seven dollars if issued for a period of two years, and ~~ten~~ twenty dollars if issued for a period of ~~four~~ six years. The fee for a chauffeur's license shall be ~~ten~~ fourteen dollars if issued for a period of two years, and ~~twenty~~ forty dollars if issued for a period of ~~four~~ six years. The fee for an instruction permit shall be ~~three~~ six dollars, for a chauffeur's instruction permit, ~~six~~ twelve dollars, for a temporary driver's permit, ~~five~~ ten dollars and for a motorized bicycle license, ~~five~~ ten dollars.

Sec. 67. Section 321.192, Code Supplement 1983, is amended to read as follows:

321.192 DISPOSAL OF FEES. The license fees shall be forwarded by the department to the treasurer of state who shall place them in credit the fees to the general road use tax fund of the state. However, for each operator's and motorized bicycle license issued by a county sheriff for which a license fee is paid, the sheriff issuing it may retain the sum of fifteen cents and for each chauffeur's license, the sum of fifty cents.

Sec. 68. Section 321.197, Code 1983, is amended to read as follows:

**321.197 EXPIRATION OF CHAUFFEUR'S LICENSE.** Every chauffeur's license shall expire every ~~two or four~~ six years at the option of the applicant on the licensee's birthday anniversary. A chauffeur's license may be renewed within thirty days after the applicant's license expiration date without written examination or penalty. A person shall not be considered to be driving with an invalid license during a period of thirty days following the license expiration date. However, if the licensee is seventy years of age or older on the date of issuance of the license, the license shall be issued to be valid for two years. For the purposes of this section the birthday anniversary of a person born on February 29 shall be deemed to occur on March 1. The department in its discretion may waive the examination of any applicant previously licensed as a chauffeur under this chapter, provided that the person satisfactorily passes a vision test as prescribed by the department. An application for the renewal of a chauffeur's license shall be made under the direct supervision of a uniformed member of the department and shall be approved by the uniformed member.

Sec. 69. Section 321.492, Code 1983, is amended by adding the following new unnumbered paragraphs:

**NEW UNNUMBERED PARAGRAPH.** All peace officers as defined in section 801.4, subsection 7, paragraphs "a", "b", "c", and "h" may, having reasonable grounds that equipment violations exist, conduct spot inspections.

**NEW UNNUMBERED PARAGRAPH.** The state department of transportation may designate employees of the transportation regulation and safety division of the department to conduct spot inspections.

Sec. 70. Notwithstanding section 321.145, there is transferred from the road use tax fund to the general fund of the state the sum of sixteen million two hundred thirty-two thousand (16,232,000) dollars for the fiscal year beginning July 1, 1984 and ending June 30, 1985 which funds shall be appropriated to the department of public safety for the highway patrol and uniformed force for the administration and supervision of the public highways.

Sec. 71. Any inspection station which has a valid inspection state permit may apply for a refund of the unexpired portion of the permit fee. However, a refund shall not be allowed on a claim of any amount which is less than two dollars and fifty cents. All applications for refund must be filed no more than ninety days following the repeal of section 321.238.

Sec. 72. Section 331.557, Code 1983, is amended by striking subsection 3.

Sec. 73. Section 321.238, Code 1983, and section 321.51, Code Supplement 1983, are repealed.

Sec. 74. This division takes effect July 1 following enactment.

#### DIVISION V

\*Sec. 75. Section 422.5, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** There is imposed for the first tax year beginning after December 31, 1983, an additional tax equal to two percent of taxable income in excess of twenty-five thousand dollars for a single person and forty thousand dollars for married taxpayers. Married taxpayers electing to file separate returns or filing separately on a combined return must combine their respective taxable incomes for purposes of the additional tax. If the combined income of the married taxpayers electing to file separate returns or filing separately on a combined return exceeds forty thousand dollars, that portion of the combined income in excess of forty thousand dollars shall be subject to the additional tax. The liability of each spouse shall be in the proportion that each spouse's taxable income bears to the total combined taxable income. Subsection 14 of this section is applicable to the additional tax

imposed by this unnumbered paragraph. This unnumbered paragraph is applicable for the tax year beginning after December 31, 1983 only if the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1984 and ending June 30, 1985 are insufficient to pay all appropriations in full and the governor's findings are concurred in by the executive council. The governor shall make the determination not later than October 1, 1984 and the governor shall not make any reductions in allotments as allowed under section 8.31.\*

#### DIVISION VI

Sec. 76. Section 422.43, subsection 2, Code Supplement 1983, is amended to read as follows:

2. There is imposed a tax of four percent upon the gross receipts derived from the operation of all forms of amusement devices and games of skill, games of chance, raffles and bingo games as defined in chapter 99B, and ~~commercial amusement enterprises~~ operated or conducted within the state of Iowa, the tax to be collected from the operator in the same manner as is provided for the collection of taxes upon the gross receipts of tickets or admission as provided in this section.

Sec. 77. Section 422.43, subsection 9, Code Supplement 1983, is amended to read as follows:

9. The following enumerated services are subject to the tax 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 and electronic repair and installation; engraving, photography, and retouching; ~~equipment rental of tangible personal property~~; 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; licensed executive search agencies; 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. For purposes of this subsection, gross taxable services from rental includes rents, royalties, and copyright and license fees.

\*Sec. 78. Section 422.45, subsection 12, Code Supplement 1983, is amended to read as follows:

12. Gross receipts from the sale of all foods for human consumption which are eligible for purchase with food coupons issued by the United States department of agriculture pursuant to

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\*Item veto; see message at end of this Act

regulations in effect on July 1, 1974, regardless of whether the retailer from which the foods are purchased is participating in the food stamp program. However, as used in this subsection, "foods" does not include meals prepared for immediate consumption on or off the premises of the retailer, ~~and does not include~~ foods sold through vending machines, or beverages as defined in section 455C.1, subsection 1.\*

Sec. 79. Sections 77 and 78 are effective July 1 following enactment.

DIVISION VII

\*Sec. 80. Notwithstanding section 427A.12, subsection 7, in the fiscal year beginning July 1, 1984 and ending June 30, 1985, the state comptroller shall pay from the personal property tax replacement fund to the respective county treasurers on May 15, 1985 an amount equal to one-half of the amount due and payable for the fiscal year beginning July 1, 1984 and ending June 30, 1985. The remaining one-half of the funds payable from the personal property tax replacement fund for the fiscal year beginning July 1, 1984 and ending June 30, 1985 shall be paid by the state comptroller to the respective county treasurers not later than July 1, 1985. The payment received on July 1, 1985 is an account receivable for the previous fiscal year.\*

Sec. 81. This Act, being deemed of immediate importance, takes effect from and after its publication in the Audubon News-Advocate, a newspaper published in Audubon, Iowa, and in The Winterset Madisonian, a newspaper published in Winterset, Iowa.

Approved May 19, 1984, except the four items which I hereby disapprove and which are designated as section 42, which is herein bracketed in ink and initialed by me; section 75, which is herein bracketed in ink and initialed by me; section 78, which is herein bracketed in ink and initialed by me; and section 80, which is herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

I hereby certify that the foregoing Act, Senate File 2930 was published in The Audubon News-Advocate, Audubon, Iowa on May 30, 1984 and in The Winterset Madisonian, Winterset, Iowa on May 30, 1984.

MARY JANE ODELL, *Secretary of State*

\*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 2330, an act relating to the financing of state government by providing for a reduction in general fund appropriations through reallocation of general fund financial aid to merged area schools, by reducing or eliminating certain capital appropriations for the fiscal year beginning July 1, 1983 and appropriating funds for capital projects for the fiscal year beginning July 1, 1984, by updating references to the internal revenue code for individual and corporate income tax, franchise tax, and inheritance tax purposes with coordinating amendments, by restructuring the fee for operator's and chauffeur's licenses, increasing certificate of title fees, duplicate title fees, trailer and motorized bicycle fees, including allocation of those fees to the road use tax fund and county treasurers, providing for spot inspections and odometer law enforcement, funding from the road use tax fund the driver's license program of the state department of transportation and the division of the highway safety and uniformed force of the department of public safety, by providing for the creation of an Iowa economic emergency fund including its funding, by providing for the payment of one-half of the additional personal property tax credit in the fiscal year beginning July 1, 1984, by imposing the sales, service and use tax on licensed executive search agencies, beverages, electronic repair and installation and the rental of tangible personal property, and making certain provisions of the act retroactive.

Senate File 2330 is approved May 19, 1984, with the following exceptions which I hereby disapprove.

I am unable to approve Section 42, which reads as follows:

Sec. 42. It is the intent of the general assembly that the department of revenue shall conduct a study during the 1984 interim to determine a feasible method of disallowing certain interest expense deductions on tangible personal property which is manufactured or substantially assembled outside of the United States and which is purchased by a taxpayer. The department shall submit its report to the Seventy-first General Assembly not later than February 1, 1985.

This section requires the Iowa Department of Revenue to conduct a study which would consider various methods for disallowing the interest on foreign made personal property purchased by Iowans. Such a study can only lead to further discussion of legislation detrimental to both Iowa's consumers and producers.

While this legislation is directed solely at making the purchase of foreign made personal property less attractive, we must consider its implications for Iowa's exporters.

If we impose punitive policies on foreign producers, then foreign countries will surely impose retaliatory measures on Iowa producers and products. Iowa is a leading exporter, and action in this area could cost Iowans' jobs and reduce foreign markets for Iowa's agricultural commodities.

This section also requires the Department of Revenue to conduct and complete the study of a complicated issue within a short time. If the study were to be of value, it should address such matters as who would be affected, the impact on taxpayers and the state treasury, the policy question of whether we should no longer conform to the Internal Revenue Code in this area, and the administrative impact on the Department of Revenue. The department has made and will continue to make a considerable commitment of resources to the Tax Study Committee. A diversion of department resources to this matter at this time would not be wise.

Two discrepancies in this bill should be corrected by the next legislative session. First, Section 66 increases operator license fees and extends the license from four to six years for persons between ages 18 and 70. The legislature neglected to conform 321.196 of the Code to this change. That section states that an operator's license shall expire four years from the licensee's birthdate.

Secondly, Section 66 provides for a two-year and a six-year chauffeur's license. The legislature, in attempting to conform Section 321.197 to this change provided only for the expiration of the six-year license. Thus there is a question as to whether they intended to eliminate the two-year license. These conflicting sections should be corrected by the next General Assembly.

I am also unable to approve Division V, Section 75, which reads as follows:

#### DIVISION V

Sec. 75. Section 422.5, Code Supplement 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** There is imposed for the first tax year beginning after December 31, 1983, an additional tax equal to two percent of taxable income in excess of twenty-five thousand dollars for a single person and forty thousand dollars for married taxpayers. Married taxpayers electing to file separate returns or filing separately on a combined return must combine their respective taxable incomes for purposes of the additional tax. If the combined income of the married taxpayers electing to file separate returns or filing separately on a combined return exceeds forty thousand dollars, that portion of the combined income in excess of forty thousand dollars shall be subject to the additional tax. The liability of each spouse shall be in the proportion that each spouse's taxable income bears to the total combined taxable income. Subsection 14 of this section is applicable to the additional tax imposed by this unnumbered paragraph. This unnumbered paragraph is applicable for the tax year beginning after December 31, 1983 only if the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1984 and ending June 30, 1985 are insufficient to pay all appropriations in full and the governor's findings are concurred in by the executive council. The governor shall make the determination not later than October 1, 1984 and the governor shall not make any reductions in allotments as allowed under section 8.31.



This section provides for an additional tax of two percent on individual's taxable income in excess of \$25,000 for a single person and \$40,000 for married taxpayers' combined taxable income for the tax year 1984. The additional tax would be imposed if I find, with concurrence of the Executive Council, that the estimated budget resources for the fiscal year ending June 30, 1985 are insufficient to pay all appropriations. The section further provides that I shall not make any reductions in allotments as allowed under section 8.31.

This new income tax would raise an estimated \$20 million. If the projection indicates that the budget resources are \$5 million short, the tax would go into effect raising the \$20 million even though only \$5 million is needed. If the shortfall were determined to be in excess of \$20 million, an income tax would be imposed and I would be prohibited from implementing any across-the-board reduction in order to balance the budget. The result could be the imposition of a state-wide property tax levy.

Two other important points should be made. First, the way Iowa's personal income tax rates compare with other states is a major factor in our economic development efforts. Iowa's individual income tax already ranks higher than the U.S. average when measured as a percent of personal income. Businesses considering whether to locate or expand here will be deterred by further increases in our personal income tax.

Second, while many Iowans have seen their income drop in our recent economic difficulties, the budget for the state has continued to grow each year. Should state revenue fall short in a given year, the problem should be addressed by reducing spending rather than raising the tax burden on our citizens.

I am also unable to approve Section 78 which reads as follows:

Sec. 78. Section 422.45, subsection 12, Code Supplement 1983, is amended to read as follows:

12. Gross receipts from the sale of all foods for human consumption which are eligible for purchase with food coupons issued by the United States department of agriculture pursuant to regulations in effect on July 1, 1974, regardless of whether the retailer from which the foods are purchased is participating in the food stamp program. However, as used in this subsection, "foods" does not include meals prepared for immediate consumption on or off the premises of the retailer, ~~and does not include~~ foods sold through vending machines, or beverages as defined in section 455C.1, subsection 1.

This section places the four percent sales tax on soft drinks sold by retailers.

This tax signals a willingness to tax consumable food items, which have been exempted from the sales tax since July 1, 1974. It represents a return to a policy rejected for good reasons. It hits hardest at low income families and their children. Further, accepting this tax could encourage attempts to tax other food items in future years. Any return to such regressive taxes is not appropriate public policy.

Finally, I am unable to approve Section 80 which reads as follows:

Sec. 80. Notwithstanding section 427A.12, subsection 7, in the fiscal year beginning July 1, 1984 and ending June 30, 1985, the state comptroller shall pay from the personal property tax replacement fund to the respective county treasurers on May 15, 1985 an amount equal to one-half of the amount due and payable for the fiscal year beginning July 1, 1984 and ending June 30, 1985. The remaining one-half of the funds payable from the personal property tax replacement fund for the fiscal year beginning July 1, 1984 and ending June 30, 1985 shall be paid by the state comptroller to the respective county treasurers not later than July 1, 1985. The payment received on July 1, 1985 is an account receivable for the previous fiscal year.

This section failed to accomplish the legislature's intent and was corrected by language included in Senate File 2365. This section is no longer necessary and should be deleted.

For the above reasons, I hereby respectfully disapprove of 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 2330 are hereby approved as of this date.

Very truly yours,

A handwritten signature in black ink that reads "Terry E. Branstad". The signature is written in a cursive style with a large, stylized "T" and "B".

Terry E. Branstad  
Governor

**CHAPTER 1306****DEPARTMENTS OF CORRECTIONS AND HUMAN SERVICES APPROPRIATIONS***S.F. 2333*

**AN ACT** relating to the administration and financing of correctional, mental health, mental retardation and veterans programs and capital projects under the jurisdiction of the department of corrections, the department of human services, or the board of parole.

*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, 1984, and ending June 30, 1985, to the department of corrections for general administration, including salaries and support, maintenance, and miscellaneous purposes the following amount, or so much thereof as is necessary:

	1984-1985
	<u>Fiscal Year</u>
\$	1,706,468

A portion of the funds appropriated by this section shall be used to employ an affirmative action officer.

Sec. 2. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the department of corrections the following amounts, or so much thereof as is necessary, to be used for adult correctional services as designated:

	1984-1985
	<u>Fiscal Year</u>

1. For operation of adult correctional institutions, including salaries and support, maintenance, and miscellaneous purposes, provided that the director of corrections, in order to keep expenditures from exceeding the amount of funds appropriated by this subsection, shall declare a prison overcrowding state of emergency in the state's prisons whenever the population of the prison system exceeds two thousand six hundred forty-five inmates for forty-five consecutive days. Upon the declaration of a prison overcrowding state of emergency, the board of parole shall consider all inmates, except for inmates convicted of class "A" felonies, for parole who are within nine months of their tentative discharge date. If the board of parole's actions do not reduce the population of the prison system

below two thousand six hundred twenty inmates within ninety days of the date of the declaration of the prison overcrowding state of emergency, the tentative discharge dates of all inmates, whose most serious offenses for which the inmates are currently incarcerated are crimes against property and who are incarcerated in state prisons on the date of the declaration, shall be reduced by ninety days by the director of corrections. However, the tentative discharge date of a prisoner sentenced under section 204.406, 204.413, 902.7, 902.8, or 906.5 shall not be reduced under this subsection prior to completion of the mandatory minimum sentence required by the section. The director of corrections shall terminate a prison overcrowding state of emergency in the state's prisons whenever the population of the prison system is reduced below two thousand six hundred twenty inmates. The department shall adopt administrative rules which identify all offenses as either crimes against property or crimes against persons. As used in this subsection, "prison" means a correctional facility operated by the department of corrections and funded under this subsection, "prison system" means the prisons of this state which are the Iowa correctional institution for women, the Iowa state men's reformatory, the Iowa state penitentiary, the Iowa security and medical facility, the north central correctional facility, the Mount Pleasant correctional facility, the Clarinda correctional treatment facility, the correctional release center, and the rehabilitation camps, and "tentative discharge date" means the date at which an inmate is scheduled for release including good conduct and work time currently received. The department of corrections shall establish a plan to reduce the inmate population within the medium security facility of the men's reformatory at Anamosa to nine hundred inmates by October 1, 1984 and to eight hundred and fifty inmates by November 1, 1984. On and after November 1, 1984, the superintendent shall not admit additional inmates to the medium security facility of the men's reformatory at Anamosa if the inmate population of the men's reformatory equals or exceeds eight hundred and fifty inmates

..... \$ 48,120,374

If the department of corrections changes the allocations to the various adult correctional institutions on which the appropriation in this subsection was based, the department shall notify the chairpersons and ranking members of the corrections and mental health appropriations subcommittee and the legislative fiscal bureau of the changes to the allocations.

The department shall provide adequate funding for the men's reformatory and any reduction in the number of correctional officers shall correspond to a reduction in the inmate population.

The department shall use funds appropriated by this subsection to provide psychological testing of its correctional officer applicants.

Independent hearing officers for the department, pursuant to chapter 903A, shall be those persons who would qualify under rules promulgated by the merit employment commission for hearing officers and who are not responsible for the initiation of disciplinary procedures or involved in the supervision of persons whose responsibility it is to initiate disciplinary proceedings. The department shall use funds appropriated by this subsection to employ, at a minimum, two additional qualified hearing officers to provide coverage at disciplinary hearings at the state penitentiary, the men's reformatory, the medium security unit at Mt. Pleasant, and the medical and security facility. The department shall develop a plan for coverage by qualified hearing officers at all state correctional institutions and submit the report to the general assembly by January 15, 1985.

The department of corrections shall use funds appropriated in this subsection to continue to contract for the services of a Muslim imam.

The department shall use funds appropriated by this subsection to continue to provide at least correspondence courses, graduation equivalent diploma program, college courses, adult basic education, and a reentry course to inmates at the Iowa correctional institution for women.

The department may use three thousand dollars of the gifts accepted by the department pursuant to section 217A.75 and other resources available to match funds provided by the state library and central Iowa regional library to establish a project at the Iowa correctional institution for women.

An impact statement prepared by the legislative fiscal bureau shall be attached to any bill introduced in the general assembly which reasonably could have an effect on the inmate populations of the adult correctional institutions.

2. For the inmate classification system ..... \$ 161,472

A portion of the funds appropriated by this subsection shall be used to employ a licensed psychologist.

The department, by January 15, 1985, shall provide the general assembly with evidence from independent experts of the validity and effectiveness of the inmate classification system and shall suggest changes in the system to make it more effective. The validation study shall determine if the classification instruments accomplish the following objectives:

- a. Accurate prediction, without regard to extraneous factors such as religion, gender, or race, of the risk of inmate violence, escape from the institution, and disciplinary problems.
- b. Appropriate placement of inmates in the least restrictive institutional environment according to their security and custody requirements.
- c. A suitable match in placement decisions between the security and custody requirements and assessed service needs of inmates and the available security and custody arrangements and services in the institutions.

The department shall establish an agreement with persons independent of the department for the development of the study design and methodology and for the analysis of the data.

- 3. For the correctional training center ..... \$ 300,717
- 4. For federal prison reimbursements ..... \$ 398,520

5. The department shall identify all individuals currently in the correctional system and those individuals entering the system who are mentally retarded, as defined in section 222.2, subsection 5. In assigning a mentally retarded offender, or an offender with an inadequately developed intelligence or with impaired mental abilities, to a correctional facility, the department shall consider both the program needs and the security needs of the offender. The department of corrections shall consult with the mental health and mental retardation commission to obtain the commission's advice concerning the identification, correctional facility assignment, and program needs of mentally retarded offenders.

6. For the community-based corrections programs as designated:

- a. For pre-institutional community-based corrections ..... \$ 13,559,400
- b. For post-institutional halfway houses ..... \$ 1,408,318
- c. For parole services ..... \$ 1,200,402

Funds appropriated under this subsection may be used for the acquisition or improvement of residential correctional facilities as provided in section 8.45.

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.

A judicial district department of correctional services may operate a program for offenders required to perform unpaid community service.

- 7. For a legal assistance program to provide civil legal assistance to inmates of the Iowa correctional system in matters of child custody, bankruptcy, and dissolution of marriage ..... \$ 25,000

The department shall determine whether an inmate applying for civil legal assistance is indigent under section 815.9, after submission by the inmate of the detailed financial statement required by that section. The inmate has an affirmative duty to provide all relevant information on the issue of the inmate's indigency to the satisfaction of the department that the inmate is indigent. The department may establish by rule a schedule of charges, on a graduated scale related to income and resources, to be paid by inmates who are not indigent for the provision of civil legal assistance.

The department may establish by rule maximum rates of reasonable compensation for attorneys providing the various categories of civil legal assistance under the program funded by this subsection.

- 8. For reimbursement of counties for temporary confinement of work release and parole violators, as provided by sections 247A.10, 901.7, and 906.17 ..... \$ 47,500

9. The department shall maintain a long-range corrections planning process and an ongoing five-year corrections master plan. The director of the department of corrections shall report to the general assembly by January 15, 1985 concerning the status and content of the master plan. The master plan shall include goals and objectives and operations and funding needs. The master plan shall include, but not be limited to, an analysis of current and future inmate populations, incarceration costs, needs of inmates placed in community correctional

programs, and inmate, staff, and public safety needs. The master plan shall incorporate incarceration policies based on the least restrictive incarceration alternative which is consistent with public safety and inmate needs, including the alternative of incarcerating inmates in community correctional facilities. The department shall seek input from knowledgeable experts and from the public in the formulation of the master plan.

Sec. 3. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the board of parole, including salaries and support, maintenance, and miscellaneous purposes, the following amount, or so much thereof as is necessary:

1984-1985  
Fiscal Year  
\$ 417,472

The board of parole shall continue the development and use of objective parole criteria in evaluating inmates for parole, with the goal of increasing parole rates without increasing the risk to society of release on parole, and with the goal of granting those paroles more uniformly throughout the year.

Sec. 4. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the department of human services for operation of the Iowa veterans home, including salaries and support, maintenance, and miscellaneous purposes, the following amount, or so much thereof as is necessary:

1984-1985  
Fiscal Year  
\$ 17,810,507

Ninety-five thousand (95,000) dollars of the funds appropriated in this section may be used to match federal funds for the renovation of Loftus hall at the Iowa veterans home.

The department may use up to twenty thousand dollars of the gifts available to the commissioner of human services pursuant to section 218.96 and other resources available to the department for use at the Iowa veterans home for purposes identified by the department.

Sec. 5. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the department of human services, for the state mental health institutes the following amount, or so much thereof as is necessary:

1984-1985  
Fiscal Year

1. For salaries and support, maintenance, and miscellaneous purposes ..... \$ 30,373,015

2. As long as there is a demonstrated need, the department of human services shall continue to operate a geriatric program at the state mental health institute at Mount Pleasant. A reduction in the patient population at the institute necessary as a result of the correctional addition at the institute shall not be achieved by eliminating a specific program, unless the institute's citizens' advisory board or the general assembly determines that there is no longer a demonstrable need for the specific program. If the department decides to reduce the catchment area for Mount Pleasant mental health institute, they shall consider the reduction temporary until further population trends are clarified.

3. It is the intent of the general assembly that the department of human services should pursue all courses of action necessary to expand the recruitment and retention of psychiatrists at state mental health institutions.

To this end the general assembly expects:

a. The department to begin a recruitment campaign by sending department representatives to events and locations where psychiatrists are likely to be recruited and by taking other similar actions which have the likelihood of contributing to the recruitment of psychiatrists.

b. The department to develop a plan for cooperative recruitment, training and personnel development. The development of the plan may include the involvement of other appropriate private and public entities. The department shall present the plan to the governor and the legislative council on or about October 1, 1984. The plan shall include an affirmative action component and review cooperative efforts and strategies between agencies and institutional entities nationwide. The plan should offer a set of cooperative ventures between other private or public entities and the department for the improved recruitment and retention of psychiatrists in mental health institutions.

c. The department to explore and implement, if necessary, alternative approaches to retaining psychiatrists in the state hospital system, such as special contractual arrangements, expanded staff privileges, or improved educational opportunities for the medical staff.

The department shall submit a report to the general assembly by January 15, 1985 which details the action it has taken in calendar year 1984 to enhance the recruitment and retention of psychiatrists at state mental health institutes.

4. All funds received from client participation shall be deposited in the general fund of the state.

5. A state mental health institute shall not accept physical custody of a child alleged to be a child in need of assistance, on guest status or otherwise, for more than thirty days. A child found to be a child in need of assistance shall not be placed in a state mental health institute or other appropriate secure facility unless the juvenile court finds that the standard for involuntary commitment in chapter 229 has been met. The finding may be made by the court under section 232.103 at any time prior to the expiration of a dispositional order.

6. The superintendents of the state mental health institutes at Cherokee and Independence, in discharging the duties imposed by section 230.20, shall not include the costs of the psychiatric residency and chaplain intern programs maintained at those institutes in computing the institutes' respective daily charges to patients. The commissioner of human services shall seek to maintain reasonably uniform daily charges at the four mental health institutes. The department of human services shall report, to the general assembly by January 15, 1985, significant facts regarding population demand and trends and their relationship to the per diem charges of the four mental health institutes in comparison to probable impact on the institutions if there had been an average state mental health institutes' daily patient program cost.

Sec. 6. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the department of human services, for the state hospital schools the following amount, or so much thereof as is necessary:

	1984-1985
	<u>Fiscal Year</u>
1. For salaries and support, maintenance, and miscellaneous purposes .....	\$ 47,400,996

2. All funds received from client participation shall be deposited in the general fund of the state.



3. The state hospital schools' per-patient per-day cost as determined pursuant to section 222.73 shall be billed at eighty percent for the fiscal year, except as otherwise provided by subsection 4.

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

Sec. 7. A state hospital school or mental health institute shall, upon receipt of a payment made under chapter 249A for the care of a patient, segregate an amount equal to that portion of the payment which is required by law to be made from nonfederal funds. The money segregated shall be deposited in the medical assistance fund of the department of human services. In the calculation of per diem rates, charges assessed to the county shall be credited with one hundred percent of client participation for eligible Title XIX, medical assistance patients at the state hospital schools.

Sec. 8. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the state community mental health and mental retardation services fund established in section 225C.7, the following amount, or so much thereof as is necessary:

	1984-1985
	<u>Fiscal Year</u>
\$	3,360,000

Sec. 9. The general assembly and the corrections and mental health appropriations subcommittee shall review the general assembly's action which abolished the hospital-schools revolving fund, reverted current moneys in the fund to the general fund of the state in order to balance the state budget on June 30, 1983, and appropriated reverted funds to the hospital-schools for the fiscal year beginning July 1, 1983. The review shall include an examination of the continuing need for a hospital-schools revolving fund which could channel moneys to the community mental health and mental retardation services fund provided pursuant to chapter 225C.

Sec. 10. The commissioner of the department of human services shall prepare a study of the disabled population in Iowa. The study shall address the size of the population of disabled individuals which does not meet the definition of developmental disability as contained in chapter 225C, identify the services available or unavailable to that population, and develop recommendations for the coordination of efforts to serve that population. The commissioner shall complete the study with the assistance of other state agencies currently serving the disabled population including, but not limited to, the department of public instruction, the department of health and the board of regents. The commissioner shall also consult with representative organizations of the disabled population and with the governor's planning council for developmental disabilities. The results of the study shall be submitted to the general assembly and to the council on human services by October 1, 1984.

Sec. 11. Billings by the central warehouse and supply depot established in section 218.100 to institutions under the control of the department of human services shall not include the costs incurred by the central warehouse and supply depot in the distribution of federal surplus commodities.

Sec. 12. Notwithstanding section 217.23, subsection 2, the department of human services may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's employees damaged or destroyed by clients of the department during the employee's tour of duty. The reimbursement shall not exceed one hundred fifty dollars for each item.

Sec. 13. All federal grants to and the federal receipts of the department of human services are appropriated for the purposes set forth in the federal grants or receipts. The veterans per diem payable for veterans at the veterans home and funds received under Title XIX of the federal Social Security Act by the state mental health institutes and state hospital schools shall be deposited in the general fund.

Sec. 14. There is appropriated from the general fund of the state to the following state agencies for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amounts, or so much thereof as may be necessary, to be used in the manner designated:

1984-1985  
Fiscal Year

1. DEPARTMENT OF CORRECTIONS

For construction of an Iowa state industries facility at the medium security correctional facility at Mt. Pleasant and to renovate a bathroom for use of the handicapped at the Iowa correctional institution for women ..... \$ 255,000

2. DEPARTMENT OF HUMAN SERVICES

a. For capital improvements to correct life safety, fire code, and accreditation deficiencies at the mental health institutes at Cherokee and Independence ..... \$ 937,000

b. For capital improvements at the state hospital-schools ..... \$ 278,450

Sec. 15. The department of human services may use up to seventy-five thousand dollars of the funds which have been appropriated and not expended in previous years for capital projects to fund the renovation of Loftus hall at the Iowa veterans home.

Sec. 16. Except for funds appropriated under section 2, subsection 6, section 4, section 14, and section 15, funds appropriated by this Act shall not be used for capital acquisitions or improvements.

Sec. 17. Unobligated or unencumbered funds appropriated by section 14 or identified for use by section 15 of this Act for the fiscal year beginning July 1, 1984 and ending June 30, 1985 remaining on June 30, 1988 shall revert to the general fund of the state on September 30, 1988. However, if the projects for which these funds are appropriated are completed prior to June 30, 1988, the remaining unobligated or unencumbered funds shall revert to the general fund of the state on September 30 following the end of the fiscal year in which the projects are completed.

Approved May 18, 1984

## CHAPTER 1307

### APPROPRIATIONS FOR DESIGNATED SERVICE PROGRAMS

*S.F. 2334*

**AN ACT** relating to the funding of state agencies for designated service programs including health programs, civil rights, veterans' services, and programs for minority, elderly, and disadvantaged persons for the fiscal year beginning July 1, 1984 and ending June 30, 1985 and making a supplemental appropriation to the department of health for reallocation to the state board of regents for certain programs under the Iowa specialized child health care services for the fiscal year beginning July 1, 1983 and ending June 30, 1984, and providing an effective date.

*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 commission on the aging for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

		1984-1985 <u>Fiscal Year</u>
1. For salaries and support of not more than twenty-nine and one-tenth full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$	231,577
2. For the administration of area agencies on aging .....	\$	120,023
3. For the senior citizen employment program .....	\$	110,166
4. For the older Iowans legislature .....	\$	13,608
5. For elderly services programs .....	\$	816,480

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 to increase the availability of chore, telephone reassurance, adult day care, and home repair, including the winterizing of homes and 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. A coordinated comprehensive individual assessment program for the elderly may be created in each area agency for the aging to oversee the training of interdisciplinary teams for the purpose of assessing elderly individuals to determine their health, social, and financial needs in enabling these individuals to remain in their homes and their communities. 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.

Sec. 2. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much thereof as is necessary, to be used by the following agencies for the purposes designated:

	1984-1985
	<u>Fiscal Year</u>
<b>1. IOWA STATE CIVIL RIGHTS COMMISSION</b>	
For salaries and support of not more than twenty-five full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 723,186
<b>2. SPANISH-SPEAKING PEOPLES COMMISSION</b>	
For salaries and support of not more than one full-time equivalent position annually, maintenance, and miscellaneous purposes .....	\$ 43,197
<b>3. COMMITTEE ON THE EMPLOYMENT OF THE HANDICAPPED</b>	
For salaries and support of not more than four full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 130,676
<b>4. COMMISSION ON THE STATUS OF WOMEN</b>	
For salaries and support of not more than three full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 89,851

Sec. 3. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much thereof as is necessary, to be used by the following agencies for the purposes designated:

	1984-1985
	<u>Fiscal Year</u>
<b>1. BOARD OF MEDICAL EXAMINERS</b>	
For salaries and support of not more than fourteen full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 622,866
<b>2. BOARD OF NURSE EXAMINERS</b>	
For salaries and support of not more than sixteen full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 523,773

It is the intent of the general assembly that a licensed practical nurse may practice in head start programs without the need of supervision of a licensed registered nurse or a licensed physician. To the extent that subrule 590 IAC 6.3(3) conflicts with this provision, the subrule is void.

**3. BOARD OF PHARMACY EXAMINERS**

For salaries and support of not more than twelve full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 347,867

The board of pharmacy examiners shall insure that enough revenue is received to reimburse the general fund of the state for the state's portion of the costs incurred for the auditing of pharmacies.

**4. BOARD OF DENTAL EXAMINERS**

For salaries and support of not more than two full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 109,284

Sec. 4. There is appropriated from the general fund of the state to the state department of health for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1984-1985  
Fiscal Year

**1. ADMINISTRATION**

For salaries and support of not more than sixty-seven and one-fourth full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 959,347

**2. HEALTH FACILITIES DIVISION**

For salaries and support of not more than fifty-one full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 659,041

**3. HEALTH PLANNING AND DEVELOPMENT DIVISION**

For salaries and support of not more than nineteen and sixty-seven one hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 252,117

**4. DISEASE PREVENTION DIVISION**

For salaries and support of not more than fifty-one and sixty one hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 1,025,963

**5. LICENSING AND CERTIFICATION DIVISION**

For salaries and support of not more than sixteen full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 542,912

Of the funds appropriated in this subsection, ten thousand (10,000) dollars shall be set aside and allocated for legal expenses incurred by any of the boards regarding legal expenditures by such boards as determined by the state comptroller. 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.

**6. PERSONAL AND FAMILY HEALTH SERVICES**

a. For salaries and support of not more than forty-seven and eighty-five one hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes

..... \$ 1,408,125

The department shall allocate from the funds appropriated under this paragraph at least five hundred sixty-six thousand two hundred twenty-eight (566,228) dollars for the fiscal year beginning July 1, 1984, and ending June 30, 1985, for the birth defects and genetics counseling program and of these funds, forty thousand (40,000) dollars shall be allocated for a central Iowa birth defects registry pilot project.

Of the funds appropriated in this paragraph, the following amounts shall be allocated to the university of Iowa hospitals and clinics under the control of the state board of regents for the following programs under the Iowa specialized child health care services:

- (1) Mobile and regional child health specialty clinics ..... \$ 301,978
- (2) Childhood cancer diagnostic and treatment network program ..... \$ 106,087
- (3) Rural comprehensive care for hemophilia patients ..... \$ 81,275
- (4) Muscular dystrophy and related genetic disease programs ..... \$ 131,657
- (5) Statewide perinatal program ..... \$ 43,740

Of the funds allocated to the mobile and regional child health specialty clinics pursuant to subparagraph (1), fifty thousand (50,000) dollars is intended to be used for the high risk infant follow-up program which shall be conducted through the mobile and regional child health specialty clinics. None of these funds shall be used to support the activities of the muscular dystrophy and related genetic disease programs or any other programs.

The birth defects and genetic counseling service shall develop a sliding fee scale to determine the amount a person receiving the services is required to pay for the services. These fees shall be considered repayment receipts and may be used for the program.

The university of Iowa hospitals and clinics shall receive an allocation for indirect costs of no more than eight percent from the funds for each program.

It is the intent of the general assembly to no longer fund the childhood cancer diagnostic and treatment network program, the rural comprehensive care for hemophilia patients program, and the high risk infant follow-up program with public health funds appropriated by the joint human resources appropriations subcommittee following the fiscal year beginning July 1, 1984 and ending June 30, 1985.

It is the intent of the general assembly that the childhood cancer diagnostic and treatment network program and the rural comprehensive care for hemophilia patients be continued at the university of Iowa hospitals and clinics at the funding level necessary to provide continued existence of the programs in the rural areas of the state. To provide for the contingency that the programs could not continue during the fiscal year beginning July 1, 1984 and ending June 30, 1985, there is appropriated from the general fund of the state to the office of the state comptroller for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of fifty-two thousand (52,000) dollars, or so much thereof as is necessary. The state comptroller shall pay to the university of Iowa hospitals and clinics the necessary amount determined by the university of Iowa hospitals and clinics.

b. Sexual abuse investigations.

For medical procedures required by section 709.10 ..... \$ 57,794

c. Sudden infant death syndrome.

For reimbursing counties for expenses resulting from autopsies of suspected victims of sudden infant death syndrome required under section 331.802 ..... \$ 15,000

7. COMMUNITY HEALTH SERVICES

a. Community health division.

For salaries and support of not more than thirty-eight full-time equivalent positions annually, maintenance, and miscellaneous purposes ..... \$ 1,799,574

The department shall allocate from the funds appropriated under this lettered paragraph nine hundred thirty-nine thousand five hundred seven (939,507) dollars for the fiscal year beginning July 1, 1984, and ending June 30, 1985 for the chronic renal disease program. The types of assistance to eligible recipients under the program may include hospital and medical expenses, home dialysis supplies, insurance premiums, travel expenses, prescription and non-prescription drugs, and lodging expenses for persons in training. The program expenditures shall not exceed these allocations. If projected expenditures will exceed the allocations, the department shall establish by administrative rule a mechanism to reduce financial assistance under the renal disease program in order to keep expenditures within the allocations.

b. In-home health care grants.

For grants to local boards of health for the public health nursing program ..... \$ 2,099,520

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 department shall not retain more than one percent of the amount appropriated under this paragraph for the costs of administering the public health nursing program. The remainder of the appropriation shall be allocated for use in the counties of the state. 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.

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 non-profit 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, 1984, 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, 1984, 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 and ending June 30 of each fiscal year of the biennium.

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 annually 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 each annual evaluation to the governor and the general assembly.

c. For grants to county boards of supervisors for the homemaker-home health aide

program ..... \$ 6,955,600

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 for the 1984-1985 fiscal year an amount equal to twenty-five percent of state expenditures for homemaker services in that county for the 1981-1982 fiscal year. After the allocation of the twenty-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.

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 human 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 shall subcontract with a nonprofit nurses' association, an independent nonprofit agency, the department of human services, or a suitable local governmental body, 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 of each year of the biennium, 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 each fiscal year of the biennium. 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 15 of each fiscal year of the biennium, 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 annually 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 annual evaluation to the governor and the general assembly.

d. Well-elderly clinic grants.

For the development and maintenance of well-elderly clinics in the state ..... \$ 216,367

Sec. 5. There is appropriated from the general fund of the state to the Iowa department of veterans affairs for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1984-1985  
Fiscal Year

- 1. For salaries and support of not more than five full-time equivalent positions annually, maintenance, and miscellaneous purposes ..... \$ 113,280
- 2. For the war orphans educational aid fund ..... \$ 27,216
- 3. For chemical exposure reporting ..... \$ 40,000

It is the intent of the general assembly that the Iowa department of veterans affairs create a reporting procedure for veterans who have been exposed to chemical defoliants, herbicides, or other causative agents, including but not limited to agent orange. The department shall compile and evaluate the information received and shall submit a report on July 15, 1985 to the governor, general assembly, and the United States veterans' administration. The state department of health shall transfer any records and information compiled relating to the exposure of chemicals by veterans to the Iowa department of veterans affairs on the effective

date of this Act. Notwithstanding chapter 139A, the Iowa department of veterans affairs shall perform all the duties required of the state department of health under chapter 139A and the attorney general and the state board of regents shall perform the duties required of them under chapter 139A.

Sec. 6. The licensing boards for which general fund appropriations have been provided for in section 3, subsection 1, 2, 3, or 4 and section 4, subsection 5 of this Act may expend additional funds, if those additional expenditures are directly the cause of actual examination expenses exceeding funds budgeted for examinations. Before a licensing board included in section 3, subsection 1, 2, 3, or 4 and section 4, subsection 5 of this Act expends or encumbers an amount in excess of the funds budgeted for examinations, the state comptroller shall approve the expenditure or encumbrance. Before approval is given, the state comptroller shall determine that the examination expenses exceed the funds budgeted by the general assembly to the board and the board does not have other funds from which examination expenses can be paid. Upon approval of the state comptroller the licensing board may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected as fees from additional examination applicants and shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 7. Chapter 206 of the 1983 Iowa Acts, section 4, subsection 6, paragraph a, unnumbered paragraph 1, subparagraphs (1) through (5) and unnumbered paragraph 5, are amended to read as follows:

a. For salaries and support of not more than forty-four and thirty-five one-hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$	1,164,699
		<u>1,269,717</u>
(1) Mobile and regional child health specialty clinics .....	\$	252,000
		<u>275,156</u>
(2) Childhood cancer diagnostic and treatment network program .....	\$	48,847
		<u>73,845</u>
(3) Rural comprehensive care for hemophilia patients .....	\$	69,199
		<u>116,163</u>
(4) Muscular dystrophy and related genetic disease programs .....	\$	100,000
		<u>109,900</u>
(5) Statewide perinatal program .....	\$	45,000

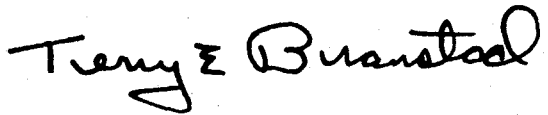
Of the funds allocated to the mobile and regional child health specialty clinics pursuant to subparagraph (1), ~~twenty-one thousand (21,000)~~ forty-four thousand one hundred fifty-six (44,156) dollars is intended to be used for the high risk infant follow-up program which may be conducted through the mobile and regional child health specialty clinics.

\*Sec. 8. Notwithstanding the 1983 Iowa Acts, chapter 206, section 4, subsection 6, paragraph a, unnumbered paragraph 7, the state comptroller shall transfer seventy-four thousand four hundred fifty (74,450) dollars from the office of the state comptroller to the general fund of the state for allocation to the programs identified in section 7 of this Act.\*

\*Item veto; see message at end of this Act

Sec. 9. This Act, being deemed of immediate importance, takes effect from and after its publication in The Guttenberg Press, a newspaper published in Guttenberg, Iowa, and in The Red Oak Express, a newspaper published in Red Oak, Iowa. Sections 7 and 8 of this Act take effect upon publication. The remainder of the Act takes effect July 1, 1984.

Approved May 18, 1984, except the item which I hereby disapprove and which is designated as section 8, which is herein bracketed in ink and initialed by me. This is delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

I hereby certify that the foregoing Act, Senate File 2334 was published in The Guttenberg Press, Guttenberg, Iowa on May 30, 1984 and in The Red Oak Express, Red Oak, Iowa on May 29, 1984.

MARY JANE ODELL, *Secretary of State*

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 2334, an act relating to the funding of state agencies for designated service programs including health programs, civil rights, veterans' services, and programs for minority, elderly, and disadvantaged persons for the fiscal year beginning July 1, 1984 and ending June 30, 1985 and making a supplemental appropriation to the department of health for reallocation to the state board of regents for certain programs under the Iowa specialized child health care services for the fiscal year beginning July 1, 1983 and ending June 30, 1984, and providing an effective date.

Senate File 2334 is approved May 18, 1984, with the following exceptions which I hereby disapprove.

I am unable to approve Section 8, which reads as follows:

Sec. 8. Notwithstanding the 1983 Iowa Acts, chapter 206, section 4, subsection 6, paragraph a, unnumbered paragraph 7, the state comptroller shall transfer seventy-four thousand four hundred fifty (74,450) dollars from the office of the state comptroller to the general fund of the state for allocation to the programs identified in section 7 of this Act.

This section requires the State Comptroller to transfer the contingent appropriation that was made for the purposes provided in section 7 of this Act to the general fund of the state. This is confusing as this appropriation has not been distributed to the Board of Regents and is currently part of the general fund. It will revert on June 30, 1984, under the provisions of section 8.33, Code of Iowa. Since section 7 makes a supplemental appropriation which provides sufficient funding for the Specialized Child Health Services programs, distribution of the contingent fund is unnecessary.

For the above reasons, I respectfully disapprove of this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 2334 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 1308**  
**DEPARTMENT OF HUMAN SERVICES APPROPRIATION**  
*S.F. 2335*

**AN ACT** relating to appropriations to the department of human services for the fiscal year beginning July 1, 1983, and ending June 30, 1984, by appropriating funds for payments to certain recipients of aid to dependent children under the unemployed parent program due to denial of a portion of benefits to them in the 1982-1983 fiscal year and for reimbursement to the United States department of health and human services for audit exceptions relating to federal funds received pursuant to Title XIX of the federal Social Security Act, by removing the prohibition on the expenditure of certain funds for job training, and by requiring that excess social services block grant funds replace state funds previously appropriated for the purchase of local services.

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

Section 1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1983, and ending June 30, 1984, for payment to families currently receiving benefits under the unemployed parent program of the aid to families with dependent children program who applied and were denied a portion of benefits between October 6, 1982 and June 30, 1983 pursuant to 1982 Iowa Acts, chapter 1260, section 91, as amended by 1983 Iowa Acts, chapter 4, section 2, the following amount, or so much thereof as is necessary:

	1983-1984
	<u>Fiscal Year</u>
\$	259,000

Sec. 2. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1983, and ending June 30, 1984, for reimbursement to the United States department of health and human services for audit exceptions relating to federal funds received pursuant to Title XIX of the federal Social Security Act, the following amount, or so much thereof as is necessary:

	1983-1984
	<u>Fiscal Year</u>
\$	635,379

Sec. 3. 1983 Iowa Acts, chapter 194, section 16, subsection 4, is amended to read as follows:

4. If funds received from the federal government from the social services block grant, excluding funds allocated to this state from the federal Emergency Jobs Appropriations Act, Pub. L. No. 98-8, exceed the amount appropriated in section 12 of this Act, the excess shall be allocated for the purchase of local services and the department of social services may waive the requirement of local matching funds shall replace state funds appropriated by 1983 Iowa Acts, chapter 201, section 4.

Sec. 4. 1983 Iowa Acts, chapter 201, section 3, subsection 1, paragraph e, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in the Ames Daily Tribune, a newspaper published in Ames, Iowa, and in the Grinnell Herald-Register, a newspaper published in Grinnell, Iowa.

Approved May 17, 1984

I hereby certify that the foregoing Act, Senate File 2335 was published in the Grinnell Herald-Register, Grinnell, Iowa on May 24, 1984 and in the Ames Daily Tribune, Ames, Iowa on May 21, 1984.

MARY JANE ODELL, Secretary of State

**CHAPTER 1309**  
**TRANSPORTATION AND PUBLIC SAFETY AND**  
**DEFENSE APPROPRIATIONS**  
*S.F. 2337*

**AN ACT** relating to transportation by making appropriations to state agencies whose responsibilities relate to transportation, public safety and public defense.

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

Section 1. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amounts, or so much thereof as is necessary, for the purposes designated:

	<u>1984-1985</u> <u>Fiscal Year</u>
<b>1. IOWA LAW ENFORCEMENT ACADEMY</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 797,300
<b>2. DEPARTMENT OF PUBLIC DEFENSE</b>	
Military division	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 2,993,334

Notwithstanding section 29A.33, the per capita annual allowance to units will be five dollars per capita to be paid on a semiannual basis in installments of two dollars fifty cents per capita for the fiscal year beginning July 1, 1984 and ending June 30, 1985. The per capita allowance shall be used for morale purposes and be for the welfare of the troops and in no circumstances expended for support and maintenance.

**3. OFFICE OF DISASTER SERVICES**

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 118,295

Sec. 2. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amounts, or so much thereof as is necessary, to be used for funding the following functions and programs for the purposes designated:

1984-1985  
Fiscal Year

**DEPARTMENT OF PUBLIC SAFETY**

**1. ADMINISTRATIVE FUNCTION**

For salaries, support, maintenance, and miscellaneous purposes of the department, criminal justice information system, and radio communications ..... \$ 4,687,600

\*It is the intent of the general assembly that only ten percent of the funds appropriated under this paragraph shall be used for the payment of operational expenses.\*

**2. INSPECTION FUNCTION**

For salaries, support, maintenance, and miscellaneous purposes of fire marshal's inspections, administration of the state building code, arson investigators including the state's contribution to the peace officers' retirement, accident, and disability provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated ..... \$ 1,026,700

**3. SECURITY FUNCTION**

For salaries, support, maintenance, and miscellaneous purposes of the capitol security division ..... \$ 672,000

**4. INVESTIGATION FUNCTION**

a. For salaries, support, maintenance, and miscellaneous purposes, including lease or lease purchase of laboratory equipment, of the division of criminal investigation containing the bureaus of identification, drug law enforcement, welfare fraud, and beer and liquor law enforcement, 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 ..... \$ 4,663,500

b. For undercover purchases by the division of criminal investigation agents and local law enforcement agents ..... \$ 200,000

\*Item veto; see message at end of this Act



c. For salaries, support, maintenance, and miscellaneous purposes for the employment of new pari-mutuel law enforcement agents, 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

\$ 175,000

It is the intent of the general assembly that the division of criminal investigation of the department of public safety shall purchase not more than five motor vehicles of any make or model based upon specifications submitted by the department.

5. DIVISION OF HIGHWAY SAFETY AND UNIFORMED FORCE

a. For various crime prevention programs sponsored within the department of public safety

\$ 53,125

The Iowa highway safety patrol shall endeavor to purchase one-half of the motor fuel and special fuel necessary to operate motor vehicles from state department of transportation facilities. For the fiscal year beginning July 1, 1984 and ending June 30, 1985, the general assembly assumes that there is substantial compliance with this requirement if the Iowa highway safety patrol purchases at least forty-five percent of the motor fuel and special fuel necessary to operate motor vehicles from state department of transportation facilities. If the state comptroller's estimates of motor fuel and special fuel prices exceeds the amount needed for purchase of motor fuel and special fuel necessary to operate Iowa highway safety patrol motor vehicles, the amount of the difference may be expended only for the maintenance of the motor vehicle fleet of the Iowa highway safety patrol. The Iowa highway safety patrol shall report the amount expended for the total purchases of motor fuel and special fuel and the amount expended for fleet maintenance to the transportation and law enforcement appropriations subcommittee not later than August 1 following the end of the fiscal year.

It is the intent of the general assembly that the department of public safety shall not retain more than seven motor vehicles at department headquarters for departmental use. All of these motor vehicles, except two, shall be properly marked to identify the department of public safety.

Sec. 3. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1984-1985  
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance, and miscellaneous purposes

\$ 5,359,853

2. For public transit purposes to implement a state assistance plan

\$ 1,854,600

Notwithstanding chapter 8, it is the intent of the general assembly that funds appropriated for public transit purposes to implement a state assistance plan shall be allocated in whole or in part to a public transit system prior to the time actual expenditures are incurred if the

allocation is first approved by the state department of transportation. A public transit system shall make application for advance allocations to the state department of transportation specifically stating the reasons why an advance allocation is required and this allocation shall be included in the total to be audited.

3. For deposit in the railroad assistance fund for branch line improvement ..... \$ 972,000

Sec. 4. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1984-1985  
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance, and miscellaneous purposes ..... \$ 13,094,154

\*2. For funding for two pilot projects for area-wide ridesharing programs authorized by law ..... \$ 5,000\*

3. For the purpose of making payments to the Iowa merit employment department for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A ..... \$ 18,000

4. Unemployment compensation ..... \$ 12,250

Sec. 5. There is appropriated from the road use tax fund to the state comptroller for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of twenty-three thousand (23,000) dollars, or so much thereof as is necessary, to be used for the purpose of paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation.

Sec. 6. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1984-1985  
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance, and miscellaneous purposes ..... \$ 121,438,357

2. To be deposited in the state department of transportation materials and equipment revolving fund established by section 307A.7 for funding the increased replacement cost of vehicles ..... \$ 2,000,000

\*Item veto; see message at end of this Act

3. For the purpose of making payments to the Iowa merit employment department for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A .....

\$ 342,000

4. Unemployment compensation .....

\$ 232,750

Sec. 7. There is appropriated from the primary road fund to the state comptroller for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of four hundred thirty-seven thousand (437,000) dollars, or so much thereof as is necessary, for the purpose of paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation.

Sec. 8. There is appropriated from the state aviation fund to the state department of transportation for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amount, or so much thereof as may be necessary, to be used for the following purposes:

1984-1985

Fiscal Year

For salaries, support, maintenance, and miscellaneous purposes .....

\$ 331,000

Sec. 9. 1983 Iowa Acts, chapter 198, section 31, is amended to read as follows:

SEC. 31. Notwithstanding the provisions of section 423.24, there is transferred from revenues collected under chapter 423 during the fiscal year beginning July 1, 1983 and ending June 30, 1984, from the use tax imposed on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 the sum of one million (1,000,000) dollars which shall be transferred to the state department of transportation for public transit assistance for the fiscal year beginning July 1, 1983 and ending June 30, 1984. The funds transferred under this section to the state department of transportation for public transit assistance shall be considered in advance an interest-free loan of funds to be received for public transit assistance under the Surface Transportation Assistance Act of 1982 and the road use tax fund shall receive reimbursement of the funds from receipts received by the state department of transportation for public transit assistance from the United States government pursuant to the Surface Transportation Assistance Act of 1982 loan during the fiscal period beginning July 1, 1983 1984 and ending June 30, 1985 1989.

Sec. 10. Section 312.2, subsection 5, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

The treasurer of state shall before making the above allotments credit annually to the highway grade crossing safety fund the sum of seven hundred thousand dollars, credit annually from the road use tax fund the sum of five nine hundred thousand dollars to the highway railroad grade crossing surface repair fund, credit monthly to the primary road fund the dollars yielded from an allotment of sixty-five hundredths of one percent of all road use tax funds for the express purpose of carrying out subsection 11 of section 307A.2, section 313.4, subsection 2, and section 307A.5, and credit annually to the primary road fund the sum of five hundred thousand dollars to be used for paying expenses incurred by the state department of transportation other than expenses incurred for extensions of primary roads in cities. All unobligated funds provided by this subsection, except those funds credited to the highway grade crossing safety fund, shall at the end of each year revert to the road use tax fund. Funds in the highway grade crossing safety fund shall not revert to the road use tax fund except to the extent they exceed five hundred thousand dollars at the end of any biennium. The cost of each highway railroad grade crossing repair project shall be allocated in the following manner:

Sec. 11. Registration fees collected under section 321.109 and 321.122, subsection 1, paragraph a, to the extent that these fees exceed one hundred twenty million (120,000,000) dollars for the fiscal year beginning July 1, 1983 and ending June 30, 1984, shall be placed in escrow by the treasurer of state until April 15, 1985 and then credited to the road use tax fund.

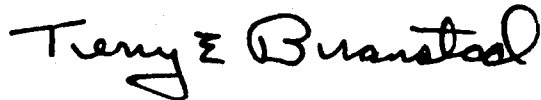
Sec. 12. 1983 Iowa Acts, chapter 198, section 34, is repealed.

Sec. 13. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants and receipts unless otherwise provided by the general assembly.

Sec. 14. Section 10 takes effect July 1, 1985.

Sec. 15. This Act, being deemed of immediate importance, takes effect from and after its publication in The Bancroft Register, a newspaper published in Bancroft, Iowa and in the Carroll Daily Times-Herald, a newspaper published in Carroll, Iowa.

Approved May 18, 1984, except the two items which I hereby disapprove and which are designated as that portion of section 2, subsection 1, which is herein bracketed in ink and initialed by me; and section 4, subsection 2 which is herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

I hereby certify that the foregoing Act, Senate File 2337 was published in The Bancroft Register, Bancroft, Iowa on May 30, 1984 and in the Carroll Daily Times-Herald, Carroll, Iowa on May 24, 1984.

MARY JANE ODELL, *Secretary of State*

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 2337, an act relating to transportation by making appropriations to state agencies whose responsibilities relate to transportation, public safety and public defense.

Senate File 2337 is approved May 18, 1984, with the following exceptions which I hereby disapprove.

I am unable to approve Section 2, subsection 1, unnumbered paragraph, which reads as follows:

It is the intent of the general assembly that only ten percent of the funds appropriated under this paragraph shall be used for the payment of operational expenses.

In the original bill, this paragraph referred to the victim reparation program which was later deleted. It has no application in the current context of the bill and if not excised would limit the Department of Public Safety's administration appropriation. This was not intended.

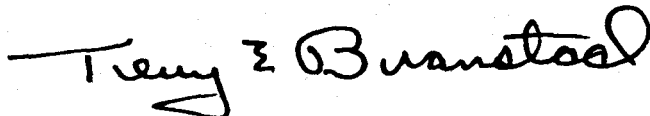
I am also unable to approve Section 4, subsection 2, which reads as follows:

2. For funding for two pilot projects for area-wide ridesharing programs authorized by law .....\$5,000

This subsection appropriates funds from the road use tax fund for two pilot projects for area-wide ride-sharing programs. The Department of Transportation currently has a similar program in central Iowa which is funded through the operating budget. I feel it is not good policy to establish a precedent of funding such programs from the road use tax fund.

For the above reasons, I respectfully disapprove of 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 2337 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 1310**  
**APPROPRIATIONS FOR CERTAIN HUMAN SERVICES PROGRAMS**  
*S.F. 2351*

**AN ACT** relating to the administration and financing of current programs other than mental health programs under the jurisdiction of the department of human services and to the foster care review board for the fiscal year beginning July 1, 1984, and ending June 30, 1985.

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

Section 1. **GENERAL ADMINISTRATION.** There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the department of human services for general administration, the following amounts, or so much thereof as is necessary:

	<u>1984-1985</u>
	<u>Fiscal Year</u>
For salaries and support of not more than four hundred twenty-six and seventy-three hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes, including an amount necessary to implement a medically needy program .....	\$ 7,187,000

For the fiscal year beginning July 1, 1984, and ending June 30, 1985, the department may receive and there is appropriated, in addition to its appropriations from the general fund of the state, such funds from damages awarded to the state by the civil antitrust judgment involving the sale of chickens, to the department for use in the distribution of federal surplus commodities, if the judgment allows the funds received to be used for such purposes.

Sec. 2. **FIELD OPERATIONS.** There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the department of human services for the division of field operations, the following amounts, or so much thereof as is necessary:

	<u>1984-1985</u>
	<u>Fiscal Year</u>
For salaries and support of not more than two thousand one hundred eighty-nine and three-tenths full-time equivalent positions annually which includes three additional protective service workers, maintenance, and miscellaneous purposes .....	\$ 19,768,000

Sec. 3. **SPECIAL PROGRAMS.** There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the department of human services, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1984-1985  
Fiscal Year

SPECIAL PROGRAMS

1. For aid to families with dependent children ..... \$ 64,600,000

a. The department shall establish the schedule of living costs for one person at two hundred thirteen dollars, for two persons at four hundred twenty-one dollars, for three persons at four hundred ninety-seven dollars, for four persons at five hundred seventy-eight dollars, for five persons at six hundred forty dollars, for six persons at seven hundred twelve dollars, for seven persons at seven hundred eighty-two dollars, for eight persons at eight hundred fifty-three dollars, for nine persons at nine hundred twenty-three dollars, for ten persons at one thousand nine dollars, and for each additional person at one hundred one dollars per person. The department shall not increase current grant payments under the aid to families with dependent children program.

b. The department shall establish and operate a work incentive demonstration program for recipients of aid to families with dependent children and shall incorporate the coordinated manpower services demonstration projects for recipients of aid to families with dependent children in two of the department's districts as a part of the work incentive demonstration program. All recipients who participate in the work incentive demonstration program shall be paid a transportation and participation allowance of five dollars for each day the recipients are determined to be eligible for the allowance. The department may use funds appropriated by this subsection to pay the allowances if federal funds are insufficient to pay the allowances.

2. For medical assistance, including reimbursement for all covered services, except for services in institutions for mental diseases or intermediate care facilities for the mentally retarded, to a pregnant woman or child under twenty-one years of age under a medically needy program to be effective November 1, 1984, for a two-month certification period and retroactive for a three-month period as authorized under federal law or regulation, provided the income of the woman or child is reduced by allowable medical expenses to one hundred thirty-three percent of the assistance which would be payable to a similarly situated woman or child under the aid to families with dependent children program and provided the woman or child would also qualify under the resource guidelines of the aid to families with dependent children program, notwithstanding any contrary provision of chapter 249A, and 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:

a. The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

b. The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

c. The pregnancy is the result of a rape which is reported within forty-five days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

d. The pregnancy is the result of incest which is reported within one hundred fifty days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled ..... \$ 134,350,000

For purposes of a medically needy program, the department may seek a waiver pursuant to Title XIX, section 1915(b) of the federal Social Security Act and, if a waiver is granted, the department may enter into contracts with cost-effective providers, including the university of Iowa hospitals and clinics. It is the intent of the general assembly that the funds due the university hospitals under such a contract shall be taken from the appropriation to the university hospitals for medical and surgical treatment of indigent patients as provided in chapter 255. The department and the university hospitals, in consultation with the state comptroller, shall establish procedures for the proper accounting of the funds due the university hospitals under such a contract for the purpose of qualifying the amount of the funds as state matching funds pursuant to Title XIX of the federal Social Security Act. Such a contract for the provision of hospital and professional care for medically needy indigent obstetric and newborn patients by the university of Iowa hospitals and clinics, shall be limited in applicability to those counties containing and adjacent to counties which contain the university hospitals or existing prenatal clinics of the university hospitals, and shall take into consideration the number of obstetric and newborn patients served from those counties during the prior fiscal year under the statewide indigent patient care program established by chapter 255. The medically needy program established under this section shall not limit a patient's right to use the statewide indigent patient care program for obstetric and newborn services.

During the fiscal year beginning July 1, 1984, the university hospitals shall collect and submit monthly to the legislative fiscal bureau, while maintaining patient confidentiality, the following data related to the medically needy program:

(1) The number and types of indigent patients referred to the university hospitals under the statewide indigent patient care program established by chapter 255, the types of services, including obstetrical services, provided to the indigent patients, and associated hospital charges incurred related to available appropriation support.

(2) The number and types of all medical assistance patients served at the university hospitals, the types of services, including obstetrical services, provided to the patients, and the actual hospital charges and medical assistance payments associated with the provision of the services.

(3) The number and types of medically needy patients served at the university hospitals, the types of services, including obstetrical services, provided to the patients, and the actual hospital charges and medical assistance payments associated with the provision of the services.

The university hospitals shall also provide to the legislative fiscal bureau the data described in subparagraph (1) for the fiscal year beginning July 1, 1983, and ending June 30, 1984.

During the fiscal year beginning July 1, 1984, the university hospitals shall continue to collect information from the counties on patients served under the statewide indigent patient care program established by chapter 255, including information on family, employment, and financial status, third-party coverage, county of residence, and other necessary information, with all information identifying individuals considered patient records of the university hospitals and its confidentiality maintained accordingly. The information shall be integrated with data regarding services provided to the patients and the charges for the services and shall be provided to the legislative fiscal bureau. The department shall maintain records on the use of the medical assistance program by individuals qualifying under the medically needy program and the cost of that use to the state. By March 1, 1985, from the data collected, the department shall estimate the annual medical assistance cost of the program to the state, and,



if that amount exceeds four million five hundred thousand dollars, the department shall present to the general assembly program alternatives to reduce the cost to the medical assistance program to or below four million five hundred thousand dollars. The legislative fiscal bureau shall estimate the increased reimbursements to the university of Iowa hospitals and clinics under the medically needy program for patients who otherwise would have used the statewide indigent patient care program. The legislative fiscal bureau shall not collect information on the use of county emergency relief funds to provide medical services to persons who would qualify for medical services under a medically needy component of the medical assistance program. The legislative fiscal bureau shall review options for hospital involvement in the financing of any potential modifications to the medically needy program.

The department shall not require prior authorization under the medical assistance program for the receipt of prescription drugs subject to the maximum allowable cost limitations.

The department shall make available reimbursements under the medical assistance program for the following over-the-counter drugs if ordered by a person authorized to prescribe prescription drugs: aspirin and acetaminophen; ferrous salts of iron; prenatal multiple vitamins; and with prior authorization, other multiple vitamins.

If the department reasonably expects that savings from the implementation of a drug utilization review program will cover the department's share of the costs of a contract for the development and implementation of such a program, the department may contract with the Iowa pharmacy foundation for the development and implementation of such a program. The program shall establish written criteria and standards defining acceptable pharmaceutical services, assess rendered services by using the criteria and standards, correct performance deficiencies through education, assess the results of the education directed at correcting the deficiencies, and document any savings as a result of the implementation of the program.

The department shall proceed with its proposal for a program of home and community-based services to be provided pursuant to a waiver under Title XIX of the federal Social Security Act in order to provide cost effective alternatives to placements in long-term-care medical institutions. The program shall be funded with the appropriation made by this subsection. A county shall reimburse the department for the cost of services under the program, which is not paid from federal funds, to mentally retarded or mentally ill persons with legal settlement in the county at the same percentage which the county is required to reimburse the state for mentally retarded or mentally ill persons receiving services at state institutions.

- 3. For contractual services-medical carrier ..... \$ 2,200,000
- 4. For child support recoveries, including salaries and support of not more than ninety-six full-time equivalent positions annually, except as otherwise provided in this subsection, maintenance, and miscellaneous purposes ..... \$ 840,000

The commissioner of human services, within the limitations of the funds appropriated in this subsection or funds transferred from the aid to families with dependent children program for this purpose, may establish new positions and add additional employees to the child support recovery unit when the commissioner determines that both the current and additional employees together can reasonably be expected to recover for the aid to families with dependent children program and the nonpublic assistance support recovery program more than twice the amount of money required to pay the salaries and support for both the current and additional employees. The department shall demonstrate the cost effectiveness of the current and additional employees by reporting to the social services appropriations subcommittee the ratio of the total amount of administrative costs for child support recoveries to the total amount of the child support recoveries.

5. For state supplementary assistance, including state supplementary assistance for the blind ..... \$ 8,450,000

6. For aid to Indians under section 252.43 ..... \$ 37,000

The tribal council shall not use more than ten percent of the funds for administrative expenses.

7. For home-based services ..... \$ 5,180,000

Of the funds appropriated by this subsection, one hundred sixty thousand (160,000) dollars, or so much thereof as is necessary, is appropriated for family planning services.

8. For foster care ..... \$ 21,930,000

Of the funds appropriated by this subsection, sixty-three thousand (63,000) dollars, or so much thereof as is necessary, is appropriated for foster parent training.

The department may transfer a portion of the funds appropriated by this subsection for use in providing subsidized adoption services, if funds allocated under subsection 7 are insufficient to provide necessary subsidized adoption services.

No more than forty percent of all children in foster care funded under Title IV, Part E of the federal Social Security Act shall be in foster care for more than twenty-four months.

9. For community-based services ..... \$ 1,650,000

a. Of the funds appropriated by this subsection, four hundred twenty-five thousand (425,000) dollars, or so much thereof as is necessary, is appropriated to assist child care centers under section 237A.13. Notwithstanding section 237A.13, subsection 4, funds unencumbered as of April 30, 1985, shall not be reallocated unless the unencumbered funds reclaimed exceed two thousand dollars.

b. Of the funds appropriated by this subsection, one hundred twenty-five thousand (125,000) dollars, or so much thereof as is necessary, is appropriated for child abuse prevention services.

c. Of the funds appropriated by this subsection, one hundred thousand (100,000) dollars, or so much thereof as is necessary, is appropriated for programs for displaced homemakers, and one hundred thousand (100,000) dollars, or so much thereof as is necessary, is appropriated for programs for victims of domestic abuse.

d. Of the funds appropriated by this subsection, two hundred fifty-five thousand (255,000) dollars, or so much thereof as is necessary, is appropriated to provide grants for community-based juvenile services to reduce the need for long-term juvenile institutional placements and to encourage home-based treatment programs as alternatives to juvenile institutional care. Except as provided in paragraph "e", the department shall only approve grants for nonresidential community-based juvenile services and shall give priority in the approval of grants to projects which divert juveniles from incarceration in jails or provide services to reduce the population at state juvenile institutions.

e. Of the funds appropriated by paragraph "d", fifty thousand (50,000) dollars, or so much thereof as is necessary, may be used for diagnostic and evaluation services for juveniles.

f. The commissioner of human services shall pay from funds appropriated by this subsection, as the entitled aid from the state under section 232.142, subsection 4, one-half of one percent of the total cost of the establishment, improvements, operation, and maintenance of approved county or multicounty juvenile homes.

10. For county-based reimbursement under section 232.141, subsection 4, paragraph d ..... \$ 1,550,000

11. For operation of the state training school and the Iowa juvenile home, including salaries and support of not more than one hundred ninety-six and one-half full-time equivalent positions at the state training school and of not more than one hundred fifteen full-time equivalent positions at the Iowa juvenile home, maintenance, and miscellaneous purposes ..... \$ 7,235,000

\*The department shall close a living unit at the training school for juvenile delinquents at Eldora and shall periodically notify the chief judges of the judicial districts and the chairpersons and ranking members of the social services appropriations subcommittee of the number of resident inmates at the Eldora campus when that number equals or approaches one hundred eighty. Notwithstanding the entering of orders for placement at the Eldora campus of the state training school pursuant to section 232.52, subsection 2, paragraph "e", on and after the date of the closing of the living unit at the Eldora campus the department shall not admit any juvenile to the Eldora campus unless the Eldora campus has less than one hundred eighty resident inmates at the time of admission. The department shall place the names of those juveniles, who are subject to orders for placement at the Eldora campus of the state training school but cannot be admitted upon the entering of the orders, on a waiting list. The department shall establish priority admission policies for those juveniles on the waiting list and shall notify the courts ordering placement of the tentative admission dates for the juveniles.\*

12. For volunteers ..... \$ 72,000

Sec. 4. BLOCK GRANT SUPPLEMENTATION. There is appropriated from the general fund of this state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the department of human services for supplementation of federal social services block grant funds and for allocation to the various counties for the purchase of local services for eligible individuals, the following amount, or so much thereof as is necessary:

	1984-1985
	<u>Fiscal Year</u>
\$	2,940,000

1. Of the funds appropriated by this section, two million six hundred ninety thousand (2,690,000) dollars, or so much thereof as is necessary, is appropriated for allocation to counties for the purchase of local services other than additional child day care services for which funds are appropriated in subsection 2. The department shall increase the current income guidelines for income eligible persons receiving services, other than child day care services, funded with federal social services block grant funds for the fiscal year beginning July 1, 1984 by the same percentage and at the same time as federal social security benefits are increased due to a recognized increase in the cost of living. The department shall increase the current income guidelines for income eligible persons receiving child day care services funded with federal social services block grant funds for the fiscal year beginning July 1, 1984 by no more

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\*Item veto; see message at end of this Act

than ten percent. If the department determines that funds allocated under this subsection will not be fully expended, the department may increase the income guidelines in order to provide for the expenditure of all funds allocated under this subsection. A county may use up to four percent of the federal social services block grant funds and funds allocated to the county under this subsection for the purchase of child day care services without matching the federal and state funds with local funds.

2. Of the funds appropriated by this section, two hundred fifty thousand (250,000) dollars, or so much thereof as is necessary, is appropriated for allocation to counties, on the same basis as funds are allocated under subsection 1, for the purchase of additional child day care services without requiring the counties to provide matching local funds. The funds appropriated by this subsection shall be used to supplement and shall not be used to replace federal social services block grant funds or state funds allocated under subsection 1 by the county for child day care services, provided the county's allocation of such funds for child day care services is at least equal to the county's expenditure of such funds for child day care services in the fiscal year ending June 30, 1983. The department shall reallocate funds under this subsection from counties which do not qualify for or do not utilize the funds to counties which do qualify for the funds. If the department determines that funds allocated under this subsection will not be fully expended, the department may increase the income guidelines in order to provide for the expenditure of all funds allocated under this subsection.

3. The department, 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.

#### Sec. 5. REIMBURSEMENT RATES.

1. Except for inpatient and outpatient hospital services, skilled nursing facility services, intermediate care facility services, intermediate care facility services for the mentally retarded, home health agency services, rural health clinic services, rehabilitation agency services, mental hospital services, and out-of-state hospital services, the reimbursement rates and reimbursements for medical assistance providers on July 1, 1984 shall be established at the levels in effect on July 1, 1983, increased by an amount which equals no more than one and two-tenths percent of the reimbursement rates in effect on July 1, 1983. The department shall continue to reduce reimbursements for services other than rural health clinic services by a factor of two and one-half percent in the same manner as provided in 1983 Iowa Acts, chapter 201, section 5, subsection 1, paragraph "b".

a. Beginning July 1, 1984, the department shall establish the medical assistance reimbursement rate for psychologists at the fortieth percentile of psychologist profiles compiled for the fiscal year beginning July 1, 1982, and ending June 30, 1983. However, no reimbursement rate shall be less than the rate in effect on June 30, 1984. Effective November 1, 1984, the reimbursement rate may be increased by an amount which equals no more than three percent of the reimbursement rate in effect on July 1, 1984.

b. Beginning July 1, 1984, the department shall establish the medical assistance reimbursement rate for optometrists at the twenty-eighth percentile of optometrist profiles compiled for the fiscal year beginning July 1, 1982, and ending June 30, 1983. However, no reimbursement rate shall be less than the rate in effect on June 30, 1984. Effective November 1, 1984, the reimbursement rate may be increased by an amount which equals no more than three percent of the reimbursement rate in effect on July 1, 1984.

c. Beginning July 1, 1984, the basis for establishing the maximum medical assistance reimbursement rate for intermediate care facilities shall be no higher than the sixty-sixth percentile of all facilities' per diems as calculated from the June 30, 1984 compilation of unaudited financial and statistical reports. The department shall reinstate the incentive and inflation payments, as set forth in departmental rules prior to November 1, 1983, to facilities with costs below the maximum reimbursement rate for services provided on or after July 1, 1984.

2. For the fiscal year beginning July 1, 1984:

a. The maximum reimbursement rate for residential care facilities utilizing the cost-related reimbursement system shall be established at the point where twenty-five percent of such facilities would have received full cost coverage for their actual allowable per diems in effect on June 30, 1984.

b. The flat reimbursement rate for residential care facilities shall be established at twelve dollars and thirty-five cents per day.

c. The reimbursement rates and reimbursements for in-home health related care under the state supplementary assistance program shall be established at the levels in effect on October 31, 1983.

3. For the fiscal year beginning July 1, 1984, the current reimbursement rates for all foster family homes and for subsidized adoptions may be increased, on the average, by not more than three percent of the reimbursement rates in effect on July 1, 1983. However, that average increase shall be distributed in such a manner as to increase the reimbursements to all foster family age categories by the same dollar amount.

4. For the fiscal year beginning July 1, 1984, except as provided in subsection 5, the current reimbursement rates for purchase of service providers may be increased by not more than three percent of the reimbursement rates authorized on July 1, 1983.

5. For the fiscal year beginning July 1, 1984, the current reimbursement rates for local purchase of service providers which receive reimbursement from federal social services block grant funds and state funds supplementing those federal funds, may be increased by not more than three and one-half percent of the reimbursement rates authorized on July 1, 1983.

6. The board of pharmacy examiners shall rescind its rules, adopted pursuant to 1982 Iowa Acts, chapter 1260, section 96, relating to the reduction of charges to the medical assistance program.

7. The department of human services and the state department of health shall study jointly the feasibility and costs of establishing by administrative rule, within the intermediate care facility category in chapter 135C, a special classification for facilities intended to provide specialized rehabilitative services to brain-injured individuals. The study shall include an examination of reimbursement methodologies for such facilities under the medical assistance program. The departments shall complete the study and report the findings of the study and any recommendations to the general assembly by January 15, 1985.

Sec. 6. INVOLUNTARY TRANSFERS. If a skilled nursing facility or an intermediate care facility receives payments under Title XIX of the federal Social Security Act for one or more patients in the facility, the facility shall not involuntarily transfer any patient to another facility if that patient had previously been receiving medical assistance under chapter 249A for care in the facility and has been disqualified for that medical assistance because of an increase in income, but agrees to pay all of the patient's income and resources not exempt under guidelines in Title XIX of the federal Social Security Act for continued care in the facility and that payment equals or exceeds the medical assistance reimbursement rate for the particular facility.

Sec. 7. TRANSFERS. Except as provided in section 3, subsection 4 of this Act, funds appropriated under section 3, subsections 1, 2, 8, and 10 of this Act, shall not be transferred or used for any other purposes than specified in those subsections, notwithstanding section 8.39. However, funds appropriated under section 3, subsections 1, 2, 8, and 10 of this Act may be transferred under section 8.39 among those subsections and may be used for the purposes specified in those subsections.

Sec. 8. ADDITIONAL STAFF. Notwithstanding the limitations on full-time equivalent positions in section 1, section 2, and section 3, subsections 4 and 11 of this Act, the department of human services may add staff above the limitations if the department receives additional federal funding not originally anticipated and budgeted.

Sec. 9. SUPPLEMENTAL SECURITY INCOME REIMBURSEMENTS TO COUNTIES. The commissioner of human services may enter into an agreement with the federal social security administration to secure reimbursements to counties contracting with the department for assistance paid in the form of county general relief during an interim period prior to a determination of eligibility for federal supplemental security income payments. If a reimbursement dispute arises between a county and the federal social security administration, the county shall pay for an independent audit. If the federal social security administration establishes a claim against a county and withholds funds from the state or directs the department to pay the claim to a recipient of federal supplemental security income, the department shall set off against other funds due the county from the department the amount of the claim.

Sec. 10. RULES. The department of human services shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", relating to transportation and participation allowances under the work incentive demonstration program in section 3, subsection 1, paragraph "b" of this Act, the medically needy program in section 3, subsection 2 of this Act and reimbursements under the medical assistance program in section 5, subsection 1 of this Act, and the Eldora campus of the state training school in section 3, subsection 11 of this Act and may adopt administrative rules under section 17A.4, subsection 2 and section 17A.5, subsection 2, paragraph "b", relating to the schedule of living costs under the aid to families with dependent children program in section 3, subsection 1, paragraph "a" of this Act, prior authorization for certain prescription drugs, reimbursements for certain over-the-counter drugs, a drug utilization review program, and the federal waiver proposal for a program of home and community-based services under the medical assistance program in section 3, subsection 2 of this Act, reimbursements in section 5, subsections 2 through 5 of this Act, income guidelines for and child day care services allocations of state funds supplementing federal social services block grant funds in section 4 of this Act, and supplemental security income reimbursements to counties in section 9 of this Act, and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules.

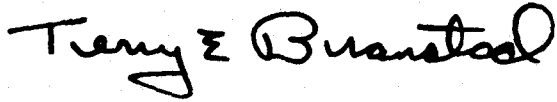
Sec. 11. FOSTER CARE REVIEW BOARD. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to the foster care review board, the following amount, or so much thereof as is necessary:

	1984-1985
	<u>Fiscal Year</u>
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 70,000

Sec. 12. FEDERAL FUNDS. All federal grants to and the federal receipts of the department of human services and the foster care review board are appropriated for the purposes set forth in the federal grants or receipts.

Sec. 13. CAPITAL IMPROVEMENTS EXCLUDED. Funds appropriated by this Act shall not be used for capital improvements.

Approved May 18, 1984, except the item which I hereby disapprove and which is designated as that portion of section 3, subsection 11, which is herein bracketed in ink and initialed by me. This is delineated with my reasons for vetoing in the item veto message pertaining to this act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
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 2351, an act relating to the administration and financing of current programs other than mental health programs under the jurisdiction of the department of human services and to the foster care review board for the fiscal year beginning July 1, 1984, and ending June 30, 1985.

Senate File 2351 is approved May 18, 1984, with the following exception which I hereby disapprove.

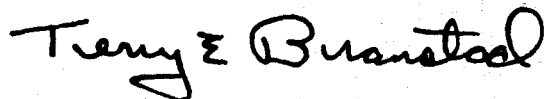
I am unable to approve of the item designated as Section 3, subsection 11, unnumbered paragraph, which reads as follows:

The department shall close a living unit at the training school for juvenile delinquents at Eldora and shall periodically notify the chief judges of the judicial districts and the chairpersons and ranking members of the social services appropriations subcommittee of the number of resident inmates at the Eldora campus when that number equals or approaches one hundred eighty. Notwithstanding the entering of orders for placement at the Eldora campus of the state training school pursuant to section 232.52, subsection 2, paragraph "e", on and after the date of the closing of the living unit at the Eldora campus the department shall not admit any juvenile to the Eldora campus unless the Eldora campus has less than one hundred eighty resident inmates at the time of admission. The department shall place the names of those juveniles, who are subject to orders for placement at the Eldora campus of the state training school but cannot be admitted upon the entering of the orders, on a waiting list. The department shall establish priority admission policies for those juveniles on the waiting list and shall notify the courts ordering placement of the tentative admission dates for the juveniles.

The State Training School is currently the only secure setting for Iowa's worst juvenile offenders. Those who are sent to Eldora have usually committed several delinquent acts. Juvenile Court judges have ordered them to be taken from their home communities for a reason. To cap the population at 180 and create a waiting list could constitute a danger to the public safety of our citizens.

For the above reason, I hereby respectfully disapprove of this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 2351 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor



**CHAPTER 1311**

**FEDERAL FUNDS APPROPRIATIONS**

*S.F. 2352*

**AN ACT** appropriating federal funds made available from federal block grants, allocating portions of federal block grants, and providing procedures if federal funds are more or less than anticipated or if federal block grants are more or less than anticipated or if categorical grants are consolidated into new or existing block grants.

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

**DIVISION I**

**Section 1. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES APPROPRIATION.**

1. There is appropriated from the fund created by section 8.41 to the department of substance abuse, two million two hundred ninety-two thousand (2,292,000) dollars for the federal fiscal year beginning October 1, 1984, and ending September 30, 1985. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1985 under Pub. L. No. 97-35, Title IX, Subtitle A, as amended, 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 seventeen thousand (217,000) 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. Eight and seventy-five hundredths percent of the funds appropriated in subsection 1 shall be transferred to the division of mental health, mental retardation, and developmental disabilities within the department of human services and allocated for community mental health centers.

4. After deducting the funds allocated in subsections 2 and 3, 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 ..... 38.89 percent
- b. Alcohol abuse programs ..... 38.89 percent
- c. Alcohol and drug prevention programs ..... 22.22 percent

It is the intent of the general assembly that the department of substance abuse expend not more than two million three hundred ninety-eight thousand (2,398,000) dollars during the state fiscal year beginning July 1, 1984 and ending June 30, 1985 from funds created by section 8.41 during the state fiscal year beginning July 1, 1984 and ending June 30, 1985.

**Sec. 2. MATERNAL AND CHILD HEALTH SERVICES APPROPRIATIONS.**

1. There is appropriated from the fund created by section 8.41 to the state department of health, the sum of four million five hundred fifty-eight thousand one hundred seventy-six (4,558,176) dollars for the federal fiscal year beginning October 1, 1984, and ending September 30, 1985. The funds appropriated by this section are the funds anticipated to be received from the federal government for federal fiscal year 1985 under Pub. L. No. 97-35, Title XXI, Subtitle D, as amended, 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. Sixty-three percent of the funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the personal and family health division of the state department of health. Of these funds, forty-five thousand seven hundred seventy-two (45,772) dollars shall be set aside for sudden infant death syndrome, twenty-five thousand (25,000) dollars shall be set aside for the institution of a lead poisoning prevention program, and one hundred ninety-nine thousand forty-eight (199,048) dollars shall be set aside for the statewide perinatal care program.

Thirty-seven percent of the 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 regional and mobile child health specialty clinics.

3. An amount not exceeding one hundred twenty-two thousand thirty (122,030) 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.

It is the intent of the general assembly that the departments of health, human services, and public instruction and the university of Iowa's regional and mobile child health specialty clinics continue to pursue to the maximum extent feasible the coordination and integration of services to women and children in selected pilot areas. It is expected that these agencies prepare a progress report for the general assembly indicating objectives accomplished and barriers encountered in the pursuit of these integration efforts.

**Sec. 3. 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 4, subsection 4 of this Act for the federal fiscal year beginning October 1, 1984, and ending September 30, 1985, are transferred to the division of personal and family health for maternal and child health programs and to the university of Iowa's regional and mobile child health specialty clinics according to the percentages specified in section 2, subsection 2 of this Act.

**Sec. 4. PREVENTIVE HEALTH AND HEALTH SERVICES APPROPRIATIONS.**

1. There is appropriated from the fund created by section 8.41 to the state department of health, one million twenty-five thousand one hundred sixty (1,025,160) dollars for the federal fiscal year beginning October 1, 1984, and ending September 30, 1985. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1985 under Pub. L. No. 97-35, Title IX, Subtitle A, as amended, 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 seventeen (98,717) 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, as amended, shall be allocated to the rape prevention program.

4. Pursuant to Pub. L. No. 97-35, Title IX, Subtitle A, as amended, seven percent of the funds appropriated in subsection 1 is transferred within the special fund in the state treasury established under section 8.41, for use by the state department of health as authorized by Pub. L. No. 97-35, Title XXI, Subtitle D, as amended, and section 3 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 II

Sec. 5. COMMUNITY SERVICES APPROPRIATIONS.

1. a. There is appropriated from the special fund created in section 8.41 to the office for planning and programming, the sum of three million six hundred twenty-three thousand seventy-one (3,623,071) dollars for the federal fiscal year beginning October 1, 1984 and ending September 30, 1985. The funds appropriated by this paragraph are the anticipated funds to be received from the federal government for the federal fiscal year 1985 under Pub. L. No. 97-35, Title VI, Subtitle B, as amended, which provides for the community services block grant. The office for planning and programming shall expend the funds appropriated by this paragraph as provided in the federal law and in conformance with chapter 17A.

b. The director of the office for planning and programming shall allocate not less than ninety percent of the amount of the block grant based upon the size of the poverty level population in the community action area compared to the size of the poverty level population in the state. The director of the office for planning and programming after consultation with community action agencies shall allocate an amount not exceeding five percent of the amount of financial assistance based upon other measures of need in each community action area.

2. An amount not exceeding one hundred eighty-one thousand one hundred fifty-three (181,153) dollars of the funds appropriated in subsection 1 shall be used by the office for planning and programming for administrative expenses. From the funds authorized under 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. 6. COMMUNITY DEVELOPMENT APPROPRIATIONS.**

1. There is appropriated from the special fund created in section 8.41 to the office for planning and programming, the sum of twenty-four million seven hundred seventy-five thousand (24,775,000) dollars for the federal fiscal year beginning October 1, 1984 and ending September 30, 1985. The funds appropriated by this section are the anticipated funds to be received from the federal government under Pub. L. No. 97-35, Title III, Subtitle A, as amended, which provides for the community development block grant. The office for planning and programming shall expend the funds appropriated by this paragraph as provided in the federal law and in conformance with chapter 17A.

2. An amount not exceeding nine hundred ninety-one thousand (991,000) dollars shall be used by the office for planning and programming for administrative expenses. The total amount used for administrative expenses includes four hundred ninety-five thousand five hundred (495,500) dollars of funds appropriated in subsection 1 and a matching contribution from the state equal to four hundred ninety-five thousand five hundred (495,500) 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 four percent of the amount appropriated in subsection 1. From the funds authorized 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.

**DIVISION III**

**Sec. 7. EDUCATION APPROPRIATIONS.**

1. There is appropriated from the fund created by section 8.41 to the department of public instruction for the federal fiscal year beginning July 1, 1984 and ending June 30, 1985, the amount received from Pub. L. No. 97-35, Title V, Subtitle D, chapter 2, as amended, which provides for the education block grant not to exceed five million four hundred thousand (5,400,000) dollars. 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 eighty thousand (1,080,000) 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 twenty-five thousand (225,000) 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, as amended. 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. 8. Funds appropriated in section 7 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 IV

##### Sec. 9. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the energy policy council, the sum of thirty-six million seven hundred nineteen thousand eight hundred (36,719,800) dollars for the federal fiscal year beginning October 1, 1984 and ending September 30, 1985. The funds appropriated by this section are the funds anticipated to be received from the federal government for the federal fiscal year 1985 under Pub. L. No. 97-35, Title XXVI, as amended, which provides for the low-income home energy assistance block grant. 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 eight hundred ninety-two thousand (2,892,000) dollars or nine percent of the funds appropriated in subsection 1, whichever is less, may be used for administrative expenses, not more than two hundred ninety thousand (290,000) dollars of which shall be used for administrative expenses of the energy policy council. From the total 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 is allocated for that purpose. 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, as amended, to meet the costs of home energy. After reserving a reasonable portion of the funds not to exceed one million dollars to carry forward into the federal fiscal year beginning October 1, 1985, at least ten percent and not more than fifteen percent of the funds appropriated by this section 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 administrative expenses.

##### Sec. 10. SOCIAL SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of human services, thirty-three million nine hundred forty-four thousand four hundred ninety-one (33,944,491) dollars for the federal fiscal year beginning October 1, 1984 and ending September 30, 1985. Funds appropriated by this section are the funds anticipated to be received from the federal government for the federal fiscal year 1985 under Pub. L. No. 97-35, Title XXIII, Subtitle C, as codified in 42 U.S.C. secs. 1397-1397f, which provides for the social services block grant. The department of human 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.

2. Not more than one million nine hundred forty-two thousand seven hundred eight (1,942,708) dollars of the funds appropriated in subsection 1 shall be used by the department of human services for general administration for the federal fiscal year beginning October 1, 1984

and ending September 30, 1985. From the funds set aside by this subsection for general administration, the department of human 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 human 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, 1984 and ending September 30, 1985 for the following programs within the department of human services:

	1984-1985 Federal Fiscal Year
a. Field operations .....	\$ 13,563,326
b. Home-based services .....	\$ 155,791
c. Foster care .....	\$ 4,935,799
d. Protective day care .....	\$ 790,479
e. Purchase of local services .....	\$ 11,189,103
f. County administration .....	\$ 1,232,321
g. Volunteers .....	\$ 134,964

4. The social services block grant state advisory committee, formerly known as the Title XX state advisory committee, and the social services block grant district advisory committees, formerly known as the Title XX district advisory committees, shall continue to advise the department of policy matters with respect to the social services block grant funds allocated by the federal government to this state through June 30, 1985.

Sec. 11. SOCIAL SERVICES BLOCK GRANT PLAN. The department of human services shall develop a plan for the use of federal social services block grant funds for the state fiscal year beginning July 1, 1985 and ending June 30, 1986.

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 VI

Sec. 12. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. Except for section 7 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 4, 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 the committees on appropriations 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. 13. PROCEDURE FOR INCREASED FEDERAL FUNDS.

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 2, 4, and 7, 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 in the form of block grants exceed the amounts appropriated in sections 1, 5, 6 and section 7, subsection 2 of this Act, the excess shall be deposited in the special fund created in section 8.41 and is subject to appropriation by the general assembly.

3. If funds received from the federal government from block grants exceed the amounts appropriated in section 9 of this Act, at least twelve and one-half percent and not more than fifteen percent of the excess shall be allocated to the low-income weatherization program.

4. If funds received from the federal government from the social services block grant exceed the amount appropriated in section 10 of this Act, the excess shall be allocated for the purchase of local services and the department of human services may waive the requirement of local matching funds.

Sec. 14. PROCEDURE FOR CONSOLIDATED, CATEGORICAL, OR EXPANDED FEDERAL BLOCK GRANTS. Notwithstanding section 8.41, federal funds made available to the state which are authorized for the federal fiscal year beginning October 1, 1984 resulting from the federal government consolidating former categorical grants into block grants, or which expand block grants included in Pub. L. No. 97-35, as amended, 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 1984 federal fiscal year as modified by the 1984 Session of the Seventieth General Assembly for the fiscal year beginning July 1, 1984 compared to the total federal funds received in the 1984 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, 1984 but had anticipated applying for funds during the fiscal year ending September 30, 1985, 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 1984 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 standing 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 1984 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 1984 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 1984 federal fiscal year, the excess funds shall be deposited in the special fund created in section 8.41 and are subject to the provisions of that section.

**Sec. 15. 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 12 and 13 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 senate and house standing committees 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.

**Sec. 16. 1983 Iowa Acts, chapter 194, section 5, subsection 2, is amended to read as follows:**

2. Sixty-three percent of the funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the personal and family health division of the state department of health. Thirty-seven percent of the 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 regional and mobile child health speciality\* clinics. The personal and family health division of the state department of health and the regional and mobile child health specialty clinics at the university of Iowa hospitals and clinics under the council of the state board of regents shall jointly develop and implement a plan for the expenditure of these funds in accordance with this subsection. These funds shall be targeted, to the extent possible, to areas of high unemployment and to disadvantaged families who lack adequate third party reimbursement to pay for care. Any unencumbered funds

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\*According to enrolled Act



allocated to the state department of health under this subsection shall be transferred August 1, 1984 to the university of Iowa hospitals and clinics under the control of the state board of regents for regional and mobile child health specialty clinics.

Sec. 17. 1983 Iowa Acts, chapter 194, section 11, subsection 2, is amended to read as follows:

2. An amount not exceeding two million seven hundred ~~eighty-eight~~ thousand ~~(2,750,000)~~ (2,788,000) dollars or nine percent of the funds appropriated in subsection 1, whichever is less, may be used for administrative expenses not more than two hundred eighty thousand (280,000) dollars of which shall be used for administrative expenses of the energy policy council. From the total 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 is allocated for that purpose. The auditor shall bill the energy policy council for the costs of the audit.

Approved May 14, 1984

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## CHAPTER 1312

### SUBSTANCE ABUSE TREATMENT APPROPRIATIONS

*S.F. 2353*

**AN ACT** relating to the funding of and to substance abuse treatment and prevention programs by making appropriations to the department of substance abuse for the fiscal year beginning July 1, 1984 and ending June 30, 1985 for administration, program grants, treatment programs not licensed by the department, and prevention programs, requiring the treasurer of state to deposit certain amounts of the sales made by the state liquor stores in a special fund, requiring the beer and liquor control council to adjust the sales margin on liquor August 1, 1984 to raise certain revenue, requiring the state to incur one hundred percent of the cost of substance abuse treatment at certain programs for the fiscal year beginning July 1, 1984 and ending June 30, 1985, crediting certain fees to the beer and liquor control fund, requiring the department of substance abuse to distribute program grant funding by a certain formula, requiring an assessment of a patient before admittance to a state mental health institute for substance abuse treatment, prohibiting counties from certifying a supplemental levy for certain substance abuse treatment facilities, requiring the county auditor to recompute the levy rates to reduce the amount budgeted for certain substance abuse treatment programs in the fiscal year beginning July 1, 1984 and ending June 30, 1985, and providing an effective date.

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

Section 1. The treasurer of state shall transfer into a special revenue account in the general fund of the state, a sum of money equal to seven percent of the gross amount of sales made by the state liquor stores in the cities of the state from the beer and liquor control fund on a monthly basis, and any amounts so transferred shall be used by the department of substance abuse for substance abuse treatment and prevention programs in an amount determined by the general assembly and any amounts received in excess of the amounts appropriated to the department of substance abuse shall be considered part of the general

fund balance \*and in addition to the regular sales margin which is included in the sale price of liquor as established by the Iowa beer and liquor control council pursuant to section 123.21, subsection 6, and including the provisions in section 123.53, subsections 3 and 7, the council shall adjust the sales margin of liquor on August 1, 1984 in an amount sufficient to raise funds in an amount equal to the difference between the amount appropriated to the department of substance abuse from the general fund of the state for the 1983-1984 fiscal year and the amount appropriated to the department for the 1984-1985 fiscal year\* and notwithstanding sections 125.25, subsection 2, 125.44, unnumbered paragraphs 1, 3, and 4, 125.45 to 125.47, 125.49 to 125.54, 125.57, 331.401, subsection 1, paragraph "c", 331.508, subsection 3, 331.552, subsection 10 as amended to be effective July 1, 1984 under 1983 Iowa Acts, chapter 185, sections 31, 32, and 62, and 331.756, subsection 26, Code 1983 and Code Supplement 1983, the state shall incur one hundred percent of the cost of substance abuse treatment at programs licensed by the department of substance abuse according to section 125.44 in the fiscal year beginning July 1, 1984 and ending June 30, 1985 and there is appropriated from the general fund of the state to the department of substance abuse for the fiscal year beginning July 1, 1984, and ending June 30, 1985 the following amounts, or so much thereof as is necessary, four hundred sixty-nine thousand nine hundred fifty-seven (469,957) dollars for salaries and support of not more than nineteen and one-tenth full-time equivalent positions annually, maintenance, and miscellaneous purposes and seven million one hundred fifty thousand nine hundred fifty-eight (7,150,958) dollars for program grants.

Sec. 2. The treasurer of state shall, on July 1, 1984 for the fiscal year beginning July 1, 1984 and ending June 30, 1985, transfer three hundred sixty thousand (360,000) dollars from the beer and liquor control fund to the department of substance abuse.

1. Of these funds, notwithstanding section 125.13, subsection 1, one hundred fifty thousand (150,000) dollars shall be used for grants to counties operating a substance abuse program involving only education, prevention, referral or post treatment services, either with the counties' own employees or by contract with a nonprofit corporation. The grants shall not annually exceed ten thousand dollars to any one county, subject to the following conditions:

a. The money shall be paid to the county after expenditure by the county and submission of the requirements in paragraph "b" on the basis of one dollar for each three dollars spent by the county. The county may submit a quarterly claim for reimbursement.

b. The county shall submit an accounting of the expenditures and shall submit an annual financial report, a description of the program, and the results obtained before June 10, 1985.

2. Two hundred ten thousand (210,000) dollars of the funds shall be used for prevention programs in addition to the amount budgeted for prevention programs by the department of substance abuse under the appropriation in section 1 of this Act.

Sec. 3. The funding distributed by the department of substance abuse for program grants pursuant to section 1 of this Act shall be distributed by a formula based on population, need, and other criteria as determined by the department in each county or multicounty area.

Sec. 4. Except in cases of medical emergency or court ordered admissions, a person shall be admitted to a state mental health institute for substance abuse treatment only after a preliminary intake and assessment by an Iowa department of substance abuse licensed treatment facility has confirmed that the admission is appropriate to the person's substance abuse service needs. A county board of supervisors may admit a patient to a state mental health institute who has not been confirmed for appropriate admission and the county shall be responsible for one hundred percent of the cost of treatment and services of the patient.

\*Sec. 5. Before property taxpayers are notified of taxes due during the fiscal year beginning July 1, 1984 and ending June 30, 1985, each county auditor shall recalculate the county levy by subtracting the amount budgeted for the same fiscal year for substance abuse

\*Item veto; see message at end of this Act

treatment in facilities provided under chapter 125 from the computed amount in dollars certified by the county under section 444.2. If the taxpayers have already been so notified, the county auditor shall renotify the taxpayer of the reduced property tax amount or the county treasurer shall reduce the tax by such amount or refund to the taxpayer such amount when the property tax is paid. Any penalty shall be applied only to the recalculated property tax amount.\*

Sec. 6. Section 123.36, subsection 8, Code Supplement 1983, is amended to read as follows:

8. The department shall credit all fees to the beer and liquor control fund. The department shall remit to the appropriate local authority, a sum equal to sixty-five percent of the fees collected for each class "A", class "B", or class "C" license except special class "C" licenses, covering premises located within the local authority's jurisdiction. The department shall remit to the appropriate local authority a sum equal to seventy-five percent of the fees collected for each special class "C" license covering premises located within the local authority's jurisdiction. The appropriate local authority to receive the fee collected for the privilege authorized under subsection 6 is the appropriate county which shall use it only for the care and treatment of persons admitted or committed to the alcoholic treatment center at Oakdale or any facilities as provided in chapter 125. Those fees collected for the privilege authorized under subsection 6 shall be credited to the beer and liquor control fund.

Sec. 7. Section 123.143, subsection 1, Code Supplement 1983, is amended to read as follows:

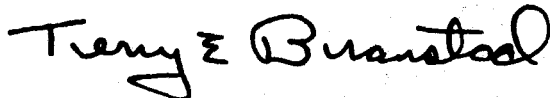
1. All retail beer permit fees collected by any local authority at the time application for the permit is made shall be retained by the local authority. A certified copy of the receipt for the permit fee shall be submitted to the department with the application and the local authority shall be notified at the time the permit is issued. Those amounts retained by the appropriate local authority out of the fee collected for the privilege authorized under section 123.134, subsection 5, shall be used only for the care and treatment of persons admitted or committed to the alcoholic treatment center at Oakdale or any facilities as provided in chapter 125 deposited in the beer and liquor control fund.

Sec. 8. Section 331.424, subsection 1, paragraph a, subparagraph (4), Code Supplement 1983, is amended to read as follows:

(4) Care and treatment of persons at the alcoholic treatment center at Oakdale or facilities provided under chapter 125. However, the county may require that an admission to a the center or other facility shall be reported to the board by the center or facility within five days as a condition of the payment of county funds for that admission.

\*Sec. 9. This Act, being deemed of immediate importance, takes effect from and after its publication in The Belle Plaine Union, a newspaper published in Belle Plaine, Iowa, and in The Sioux City Journal, a newspaper published in Sioux City, Iowa.\*

Approved May 15, 1984, except the three items which I hereby disapprove and which are designated as that portion of section 1, which is herein bracketed in ink and initialed by me; section 5, which is herein bracketed in ink and initialed by me; and section 9, which is herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached.



TERRY E. BRANSTAD  
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 2353, an act relating to the funding of and to substance abuse treatment and prevention programs by making appropriations to the Department of Substance Abuse for the fiscal year beginning July 1, 1984 and ending June 30, 1985, for administration, program grants, treatment programs not licensed by the department, and prevention programs, requiring the Treasurer of State to deposit certain amounts of the sales made by the state liquor stores in a special fund, requiring the Beer and Liquor Control Council to adjust the sales margin on liquor August 1, 1984 to raise certain revenue, requiring the state to incur one hundred percent of the cost of substance abuse treatment at certain programs for the fiscal year beginning July 1, 1984 and ending June 30, 1985, crediting certain fees to the Beer and Liquor Control Fund, requiring the Department of Substance Abuse to distribute program grant funding by a certain formula, requiring an assessment of a patient before admittance to a state mental health institute for substance abuse treatment, prohibiting counties from certifying a supplemental levy for certain substance abuse treatment facilities, requiring the county auditor to recompute the levy rates to reduce the amount budgeted for certain substance abuse treatment programs in the fiscal year beginning July 1, 1984 and ending June 30, 1985, and providing an effective date.

Senate File 2353 is approved May 15, 1984, with the following exceptions which I hereby disapprove.

I am unable to approve that portion of Section 1, which reads as follows:

and in addition to the regular sales margin which is included in the sale price of liquor as established by the Iowa beer and liquor control council pursuant to section 123.21, subsection 6, and including the provisions in section 123.53, subsections 3 and 7, the council shall adjust the sales margin of liquor on August 1, 1984 in an amount sufficient to raise funds in an amount equal to the difference between the amount appropriated to the department of substance abuse from the general fund of the state for the 1983-1984 fiscal year and the amount appropriated to the department for the 1984-1985 fiscal year

This provision of Section 1 is not a condition of the appropriation and is unnecessary in light of the fact that the Iowa Beer and Liquor Control Council has the power to raise liquor prices pursuant to Section 123.16 (2)(c) as it deems necessary.

I am unable to approve Section 5, which reads as follows:

Sec. 5. Before property taxpayers are notified of taxes due during the fiscal year beginning July 1, 1984 and ending June 30, 1985, each county auditor shall recalculate the county levy by subtracting the amount budgeted for the same fiscal year for substance abuse treatment in facilities provided under chapter 125

from the computed amount in dollars certified by the county under section 444.2. If the taxpayers have already been so notified, the county auditor shall renotify the taxpayer of the reduced property tax amount or the county treasurer shall reduce the tax by such amount or refund to the taxpayer such amount when the property tax is paid. Any penalty shall be applied only to the recalculated property tax amount.

The administrative burden created for county government as a result of this section could negate any intended benefits to the property taxpayers.

Under the local budget law, the various political subdivisions are required to certify their budgets no later than March 15 of each year. This involves the publishing of a budget, holding public hearings on the budget and certifying their tax rate, at which time the county auditor prepares a summary of each budget, showing the condition of the various funds for the fiscal year, including the adopted budgets and forwards a copy of the certified budget to the State Appeal Board. The State Appeal Board reviews the certified budgets and upon approval, enters the various budgets and tax rates in a data base for future use by the executive and legislative branches.

This section would require county auditors to adjust a tax rate after it has been certified and published which will increase the cost of administering the law and produce unnecessary confusion.

The amount involved per individual taxpayer would not be significant. It would be much more cost efficient and less confusing to allow the tax to be collected as certified and reduce the tax levy in the subsequent year.

Finally, I am unable to approve Section 9, which reads as follows:

Sec. 9. This Act, being deemed of immediate importance, takes effect from and after its publication in the Belle Plaine Union, a newspaper published in Belle Plaine, Iowa, and in The Sioux City Journal, a newspaper published in Sioux City, Iowa.

For the 1983-1984 year, the legislature allowed the counties to retain 65 percent of the Sunday liquor license fees and all of the Sunday beer permit license fees. The state collects Sunday liquor license fees and remits the 65 percent to the counties. The counties collect Sunday beer license fees and retain all of it.

In Senate File 2353, the legislature provides that all Sunday liquor license fees and Sunday beer permit license fees shall be deposited in the state beer and liquor fund on the date of publication of the bill, which would be prior to the end of the fiscal year 1984.

The counties adopted and certified their fiscal 1984 budgets in anticipation of receiving these license fee funds through the end of fiscal year 1984 to pay for persons admitted or committed

to alcoholic treatment centers. The counties presently have responsibility for funding these treatment programs and will be short funds to finance these programs through the end of fiscal year 1984 if they do not receive these license fee funds. Since the state is not assuming responsibility for funding the treatment centers until July 1, 1984, the state should not collect these funds until the beginning of the new fiscal year.

For these reasons, I respectfully disapprove of 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 2353 are hereby approved as of this date.

Very truly yours,

A handwritten signature in black ink that reads "Terry E. Branstad". The signature is written in a cursive style with a large, stylized initial "T" and a prominent flourish at the end.

Terry E. Branstad  
Governor

**CHAPTER 1313****PETROLEUM OVERCHARGE FUND APPROPRIATION***S.F. 2357*

**AN ACT** creating a petroleum overcharge fund in the state treasury and appropriating money from the fund.

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

Section 1. NEW SECTION. 93.15 PETROLEUM OVERCHARGE FUND. There is created as a separate account in the state treasury a petroleum overcharge fund. Notwithstanding section 453.7, interest and earnings on investments from the funds in the petroleum overcharge fund shall be credited to the petroleum overcharge fund. The state of Iowa acting on behalf of itself, its citizens and its political subdivisions accepts any funds awarded or allocated to it, its citizens and political subdivisions as a result of petroleum overcharge cases. The funds shall be deposited in the petroleum overcharge fund and shall be expended only upon appropriation of the general assembly for programs which will benefit citizens who may have suffered economic penalties resulting from the alleged petroleum overcharges. However, petroleum overcharge case funds received pursuant to claims filed on behalf of the state, its institutions, departments, agencies, or any political subdivision shall be deposited in the general fund of the state to be disbursed directly to the appropriate claimants in accordance with federal guidelines and subject to the approval of the attorney general and the executive council. Attorneys' fees and expenses incurred by the state to obtain these funds to be deposited in the petroleum overcharge fund shall be paid by the state comptroller from the petroleum overcharge fund subject to the approval of the attorney general and the executive council.

Sec. 2. **CONTINUATION OF 1983-1984 ENERGY MANAGEMENT PROGRAMS.**

1. There is appropriated from the separate account in the general fund of the state created under 1983 Iowa Acts, chapter 202, section 20, all funds received pursuant to claims filed in petroleum overcharge cases on behalf of the state, its institutions, departments, agencies, or any political subdivision to be disbursed to the appropriate claimants as certified by the attorney general. The remaining moneys in this separate account, after the disbursement provided for in this subsection, shall be transferred on June 30, 1984, to the petroleum overcharge fund as created under section 93.15.

2. Notwithstanding section 8.33, all unencumbered or unobligated money remaining from the funds which were apportioned to this state under Pub. L. No. 97-377 and which were appropriated under 1983 Iowa Acts, chapter 207, sections 3, 4, and 5, and under 1983 Iowa Acts, chapter 202, section 21, is appropriated to the energy policy council to continue the programs established under 1983 Iowa Acts, chapter 207, sections 3, 4, and 5, and under 1983 Iowa Acts, chapter 202, section 21, during the fiscal year beginning July 1, 1984.

Sec. 3. **1984-85 ENERGY MANAGEMENT APPROPRIATIONS.**

1. There is appropriated from the petroleum overcharge fund to the energy policy council for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the funds in the petroleum

overcharge fund, excluding a reserve of five percent of all funds for attorneys' fees and expenses, and which were not appropriated under section 2 of this Act, 1983 Iowa Acts, chapter 207, sections 3, 4, and 5, or 1983 Iowa Acts, chapter 202, section 21. Seventy-five percent of the funds appropriated under this section excluding the reserve for attorneys' fees and expenses and for administrative expenses under subsection 2, shall be used for grants and projects by state government, local governments and school districts for energy management programs in buildings owned or occupied by state or local governmental agencies or school districts. The remaining twenty-five percent of the funds shall be used for weatherization of the homes of low-income residents in this state.

2. Not more than five percent of the appropriation shall be used by the energy policy council for administration of the funds appropriated by this Act.

3. The energy policy council shall use the funds appropriated for state government, local government, and school district energy management according to the following guidelines:

a. The funds may be used for energy conservation improvements, capital expenditures, training for maintenance personnel in energy management, the installation of utility meters to monitor energy use, energy audits and in consultation with state and local agencies and school districts in the area of technical energy management.

b. The funds may be used for grants for state agencies, cities, counties, and school districts.

c. Grants for school districts shall be used to consult in the area of technical energy management.

d. Grants for local governments shall be used to:

(1) Fund maintenance personnel training in energy management developed by or approved by the energy policy council.

(2) Pay for the installation of utility meters to monitor the use of energy in buildings occupied by government agencies.

(3) Pay for energy audits of buildings occupied by government agencies.

(4) Pay for energy conservation improvements in government owned or occupied buildings except hospitals and schools.

e. Grants for cities, counties, and school districts shall not exceed fifty percent of the cost of the project and the application must demonstrate that the local government or school district will provide the required matching money.

f. In approving grants for local governments or school districts, or in approving projects for state agencies, the energy policy council shall give priority to projects which produce the greatest energy conservation benefits relative to the cost of the project. Each grant request shall contain information regarding the projected energy savings.

g. The funds may be used to establish and implement a revolving loan fund for state and local government agencies and school districts to install energy conservation measures. Loans shall be paid back from savings achieved in utility bills due to the installation of energy conservation measures.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in The Manchester Press, a newspaper published in Manchester, Iowa, and in The Cascade Pioneer-Advertiser, a newspaper published in Cascade, Iowa.

Approved May 10, 1984

I hereby certify that the foregoing Act, Senate File 2357 was published in The Manchester Press, Manchester, Iowa on May 23, 1984 and in The Cascade Pioneer-Advertiser, Cascade, Iowa on May 17, 1984.

MARY JANE ODELL, *Secretary of State*



**CHAPTER 1314**  
**COMPARABLE WORTH APPROPRIATION**  
*S.F. 2359*

**AN ACT** establishing comparable worth salary adjustments for state employees based on a comparable worth pay grade system, establishing a comparable worth review committee, and making supplemental appropriations for salary adjustments and implementation.

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

Section 1. DEFINITIONS. As used in this Act:

1. "Comparable worth pay grade" means the pay grade as determined by the factor determined score for the job title as finally determined after completion of the review process as outlined in this Act, and the appropriate pay grade position for that factor determined score on the following scale:

<u>Factor Determined</u> <u>Score Range:</u>	<u>Pay Grade</u>
137 - 147	10
148 - 158	11
159 - 169	12
170 - 180	13
181 - 191	14
192 - 202	15
203 - 213	16
214 - 224	17
225 - 236	18
237 - 248	19
249 - 261	20
262 - 275	21
276 - 289	22
290 - 304	23
305 - 320	24
321 - 336	25
337 - 354	26
355 - 372	27
373 - 392	28
393 - 412	29
413 - 433	30
434 - 456	31
457 - 480	32
481 - 504	33
505 - 531	34
532 - 558	35

559—587	36
588—618	37
619—650	38
651—684	39
685—719	40
720—757	41
758—796	42
797—837	43

However, if there is a change in the total of all factor determined scores for all job titles of more than two percent as a result of decisions following reviews, the maximum factor determined score for each pay grade shall be adjusted by a percentage change equal to the percentage change in the total of all factor determined scores for all job titles prior and subsequent to the review process, rounded to the nearest whole number.

2. "Factor score" means the point score received by a job title on any of the thirteen factors in the study, as developed by the study commissioned under 1983 Iowa Acts, chapter 170, section 2.

3. "Factor determined score" means the score for a job title determined by adding the factor scores received for the job title on each of the thirteen factors.

4. "Job title" means one or more positions which are sufficiently similar in duties and responsibilities that each position requires the same minimum qualifications and can be filled based on substantially the same test of ability or fitness, and that the same pay grade can be applied with equity to the positions.

5. "Net effect on the general fund" means the total revenue outlay from the general fund, subtracting revenues to the state from other sources which directly defray the revenue outlay from the state.

**\*Sec. 2. EMPLOYEE PARTICIPATION IN FACTOR SCORE REVIEW AND FINAL RATIFICATION OF FACTOR DETERMINED SCORES.**

1. Any employee subject to the Iowa merit system may request review of the factor scores or the factor determined score that employee's job title received. Requests for review by more than one employee within a job title shall be considered together, and a request for review by one or more employees within a job title shall be considered as a request on behalf of all employees in that job title.

2. The Iowa merit employment department on its own initiative may request review of factor scores on any job titles under the merit system. These requests for review shall be delineated by the Iowa merit employment department and shall be available to merit employees no later than June 1, 1984 and prior to the notice in subsection 3. The delineation shall include a description of the reasons the factor scores should be reviewed and the Iowa merit employment department's recommendations for changing the factor scores.

3. Employees shall be notified of their right to request review of their factor scores and factor determined scores with one or more biweekly pay checks. The Iowa merit employment department shall devise "request for review" forms based upon the recommendations of the study commissioned under 1983 Iowa Acts, chapter 170, section 2. The department shall make "request for review" forms available to all departments and agencies with employees subject to the merit system and shall make the forms available to individual employees upon request. Employees shall be provided access to complete information regarding the study and the methods for determining factor scores in the system.

\*Item veto; see message at end of this Act

4. Employees shall have not less than four weeks from the time the first notice of the right to request review is distributed in which to file a request for review. The department shall notify employees who file incomplete or incorrect requests for review, and shall assist them to complete and file the forms correctly.

5. Review teams shall be constituted to represent all types of employees in the merit system, and shall include representation from contractual as well as noncontractual employees. Teams shall be trained in the job evaluation system and, in reviewing job titles, shall review employee and department "request for review" forms as well as all materials used in initially setting the factor scores.

6. Each job title for which requests for review are filed under subsections 1 through 4 shall be reviewed by a review team. If the review team disagrees with the initial factor score, a second review team shall examine the factor score as determined initially and by the first review team and shall make a final decision as to that factor score.

7. Subsection 5 shall be conducted with the review and comment of the comparable worth review committee established in section 6 of this Act and subsections 5 and 6 shall be conducted under the supervision and approval of the Iowa civil rights commission. All reviews shall be completed by November 1, 1984.\*

Sec. 3. **NONCONTRACTUAL EMPLOYEES.** For noncontractual employees under the state merit system, the following implementation schedule applies for the initial phase of comparable worth adjustments:

1. In implementing the first phase of comparable worth adjustments, employees in job titles whose current pay grade is below the comparable worth pay grade shall be adjusted upward to their comparable worth pay grade. However, no job titles shall be raised above pay grade thirty-two under the initial implementation process. This implementation shall only be done after completion of the review process.

2. In implementing the first phase of comparable worth adjustments, employees whose pay grades will be increased shall retain their merit step positions when those adjustments are made.

3. Comparable worth adjustments made in the first phase shall be implemented on or after January 1, 1985, with implementation at the earliest pay period possible subject to the limitations in funding provided in section 7 of this Act. The amount of funds available under section 7 of this Act for employees covered under this section shall be determined in accordance with section 5 of this Act.

Sec. 4. **CONTRACTUAL EMPLOYEES.** For contractual employees under the state merit system, the governor and the certified bargaining representatives shall implement comparable worth consistent with the provisions of chapter 20.

Appropriations made to implement the comparable worth adjustments as provided in section 7 of this Act and to complete the comparable worth adjustments as provided for in section 8 of this Act, shall be separate and distinct from any appropriations made to implement a collective bargaining agreement negotiated, consistent with chapter 20, between the state and the state's employees.

Sec. 5. **DISTRIBUTION OF FUNDS.** Upon completion of the review process as established in section 2 of this Act, the state comptroller's office, in consultation with the legislative fiscal bureau, shall determine the total biweekly salary costs for implementing the first phase of comparable worth adjustments, if the adjustments for all employees, both contractual and noncontractual, under the merit system were to be made in accordance with section 3, subsections 1 and 2 of this Act, and shall determine the net effect on the general fund for these adjustments.

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\*Item veto; see message at end of this Act

The state comptroller's office shall determine the earliest pay period after December 31, 1984, that the adjustments may be put into effect subject to the limitations of funds provided in section 7 of this Act. The Iowa merit employment department shall place those adjustments into effect for noncontractual employees under the state merit system as provided in section 3 of this Act for the earliest pay period in 1985 as determined by the state comptroller and subsequent pay periods during the fiscal year. Other funds available under section 7 of this Act shall be available to meet any negotiated agreements reached under section 4 of this Act.

**\*Sec. 6. COMPARABLE WORTH REVIEW COMMITTEE AND FINAL IMPLEMENTATION.** There is established a comparable worth review committee to oversee the review process as provided in section 2 of this Act and to make recommendations regarding the completion of the implementation of comparable worth adjustments in accordance with 1983 Iowa Acts, chapter 170. The committee shall be composed of seven members, one to be appointed by the governor, and six to be appointed by the legislative council. Appointments shall be made not later than June 1, 1984 and shall include persons skilled in social science research and in comparable worth policy.

Legislative members of the committee are entitled to per diem and expenses as provided for interim study committee members in section 2.44. Public members who are not public employees are entitled to a per diem of forty dollars for attending committee meetings. Public members and public employee members are entitled to reimbursement for travel and other necessary expenses actually incurred in the performance of their duties on the committee. Payment for authorized per diem and expenses shall be made as provided in section 2.12.

The committee shall make recommendations to the governor, the legislative council, and the general assembly by January 1, 1985, regarding final implementation of the comparable worth adjustments, which recommendations shall include the following:

1. Incorporation of comparable worth policy into state agencies exempt or partially exempt from the state merit system, except the state board of regents, and the judicial department with an emphasis upon treating the job titles and positions in those agencies which are substantially equivalent to job titles or positions in the merit system in a comparable manner with respect to pay.

2. Establishment of a single pay plan for state merit employees consistent with the recommendations for salary schedules associated with the comparable worth pay grades used in section 1 of this Act and recommended modifications or adjustments made under subsection 3 of this section and the effect such a pay plan would have in eliminating sex bias or bias in comparability of pay for jobs of comparable worth.

3. Implementation of comparable worth adjustments to bring all job titles below their comparable worth pay grade up to that pay grade, incorporating any modifications or adjustments to the method of determining the comparable worth pay grade that may be necessary to reflect adjustments determined to more fully reflect the policy of the state as established in section 79.18, including consideration of alternative methods for establishing the relationship between factor determined scores and pay grades.

4. Implementation of any other adjustments to the pay grade positions of job titles that may be recommended by the Iowa merit employment department to avoid compaction in job series or otherwise correct internal discrepancies within job series and the comparable worth pay grade system.

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\*Item veto; see message at end of this Act

5. Implementation of a system which addresses job titles with current pay grades above their comparable worth pay grades.

6. Implementation of recommendations to combine certain job titles which were recommended for combination because of their comparable worth scores and the similarity of their job descriptions.

7. Implementation of a procedure for maintaining the comparable worth factor determination system for job evaluation, including the assigning of factor scores for new job titles in the state merit system.\*

**Sec. 7. APPROPRIATIONS.** Subject to the limitations in subsection 5:

1. There is appropriated from the general fund of the state to the salary adjustment fund established in section 8.43, for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the amount necessary to be distributed to the various departments to supplement other funds appropriated by the general assembly, to provide the salary adjustments required by this Act to the extent the salaries are payable by the state.

2. There is appropriated from the road use tax fund of the state to the state department of transportation for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the amount necessary to supplement other funds appropriated by the general assembly, to provide the salary adjustments required by this Act for employees of the state department of transportation, to the extent the salaries are payable by the state.

3. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the amount necessary to supplement other funds appropriated by the general assembly, to provide the salary adjustments required by this Act for employees of the state department of transportation, to the extent the salaries are payable by the state.

4. To departmental revolving, trust, or special funds, except for the road use tax fund or the primary road fund, for which the general assembly has established an operating budget, a supplemental authorization is provided, unless otherwise provided, in an amount necessary to fund salary adjustments required by this Act, to the extent the salaries are payable by the state.

5. The total cost of the salary adjustments, including fringe benefits, made under this Act for the fiscal year beginning July 1, 1984, and ending June 30, 1985, to employees in the merit system shall not exceed ten million dollars. The net effect on the general fund of the state of the salary adjustments, including fringe benefits, made under this Act for the fiscal year beginning July 1, 1984, and ending June 30, 1985, shall not exceed five million dollars.

6. All federal grants to and federal receipts of the agencies affected by this Act which are received and may be expended for the purposes of this Act are appropriated for such purposes and as set forth in the federal grants or receipts.

\*7. There is appropriated from the general fund of the state to the comparable worth review committee established in section 6 of this Act the sum of fifty thousand (50,000) dollars or so much thereof as may be necessary. Subject to the conditions of section 2, subsection 7 of this Act, the committee shall contract with outside personnel or with state agencies for completion of the review process, including the training of review teams and review team oversight, and may hire staff to provide ongoing assistance to the committee.\*

8. There is appropriated from the general fund of the state to the comparable worth review committee for allocation to state agencies, the sum of fifty thousand (50,000) dollars, or so much thereof as may be necessary, for agencies with positions wholly or partially exempted from the merit system for development of proposals to provide the committee pertaining to section 6, subsection 1 of this Act, and to the state board of regents and the judicial department for assistance in its responsibilities under section 8 of this Act.

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\*Item veto; see message at end of this Act

\*9. There is appropriated from the general fund of the state to the Iowa merit employment department, in addition to other funds appropriated by the general assembly, for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of fifty thousand (50,000) dollars, or so much thereof as may be necessary, to fulfill its responsibilities under section 6, subsections 4 through 7 of this Act and to assist the review committee in performing its functions.\*

Sec. 8. AGENCY COMPARABLE WORTH REPORTS. Agencies with positions which are exempt or partially exempt from the state merit system shall report to the governor and the legislative council by December 15, 1984, on the degree to which the salary plans covering positions substantially equivalent to those in the state merit system comply with the provisions of 1983 Iowa Acts, chapter 170. The reports shall include a plan for implementation in fiscal year 1986 of comparable worth salary adjustments, if necessary, and the amount of appropriations necessary to implement those adjustments. Notwithstanding sections 602.1204, 602.1208, 602.1209, and 602.1401 of the Iowa Code, the provisions of this section of this Act shall be applicable to the judicial department.

Sec. 9. IMPLEMENTATION STAGES. It is the intent of the general assembly that implementation of comparable worth adjustments for state employees, pursuant to section 79.18, be completed in the following three phases:

1. The initial phase, with adjustments for merit employees made under this Act for the fiscal year beginning July 1, 1984 and ending June 30, 1985.

2. The second phase, with completion of adjustments for merit employees, including action on any recommendations made by the review committee under section 6, subsections 2 through 5 of this Act, and with initiation of adjustments for other state employees, including actions on any recommendations made by the review committee under section 6, subsection 1 of this Act, for the fiscal year beginning July 1, 1985 and ending June 30, 1986.

3. The final phase, with completion of any adjustments initiated in the second phase of implementation, for the fiscal year beginning July 1, 1986 and ending June 30, 1987.

Sec. 10. This Act, being deemed of immediate importance, takes effect from and after its publication in the Ames Daily Tribune, a newspaper published in Ames, Iowa, and in the Iowa City Press-Citizen, a newspaper published in Iowa City, Iowa.

Approved May 20, 1984, except the items which I hereby disapprove and which are designated as section 2, which is herein bracketed in ink and initialed by me; and section 6 which is herein bracketed in ink and initialed by me; and those portions of section 7 which are entitled subsections 7 and 9, each of which is herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

I hereby certify that the foregoing Act, Senate File 2359 was published in the Ames Daily Tribune, Ames, Iowa on May 24, 1984 and in the Iowa City Press-Citizen, Iowa City, Iowa on June 1, 1984.

MARY JANE ODELL, *Secretary of State*

\*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 2359, an act establishing comparable worth salary adjustments for state employees based on a comparable worth pay grade system, establishing a comparable worth review committee, and making supplemental appropriations for salary adjustments and implementation.

Senate File 2359 is approved May 20, 1984 with the following exceptions which I hereby disapprove.

I am unable to approve the items designated in the Act as Section 2 which reads as follows:

**Sec. 2. EMPLOYEE PARTICIPATION IN FACTOR SCORE REVIEW AND FINAL RATIFICATION OF FACTOR DETERMINED SCORES.**

1. Any employee subject to the Iowa merit system may request review of the factor scores or the factor determined score that employee's job title received. Requests for review by more than one employee within a job title shall be considered together, and a request for review by one or more employees within a job title shall be considered as a request on behalf of all employees in that job title.

2. The Iowa merit employment department on its own initiative may request review of factor scores on any job titles under the merit system. These requests for review shall be delineated by the Iowa merit employment department and shall be available to merit employees no later than June 1, 1984 and prior to the notice in subsection 3. The delineation shall include a description of the reasons the factor scores should be reviewed and the Iowa merit employment department's recommendations for changing the factor scores.

3. Employees shall be notified of their right to request review of their factor scores and factor determined scores with one or more biweekly pay checks. The Iowa merit employment department shall devise "request for review" forms based upon the recommendations of the study commissioned under 1983 Iowa Acts, chapter 170, section 2. The department shall make "requests for review" forms available to all departments and agencies with employees subject to the merit system and shall make the forms available to individual employees upon request. Employees shall be provided access to complete information regarding the study and the methods for determining factor scores in the system.

4. Employees shall have not less than four weeks from the time the first notice of the right to request review is distributed in which to file a request for review. The department shall notify employees who file incomplete or incorrect requests for review, and shall assist them to complete and file the forms correctly.

5. Review teams shall be constituted to represent all types of employees in the merit system, and shall include representation from contractual as well as noncontractual employees. Teams shall be trained in the job evaluation system and, in reviewing job titles, shall review employee and department "request for review" forms as well as all materials used in initially setting the factor scores.

6. Each job title for which requests for review are filed under subsections 1 through 4 shall be reviewed by a review team. If the review team disagrees with the initial factor score, a second review team shall examine the factor score as determined initially and by the first review team and shall make a final decision as to that factor score.

7. Subsection 5 shall be conducted with the review and comment of the comparable worth review committee established in section 6 of this Act and subsections 5 and 6 shall be conducted under the supervision and approval of the Iowa civil rights commission. All reviews shall be completed by November 1, 1984.

Senate File 2359 is an attempt to provide pay equity to all employees in the Merit System of state government. That is why I have signed the bill. Unfortunately, the study which preceded this legislation and the bill itself were both done hastily.

Numerous flaws in the implementation method laid out in Section 1 have been identified. For example, Jerry Miller is the man who, almost singlehandedly, has stood atop scaffolding for grueling endless hours in our State Capitol to restore the building to the ambience intended by our forefathers. He has been recognized for his stenciling talents by many groups and was even the subject of a feature in the Des Moines Register. Some believe that few, if any other persons in Iowa, have the comparable talent and perseverance he has given to this state. Yet in this year in which we celebrated our Capitol's centennial, this bill would reduce Mr. Miller's pay scale four grades.

For this and many other reasons, the plan in Section 1 cannot be engraved in stone. Many individual state employees, personnel officials and Iowa citizens have communicated the need for a thorough reexamination of this section. Any statistically developed comparable worth plan should be tempered with common sense and compassion for taxpayers as well as state employees.

It is, therefore, important that we have the most credible, effective review process possible. For it is through this process that the state and its employees will have an opportunity to rectify mistakes made by legislators in drafting the Section 1 implementation mechanism.

I am not confident that the review process established in Section 2 will be an effective method for hearing appeals. Instead of this method, a comparable worth review should be handled by professionals in personnel matters. Furthermore, responsibility for the review process should not be placed on the shoulders of an already overworked agency. The Civil Rights Commission has an important mission of its own.

I am unable to approve the item designated in the Act as Section 6 which reads as follows:



Sec. 6. COMPARABLE WORTH REVIEW COMMITTEE AND FINAL IMPLEMENTATION. There is established a comparable worth review committee to oversee the review process as provided in section 2 of this Act and to make recommendations regarding the completion of the implementation of comparable worth adjustments in accordance with 1983 Iowa Acts, chapter 170. The committee shall be composed of seven members, one to be appointed by the governor, and six to be appointed by the legislative council. Appointments shall be made not later than June 1, 1984 and shall include persons skilled in social science research and in comparable worth policy.

Legislative members of the committee are entitled to per diem and expenses as provided for interim study committee members in section 2.44. Public members who are not public employees are entitled to a per diem of forty dollars for attending committee meetings. Public members and public employee members are entitled to reimbursement for travel and other necessary expenses actually incurred in the performance of their duties on the committee. Payment for authorized per diem and expenses shall be made as provided in section 2.12.

The committee shall make recommendations to the governor, the legislative council, and the general assembly by January 1, 1985, regarding final implementation of the comparable worth adjustments, which recommendations shall include the following:

1. Incorporation of comparable worth policy into state agencies exempt or partially exempt from the state merit system, except the state board of regents, and the judicial department with an emphasis upon treating the job titles and positions in those agencies which are substantially equivalent to job titles or positions in the merit system in a comparable manner with respect to pay.

2. Establishment of a single pay plan for state merit employees consistent with the recommendations for salary schedules associated with the comparable worth pay grades used in section 1 of this Act and recommended modifications or adjustments made under subsection 3 of this section and the effect such a pay plan would have in eliminating sex bias or bias in comparability of pay for jobs of comparable worth.

3. Implementation of comparable worth adjustments to bring all job titles below their comparable worth pay grade up to that pay grade, incorporating any modifications or adjustments to the method of determining the comparable worth pay grade that may be necessary to reflect adjustments determined to more fully reflect the policy of the state as established in section 79.18, including consideration of alternative methods for establishing the relationship between factor determined scores and pay grades.

4. Implementation of any other adjustments to the pay grade positions of job titles that may be recommended by the Iowa merit employment department to avoid compaction in job series or otherwise correct internal discrepancies within job series and the comparable worth pay grade system.

5. Implementation of a system which addresses job titles with current pay grades above their comparable worth pay grades.

6. Implementation of recommendations to combine certain job titles which were recommended for combination because of their comparable worth scores and the similarity of their job descriptions.

7. Implementation of a procedure for maintaining the comparable worth factor determination system for job evaluation, including the assigning of factor scores for new job titles in the state merit system.

I am unable to approve the items designated in the Act as Section 7, subsections 7 and 9 which read as follows:

7. There is appropriated from the general fund of the state to the comparable worth review committee established in section 6 of this Act the sum of fifty thousand (50,000) dollars or so much thereof as may be necessary. Subject to the conditions of section 2, subsection 7 of this Act, the committee shall contract with outside personnel or with state agencies for completion of the review process, including the training of review teams and review team oversight, and may hire staff to provide ongoing assistance to the committee.

9. There is appropriated from the general fund of the state to the Iowa merit employment department, in addition to other funds appropriated by the general assembly, for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of fifty thousand (50,000) dollars, or so much thereof as may be necessary, to fulfill its responsibilities under section 6, subsections 4 through 7 of this Act and to assist the review committee in performing its functions.

The oversight committee set up in Section 6 will be controlled by the legislative branch of state government. This represents serious legislative encroachment into an executive branch function. I will draw on management and labor specialists in establishing a new review committee that will continue to monitor our progress on comparable worth.

Section 7(7) and (9) provided funding for the review committee and review process. This appropriation is no longer needed.

Through a credible review process and oversight committee, employees and individual departments will have recourse for adjusting the proposed implementation scheme.

For the above reasons, I respectfully disapprove of 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 2359 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 1315****APPROPRIATIONS FOR VARIOUS GOVERNMENTAL PROGRAMS AND PROJECTS***S.F. 2361*

**AN ACT** relating to and making appropriations for various government projects and programs and providing effective dates.

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

**DIVISION I**

Section 1. **NEW SECTION. 260A.1 EDUCATIONAL EXCELLENCE PROGRAM.** The Iowa educational excellence program is established and it includes Iowa educational excellence incentive awards to be granted in the manner provided in this chapter.

Sec. 2. **NEW SECTION. 260A.2 EDUCATIONAL IMPROVEMENT PROJECTS.** The board of directors of a school district may make application by November 1 of a school year to the department of public instruction for funding for an educational improvement project to be carried out in the school district during the next following school year. The board of directors may apply for an educational excellence incentive award or for additional allowable growth, or both, to fund the project.

An educational improvement project is a project that has not been implemented, requires additional funding for implementation that the district cannot provide, is designed to achieve academic excellence, and has general application in other school districts throughout the state. The project may relate to curriculum, instructional practices, expansion of educational program or staff development.

The application shall include the goals and objectives of the project, staff utilization plans, evaluation criteria and procedures, the program budget, and other factors the department deems necessary. The board also shall include in its application the process used in the school district to involve parents, teachers, administrators, and students in the planning and development of the project.

The total cost of a project shall not exceed one percent of the district cost per pupil of the school district for the budget year multiplied by the budget enrollment of the school district for the budget year or five thousand dollars, whichever is greater.

The department of public instruction shall review the project applications and shall prior to February 15 of that school year send written notification of approval to the school district proposing the project and the state comptroller and school budget review committee. The written notification shall include notification whether a district has been granted an educational excellence incentive award by the department.

Sec. 3. **NEW SECTION. 260A.3 FUNDING.** A project that has been approved by the department of public instruction shall be funded one-fourth or more from the district cost of the school district and up to three-fourths by an increase in allowable growth as defined in section 442.7 or by an educational excellence incentive award granted by the department of public instruction under section 260A.4, or both.

Annually, the state comptroller shall establish a modified allowable growth for each school district having an approved project for which additional allowable growth is required to fund

the project. The modified allowable growth shall be equal to the difference between the approved budget for the project for that district and the sum of the amount funded from the district cost of the district plus funds received from the educational excellence incentive award if an award has been granted to that district.

Sec. 4. NEW SECTION. 260A.4 AWARDS. Annually, the department of public instruction shall select from among the school districts with approved educational improvement projects and shall approve the distribution of educational excellence incentive awards to school districts. An award is equal to five thousand dollars, and the department shall make payment to school districts from funds appropriated by the general assembly for that purpose.

Sec. 5. NEW SECTION. 260A.5 REPORT REQUIRED. Not later than August 15 of the school year following the school year in which an educational improvement project has been carried out, the board of directors of the school district carrying out the project shall file a report with the department of public instruction describing the manner in which the project was carried out, the results of the project, and moneys expended for the project.

If a project was not carried out, or if the cost of carrying out a project was less than the amount approved for the project, the department of public instruction shall notify the state comptroller. The state comptroller shall determine for a project the amount not expended that was additional allowable growth and the amount not expended that was from the educational excellence incentive award, and shall reduce the district's tax levy computed under section 442.9 for the next following budget year to reduce the anticipated receipts from the tax levy by the amount of additional allowable growth not expended and the district's total state school aids available under chapter 442 for the next following budget year by the amount of the award not expended.

Sec. 6. NEW SECTION. 260A.6 RULES. The state board of public instruction shall adopt rules under chapter 17A to implement this chapter.

Sec. 7. Section 442.9, subsection 1, paragraph a, Code Supplement 1983, is amended to read as follows:

a. As used in this chapter, "district cost per pupil" for the school year beginning July 1, 1975, and subsequent school years means district cost per pupil in weighted enrollment. The district cost per pupil for the budget year is equal to the district cost per pupil for the base year plus the allowable growth. However, district cost per pupil does not include additional allowable growth added for programs for gifted and talented children, and for programs for returning dropouts, and for educational improvement projects, under this chapter or for school districts that have a negative balance of funds raised for special education instruction programs under section 442.13, subsection 14, paragraph "b", and does not include additional allowable growth established by the school budget review committee for a single school year only.

\*Sec. 8. There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of one hundred fifty thousand (150,000) dollars, or so much thereof as is necessary, to be paid to school districts for educational excellence incentive awards pursuant to chapter 260A.\*

#### DIVISION II

Sec. 9. There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of five hundred thousand (500,000) dollars, or so much thereof as may be necessary, to be allocated to the merged area schools created in chapter 280A for equipment replacement.

\*Item veto; see message at end of this Act

## DIVISION III

\*Sec. 10. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of one hundred fifty thousand (150,000) dollars, or so much thereof as may be necessary, to be used to supplement the appropriation made in section 261.63 for supplemental grants to students.\*

Sec. 11. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of fifty thousand (50,000) dollars, or so much thereof as may be necessary, to be used to supplement the appropriation made in section 261.25, subsection 1, for tuition grants.

## DIVISION IV

Sec. 12. In addition to any other funds appropriated to the state board of regents, there is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of one million five hundred fifty thousand (1,550,000) dollars, or so much thereof as may be necessary, to be used for the following purposes:

	1984-1985 <u>Fiscal Year</u>
<b>1. UNIVERSITY OF IOWA</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 700,000
<b>2. IOWA STATE UNIVERSITY</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 550,000
<b>3. UNIVERSITY OF NORTHERN IOWA</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 300,000

## DIVISION V

Sec. 13. NEW SECTION. 266.31 CENTER ESTABLISHED—DIRECTOR—ASSISTANTS—SALARIES. The state board of regents shall maintain at Ames, in connection with the agricultural experiment station at Iowa state university of science and technology, a meat export research center. The center shall research technological, economic, and other factors involved in improving the performance of Iowa products in the meat export market with emphasis on the manufacture of value added meat products. The objectives of the center are:

1. To develop innovative meat processing technology to expand and support the export of meat products from Iowa;
2. To provide information to assist in assessing demand characteristics of international and domestic markets for meat and manufactured meat products;
3. To evaluate alternatives to help decision makers develop public policy concerning international and domestic trade in commodities resulting from livestock production and manufacturing of animal products;
4. To provide a center to enhance the exchange of information relative to technology, policy considerations and strategy supporting the export of animal products.

\*Item veto; see message at end of this Act

The president of the university shall appoint the director of the center and assistants as are deemed necessary to carry on the work of the center. The president shall fix the salaries of the director and assistants with the approval of the board.

Sec. 14. NEW SECTION. 266.32 ACCEPTANCE OF PRIVATE FUNDS. The state board of regents may accept grants of money from private sources for use in maintaining the meat export research center.

Sec. 15. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the sum of two hundred thousand (200,000) dollars to be used to establish and maintain at Ames in connection with Iowa state university of science and technology, the meat export research center.

DIVISION VI

Sec. 16. NEW SECTION. 266.33 The Iowa agricultural experiment station at Iowa state university of science and technology shall conduct horticultural research to identify and improve fruits and vegetables which can be effectively grown in Iowa to provide more diversity for Iowa agriculture. The experiment station shall investigate production, marketing, and management techniques, adaptability, and horticultural potential of the fruits and vegetables for both processing and for fresh market sale.

Sec. 17. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much thereof as is necessary, to be used for the purpose designated in section 266.33:

- 1. For the acquisition of a building, necessary equipment, and operation expenses at the Muscatine Island research station ..... \$ 50,000
- 2. For the establishment of and equipment, operation, and personnel of a new research center in western Iowa ..... \$ 60,000

Sec. 18. NEW SECTION. 266.34 The Iowa cooperative extension service in agriculture and home economics shall employ a state extension fruit specialist to provide leadership in the development of a broader array of educational materials and field staff training. The materials on training should provide, in popular and practical terms, the available research at Iowa state university of science and technology and elsewhere that will enable area and county extension service to expand their efforts with existing and potential fruit growers for marketing in or outside of this state.

Sec. 19. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1984, and ending June 30, 1985, thirty-five thousand (35,000) dollars, or so much thereof as is necessary to be used for salaries and operating expenses within the cooperative extension service for the purpose designated in section 266.34.

Sec. 20. There is appropriated from the general fund of the state to the Iowa department of agriculture for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the sum of thirty-five thousand (35,000) dollars to be used to hire a horticultural marketing specialist and support staff in order to develop programs which will assist the horticultural industry in Iowa, which programs shall include, but are not limited to:

- 1. Statewide marketing plans for commercial horticultural products and crops.
- 2. Development of cooperatives for packaging and storing fresh produce.
- 3. Assessment of temporary and permanent market potential in metropolitan areas.
- 4. Establishment of an electronic marketing program for horticultural crops.

Sec. 21. NEW SECTION. 266.35 The agricultural experiment station at Iowa state university of science and technology shall conduct research to identify crops, other than corn and soybeans, which can be effectively grown in Iowa either alone or in multiple cropping schemes to provide more diversity for Iowa agriculture. The experiment station shall investigate production and management techniques, adaptability, feasibility,\* marketability, and agronomic potential of the alternate crops.

Sec. 22. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of twenty-two thousand (22,000) dollars to be used by the agricultural experiment station at Iowa state university of science and technology for the research required by section 266.35.

Sec. 23. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of two hundred thousand (200,000) dollars to be used by the agricultural experiment station at Iowa state university for a new food crops research center.

DIVISION VII

Sec. 24. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the sum of two hundred thousand (200,000) dollars, or so much thereof as may be necessary, for payment of claims filed under the victim reparation program and for the payment of operational expenses.

Sec. 25. There is appropriated from the general fund of the state to the state bureau of labor for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1984-1985
	<u>Fiscal Year</u>
1. For performance of responsibilities under House File 2183, enacted by the Seventieth General Assembly, 1984 Session .....	\$ 33,000
2. For performance of duties specified under the hazardous chemicals risks right to know Act, Senate File 2248, enacted by the Seventieth General Assembly, 1984 Session .....	\$ 47,000

Sec. 26. Notwithstanding section 321.145, there is transferred from the road use tax fund to the general fund of the state the sum of three hundred thousand (300,000) dollars which funds are hereby appropriated from the general fund of the state to the state department of public safety for the administration and supervision of the public highways for the fiscal year beginning July 1, 1984 and ending June 30, 1985, which funds shall be used for salaries, support, maintenance, and miscellaneous purposes of the division of highway safety and uniformed force for the administration and supervision of the public highways, 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.

Sec. 27. NEW SECTION. 266.36 The Iowa cooperative extension service in agriculture and home economics shall accelerate the development of computer software and field staff

\*According to enrolled Act

training to increase the extension service's ability to offer financial management and counseling services to individual farm operators and to increase the analysis and understanding of financial management, marketing and related subjects among farm operators.

Sec. 28. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1984, and ending June 30, 1985, two hundred thousand (200,000) dollars, or so much thereof as is necessary, for salaries and operating expenses within the cooperative extension service, and for supplies, services, and equipment to be used for the purpose designated in section 266.36.

#### DIVISION VIII

#### \*Sec. 29. AGRICULTURE, FOOD, AND ENERGY DEMONSTRATION CENTER STUDY.

1. PURPOSE—INTENT. The general assembly of this state desires to promote and enhance economic development within the state. The establishment of an agriculture, food, and energy demonstration center may be useful in the development of agricultural and agricultural related activities within the state. A study shall be done as provided in this section for the purpose of determining the feasibility, practicality, advantages, disadvantages, benefits, and disincentives to agriculture and agricultural related businesses, the state, and local communities of having an agriculture, food, and energy demonstration center within the state. It is the intent of the general assembly that to the extent time and resources allow the study shall encompass all aspects of the question of the merits of establishing different types of agriculture, food, and energy demonstration centers and the question of how to and what is needed to establish the different types of agriculture, food, and energy demonstration centers. The major objectives of this center are:

- a. To increase Iowa exports of agriculture and agriculture industries.
- b. To assist in training Americans and foreign nationals in the operation and utilization of American agricultural products, industries, and technologies.
- c. To effectively utilize already existent public-owned land for the purpose of demonstrating Iowa crops, products, and technology to potential purchasers from around the United States and the world.
- d. To encourage private business and industry to demonstrate the production, processing, storage, and distribution of all feasible agricultural systems. Such systems would include, but not be limited to, the following: modern systems of cattle, swine, sheep, dairy, and poultry production; processing systems; food and feed processing technologies; alternative energy technologies such as solar, wind, methane, ethanol, and bio-mass; and other systems and processes that can be demonstrated.
- e. To encourage the purchase of Iowa based commodities and technology in the export market.
- f. To create and expand business opportunities and employment opportunities within the state.
- g. To expand the research and technology base of agricultural education and nutrition research already existent in the state.
- h. To seek out the help, recommendation, and support of farm organizations and commodity groups, food and agricultural relief organizations, the exporting business community, all major state industries, manufacturers, and businesses, local and state government officials, and the citizens of Iowa in the establishment of an agriculture, food and energy demonstration center.

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\*Item veto; see message at end of this Act



2. **AGRICULTURE, FOOD, AND ENERGY DEMONSTRATION CENTER STUDY COMMITTEE.** There is created an agriculture, food, and energy demonstration center study committee consisting of fifteen members. Four of the members, with not more than two of the same party, shall be appointed by and serve at the pleasure of the governor. Four of the members shall be members of the general assembly. The speaker of the house of representatives shall appoint two members, one from each political party. The president of the senate shall appoint two members, one from each political party. One member shall be appointed by the Des Moines city council. One member shall be appointed by the Ankeny city council. One member shall be appointed by the president of Iowa state university. Four members shall be associated with the private sector nonprofit corporation formed to provide matching funds for this study.

3. **ORGANIZATION AND PARTICIPATION.**

a. The chairperson and vice chairperson of and elected by the committee shall direct and coordinate the activities of the committee.

b. State officers and state departments and agencies shall cooperate by providing technical assistance to the committee upon request of the chairperson.

c. The nonlegislative members of the committee shall be reimbursed for their travel and other necessary expenses actually incurred in the performance of their official duties from the state general fund from funds not otherwise appropriated. The legislative members shall receive, when the general assembly is not in session, a per diem of forty dollars and their travel and other necessary expenses actually incurred in the performance of their official duties from funds appropriated by section 2.12.

d. The chairperson shall develop and provide to the governor or the governor's designee interim reports of the activities of the committee and shall complete and transmit copies of its final report to the governor and the members of the general assembly who request them by January 1, 1985. The final report shall contain a brief summary of its activities, listing of its findings, and its recommendations, including additions or changes to existing law.

e. The agriculture, food, and energy demonstration center study committee shall cease to exist on March 1, 1985.

4. **SCOPE OF THE STUDY.** The committee shall consider and its recommendations shall address, but are not limited to, the following:

a. Examination of existing infrastructure in the central Iowa region including:

(1) Transportation systems such as highways; railroads; and air, including international airport status.

(2) Communication systems such as computer technologies and telecommunications of all types; satellite communications, including television; and developing communication links with all of the major world centers of commerce and trade.

(3) Impact study for all communities in central Iowa.

(4) Determination of the best location for the center.

(5) Water source; waste, air and water management and disposal; electricity and gas.

(6) Environmental impact statement.

(7) Food, housing and local transportation for American and foreign visitors.

b. Determine what cooperation will be needed from local, state and federal agencies.

c. Determine what cooperation will be needed from higher education institutions.

d. Determination of the extent of participation and investment in an agriculture center by foreign governments and foreign private enterprise.

e. Determination of the extent of investment possible by federal government agencies, such as the foreign agricultural service of the United States department of agriculture and the agency for international development in the United States department of commerce.

5. **STAFF SUPPORT.** Staff for the agriculture, food, and energy demonstration center study committee may be provided by the legislative service bureau and the legislative fiscal bureau upon approval of the legislative council.

\*Sec. 30. There is appropriated from the general fund of the state to the marketing division of the Iowa development commission for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of sixty thousand (60,000) dollars, or so much thereof as may be necessary, to be deposited in a special account together with such other funds as may be obtained from other public or private sources for the use of the agriculture, food, and energy demonstration center study committee. The funds appropriated by this section may be expended only to the extent that they are matched with funds from other public or private sources.\*

#### DIVISION IX

Sec. 31. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1984 and ending June 30, 1985, to the state board of regents, the sum of seven hundred twenty-five thousand (725,000) dollars, or so much thereof as necessary, for allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the Iowa braille and sight-saving school to undertake the following capital projects:

1. **STATE UNIVERSITY OF IOWA**

Fire safety deficiency corrections.

2. **IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY**

a. Fire safety deficiency corrections.

b. Planning for phase 2 of the college of education building.

c. Planning for the home economics building.

3. **IOWA BRAILLE AND SIGHT-SAVING SCHOOL**

Utility system master plan and other campus improvements.

Sec. 32. There is appropriated from the general fund of the state to the following state agencies for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the following amounts, or so much as may be necessary, to be used in the manner designated:

	1984-1985 <u>Fiscal Year</u>
1. <b>COMMISSION FOR THE BLIND</b>	
a. Major overhaul of the absorption system .....	\$ 1,260
b. For rebuilding of the cooling tower .....	\$ 840
2. <b>DEPARTMENT OF GENERAL SERVICES</b>	
a. For the payment of state house renovation .....	\$ 740,000
b. For the acquisitions of land surrounding the capitol complex as it becomes available .....	\$ 120,000
c. For the renovation and remodeling of the third floor of the Robert Lucas building .....	\$ 650,000

\*Item veto; see message at end of this Act

d. For repair to the Wallace state office building .....	\$	55,000
e. For repair of the roof of the vehicle dispatcher building and the repair of the roof of the micrographics building .....	\$	90,000
f. For the installation of individual water heaters in capitol complex buildings .....	\$	61,600
g. For replacement of the incandescent lamps in the upper portions of the capitol .....	\$	5,250
h. For automation of the north capitol elevator .....	\$	13,500
i. For repair of the roof and dome of the state historical building .....	\$	285,000
j. For the renovation of restroom and drinking facilities in the state historical building to make them accessible to handicapped persons .....	\$	10,000
k. For construction of a handicapped entrance ramp to the state historical building .....	\$	5,000
<b>3. IOWA STATE HISTORICAL DEPARTMENT</b>		
a. For construction of a handicapped entrance to the centennial building in Iowa City .....	\$	13,000
b. For the purchase of property adjacent to the gravesite at Gardner cabin .....	\$	30,000
<b>4. STATE CONSERVATION COMMISSION</b>		
a. For Swan lake restoration .....	\$	95,000
b. For construction, replacement, development and alterations to state parks and preserves, state forest facilities and state waters including artificial lake development; shoreline erosion and siltation control; river, stream and lake access; and engineering and planning services or to supplement any prior appropriation for such purposes .....	\$	581,500
<b>5. TREASURER OF STATE</b>		
For the purchase of an investment machine and system .....	\$	100,000
<b>6. ENERGY POLICY COUNCIL</b>		
For an energy management program for state-owned and rented buildings .....	\$	500,000

## 7. STATE FAIR BOARD

For roofing of the pavilion and cattle barn  
and major overhaul of the electrical system ..... \$ 240,000

8. DEPARTMENT OF PUBLIC  
DEFENSE

For building an armory in Clinton ..... \$ 388,000

Notwithstanding section 29A.57 the proceeds from the sale of the armory in Dubuque shall revert to the general fund of the state and not to the national guard facilities improvement fund.

## 9. DEPARTMENT OF PUBLIC SAFETY

To purchase land and erect new tower at  
Cedar Falls ..... \$ 70,000

Sec. 33. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated under sections 31 and 32 of this Act shall remain available for expenditure during the fiscal year beginning July 1, 1985 and those funds remaining as of June 30, 1986 shall revert to the general fund of the state on September 30, 1986. The department of general services with the approval of the state comptroller, may transfer funds appropriated for a capital project in section 32, subsection 2 of this Act from one capital project to another capital project provided in section 32, subsection 2 of this Act so long as the total amount appropriated for all those projects is not exceeded.

## DIVISION X

Sec. 34. Section 273.3, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 18. Be authorized to issue school credit cards allowing area education agency employees to pay for the actual and necessary expenses incurred in the performance of work-related duties.

Sec. 35. Section 279.8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The board shall make rules for its own government and that of the directors, officers, employees, teachers and pupils, and for the care of the schoolhouse, grounds, and property of the school corporation, and shall aid in the enforcement of the same rules, and require the performance of duties by said persons imposed by law and the rules. The board shall include in its rules provisions regulating the loading and unloading of pupils from a school bus stopped on the highway during a period of reduced highway visibility caused by fog, snow or other weather conditions. The board shall have the authority to include in its rules provisions allowing school corporation employees to use school credit cards to pay for the actual and necessary expenses incurred in the performance of work-related duties.

Sec. 36. Section 280A.23, Code 1983, is amended by adding the following new subsection:

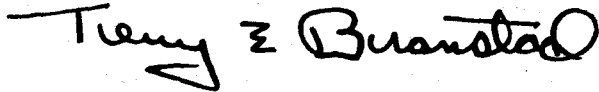
NEW SUBSECTION. 11. Be authorized to issue to employees of merged area schools school credit cards to use for payment of authorized expenditures incurred in the performance of work-related duties.

Sec. 37. Section 303B.6, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Issue to employees within their jurisdiction regional library system credit cards to use for payment of authorized expenditures incurred in the performance of work-related duties.

\*Sec. 38. This Act, being deemed of immediate importance, shall take effect as provided in this section from and after its publication in the Oskaloosa Daily Herald, a newspaper published in Oskaloosa, Iowa, and in the Diamond Trail News, a newspaper published in Sully, Iowa. Section 32, subsection 2, paragraph "a", of this Act appropriating funds to the department of general services for payment of state house renovation costs shall take effect upon publication and become available for expenditure upon that date notwithstanding any contrary provision of that section. All other provisions of this Act shall take effect July 1 following enactment.\*

Approved May 19, 1984, except the four items which I hereby disapprove and which are designated as Division I, section 8; Division III, section 10; Division VIII, sections 29 and 30; and Division X, section 38 all of which are herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this act to the Secretary of State this same date, a copy of which is attached hereto.

A handwritten signature in black ink that reads "Terry E. Branstad". The signature is written in a cursive style with a large, stylized "B" and a distinct "E".

TERRY E. BRANSTAD  
Governor

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\*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 2361, an act relating to and making appropriations for various government projects and programs and providing effective dates.

Senate File 2361 is approved May 18, with the following exceptions which I hereby disapprove.

I am unable to approve Division I, Section 8, which reads as follows:

Sec. 8. There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of one hundred fifty thousand (150,000) dollars, or so much thereof as is necessary, to be paid to school districts for educational excellence incentive awards pursuant to chapter 260A.

Section 8 provides an appropriation to local schools in fiscal year 1984-1985. However, the grant application process outlined in Section 2 of the bill states in part:

"The board of directors of a school district may make application by November 1 of a school year to the department of public instruction for funding for an educational improvement project to be carried out in the school district during the next following school year." (Emphasis added)

Under this timetable, the first school year for which a school district can request a grant would be the 1985-86 school year. However, the appropriation has been made for fiscal year 1984-85. This program should be funded in fiscal year 1985-86, the year in which the grants will actually be used by the school districts.

I am also unable to approve Division III, Section 10, which reads as follows:

Sec. 10. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of one hundred fifty thousand (150,000) dollars, or so much thereof as may be necessary, to be used to supplement the appropriation made in section 261.63 for supplemental grants to students.

Section 10 is a \$150,000 appropriation to supplement the appropriation made last year for supplemental grants to students. Last year's legislation provided grants to students completing seven credit hours of mathematics and science courses in high school. That legislation authorized grants of up to \$500, and created a standing limited appropriation of \$1,500,000 to fund the grants.

It is currently estimated that close to 7,000 students graduating in 1984 will qualify for these supplemental grants for college in 1984-85. If these projections are accurate, the grants will total \$240-\$250 for each student. The effect of this additional \$150,000 appropriation would be to raise individual grant amounts by \$20 to \$25 per student.

This program was intended to be an incentive to encourage students still in high school to take more math and science courses. However, by making the appropriation effective for 1984-85, the funds will merely increase the grants given to students who have completed high school this year and will already be in college during 1984-85. If this program is to be expanded, it should be done in a manner that would provide incentives for students still in high school. This legislation would simply increase the grants to graduated students on a retroactive basis.

I am also unable to approve Division VIII, Sections 29 and 30, which read as follows:

#### DIVISION VIII

##### Sec. 29. AGRICULTURE, FOOD, AND ENERGY DEMONSTRATION CENTER STUDY.

1. PURPOSE—INTENT. The general assembly of this state desires to promote and enhance economic development within the state. The establishment of an agriculture, food, and energy demonstration center may be useful in the development of agricultural and agricultural related activities within the state. A study shall be done as provided in this section for the purpose of determining the feasibility, practicality, advantages, disadvantages, benefits, and disincentives to agriculture and agricultural related businesses, the state, and local communities of having an agriculture, food, and energy demonstration center within the state. It is the intent of the general assembly that to the extent time and resources allow the study shall encompass all aspects of the question of the merits of establishing different types of agriculture, food, and energy demonstration centers and the question of how to and what is needed to establish the different types of agriculture, food, and energy demonstration centers. The major objectives of this center are:

- a. To increase Iowa exports of agriculture and agriculture industries.
- b. To assist in training Americans and foreign nationals in the operation and utilization of American agricultural products, industries, and technologies.
- c. To effectively utilize already existent public-owned land for the purpose of demonstrating Iowa crops, products, and technology to potential purchasers from around the United States and the world.
- d. To encourage private business and industry to demonstrate the production, processing, storage, and distribution of all feasible agricultural systems. Such systems would include, but not be limited to, the following: modern systems of cattle, swine, sheep, dairy, and poultry production; processing systems; food and feed processing technologies; alternative energy technologies such as solar, wind,

methane, ethanol, and bio-mass; and other systems and processes that can be demonstrated.

e. To encourage the purchase of Iowa based commodities and technology in the export market.

f. To create and expand business opportunities and employment opportunities within the state.

g. To expand the research and technology base of agricultural education and nutrition research already existent in the state.

h. To seek out the help, recommendation, and support of farm organizations and commodity groups, food and agricultural relief organizations, the exporting business community, all major state industries, manufacturers, and businesses, local and state government officials, and the citizens of Iowa in the establishment of an agriculture, food and energy demonstration center.

2. AGRICULTURE, FOOD, AND ENERGY DEMONSTRATION CENTER STUDY COMMITTEE. There is created an agriculture, food, and energy demonstration center study committee consisting of fifteen members. Four of the members, with not more than two of the same party, shall be appointed by and serve at the pleasure of the governor. Four of the members shall be members of the general assembly. The speaker of the house of representatives shall appoint two members, one from each political party. The president of the senate shall appoint two members, one from each political party. One member shall be appointed by the Des Moines city council. One member shall be appointed by the Ankeny city council. One member shall be appointed by the president of Iowa state university. Four members shall be associated with the private sector nonprofit corporation formed to provide matching funds for this study.

### 3. ORGANIZATION AND PARTICIPATION.

a. The chairperson and vice chairperson of and elected by the committee shall direct and coordinate the activities of the committee.

b. State officers and state departments and agencies shall cooperate by providing technical assistance to the committee upon request of the chairperson.

c. The nonlegislative members of the committee shall be reimbursed for their travel and other necessary expenses actually incurred in the performance of their official duties from the state general fund from funds not otherwise appropriated. The legislative members shall receive, when the general assembly is not in session, a per diem of forty dollars and their travel and other necessary expenses actually incurred in the performance of their official duties from funds appropriated by section 2.12.



d. The chairperson shall develop and provide to the governor or the governor's designee interim reports of the activities of the committee and shall complete and transmit copies of its final report to the governor and the members of the general assembly who request them by January 1, 1985. The final report shall contain a brief summary of its activities, listing of its findings, and its recommendations, including additions or changes to existing law.

e. The agriculture, food, and energy demonstration center study committee shall cease to exist on March 1, 1985.

4. SCOPE OF THE STUDY. The committee shall consider and its recommendations shall address, but are not limited to, the following:

a. Examination of existing infrastructure in the central Iowa region including:

(1) Transportation systems such as highways; railroads; and air, including international airport status.

(2) Communication systems such as computer technologies and telecommunications of all types; satellite communications, including television; and developing communication links with all of the major world centers of commerce and trade.

(3) Impact study for all communities in central Iowa.

(4) Determination of the best location for the center.

(5) Water source; waste, air and water management and disposal; electricity and gas.

(6) Environmental impact statement.

(7) Food, housing and local transportation for American and foreign visitors.

b. Determine what cooperation will be needed from local, state and federal agencies.

c. Determine what cooperation will be needed from higher education institutions.

d. Determination of the extent of participation and investment in an agriculture center by foreign governments and foreign private enterprise.

e. Determination of the extent of investment possible by federal government agencies, such as the foreign agricultural service of the United States department of agriculture and the agency for international development in the United States department of commerce.

5. STAFF SUPPORT. Staff for the agriculture, food, and energy demonstration center study committee may be provided by the legislative service bureau and the legislative fiscal bureau upon approval of the legislative council.

Sec. 30. There is appropriated from the general fund of the state to the marketing division of the Iowa development commission for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the sum of sixty thousand (60,000) dollars, or so much thereof as may be necessary, to be deposited in a special account together with such other funds as may be obtained from other public or private sources for the use of the agriculture, food, and energy demonstration center study committee. The funds appropriated by this section may be expended only to the extent that they are matched with funds from other public or private sources.

Division VIII, Sections 29 and 30 provide a study of the feasibility of establishing an agriculture, food, energy demonstration center and for its funding. The study committee would consist of fifteen members. Section 29 provides for a standing unlimited appropriation to reimburse non-legislative members.

The study effort established by this legislation has a worthy purpose, but is too narrowly defined. A good lesson learned during this past session is that all corners of Iowa and all elements of our economy must work together if we are to be successful in reaching statewide economic goals. The study provided for in Senate File 2361 centers on Des Moines, Ames, and the surrounding area. While it makes sense that a special, agriculturally oriented research or trading center would be located in central Iowa, we must be careful to address this issue and others in the context of how all Iowa would benefit.

I have publicly stated my intention to appoint a Blue Ribbon Strategic Development Council to fully explore ideas for Iowa's economic future. This effort will be large in scope, not limited to a particular geographic area or one or two segments of our economy.

The work of the Strategic Development Council will complement the interim legislative study of the proposed Iowa World Trade Center and other export initiatives. And, a federal government review of this same issue is also underway. To have yet another study created by law is unnecessary. Thus, I have chosen to delete this provision from Senate File 2361.

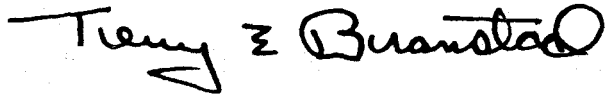
Finally, I am unable to approve Division 10, Section 38, which reads as follows:

Sec. 38. This Act, being deemed to immediate importance, shall take effect as provided in this section from and after its publication in the Oskaloosa Daily Herald, a newspaper published in Oskaloosa, Iowa, and in the Diamond Trail News, a newspaper published in Sully, Iowa. Section 32, subsection 2, paragraph "a", of this Act appropriating funds to the department of general services for payment of statehouse renovation costs shall take effect upon publication and become available for expenditure upon that date notwithstanding any contrary provision of that section. All other provisions of this Act shall take effect July 1 following enactment.

The publication clause provides that the appropriation to the Department of General Services for the payment of statehouse renovation costs would be effective upon publication of the Act. This will occur in the fiscal year 1984. This would be an obligation against the 1984 fiscal year balance even though the funds would not be spent until fiscal year 1985 or thereafter. This could put the 1984 state fiscal year general fund projected balance into a deficit position. Therefore, I am deleting this section to prevent the possibility of a deficit balance.

For the above reasons, I respectfully disapprove of 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 2361 are hereby approved as of this date.

Very truly yours,

A handwritten signature in black ink that reads "Terry E. Branstad". The signature is written in a cursive style with a large, stylized "T" and "B".

Terry E. Branstad  
Governor

**CHAPTER 1316**  
**STATE HISTORICAL BUILDING APPROPRIATION**  
*H.F. 2347*

**AN ACT** relating to the appropriation of funds for the construction of a new state historical building and providing effective dates.

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

Section 1. The sum of two million five hundred thousand (2,500,000) dollars, or so much thereof as may be necessary, of the funds in the special fund created by 1982 Iowa Acts, chapter 1265, is appropriated on the effective date of this Act to the department of general services for land acquisition and site development for a new state historical building.

Sec. 2. All of the funds in the special fund created by 1982 Iowa Acts, chapter 1265, which are not otherwise appropriated, are appropriated on July 1, 1984 to the department of general services for the engineering, planning and construction of a new state historical building.

Sec. 3. The provisions of section 8.33 relating to capital expenditures apply to the appropriations made by sections 1 and 2 of this Act.

Sec. 4. 1983 Iowa Acts, chapter 195, section 13, is amended to read as follows:

SEC. 13. There is appropriated from the general fund of the state to the state historical department of general services for the fiscal year periods beginning July 1, 1984 and July 1, 1985 and ending June 30, 1985 1988 and June 30, 1989, respectively, the following amount amounts, or so much thereof as necessary, to be used for the purposes designated:

	<u>1984-1985 1988</u>	<u>1985-1989</u>
	<u>Fiscal Year Period</u>	<u>Fiscal Period</u>
For the <u>engineering, planning and construction of a new state historical building</u> .....	\$ 10,000,000	\$ 5,250,000
	<u>4,750,000</u>	

Funds appropriated by this section are provided as a state match of two dollars of state match for each one dollar of private nonstate funds actually acquired excluding the Herrick bequest. Funds appropriated by this section shall not be committed or expended without the prior written approval of the director of the department of general services.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in The Hawk Eye, a newspaper published in Burlington, Iowa, and in the Diamond Trail News, a newspaper published in Sully, Iowa.

Approved March 8, 1984

I hereby certify that the foregoing Act, House File 2347 was published in The Hawk Eye, Burlington, Iowa on March 14, 1984 and in the Diamond Trail News, Sully, Iowa on March 21, 1984.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 1317****AMENDMENT TO U.S. CONSTITUTION ON DISTRICT OF COLUMBIA***H.J.R. 2*

**A JOINT RESOLUTION** ratifying a proposed amendment to the Constitution of the United States to provide for representation of the District of Columbia in the congress.

WHEREAS, the Ninety-fifth Congress of the United States has passed a joint resolution proposing an amendment to the Constitution of the United States to provide for representation of the District of Columbia in the congress; and

WHEREAS, this joint resolution passed the house of representatives of the United States on March 2, 1978, passed the senate of the United States on August 22, 1978, and now has been submitted to a vote of the states and reads:

**"JOINT RESOLUTION**

Proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

**"ARTICLE—**

"Section 1. For purposes of representation in the Congress, election of the President and Vice President, and article V of this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State.

"Sec. 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

"Sec. 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

"Sec. 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission."

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

That the foregoing proposed amendment to the Constitution of the United States is hereby ratified and consented to by the state of Iowa and the general assembly thereof; and

*Be It Further Resolved,* That the governor of the state of Iowa forward certified copies of this resolution over the seal of the state of Iowa to the secretary of state of the United States, to the presiding officer of the senate of the United States, to the speaker of the house of representatives of the United States, and to the administrator of the United States general services administration.

Approved January 19, 1984

**CHAPTER 1318****TIME ACTS OF THE GENERAL ASSEMBLY TAKE EFFECT***First Time Passed S.J.R. 9*

**A JOINT RESOLUTION** proposing an amendment to the Constitution of the State of Iowa to allow the general assembly to specify by law when acts of the general assembly take effect.

*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 26 of Article III of the Constitution of the State of Iowa, as amended by the Amendment of 1966, is repealed and the following adopted in lieu thereof:

"An act of the general assembly passed at a regular session of a general assembly shall take effect on July 1 following its passage unless a different effective date is stated in an act of the general assembly. An act passed at a special session of a general assembly shall take effect ninety days after adjournment of the special session unless a different effective date is stated in an act of the general assembly. The general assembly may establish by law a procedure for giving notice of the contents of acts of immediate importance which become law."

Sec. 2. The foregoing 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 the same to be published for three consecutive months previous to the date of that election as provided by law.

**CHAPTER 1319****OFFICES OF GOVERNOR AND LIEUTENANT GOVERNOR***First Time Passed S.J.R. 2001*

**A JOINT RESOLUTION** proposing amendments to the Constitution of the State of Iowa relating to the offices of the governor and lieutenant governor.

*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:

1. Section 2 of Article IV of the Constitution of the State of Iowa, as amended by amendment number 1 of the Amendments of 1972, is repealed beginning with the general election in the year 1990 and the following adopted in lieu thereof:

SEC. 2. The governor and the lieutenant governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly. Each of them shall hold office for four years from the time of installation in office and until a successor is elected and qualifies.

2. Section 3 of Article IV of the Constitution of the State of Iowa, as amended by amendment number 1 of the Amendments of 1972, is repealed beginning with the general election in the year 1990 and the following adopted in lieu thereof:

SEC. 3. The electors shall designate their selections for governor and lieutenant governor as if these two offices were one and the same. The names of nominees for the governor and the lieutenant governor shall be grouped together in a set on the ballot according to which nominee for governor is seeking office with which nominee for lieutenant governor, as prescribed by law. An elector shall cast only one vote for both a nominee for governor and a nominee for lieutenant governor. The returns of every election for governor and lieutenant governor shall be sealed and transmitted to the seat of government of the state, and directed to the speaker of the house of representatives who shall open and publish them in the presence of both houses of the general assembly.

3. Section 4 of Article IV of the Constitution of the State of Iowa, as amended by amendment number 1 of the Amendments of 1952, is repealed beginning with the general election in the year 1990 and the following adopted in lieu thereof:

SEC. 4. The nominees for governor and lieutenant governor jointly having the highest number of votes cast for them shall be declared duly elected. If two or more sets of nominees for governor and lieutenant governor have an equal and the highest number of votes for the offices jointly, the general assembly shall by joint vote proceed, as soon as is possible, to elect one set of nominees for governor and lieutenant governor. If, upon the completion by the general assembly of the canvass of votes for governor and lieutenant governor, it appears that the nominee for governor in the set of nominees for governor and lieutenant governor receiving the highest number of votes has since died or resigned, is unable to qualify, fails to qualify, or is for any other reason unable to assume the duties of the office of governor for the ensuing term, the powers and duties shall devolve to the nominee for lieutenant governor of the same set of nominees for governor and lieutenant governor, who shall assume the powers and duties

of governor upon inauguration and until the disability is removed. If both nominees for governor and lieutenant governor are unable to assume the duties of the office of governor, the person next in succession shall act as governor.

4. Section 5 of Article IV of the Constitution of the State of Iowa is repealed beginning with the general election in the year 1990 and the following adopted in lieu thereof:

SEC. 5. Contested elections for the offices of governor and lieutenant governor shall be determined by the general assembly as prescribed by law.

Sec. 2. The following amendment to the Constitution of the State of Iowa is proposed:

1. Section 15 of Article IV of the Constitution of the State of Iowa, as amended by amendment number 1 of the Amendments of 1972, is repealed beginning with the second Monday in January, 1987 and the following adopted in lieu thereof:

SEC. 15. The official terms of the governor and lieutenant governor shall commence on the Tuesday after the second Monday of January next after their election and shall continue until their successors are elected and qualify. The governor and lieutenant governor shall be paid compensation and expenses as provided by law. The lieutenant governor, while acting as governor, shall be paid the compensation and expenses prescribed for the governor.

2. Section 18 of Article IV of the Constitution of the State of Iowa is repealed beginning with the second Monday in January, 1987 and the following adopted in lieu thereof:

SEC. 18. The lieutenant governor shall have the duties provided by law and those duties of the governor assigned to the lieutenant governor by the governor.

3. Section 19 of Article IV of the Constitution of the State of Iowa as amended by amendment number 2 of the amendments of 1952 is repealed beginning with the second Monday in January, 1987 and the following adopted in lieu thereof:

SEC. 19. If there be a vacancy in the office of the governor and the lieutenant governor shall by reason of death, impeachment, resignation, removal from office, or other disability become incapable of performing the duties pertaining to the office of governor, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above causes, shall be incapable of performing the duties pertaining to the office of governor the same shall devolve upon the speaker of the house of representatives; and if the speaker of the house of representatives, for any of the above causes, shall be incapable of performing the duties of the office of governor, the justices of the supreme court shall convene the general assembly by proclamation and the general assembly shall organize by the election of a president by the senate and a speaker by the house of representatives. The general assembly shall thereupon immediately proceed to the election of a governor and lieutenant governor in joint convention.

Sec. 3. The foregoing proposed amendments to the Constitution of the State of Iowa are 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 them to be published for three consecutive months before the date of that election as provided by law.



**CHAPTER 1320**  
**CRIMINAL RESPONSIBILITY WHILE INSANE**  
*H.F. 526*

**AN ACT** relating to criminal responsibility for the commission of a public offense while insane.

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

Section 1. Section 701.4, Code 1983, is amended to read as follows:

701.4 **INSANITY.** ~~No~~ A person shall not be convicted of any a crime if at the time such the crime is committed the person suffers from such a diseased or deranged condition of the mind so as to render the person incapable of knowing the nature and quality of the act he or she the person is committing or incapable of distinguishing between right and wrong in relation to that act. Insanity need not exist for any specific length of time before or after the commission of the alleged criminal act. If the defense of insanity is raised, the defendant must prove by a preponderance of the evidence that the defendant at the time of the crime suffered from such a deranged condition of the mind as to render the defendant incapable of knowing the nature and quality of the act the defendant was committing or was incapable of distinguishing between right and wrong in relation to the act.

Sec. 2. Rule of criminal procedure 10, subsection 11, paragraph b, subparagraph (1), Iowa court rules, second edition, is amended to read as follows:

(1) **DEFENSE OF INSANITY AND DIMINISHED RESPONSIBILITY.** If a defendant intends to rely upon the defense of insanity or diminished responsibility at the time of the alleged crime, the defendant shall, within the time provided for the filing of pretrial motions, file written notice of such intention. The court may for good cause shown, allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

When the defendant has asserted a defense of insanity the burden of proof is on the defendant to prove insanity by a preponderance of the evidence as provided for in section 701.4.

Approved April 6, 1984

**CHAPTER 1321**  
**COURT STATEMENT TO DEFENDANT ON GUILTY PLEA**  
*S.F. 2035*

**AN ACT** relating to the requirement that the court personally address a defendant when a plea of guilty to a serious misdemeanor is entered by, or on behalf of, a defendant.

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

Section 1. Rule of criminal procedure 8, section 2, subsection b, Iowa court rules, second edition, is amended to read as follows:

b. **PLEAS OF GUILTY.** The court may refuse to accept a plea of guilty, and shall not accept such a plea of guilty without first addressing the defendant personally and determining that the plea is made voluntarily and intelligently and has a factual basis.

Before accepting a plea of guilty, the court must address the defendant personally in open court and inform the defendant of, and determine that the defendant understands, the following:

- (1) The nature of the charge to which the plea is offered.
- (2) The mandatory minimum punishment, if any, and the maximum possible punishment provided by the statute defining the offense to which the plea is offered.
- (3) That the defendant has the right to be tried by a jury, and at such trial has the right to assistance of counsel, the right to confront and cross-examine witnesses against him or her the defendant, the right not to be compelled to incriminate himself or herself oneself, and the right to present witnesses in his or her the defendant's own behalf and to have compulsory process in securing their attendance.
- (4) That if the defendant pleads guilty there will not be a further trial of any kind, so that by pleading guilty the defendant waives the right to a trial.

The court may, in its discretion and with the approval of the defendant, waive the above procedures in a plea of guilty to a serious misdemeanor.

Approved April 25, 1984

**CHAPTER 1322**  
**PROCEDURES IN SMALL CLAIMS ACTIONS**  
*S.F. 24*

**AN ACT** relating to procedures in small claims actions.

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

Section 1. Section 631.3, subsection 3, Code 1983, is amended to read as follows:

3. The clerk shall cause to be entered upon each copy of the original notice and in the docket ~~the day for appearance time within which the defendant is required to appear, which date time shall be determined in accordance with section 631.4. Appearance dates shall be set only for days on which the office of the clerk is scheduled to be open.~~

Sec. 2. Section 631.4, subsection 1, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

1. **ACTIONS FOR MONEY JUDGMENT.** In an action for money judgment the clerk shall cause service to be obtained as follows, and the defendant is required to appear within the period of time specified:

a. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 56.2, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall mail to the defendant by certified mail, restricted delivery, return receipt to the clerk requested, a copy of the original notice together with a conforming copy of an answer form. The defendant is required to appear within twenty days following the date service is made.

b. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 56.2, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall cause a copy of the original notice and a conforming copy of an answer form to be delivered to a peace officer or other person for personal service as provided in rule of civil procedure 52, 56.1 or 56.2. The defendant is required to appear within twenty days following the date service is made.

c. If the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 56.2, the plaintiff may elect service in any other manner that is approved by the court as provided in that rule, and the defendant is required to appear within sixty days after the date of service.

d. If the defendant is a nonresident of this state and is subject to the jurisdiction of the court under section 617.3, the plaintiff may elect that service be made as provided in that section. The clerk shall collect the prescribed fees and costs, and shall cause duplicate copies of the original notice to be filed with the secretary of state and shall cause a copy of the original notice and a conforming copy of an answer form to be mailed to the defendant in the manner prescribed in section 617.3. The defendant is required to appear within sixty days from the date of filing with the secretary of state.

Sec. 3. Section 631.5, subsection 2, Code 1983, is amended to read as follows:

2. HEARING SET. If all defendants either have entered a timely appearance or have defaulted, the clerk shall assign a contested claim to the small claims calendar for hearing at a place and time certain. The time of hearing shall be not less than five days nor more than twenty days after the latest timely appearance, unless otherwise ordered by the court. The clerk shall transmit the original notice and all other papers relating to the case to the judicial officer to whom the case is assigned, and copies of all papers so transmitted shall be retained in the clerk's office.

Sec. 4. Section 631.5, subsection 5, Code 1983, is amended by striking the subsection.

Sec. 5. Section 631.12, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A defendant may move to set aside a default judgment in the manner provided for doing so in district court by rule of civil procedure 236.

Sec. 6. Section 631.13, subsection 1, Code 1983, is amended to read as follows:

1. NOTICE. An appeal from a judgment in small claims may be taken by any party by giving oral notice to the court at the conclusion of the hearing, or by filing a written notice of appeal with the clerk within ~~ten~~ twenty days after judgment is rendered. In either case, the appealing party shall pay to the clerk within that ~~ten~~ twenty days the usual district court docket fee to perfect the appeal. No appeal shall be taken after ~~ten~~ twenty days.

Sec. 7. Section 631.13, subsection 4, paragraph a, Code 1983, is amended to read as follows:

a. ~~A district judge shall promptly hear the~~ The appeal shall be promptly heard upon the record thus filed without 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. If the original action was tried by a judicial magistrate, the appeal shall be decided by a district judge or a district associate judge. The judge shall decide the appeal without regard to technicalities or defects which have not prejudiced the substantial rights of the parties, and may affirm, reverse, or modify the judgment, or render judgment as the judge or magistrate should have rendered.

If the record, in the opinion of the ~~district~~ deciding judge, is inadequate for the purpose of rendering a judgment on appeal, the ~~district~~ judge may order that additional evidence be presented ~~before him~~ relative to one or more issues, and may enter any other order which ~~may be~~ is necessary to protect the rights of the parties. The ~~district~~ judge shall take minutes of any additional evidence, but the hearing shall not be reported by a certified court reporter.

Sec. 8. Rule of civil procedure 181.2, paragraph (b), Iowa court rules, is amended to read as follows:

(b) SMALL CLAIMS APPEALS. ~~On each motion day~~ At least twice each month, the clerk of court shall present to the ~~presiding judge~~ a district judge or district associate judge authorized by statute to hear the appeal the file and any transcript or exhibits in each small claims case in which appeal was taken more than ~~twenty~~ ten days previously. The judge ~~will~~ shall decide the appeal upon the record without oral argument unless, within ~~twenty~~ ten days after the appeal was taken, a party filed with the clerk of court a written request for oral argument specifying the issues to be argued, in which event the judge shall schedule oral argument. Additional evidence shall not be received except as authorized by statute.

Approved May 3, 1984

**CHAPTER 1323****DISCHARGE OF CERTAIN HOSPITALIZED MENTALLY IMPAIRED PERSONS***H.F. 2465*

**AN ACT** relating to the discharge of seriously mentally impaired persons who have been involuntarily hospitalized in connection with a criminal conviction or unresolved criminal charge or pursuant to an acquittal due to insanity or diminished responsibility.

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

Section 1. Section 226.27, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**226.27 PATIENT ACCUSED OR ACQUITTED OF CRIME OR AWAITING JUDGMENT.** If a patient was committed to a state hospital for evaluation or treatment under chapter 812 or the rules of criminal procedure, further proceedings shall be had under chapter 812 or the applicable rule when the evaluation has been completed or the patient has regained mental capacity, as the case may be.

Sec. 2. Section 229.1, subsection 1, Code Supplement 1983, is amended to read as follows:

1. "Mental illness" means every type of mental disease or mental disorder, except that it does not refer to mental retardation as defined in section 222.2, subsection 5, or to insanity, diminished responsibility, or mental incompetency as the terms are defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules, 2d ed.

Sec. 3. Section 229.26, Code 1983, is amended to read as follows:

**229.26 EXCLUSIVE PROCEDURE FOR INVOLUNTARY HOSPITALIZATION.** Sections 229.6 to ~~229.20~~ shall ~~229.19~~ constitute the exclusive procedure for involuntary hospitalization of persons by reason of serious mental impairment in this state, except that nothing in this chapter shall ~~negate~~ negates the provisions of sections 245.12 and 246.16 ~~relative relating~~ to transfer of mentally ill prisoners to state hospitals for the mentally ill or applies to commitments of persons under chapter 812 or the rules of criminal procedure, Iowa court rules, 2d ed.

Sec. 4. Rule of criminal procedure 1, section 2, Iowa court rules, 2d ed., is amended by adding the following new subsection:

**NEW SUBSECTION.** "Mentally ill", as used in these rules, describes the condition of a person who is suffering from a mental disease or disorder and who, by reason of that condition, lacks sufficient judgment to make responsible decisions regarding treatment and is reasonably likely to injure the person's self or others who may come into contact with the person if the person is allowed to remain at liberty without treatment.

Sec. 5. Rule of criminal procedure 21, section 8, Iowa court rules, 2d ed., is amended by striking the section and inserting in lieu thereof the following:

**8. ACQUITTAL ON GROUND OF INSANITY OR DIMINISHED RESPONSIBILITY; COMMITMENT; HEARING.**

a. **JURY FINDING.** If the defense is insanity or diminished responsibility, the jury must be instructed that, if it acquits the defendant on either of those grounds, it shall state that fact in its verdict.

b. **COMMITMENT FOR EVALUATION.** Upon a verdict of not guilty by reason of insanity or diminished responsibility, the court shall immediately order the defendant committed to a state mental health institute or other appropriate facility for a complete psychiatric evaluation and shall set a date for a hearing to inquire into the defendant's present mental condition. The court shall prepare written findings which shall be delivered to the facility at the time the defendant is admitted fully informing the chief medical officer of the facility of the reason for the commitment. The chief medical officer shall report to the court within fifteen days of the admission of the defendant to the facility, stating the chief medical officer's diagnosis and opinion as to whether the defendant is mentally ill and dangerous to the defendant's self or to others. The court shall promptly forward a copy of the report to the defendant's attorney and to the attorney for the state. An extension of time for the evaluation, not to exceed fifteen days, may be granted upon the chief medical officer's request after due consideration of any objections or comments the defendant may have.

c. **INDEPENDENT EXAMINATION.** The defendant may have a separate examination conducted at the facility by a licensed physician of the defendant's choice and the report of the independent examiner shall be submitted to the court.

d. **RETURN FOR HEARING.** Upon filing the report required by this rule or the filing of any subsequent report regarding the defendant's mental condition, the chief medical officer shall give notice to the sheriff and county attorney of the county from which the defendant was committed and the sheriff shall receive and hold the defendant for hearing. However, if the chief medical officer believes continued custody of the defendant at the facility is necessary to ensure the defendant's safety or the safety of others and states that finding in the report, the court shall make arrangements for the hearing to be conducted as soon as practicable at a suitable place within the facility to which the defendant was committed.

e. **HEARING; RELEASE OR RETENTION IN CUSTODY.** If, upon hearing, the court finds that the defendant is not mentally ill and no longer dangerous to the defendant's self or to others, the court shall order the defendant released. If, however, the court finds that the defendant is mentally ill and dangerous to the defendant's self or to others, the court shall order the defendant committed to a state mental health institute or to the Iowa security and medical facility and retained in custody until the court finds that the defendant is no longer mentally ill and dangerous to the defendant's self or to others. The court shall give due consideration to the chief medical officer's findings and opinion along with any other relevant evidence that may be submitted.

No more than thirty days after entry of an order for continued custody, and thereafter at intervals of not more than sixty days as long as the defendant is in custody, the chief medical officer of the facility to which the defendant is committed shall report to the court which entered the order. Each periodic report shall describe the defendant's condition and state the chief medical officer's prognosis if the defendant's condition has remained unchanged or has deteriorated. The court shall forward a copy of each report to the defendant's attorney and to the attorney for the state.

If the chief medical officer reports at any time that the defendant is no longer mentally ill and is no longer dangerous to the defendant's self or to others, the court shall, upon hearing, order the release of the defendant unless the court finds that continued custody and treatment are necessary to protect the safety of the defendant's self or others in which case the court shall order the defendant committed to the Iowa security and medical facility for further evaluation, treatment, and custody.

Sec. 6. Rule of criminal procedure 22, section 3, subsections b and c, Iowa court rules, 2d ed., are amended by striking the subsections and inserting in lieu thereof the following:

b. **WHAT MAY BE SHOWN FOR CAUSE.** The defendant may show for cause against the entry of judgment any sufficient ground for a new trial or in arrest of judgment.

c. **INCOMPETENCY.** If it reasonably appears to the court that the defendant is suffering from a mental disorder which prevents the defendant from appreciating or understanding the nature of the proceedings or effectively assisting defendant's counsel, judgment shall not be immediately entered and the defendant's mental competency shall be determined according to the procedures described in sections 812.3 through 812.5.

Sec. 7. Sections 226.28, 226.29, and 229.20, Code 1983, are repealed.

Approved May 11, 1984

CHAPTER 1324
SEARCH WARRANTS
H.F. 2400

AN ACT providing for uniform search warrants, applications for search warrants, endorsements for search warrants, and returns of search warrants.

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

Section 1. Rule of criminal procedure 30, Iowa court rules, second edition, is amended by striking the rule and inserting in lieu thereof the following:

Rule 30. FORMS FOR WARRANTS. A search warrant shall be in substantially the following form:

State of Iowa, County of \_\_\_\_\_

State of Iowa
vs.
\_\_\_\_\_
(Defendant)



Before (Judge, Magistrate) \_\_\_\_\_
Criminal Case No. \_\_\_\_\_

SEARCH WARRANT

TO ANY PEACE OFFICER OF THIS STATE:

Proof has been made before me, as provided by law, on this day that (describe property) is being kept at (describe location/ address) in the possession of \_\_\_\_\_, and has been or is being held in violation of the laws of this state.

You are commanded to make immediate search of (state here whether the search is of a person (named), premises, or a designated thing.)

If the property or any portion of the property is found, you are commanded to bring the property before me at my office.

Dated at \_\_\_\_\_, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(signature)

(official title)

An application for a search warrant shall be in substantially the following form:

State of Iowa, County of \_\_\_\_\_

State of Iowa
vs.
\_\_\_\_\_
(Defendant)



APPLICATION FOR
SEARCH WARRANT

(attach additional sheets as needed)

I, \_\_\_\_\_, being first duly sworn on oath, state:

- 1. That I am a resident of \_\_\_\_\_, County, Iowa.
2. That I have good reason to believe that certain property is either being used or held in such a manner or is of such a character as to render it subject to a search warrant (check applicable ground or grounds) because:



\_\_\_\_\_ The property has been obtained in violation of the law.  
 \_\_\_\_\_ The possession of the property is unlawful.  
 \_\_\_\_\_ The property has been used or is being possessed with the intent to be used as a means of committing a public offense or concealed to prevent an offense from being discovered.

\_\_\_\_\_ The property is relevant and material as evidence in a criminal prosecution.

3. That the property is:

(a) Describable as follows (with specificity):

(b) Located at or in (include city, street, and number if applicable)

(c) Believed to be in the possession of (name of person or group if search is to be of person include physical description)

4. That the facts and circumstances which lead me to believe that probable cause for this search exist are as follows:

a. My personal knowledge:

(1) Facts:

(2) Source of Facts:

b. Facts told to me by informant:

(1) Facts:

(2) How informant learned of these facts:

(3) Reason for reliability of this informant (although the informant need not be named, character, circumstances, and past reliable information by this informant should be stated)

Wherefore, the undersigned applies to a judge or magistrate of \_\_\_\_\_ County, Iowa for a search warrant to be issued and for the described person, premises, place, residence, or vehicle to be searched for the described property.

\_\_\_\_\_  
 (Applicant's legal signature)

Subscribed and sworn to before me by \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
 Judge or Magistrate

In and for \_\_\_\_\_ County, Iowa.

An endorsement on a search warrant shall be in substantially the following form:

JUDGE'S OR MAGISTRATE'S ENDORSEMENT TO SEARCH WARRANT APPLICATION

1. The following person gave sworn testimony upon which the undersigned judge or magistrate relied to issue the search warrant:

a. \_\_\_\_\_ (Name) \_\_\_\_\_ (Address)

b. Abstract of testimony:

2. Information supplied to the above peace officer \_\_\_\_\_ by an informant (who need not be named):

The information appears credible because (select):

\_\_\_\_\_ a. Sworn testimony indicates this informant has given reliable information on previous occasions.

or

\_\_\_\_\_ b. Sworn testimony indicates this informant has not been used before but that either the informant appears credible or the information appears credible for the following reasons:

3. The information (is/is not) found to justify probable cause.

4. I therefore (do/do not) issue the warrant.

\_\_\_\_\_  
Judge or Magistrate

The form of a return of search warrant shall be substantially as follows:

RETURN OF SERVICE

State of Iowa )  
County ) ss.

I, \_\_\_\_\_, being a peace officer in and for \_\_\_\_\_ County, state of Iowa, certify that the attached search warrant came into my hands on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, I executed the warrant by making a search of the described person, premises, or thing and found the following property:  
(state kind and quantity)

\_\_\_\_\_ which property I seized by virtue of the attached warrant and which I now hold subject to further order of the court.

I have further executed the attached warrant by giving a copy of the warrant, together with a receipt for the property taken to \_\_\_\_\_, or;

No person having been found on the premises, I have left a copy of the inventory and a receipt for the property taken at the place where the property taken was found.

I, the officer by whom the attached warrant was executed, do certify that the above inventory contains a true and detailed account of the property taken by me on the warrant, and is accurate to the best of my knowledge.

fees \_\_\_\_\_  
 services \_\_\_\_\_  
 mileage \_\_\_\_\_  
 cartage \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 (official title)

Sec. 2. Rules of Criminal Procedure, second edition, are amended by adding the following new rule:

**NEW RULE. 31. FORMS OTHER THAN WARRANTS.** The forms contained in the appendix of forms are illustrative and not mandatory, and any particular instrument may be in more or less the form illustrated.

Approved April 11, 1984

**RULES OF CIVIL PROCEDURE**

**CHAPTER 1325  
RULES OF CIVIL PROCEDURE**

IN THE MATTER OF CHANGES IN  
RULES OF CIVIL PROCEDURE



REPORT OF THE  
SUPREME COURT

TO: SERGE H. GARRISON, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE  
STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibit A, constituting changes in Rules of Civil Procedure, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these rules and forms are to take effect on July 1, 1984.

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson  
W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
March 27, 1984

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the twenty-seventh day of March, 1984, of the Report of the Supreme Court pertaining to Rules of Civil Procedure.

/s/ Serge H. Garrison  
Secretary of the Legislative Council

EXHIBIT "A"  
RULES OF CIVIL PROCEDURE

Amend Rule 91 as follows:

91. Contract. Every pleading referring to a contract must state whether it is written or oral. ~~If the contract is the basis of the action or defense, it must be set forth in full.~~

Strike existing Rule 106 and substitute the following:

106. Amendments to Conform to the Evidence. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice that party in maintaining the action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

Amend Rule 126(a) as follows:

126(a) Availability—procedures for use. Except in small claims, any party may serve written interrogatories to be answered by another party or, if the other party is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Copies of interrogatories and answers shall be served on each adverse party. Interrogatories may, without leave of court, be directed to the plaintiff after commencement of the action and upon any other party with or after service of the original notice upon that party.

Each interrogatory shall be followed by a reasonable space for insertion of the answer. An interrogatory which does not comply with this requirement shall be subject to objection.

Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer.

A party answering interrogatories must answer in the space provided or must set out each interrogatory immediately preceding the answer to it. A failure to comply with this rule shall be deemed a failure to answer and shall be subject to sanctions as provided in R.C.P. 134. The answers are to be signed by the person making them. The party to whom the interrogatories are directed shall file the answers, and objections if any, within thirty days after they are served, except that a defendant may file answers or objections within ~~forty-five days~~ sixty days after service of the original notice upon that defendant. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under R.C.P. 134 "a" with respect to any objection to or other failure to answer an interrogatory. Copies of answers shall be delivered as provided in R.C.P. 82.

A party shall not serve more than thirty interrogatories on any other party except upon agreement of the parties or leave of court granted upon a showing of good cause. A motion for leave of court to serve more than thirty interrogatories must be in writing and shall set forth the proposed interrogatories and the reasons establishing good cause for their use.

Amend the second paragraph of Rule 127 as follows:

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within thirty days after service of the request, or within such shorter or longer time as the court may on motion allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or his attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of ~~forty-five days~~ sixty days after service of the original notice upon him. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the request admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of R.C.P. 134 "c", deny the matter or set forth reasons why he cannot admit or deny it.

Amend the second paragraph of Rule 130 as follows:

The party upon whom the request is served shall serve a written response within thirty days after the service of the request, except that a defendant may serve a response within ~~forty-five days~~ sixty days after service of the original notice upon that defendant. The court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under R.C.P. 134 with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

Amend Rule 181(a) as follows:

181. Trial certificate, response.

(a) When a trial certificate is filed in any action, the action shall be entered on the Trial Certificate List. The certificate shall be in the following form:

IN THE IOWA DISTRICT COURT  
FOR \_\_\_\_\_ COUNTY

(Caption)

Law  
Equity  
Probate



TRIAL CERTIFICATE

Filed by \_\_\_\_\_  
(Party)

1. The above party believes the issues are joined and states that such party (a) is ready for trial, or (b) will be ready for trial by \_\_\_\_\_ (date)
2. Discovery has been completed except as follows:
3. Pretrial conference (a) is, or (b) is not requested.
4. Assignment for trial (a) by jury, or (b) by the court, is requested.  
A jury demand (a) has, or (b) has not been filed and assignment for trial is requested.
5. Names, addresses and telephone numbers of other attorneys and parties appearing pro se:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Attorney for \_\_\_\_\_  
P.O. Address \_\_\_\_\_  
\_\_\_\_\_  
Telephone No. \_\_\_\_\_

Strike existing Rule 138.1 and add a new Rule 181.4:

181.4 Fee for Late Settlement of Jury Trial. In the event notice of settlement is given later than two full working days before a civil action is scheduled to be tried to a jury or is reached for jury trial, whichever is later, a fee of \$500 shall be assessed as court costs. Fees so collected shall be remitted by the clerk to the treasurer of state to be deposited in the general fund of the state.

Strike existing Rule 225 and substitute the following:

225. On Claim and Counterclaim. A claim and counterclaim shall not be set off against each other, except by agreement of both parties or unless required by statute. On motion, however, the court, if it finds that the obligation of either party is likely to be uncollectible, may order that both parties make payment into court for distribution. If there are multiple parties and separate set-off issues, each set-off issue should be determined independently of the others. The court shall distribute the funds received and declare obligations discharged as if the payment into court by either party had been a payment to the other party and any distribution of those funds back to the party making payment had been a payment to him by the other party.

Amend Rule 328 as follows:

328. Dissolution. Hearing to Dissolve Temporary Injunction. A party against whom a temporary injunction is issued without notice may, at any time, move the court where the action is

pending to dissolve, vacate or modify it. Such motion shall be submitted to that court. But if the injunction was granted by a justice or court of a different district under R.C.P. 324, the court or justice that ordered it shall hear the motion, if it be shown by affidavit, that prompt hearing cannot be obtained in the court where the action is pending.

Amend Rule 332 as follows:

332. Time for Special Appearance, Motion or Answer. Respondent shall, within twenty days from the date of personal service or mailing of a petition for judicial review under Iowa Code section 17A.19(2), serve upon petitioner and all others upon whom the petition is required to be served, and within a reasonable time thereafter file, a written special appearance, motion, or answer.

In addition, the court recommends the following change in an official form which should not be adopted until a corresponding change is made in Iowa Code section 321.500:

2. FORM OF ORIGINAL NOTICE AGAINST A NONRESIDENT MOTOR VEHICLE OWNER OR OPERATOR UNDER IOWA CODE SECTION 321.500

IN THE IOWA DISTRICT COURT  
FOR \_\_\_\_\_ COUNTY

Plaintiff(s),

\_\_\_\_\_ No. \_\_\_\_\_

(INSERT "LAW"  
OR "EQUITY")

vs.

Defendant(s).

ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified that there is now on file in the office of the clerk of the above court, a petition in the above-entitled action, a copy of which petition is attached hereto. The plaintiff's attorney is \_\_\_\_\_, whose address is \_\_\_\_\_, Iowa \_\_\_\_\_.

You are further notified that unless, ~~before noon of the sixtieth day~~ within sixty days following the filing of this notice with the director of transportation of this state, you serve, and within a reasonable time thereafter file, a written special appearance, motion or answer, in the Iowa District Court for \_\_\_\_\_ County, at the courthouse in \_\_\_\_\_, Iowa, default will be entered and judgment rendered against you by the court.

\_\_\_\_\_  
CLERK OF THE ABOVE COURT

(SEAL)

\_\_\_\_\_ County Courthouse

\_\_\_\_\_ Iowa \_\_\_\_\_

NOTE:

The attorney who is expected to represent the defendant should be promptly advised by defendant of the service of this notice.



**RULES OF CRIMINAL PROCEDURE**

**CHAPTER 1326**

**RULES OF CRIMINAL PROCEDURE**

IN THE MATTER OF CHANGES IN  
RULES OF CRIMINAL PROCEDURE

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REPORT OF THE  
SUPREME COURT

TO: SERGE H. GARRISON, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE  
STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibit A, constituting changes in Rules of Criminal Procedure, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these rules and forms are to take effect on July 1, 1984.

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
March 27, 1984

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the twenty-seventh day of March, 1984, of the Report of the Supreme Court pertaining to Rules of Criminal Procedure.

/s/ Serge H. Garrison

Secretary of the Legislative Council

EXHIBIT "A"  
RULES OF CRIMINAL PROCEDURE

Amend Rule 10(4) as follows:

4. Time of filing. Motions hereunder, except motions in limine, shall be filed when the grounds therefor reasonably appear but no later than forty days after arraignment. Motions in limine shall be filed when grounds therefor reasonably appear but no later than nine days before the trial date. If a written arraignment under R.Cr.P. 8(1) is used, the date of arraignment is the date the written arraignment is filed.

Amend Rule 25(1) as follows:

1. Felony or misdemeanor. In felony cases the defendant shall be present at the arraignment, at the time of the and plea, unless a written arraignment form as provided in R.Cr. P. 8(1) is filed, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule. In other cases the defendant may appear by counsel.

**RULES AND FORMS FOR INVOLUNTARY COMMITMENT  
OR TREATMENT OF SUBSTANCE ABUSERS**

**CHAPTER 1327**

**RULES AND FORMS FOR INVOLUNTARY COMMITMENT  
OR TREATMENT OF SUBSTANCE ABUSERS**

IN THE MATTER OF RULES  
AND FORMS FOR INVOLUNTARY  
COMMITMENT OR TREATMENT  
OF SUBSTANCE ABUSERS

}

REPORT OF THE  
SUPREME COURT

TO: SERGE H. GARRISON, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE  
STATE OF IOWA:

Pursuant to Iowa Code sections 125.94 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibits A and B, constituting Rules and Forms for Involuntary Commitment or Treatment of Substance Abusers, which have been issued on this date.

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
March 22, 1984

**ACKNOWLEDGMENT**

I, the undersigned, Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the twenty-second day of March, 1984, of the Report of the Supreme Court of Iowa pertaining to Rules and Forms for Involuntary Commitment or Treatment of Substance Abusers.

/s/ Serge H. Garrison

Secretary of the Legislative Council

**EXHIBIT A**  
**RULES FOR INVOLUNTARY COMMITMENT OR**  
**TREATMENT OF SUBSTANCE ABUSERS**

See Iowa Code section 125.94 (Supp. 1983)

1. A form for application seeking the involuntary commitment or treatment of any person on grounds of substance abuse may be obtained from the clerk of court in the county in which the person whose commitment is sought resides or is presently located. Such application may be filled out and presented to the clerk by any person who has an interest in the treatment of another for substance abuse and who has sufficient association with or knowledge about that person to provide the information required on the face of the application and under Iowa Code section 125.75. The clerk or clerk's designee shall provide the forms required by Iowa Code section 125.75 to the person who desires to file the application for involuntary commitment. The clerk shall see that all the information required by Iowa Code section 125.75 accompanies the application.

See forms 1, 2

2. If the judge or referee determines that insufficient grounds to warrant a hearing on the respondent's substance abuse appear on the face of the application and supporting documentation, the judge or referee shall order the proceedings terminated and so notify the applicant. All papers and records pertaining to terminated proceedings shall be confidential and subject to the provisions of Iowa Code section 125.93.

3. If the judge or referee determines that sufficient grounds to warrant a hearing on the respondent's substance abuse appear on the face of the application and supporting documentation, the sheriff or sheriff's deputy shall immediately serve notice, personally and not by substitution, on the respondent. Pursuant to Iowa Code section 125.79, notice also shall be served on respondent's attorney as soon as he or she is identified or appointed by the judge or referee.

If the respondent is to be taken into immediate custody pursuant to Iowa Code section 125.81, the notice shall include a copy of the order required by Iowa Code section 125.81 and R.C.S.A. 14.

The notice of procedures required under Iowa Code section 125.77 shall inform the respondent of: (a) respondent's immediate right to counsel, at public expense if necessary; (b) respondent's right to request an examination by a physician of his or her choosing, at public expense if necessary; (c) respondent's right to be present at the hearing; (d) respondent's right to a hearing within five days if the respondent is taken into immediate custody pursuant to Iowa Code section 125.81; and (e) respondent's right not to be forced to hearing sooner than forty-eight hours after notice, unless respondent waives such minimum prior notice requirement.

The notice shall also inform the respondent of: (a) respondent's duty to remain in the jurisdiction and the consequences of an attempt to leave; and (b) respondent's duty to submit to examination by a physician appointed by the court.

Referred to in rule 7

See form 3

4. The respondent may waive the minimum prior notice requirement only in writing and only if the judge or referee determines that the respondent's best interests will not be harmed by such waiver.

5. At the request of the respondent or respondent's attorney, the hearing provided in Iowa Code section 125.82 may be continued beyond the statutory limit so that the respondent's attorney has adequate time to prepare respondent's case. In such instances custody pursuant

to Iowa Code section 125.81 may be extended by court order until the hearing is held. The continuance shall be no longer than five days beyond the statutory limit. The granting of a continuance shall not prevent the facility from making application to the court for an earlier release of the respondent from custody.

See form 11

6. If the respondent is involuntarily confined prior to the hearing pursuant to a determination under Iowa Code section 125.81, the respondent's attorney may apply to the judge or referee for an opportunity to confer with the respondent, in a place other than the place of confinement, in advance of the hearing provided for in Iowa Code section 125.82. The order shall provide for transportation and the type of custody and responsibility therefor during the period the respondent is away from the place of confinement under this rule.

7. If personal service as defined in rule 3 cannot be made, any respondent may be served as provided by court order, consistent with due process of law.

8. Returns of service of notice shall be made as provided in Iowa R. Civ. P. 59.

9. Amendment of process or proof of service shall be allowed in the manner provided in Iowa R. Civ. P. 59.1.

10. If practicable the court should allow the respondent's attorney to present evidence and argument prior to the court's determination under Iowa Code section 125.81.

11. If the respondent's attorney is not afforded an opportunity to present evidence and argument prior to the court's determination under Iowa Code section 125.81, the attorney shall be entitled to do so after the determination during the course of respondent's confinement pursuant to an order issued under that section.

12. The clerk shall furnish the respondent's attorney with a copy of the examination report filed pursuant to Iowa Code section 125.80(2), as soon as possible after receipt. In ruling on any request for an extension of time under Iowa Code section 125.80(4), the court shall consider the time available to the respondent's attorney after receipt of the examination report to prepare for the hearing and to prepare responses from physicians engaged by respondent, where relevant. Respondent's attorney shall promptly file a copy of a report of any physician who has examined respondent and whose evidence the attorney expects to use at the hearing. The clerk shall provide the court and the county attorney with a copy thereof when filed.

13. The court-designated physician shall submit a written report of the examination as required by Iowa Code section 125.80(2), on the form designated for use by the supreme court. The report shall contain the following information, or as much thereof as is available to the physician making the report: (1) respondent's name; (2) address; (3) date of birth; (4) place of birth; (5) sex; (6) occupation; (7) marital status; (8) number of children, and names; (9) nearest relative's name, relationship, and address; and (10) the physician's diagnosis and recommendations, with a detailed statement of the observations or medical history which led to the diagnosis.

See form 10

14. The judge's or referee's order for respondent's immediate custody under Iowa Code section 125.81 shall include a finding of probable cause to believe that the respondent is a substance abuser and is likely to injure himself or herself or others if allowed to remain at liberty.

Referred to in rule 3

15. If the respondent is detained in a facility for persons accused of or convicted of crimes, the twenty-four-hour detention limitation of Iowa Code section 125.81(3) shall be strictly

observed and procedures for placement of the respondent in a proper facility described in Iowa Code section 125.81, shall be instituted immediately.

16. The hearing provided in Iowa Code section 125.82 shall be held in the county where the application was filed, unless the judge or referee finds that the best interests of the respondent would be served by transferring the proceedings to a different location.

17. The hearing required by Iowa Code section 125.82 may be held at a hospital or other treatment facility, provided that a proper room is available and that such a location would not be detrimental to the best interests of respondent.

18. Respondent's attorney shall explain to respondent his or her rights and the possible consequences of the proceedings. Prior to the commencement of the hearing under Iowa Code section 125.82, the judge or referee shall ascertain whether the respondent has been so informed.

19. Subpoena power shall be available to all parties participating in the proceedings, and subpoenas or other investigative demands may be enforced by the judge or referee.

20. The applicant and any physician or mental health professional who has examined respondent in connection with the commitment proceedings must be present at the hearing conducted under Iowa Code section 125.82, unless (1) their presence is waived by the respondent's attorney or (2) the judge or referee finds that their presence is not necessary. The respondent must be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing to respondent's absence. Such stipulation shall state (1) that the attorney has conversed with the respondent, (2) that in the attorney's judgment the respondent can make no meaningful contribution to the hearing or has waived the right to be present, and (3) the basis for such conclusions. A stipulation to the respondent's absence shall be reviewed by the judge or referee before the hearing, and shall be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by his or her absence.

See form 12

21. An electronic recording or other verbatim record of the hearing provided in Iowa Code section 125.82 shall be made and retained for three years or until the respondent has been discharged from involuntary custody for ninety days, whichever is longer.

22. If the respondent is in custody in another county prior to the hearing provided in Iowa Code section 125.82, respondent's attorney may request that the respondent be delivered to the county in which the hearing will be held sufficiently prior thereto to facilitate preparation by respondent's attorney. Such requests shall not be denied unless they are unreasonable and the denial would not harm respondent's interests in representation by counsel. This rule does not authorize permanent transfer of the respondent to another facility without conformance to appropriate statutory procedures.

23. If, upon hearing, the court finds respondent to be a substance abuser, evaluation and treatment shall proceed as set out in Iowa Code section 125.83.

24. Pursuant to Iowa Code section 125.83, the facility administrator may request a seven-day extension of time for further evaluation by filing a written application with the clerk of court in the county in which the hearing was held. The application shall contain a statement by the facility administrator or the administrator's designee identifying with reasonable particularity the basis of the request for extension. The clerk shall immediately notify the respondent's attorney of the request by furnishing a copy of the application.

See forms 18 and 19

25. The facility administrator's report under Iowa Code section 125.84 shall include a written evaluation of the respondent by the chief medical officer or the officer's designee. The evaluation must state with reasonable particularity the basis for the diagnostic conclusions concerning the respondent's substance abuse and recommended treatment. The evaluation shall specify the basis for the medical officer's conclusions regarding respondent's substance abuse, capacity to understand the need for treatment, and dangerousness. The evaluation also shall specify the basis for the medical officer's conclusions concerning recommended treatment and the basis for the judgment that the recommended treatment is the least restrictive alternative possible for the respondent pursuant to options (1), (2), (3), or (4) of Iowa Code section 125.84.

Referred to in rule 26

See form 20

26. The clerk shall promptly furnish to the respondent's attorney copies of all reports issued under Iowa Code section 125.86. Such reports shall comply substantially with the requirements of rule 25.

27. The clerk shall institute an orderly system for filing periodic reports required under Iowa Code section 125.86, and shall monitor the reports to ascertain when a report is overdue. If a report is not filed when due, the clerk shall notify the administrator of the treatment facility.

28. If the magistrate cannot immediately proceed to the facility where a person is detained pursuant to Iowa Code section 125.91, the magistrate shall communicate verbally approval or disapproval of the detention. Such communication shall be duly noted by the administrator of the facility on the form prescribed by these rules.

See form 30

29. If the facility to which the respondent is delivered pursuant to Iowa Code section 125.91 lacks a chief medical officer, the person then in charge of the facility shall immediately notify a physician whenever treatment appears necessary to protect the respondent. The person in charge of the facility shall then immediately notify the magistrate.

30. As soon as practicable after the respondent's delivery to a facility under Iowa Code section 125.91, the magistrate shall identify or appoint an attorney for the respondent and shall immediately notify such attorney of respondent's emergency detention. If counsel can be identified at the time of respondent's arrival at a facility, or if legal services are available through a legal aid or public defender office, the magistrate must immediately notify such counsel. Such counsel shall be afforded an opportunity to interview the respondent before or after the magistrate's order is issued.

31. When chemotherapy has been instituted prior to a hearing under Iowa Code section 125.82, the chief medical officer of the facility where the respondent is hospitalized shall, prior to the hearing, submit to the clerk of the district court where the hearing is to be held, a report in writing. The report shall identify all types of chemotherapy given and shall specify which were administered to affect the respondent's behavior or mental state during any period of custody authorized by Iowa Code section 125.81 or 125.91. For each type of chemotherapy the report shall indicate that the chemotherapy was given with the consent of the respondent or the respondent's next of kin or guardian or, if not, that the chemotherapy was necessary to preserve the respondent's life or to appropriately control respondent's behavior in order to avoid physical injury to the respondent or others. The report shall also include the effect of the chemotherapy on the respondent's behavior or mental state. The clerk shall file the original report in the court file, advise the judge or referee and the respondent's attorney accordingly, and provide a copy of the report to respondent's attorney.

EXHIBIT B
FORMS FOR INVOLUNTARY COMMITMENT OR
TREATMENT OF SUBSTANCE ABUSERS

Form 1.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA

IN THE MATTER OF:

ALLEGED TO BE A SUBSTANCE
ABUSER,
Respondent.

No. \_\_\_\_\_
APPLICATION ALLEGING
SUBSTANCE ABUSE PUR-
SUANT TO IOWA CODE
SECTION 125.75.

I, \_\_\_\_\_, of \_\_\_\_\_
(address)

allege that respondent is a substance abuser. In support thereof I state as follows:

Based on the above facts, I believe respondent is a danger to himself or herself or others.
Do you request the respondent be taken into immediate custody? Yes /\_\_\_/ No /\_\_\_/
/\_\_\_/ Attached hereto is a written statement of a licensed physician in support of this ap-
plication.
/\_\_\_/ Attached hereto is an affidavit corroborating these allegations.

Applicant

State of Iowa }
County } ss:

I, the undersigned, do solemnly swear to affirm that the matters alleged in the above ap-
plication to which my name is affixed, are true as stated, as I verily believe.

Applicant

Subscribed and sworn to (or affirmed) before the undersigned this \_\_\_\_\_ day
of \_\_\_\_\_, 19\_\_\_\_\_.

Notary Public in and for the State of Iowa



Form 2.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA

IN THE MATTER OF:

\_\_\_\_\_  
ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

No. \_\_\_\_\_  
AFFIDAVIT IN SUPPORT OF  
APPLICATION ALLEGING  
SUBSTANCE ABUSE PURSU-  
ANT TO IOWA CODE SEC-  
TION 125.75.

I, \_\_\_\_\_, of \_\_\_\_\_,  
(address)

being first duly sworn on oath, depose and state that I am acquainted with respondent who  
resides at \_\_\_\_\_,

(street) (city) (county)

Iowa, and that I believe the respondent is a substance abuser.

In support thereof, I state as follows:

By \_\_\_\_\_

Subscribed and sworn to before the undersigned this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

\_\_\_\_\_  
Clerk of Iowa District Court

Form 3.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA

IN THE MATTER OF:

\_\_\_\_\_,  
ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

No. \_\_\_\_\_

NOTICE TO RESPONDENT  
PURSUANT TO IOWA CODE  
SECTION 125.77.

TO: \_\_\_\_\_

You are hereby notified: There is now on file in the office of the clerk of the district court of \_\_\_\_\_ County, Iowa, a verified application alleging that the respondent is a substance abuser and a fit subject for custody and treatment, as shown by the application and (report of the physician) (supporting affidavits) on file in this proceeding. Copies of these documents are attached. This matter will come on for hearing on said application before the court at \_\_\_\_\_ County, Iowa, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M. The court thereafter will enter an appropriate order.

You are further notified you have the following rights in connection with this matter:

- 1. THE RIGHT TO THE ASSISTANCE OF AN ATTORNEY. If you cannot afford an attorney, one will be appointed for you at public expense.
- 2. THE RIGHT TO AN EXAMINATION BY A PHYSICIAN OF YOUR OWN CHOOSING. If you cannot afford an examination by your physician, you may have such an examination at public expense.
- 3. THE RIGHT TO A HEARING WITHIN 5 DAYS (unless the fifth day is a Saturday, Sunday, or a holiday), and no sooner than 48 hours (excluding Saturdays, Sundays, and holidays), if you are presently in custody.
- 4. THE RIGHT TO A HEARING NO SOONER THAN 48 HOURS AFTER SERVICE OF THIS NOTICE (excluding Saturdays, Sundays, and holidays), and no later than 48 hours after the report of a court-appointed physician is filed (excluding Saturdays, Sundays, and holidays), if you are not presently in custody.
- 5. THE RIGHT TO BE PRESENT AT THE HEARING.

You are hereby advised that:

- 1. You must not leave the county while awaiting hearing. If you leave the county, you may be taken into custody.
- 2. You must submit to an examination by a physician appointed by the court.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

RETURN OF SERVICE

STATE OF IOWA }  
\_\_\_\_\_ COUNTY }

ss:

The within notice received this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ a.m./p.m., I served the same on \_\_\_\_\_ by delivering a copy thereof to said \_\_\_\_\_ in the City, Township of \_\_\_\_\_ in \_\_\_\_\_ County, State of Iowa.

\_\_\_\_\_  
Sheriff, \_\_\_\_\_ County

By \_\_\_\_\_  
Deputy Sheriff

Form 4.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA

IN THE MATTER OF:

\_\_\_\_\_,  
ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.



No. \_\_\_\_\_

ORDER FOR IMMEDIATE  
CUSTODY PURSUANT TO  
IOWA CODE SECTION  
125.81

A request has been presented that respondent should be immediately detained due to substance abuse. After review of the application and supporting documentation, I find there is probable cause to believe respondent is a substance abuser and is likely to injure himself or herself or others if allowed to remain at liberty.

This finding is based on the following facts:

1. I hereby order that respondent shall be detained in the custody of \_\_\_\_\_ until the hearing date pursuant to Iowa Code section 125.81(1).

2. Because I find the less restrictive alternative of custody pursuant to Iowa Code section 125.81(1), will not be sufficient to protect respondent from himself or herself or others, I hereby order that respondent shall be detained at \_\_\_\_\_ until the hearing date pursuant to Iowa Code section 125.81(2).

3. Because I find that an actual emergency exists and there is no other secure facility available besides a facility for the confinement of persons accused of or convicted of crime, I hereby order that respondent shall be detained at \_\_\_\_\_ for a period of not more than 24 hours pursuant to Iowa Code section 125.81(3). I further order that respondent be kept under close supervision at all times and that as soon as practicable arrangements for transfer to a suitable secure facility be made.

(Check  the appropriate one of these three provisions.)

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

Form 5.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

No. \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

APPLICATION FOR APPOINT-  
MENT OF RESPONDENT'S  
COUNSEL AND FINANCIAL  
STATEMENT

Respondent.

I, the undersigned, being first sworn, depose and say that I am (respondent) (respondent's spouse) (next friend) or (guardian) herein, and I request the court to appoint counsel to represent respondent at public expense. The following statement relating to respondent's financial affairs is submitted in support of this application.

Name \_\_\_\_\_

Address \_\_\_\_\_

Marital status \_\_\_\_\_

Number and ages of dependents \_\_\_\_\_

Business or employment \_\_\_\_\_

Average weekly earnings \_\_\_\_\_

Total income past 12 months \_\_\_\_\_

Is respondent now in custody: Yes /\_\_\_\_\_/ No /\_\_\_\_\_/ If no, is respondent working and at what salary: \_\_\_\_\_

Is spouse working: Yes /\_\_\_\_\_/ No /\_\_\_\_\_/ If yes, name of employer and average weekly earnings \_\_\_\_\_

Motor vehicles: List make, year, amount owing thereon, if any, and how title is registered \_\_\_\_\_

List balance of bank accounts of respondent and spouse

List all sources of income other than salary from employment

Describe real estate owned, if any, and value thereof

Total amount of debts \_\_\_\_\_

List on the reverse side hereof all other assets owned by respondent, other than clothing and personal effects.

The foregoing statements are true to the best of my knowledge, are made under penalty of perjury, and are made in support of respondent's application for appointment of legal counsel because respondent is financially unable to employ counsel.

By \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Notary Public in and for the State of Iowa

Form 6.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA

IN THE MATTER OF:

No. \_\_\_\_\_

\_\_\_\_\_,  
ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

ORDER APPOINTING RE-  
SPONDENT'S ATTORNEY  
PURSUANT TO IOWA CODE  
SECTION 125.78.

NOW, on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, on application previously filed with the (court) (judicial hospitalization referee) alleging that the above-named respondent is a substance abuser, and upon which hearing was set for the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and upon showing made that respondent is unrepresented at this time and that no arrangements have been made either by the respondent or any member of respondent's family to procure such representation, it is now ORDERED that \_\_\_\_\_, a regular practicing attorney in \_\_\_\_\_ County, Iowa, be and is hereby appointed to represent the respondent at this hearing and at each subsequent hearing at which the subject matter of this cause is under consideration.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

Form 7.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA

IN THE MATTER OF:

No. \_\_\_\_\_

\_\_\_\_\_,  
ALLEGED TO BE A  
SUBSTANCE ABUSER,

APPLICATION FOR APPOINTMENT  
OF APPLICANT'S COUNSEL AND  
FINANCIAL STATEMENT, PURSU-  
ANT TO IOWA CODE SECTION  
125.76.

Respondent.

I, the undersigned, being first sworn, depose and say that I am the applicant herein, and I request the court to appoint counsel to represent the applicant at public expense, pursuant to Iowa Code sections 125.76 and 125.78(2). The following statement relating to applicant's financial affairs is submitted in support of this application.

Name \_\_\_\_\_

Address \_\_\_\_\_

Marital status \_\_\_\_\_

Number and ages of dependents \_\_\_\_\_

Business or employment \_\_\_\_\_

Average weekly earnings \_\_\_\_\_

Total income past 12 months \_\_\_\_\_

Is applicant working and at what salary: \_\_\_\_\_

Is spouse working: Yes /\_\_\_\_\_/ No /\_\_\_\_\_/ If yes, name of employer and average weekly earnings \_\_\_\_\_

Motor vehicles: List make, year, amount owing thereon, if any, and how title is registered \_\_\_\_\_

List balance of bank accounts of applicant and spouse \_\_\_\_\_

List all sources of income other than salary from employment \_\_\_\_\_

Describe real estate owned, if any, and value thereof \_\_\_\_\_

Total amount of debts \_\_\_\_\_

List on the reverse side hereof all other assets owned by applicant, other than clothing and personal effects.

The foregoing statements are true to the best of my knowledge, are made under penalty of perjury, and are made in support of my application for appointment of legal counsel because I am financially unable to employ counsel.

Applicant

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Notary Public in and for the State of Iowa

Form 8.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_ No. \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

ORDER APPOINTING APPLI-  
CANT'S ATTORNEY PURSUANT  
TO IOWA CODE SECTION  
125.78(2).

NOW, on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, on application previously  
filed with the (court) (judicial hospitalization referee), alleging that the above-named respond-  
ent is a substance abuser, and upon which hearing was set for the \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, and upon showing made that the applicant is unrepresented  
at this time, that a court-appointed attorney is necessary to assist the applicant in presenting  
the evidence, and that the applicant is financially unable to employ an attorney, it is now  
ORDERED that \_\_\_\_\_, a regular practicing attorney in \_\_\_\_\_  
County, Iowa, be and is hereby appointed to represent the applicant at this hearing and at  
each subsequent hearing at which the subject matter of this cause is under consideration.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

Form 9.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_ No. \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

APPOINTMENT OF PHYSICIAN  
PURSUANT TO IOWA CODE  
SECTION 125.78.

To \_\_\_\_\_, a regular practicing physician of \_\_\_\_\_ County, Iowa:  
This (court) (judicial hospitalization referee) has before it an application alleging that  
respondent is a substance abuser, and is a fit subject for custody and treatment. Therefore,  
you are hereby appointed to make a personal examination of the respondent regarding the  
allegations of said application and the respondent's actual condition.

You shall therefore proceed to make such examination and forthwith report thereon to said  
(court) (judicial hospitalization referee) as the law requires in such cases.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

NOTE TO EXAMINING PHYSICIAN:

If respondent has been taken into custody pursuant to Iowa Code section 125.81, your ex-  
amination must be conducted within 24 hours.

Form 10.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

No. \_\_\_\_\_

PHYSICIAN'S REPORT OF  
EXAMINATION PURSUANT TO  
IOWA CODE SECTION 125.80.

DATE AND TIME OF EXAMINATION \_\_\_\_\_

- 1. Respondent's name \_\_\_\_\_
- 2. Address \_\_\_\_\_  
(street) (city or town) (county) (state)
- 3. Date of birth \_\_\_\_\_  
(day) (month) (year)
- 4. Place of birth \_\_\_\_\_
- 5. Sex \_\_\_\_\_
- 6. Occupation \_\_\_\_\_
- 7. Marital status: Single /\_\_\_\_/ Married /\_\_\_\_/ Divorced /\_\_\_\_/
- 8. Number of children \_\_\_\_\_
- 9. Nearest relative's name \_\_\_\_\_ relationship \_\_\_\_\_  
address \_\_\_\_\_  
(street) (city or town) (county) (state)
- 10. Is this examination conducted under Iowa Code section 125.80? \_\_\_\_\_
- 11. Did a qualified mental health professional assist with this exam? \_\_\_\_\_ If so, name that individual.

(Please provide address) If the professional's report is written, please attach.

- 12. In your judgment is respondent a substance abuser? \_\_\_\_\_ If so, state diagnosis and supporting observations or medical history:
- 13. In your judgment is respondent capable of making responsible decisions with respect to his or her hospitalization or treatment? \_\_\_\_\_ If not, state supporting observations or medical history:
- 14. In your judgment, is the respondent treatable? \_\_\_\_\_ If so, state diagnosis and supporting observations or medical history:
- 15. In your judgment, is the respondent likely to physically injure himself or herself or others? \_\_\_\_\_ If so, what has led you to this conclusion?
- 16. In your judgment, is the respondent likely to inflict severe emotional injury on those who cannot avoid contact with the respondent?



17. Can the respondent be evaluated on an out-patient basis? \_\_\_\_\_ Basis for answer:

18. Can the respondent, without danger to self or others, be released to the custody of a relative or friend during the course of evaluation?

19. Is full-time hospitalization necessary for evaluation?

20. Does the respondent have a prior history of treatment for substance abuse? \_\_\_\_\_ If so, please specify:

21. Has the patient been medicated within 12 hours of the time of the hearing? \_\_\_\_\_ If so, supply the probable effects of the medication:

MEDICINE \_\_\_\_\_  
DOSAGE \_\_\_\_\_  
TIME \_\_\_\_\_

Signed \_\_\_\_\_  
Physician

Address \_\_\_\_\_

Form 11.  
IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_ No. \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

ORDER FOR CONTINUANCE  
PURSUANT TO IOWA CODE  
SECTION 125.80(4).

Upon the application of respondent's attorney, and for good cause shown, it is ordered that hearing in this matter be continued. The hearing shall be rescheduled promptly, as soon as respondent's attorney has informed the court of the expected date of respondent's readiness for the hearing. The rescheduling shall take into consideration any application by the facility for an earlier release of the respondent from custody.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

Form 12.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF:

\_\_\_\_\_,  
ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

No. \_\_\_\_\_  
STIPULATION PURSUANT TO  
IOWA CODE SECTION 125.82  
AND RULE 20, RULES FOR  
INVOLUNTARY COMMITMENT  
OR TREATMENT OF SUBSTANCE  
ABUSERS.

It is hereby stipulated that respondent need not be present at the hearing to determine if he or she is a substance abuser.

(1) I have conversed with respondent about the hearing and his or her absence on \_\_\_\_\_.

(date)

(2) In my judgment, (a) respondent can make no meaningful contribution to the hearing; or (b) respondent has waived the right to be present. I base this judgment on the following grounds: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNED

\_\_\_\_\_  
Respondent's attorney

Form 13.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF:

\_\_\_\_\_,  
ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

No. \_\_\_\_\_  
NOTICE OF MEDICATION  
PURSUANT TO IOWA CODE  
SECTION 125.82(1).

I hereby certify that the respondent was medicated at \_\_\_\_\_ A.M./P.M.  
on \_\_\_\_\_, 19\_\_\_\_.

The probable effects of the medication are as follows:

The medication (may) (probably will not) affect respondent's ability to understand the nature of these proceedings.

SIGNED

\_\_\_\_\_  
Physician

Form 14.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF:

\_\_\_\_\_,  
ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

No. \_\_\_\_\_

DISCHARGE AND TERMINATION  
OF PROCEEDINGS PURSUANT  
TO IOWA CODE SECTION  
125.82(4).

A hearing was held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, pertaining to the alleged substance abuse by respondent. All relevant and material evidence was presented.

This court finds the contention that the respondent is a substance abuser has not been sustained by clear and convincing evidence.

It is therefore ordered that the application for involuntary commitment or treatment of respondent is hereby denied and that all proceedings in this matter are hereby terminated.

It is further ordered that the respondent be released from custody.

All papers and records pertaining to these proceedings shall be confidential and subject to the provisions of Iowa code section 125.93.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

Form 15.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF:

\_\_\_\_\_,  
ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

No. \_\_\_\_\_

FINDINGS OF FACT AND ORDER  
PURSUANT TO IOWA CODE  
SECTION 125.83.

A hearing on this matter was held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. The court finds the contention that the respondent is a substance abuser has been sustained by clear and convincing evidence.

The following is a statement of facts setting forth the evidence upon which this finding is based:

It is therefore ordered that the respondent be placed at \_\_\_\_\_ for a complete evaluation and appropriate treatment.  
(facility)

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

Form 16.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_ No. \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

REFeree'S NOTICE OF TERMINA-  
TION OF PROCEEDINGS PURSUANT  
TO IOWA CODE SECTION 125.82(4)  
OR 125.85(4).

TO THE CHIEF JUDGE OF THE \_\_\_\_\_ JUDICIAL DISTRICT OR  
DESIGNEE:

As required by Iowa Code section 229.21(3), I hereby advise that I have terminated the pro-  
ceedings in regard to the above respondent for the reasons stated in the order entered, a copy  
of which is attached.

\_\_\_\_\_  
Judicial Hospitalization Referee  
\_\_\_\_\_  
County, Iowa

Form 17.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_ No. \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

REFeree'S NOTICE OF ORDER  
PURSUANT TO IOWA CODE SEC-  
TIONS 125.90 AND 229.21(3).

TO THE CHIEF JUDGE OF THE \_\_\_\_\_ JUDICIAL DISTRICT OR  
DESIGNEE:

Please be advised that I have issued an order regarding the above respondent for the  
reasons stated in the order and findings of fact, copies of which are attached.

DATE OF COMMITMENT \_\_\_\_\_

\_\_\_\_\_  
Judicial Hospitalization Referee  
\_\_\_\_\_  
County, Iowa

Form 18.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

Respondent.

No. \_\_\_\_\_

APPLICATION FOR ORDER FOR  
EXTENSION OF TIME FOR EVAL-  
UATION PURSUANT TO IOWA  
CODE SECTION 125.83.

I, the facility administrator of \_\_\_\_\_  
(facility)

request an extension of time not to exceed seven (7) days in order to complete the evaluation of  
respondent.

I request this extension because:

\_\_\_\_\_  
Facility Administrator

\_\_\_\_\_  
Date

Form 19.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

Respondent.

No. \_\_\_\_\_

ORDER FOR EXTENSION OF  
TIME PURSUANT TO IOWA  
CODE SECTION 125.83.

An application for extension of time for evaluation in this matter having been presented to  
the (court) (judicial hospitalization referee) this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, and upon a showing of good cause; it is hereby ordered that the extension of time be  
granted for a period not to exceed seven (7) days beyond the initial fifteen-day evaluation  
period set out in Iowa Code section 125.83.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

Form 20.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_  
No. \_\_\_\_\_

Respondent.

REPORT OF THE CHIEF MEDICAL  
OFFICER'S SUBSTANCE ABUSE  
EVALUATION PURSUANT TO IOWA  
CODE SECTION 125.84.

DATE AND TIME OF EVALUATION: \_\_\_\_\_

1. Treatment that respondent has received during the present hearing and evaluation period:

2. Medication given for withdrawal symptoms and the effect on the respondent's behavior or mental state:

3. Have there been previous incidents of substance abuse? \_\_\_\_\_ (a) If so, give approximate dates:

(b) Was hospitalization or treatment necessary? \_\_\_\_\_ If so, give place, date, length of stay, condition on discharge:

4. Respondent's past medical history:

5. Is there a family history of substance abuse? \_\_\_\_\_ If so, give names and relationship:

6. In your judgment is respondent a substance abuser? \_\_\_\_\_ If so, state diagnosis and supporting observations or medical history:

7. In your judgment is respondent capable of making responsible decisions with respect to his or her hospitalization or treatment? \_\_\_\_\_ If not, state supporting observations or medical history:

8. In your judgment, is the respondent treatable? \_\_\_\_\_ If so, state diagnosis and supporting observations or medical history:

9. In your judgment, is the respondent likely to physically injure himself or herself or others? \_\_\_\_\_ What has led you to this conclusion?

10. In your judgment, is the respondent likely to inflict severe emotional injury on those unable to avoid contact with the respondent?

11. PROPOSED TREATMENT

Please check one of the four alternatives contained in Iowa Code section 125.84.

- 1. The respondent does not, as of the date of this report, require further treatment for substance abuse.
- 2. 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.
- 3. The respondent is a substance abuser who is in need of treatment, but does not require full-time placement in a facility.
- 4. 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. Recommendation for alternative placement.

Signed \_\_\_\_\_, M.D.  
Chief Medical Officer/Designee

Address \_\_\_\_\_

Form 21.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF:

\_\_\_\_\_,  
Respondent.



No. \_\_\_\_\_

PERIODIC REPORT PURSUANT  
TO IOWA CODE SECTION  
125.86(1).

Date \_\_\_\_\_

1. An order for continued placement of the respondent at this facility was entered \_\_\_\_\_

Facility \_\_\_\_\_ Address \_\_\_\_\_

Patient's Name \_\_\_\_\_ Hospital Number \_\_\_\_\_ DOB \_\_\_\_\_ County of Settlement \_\_\_\_\_

County of Commitment \_\_\_\_\_ Transfer From \_\_\_\_\_

Transfer Date \_\_\_\_\_ Last Evaluation \_\_\_\_\_ Date of this Visit \_\_\_\_\_

Diagnosis \_\_\_\_\_

2. Current therapy: list all types of therapy, including medication.

PHYSICAL CONDITION

COMMENTS:

Ambulatory \_\_\_\_\_ Wheelchair \_\_\_\_\_

Bed Patient \_\_\_\_\_

General Appearance: Good \_\_\_\_\_

Fair \_\_\_\_\_ Poor \_\_\_\_\_

Eating Habits: Good \_\_\_\_\_

Fair \_\_\_\_\_ Poor \_\_\_\_\_

Sleeping Habits: Good \_\_\_\_\_

Fair \_\_\_\_\_ Poor \_\_\_\_\_

Incontinent – Yes \_\_\_\_\_ No \_\_\_\_\_

Sometimes \_\_\_\_\_

Diet: Regular \_\_\_\_\_ Reduction \_\_\_\_\_

Other (specify) \_\_\_\_\_

Wt. \_\_\_\_\_ Ht. \_\_\_\_\_ B.P. \_\_\_\_\_

List any physical problems such as seizures, dental, heart, sight, hearing, etc.

BEHAVIOR: Improved \_\_\_\_\_ Unchanged \_\_\_\_\_ Disturbed \_\_\_\_\_

Depressed \_\_\_\_\_ Suicidal \_\_\_\_\_

Is this patient easily managed in your facility?

Yes \_\_\_\_\_ No \_\_\_\_\_ If no, describe:

WORK: Is patient currently employed? \_\_\_\_\_ If so, where?

Describe job performance \_\_\_\_\_

FAMILY SITUATION: Single /\_\_\_\_\_/ Married /\_\_\_\_\_/ Divorced /\_\_\_\_\_/  
Dissolution in progress /\_\_\_\_\_/

Does this patient receive Social Security?

Disability \_\_\_\_\_ Pension \_\_\_\_\_

RECREATIONAL ACTIVITIES:

Participation: Active \_\_\_\_\_ Limited \_\_\_\_\_

Observe Only \_\_\_\_\_ Type \_\_\_\_\_

VISITORS: No \_\_\_\_\_ Yes \_\_\_\_\_ Frequency \_\_\_\_\_ Who \_\_\_\_\_

MAIL: Receives \_\_\_\_\_ Writes \_\_\_\_\_

INTERVIEW SUMMARY

COVER THE FOLLOWING: (1) Present physical and mental condition; (2) Adjustment to facility; (3) Behavior during interview; and (4) Administrator's viewpoint of patient.



3. In my opinion, the patient's condition (has improved) (remains unchanged) (has deteriorated). Additional information concerning the patient's condition and prognosis is provided below:

4. In my opinion, the following subsection of Iowa Code section 125.84 is applicable (check one):

- (a) Respondent does not, as of this date, require further treatment for substance abuse.
- (b) 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.
- (c) Respondent is a substance abuser who is in need of treatment, but does not require full-time placement in a facility. (See recommendation below.)
- (d) Respondent is a substance abuser who is in need of treatment but is not responding to the treatment provided. (See recommendation below.)

RECOMMENDATIONS:

5. Respondent was tentatively discharged on \_\_\_\_\_, pursuant to Iowa Code section 125.85 because in my opinion the respondent no longer requires treatment or care as a substance abuser: (See explanation below.)

EXPLANATION:

Respondent seen at \_\_\_\_\_ on \_\_\_\_\_  
(name of facility) (date)

by \_\_\_\_\_  
(interviewer) (title)

\_\_\_\_\_, M.D.  
 Chief Medical Officer/Designee

Form 22.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

No. \_\_\_\_\_

Respondent.

PERIODIC REPORT PURSUANT  
TO IOWA CODE SECTION

125.86(2).

Date \_\_\_\_\_

1. An order for continued treatment of the respondent under the supervision of this facility was entered

Facility \_\_\_\_\_ Address \_\_\_\_\_

Patient's Hospital County of

Name \_\_\_\_\_ Number \_\_\_\_\_ DOB \_\_\_\_\_ Settlement \_\_\_\_\_

County of Transfer

Commitment \_\_\_\_\_ From \_\_\_\_\_

Transfer Last Date of this

Date \_\_\_\_\_ Evaluation \_\_\_\_\_ Visit \_\_\_\_\_

Diagnosis \_\_\_\_\_

2. Current therapy: list all types of therapy, including medication.

PHYSICAL CONDITION

COMMENTS:

Ambulatory \_\_\_\_\_ Wheelchair \_\_\_\_\_

Bed Patient \_\_\_\_\_

General Appearance: Good \_\_\_\_\_

Fair \_\_\_\_\_ Poor \_\_\_\_\_

Eating Habits: Good \_\_\_\_\_

Fair \_\_\_\_\_ Poor \_\_\_\_\_

Sleeping Habits: Good \_\_\_\_\_

Fair \_\_\_\_\_ Poor \_\_\_\_\_

Incontinent - Yes \_\_\_\_\_ No \_\_\_\_\_

Sometimes \_\_\_\_\_

Diet: Regular \_\_\_\_\_ Reduction \_\_\_\_\_

Other (specify) \_\_\_\_\_

Wt. \_\_\_\_\_ Ht. \_\_\_\_\_ B.P. \_\_\_\_\_

List any physical problems such as seizures, dental, heart, sight, hearing, etc.

BEHAVIOR: Improved \_\_\_\_\_ Unchanged \_\_\_\_\_ Disturbed \_\_\_\_\_

Depressed \_\_\_\_\_ Suicidal \_\_\_\_\_

Is this patient easily managed in your facility?

Yes \_\_\_\_\_ No \_\_\_\_\_ If no, describe:

WORK: Is patient currently employed? \_\_\_\_\_ If so, where?

Describe job performance \_\_\_\_\_

FAMILY SITUATION: Single /\_\_\_\_\_/ Married /\_\_\_\_\_/ Divorced /\_\_\_\_\_/
Dissolution in progress /\_\_\_\_\_/

Does this patient receive Social Security?
Disability \_\_\_\_\_ Pension \_\_\_\_\_

RECREATIONAL ACTIVITIES:

Participation: Active \_\_\_\_\_ Limited \_\_\_\_\_
Observe Only \_\_\_\_\_ Type \_\_\_\_\_

VISITORS: No \_\_\_\_\_ Yes \_\_\_\_\_ Frequency \_\_\_\_\_ Who \_\_\_\_\_

MAIL: Receives \_\_\_\_\_ Writes \_\_\_\_\_

INTERVIEW SUMMARY

COVER THE FOLLOWING:

- (1) Present physical and mental condition; (2) Adjustment to facility; (3) Behavior during interview; and (4) Administrator's viewpoint of patient.

3. In my opinion, the patient's condition (has improved)(remains unchanged) (has deteriorated). Additional information concerning the patient's condition and prognosis is provided below:

4. In my opinion, the following subsection of Iowa Code section 125.84 is applicable (check one):

- (a) Respondent does not, as of this date, require further treatment for substance abuse.
(b) 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.
(c) Respondent is a substance abuser who is in need of treatment, but does not require full-time placement in a facility. (See recommendation below.)
(d) Respondent is a substance abuser who is in need of treatment but is not responding to the treatment provided. (See recommendation below.)

RECOMMENDATIONS:

5. Respondent was tentatively discharged on \_\_\_\_\_, pursuant to Iowa Code section 125.85 because in my opinion the respondent no longer requires treatment or care as a substance abuser: (See explanation below.)

EXPLANATION:

Respondent seen at \_\_\_\_\_ on \_\_\_\_\_  
 (name of facility) (date)  
 by \_\_\_\_\_  
 (interviewer) (title)

\_\_\_\_\_, M.D.  
 Chief Medical Officer/Designee

Form 23.  
 IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
 IN THE MATTER OF: \_\_\_\_\_ No. \_\_\_\_\_

Respondent.

NOTICE OF FACILITY ADMINIS-  
 TRATOR'S REQUEST FOR EXTEN-  
 SION OF TIME PURSUANT TO  
 IOWA CODE SECTION 125.83.

TO: \_\_\_\_\_, attorney for respondent.

You are hereby notified, pursuant to Iowa Code section 125.83, that a request for extension of time for filing an evaluation report has been received from the facility administrator of \_\_\_\_\_, a copy of which is attached.

The request for an extension of time may be contested pursuant to Iowa Code section 125.83.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
 Judge of the \_\_\_\_\_ Judicial  
 District of Iowa or Judicial Hospitalization Referee

Form 24.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF:

\_\_\_\_\_,  
Respondent.



No. \_\_\_\_\_

ORDER AFTER EVALUATION  
PURSUANT TO IOWA CODE  
SECTION 125.84.

The court has received the facility administrator's report of the chief medical officer's  
substance abuse evaluation of the respondent, and it was the recommendation of \_\_\_\_\_  
that the respondent \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

It is therefore ordered that the respondent \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Copies of this order shall be sent to respondent's attorney.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

Form 25.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

Respondent.

No. \_\_\_\_\_

REPORT OF RESPONDENT'S  
DISCHARGE PURSUANT TO  
IOWA CODE SECTION  
125.85(4).

TO: \_\_\_\_\_ (judge) (judicial hospitalization referee)  
I, \_\_\_\_\_, administrator of  
\_\_\_\_\_ do hereby report that the  
(facility)  
above-named respondent, for whom (commitment) (treatment) was ordered on \_\_\_\_\_,  
was discharged from this facility or from treatment on \_\_\_\_\_.

\_\_\_\_\_  
Facility Administrator

\_\_\_\_\_  
Date

Form 26.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

Respondent.

No. \_\_\_\_\_

ORDER CONFIRMING RESPONDENT'S  
DISCHARGE AND TERMINATING  
PROCEEDINGS, PURSUANT TO IOWA  
CODE SECTION 125.85(4).

This (court) (referee) has received a report from \_\_\_\_\_, administrator  
of \_\_\_\_\_, indicating that respondent, for whom  
(facility)  
(commitment) (treatment) was ordered by this (court) (referee) on \_\_\_\_\_, has  
been discharged from the facility or from treatment.

I hereby confirm respondent's discharge and, further, order termination of all proceedings  
pursuant to which the (commitment) (treatment) order was issued.

All papers and records pertaining to those proceedings shall be confidential and subject to  
the provisions of Iowa Code section 125.93.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial  
District of Iowa or Judicial Hospitalization Referee

cc: Facility  
Respondent

Form 27.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

No. \_\_\_\_\_

Respondent.

NOTICE OF APPEAL FROM THE  
FINDINGS OF THE JUDICIAL  
HOSPITALIZATION REFEREE

TO: \_\_\_\_\_, judge of the \_\_\_\_\_  
judicial district of Iowa and the clerk of the district court:

The undersigned hereby appeals the findings of \_\_\_\_\_,  
judicial hospitalization referee, that respondent is a substance abuser, and requests a review  
of the matter by a judge of the Iowa district court for \_\_\_\_\_ County, Iowa, all  
pursuant to Iowa Code section 229.21(4).

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

SIGNED

\_\_\_\_\_  
(Respondent, Next Friend,  
Guardian, Attorney)

Form 28.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

No. \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

CLAIM, ORDER AND CERTIFICATE  
FOR ATTORNEY OR PHYSICIAN'S  
FEES

Respondent.

STATE OF IOWA, \_\_\_\_\_ COUNTY, ss:

The undersigned (attorney) (physician), being first duly sworn (or affirmed), states that  
he/she was appointed by the (court) (judicial hospitalization referee) to (represent) (examine)  
the (respondent) (applicant \_\_\_\_\_) in substance abuse proceedings, pursuant  
to Iowa Code section 125.78; that services have been completed by this claimant as set forth on  
the attached itemized statement; and that this claimant has not directly, or indirectly, re-  
ceived, or entered into a contract to receive, any compensation for such services from any  
sources.

WHEREFORE, this claimant prays for an order to be compensated in accordance with the provisions of Iowa Code section 125.78.

\_\_\_\_\_  
Claimant

\_\_\_\_\_  
Address

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Clerk of said District Court (or) Notary Public In and For the State of Iowa

**ORDER**

The foregoing verified claim has been duly considered, is fixed and approved in the sum of \$ \_\_\_\_\_ and ordered paid out of the county treasury. The clerk is directed to certify a copy of above claim and this order to the county auditor for payment to claimant, as provided by statute.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge of the \_\_\_\_\_ Judicial District of Iowa or Judicial Hospitalization Referee

**CERTIFICATE**

The above is a true copy of claim and order as appears of record in my office and is hereby certified to county auditor for payment.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
(Deputy) Clerk of Said Court



Form 29.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

No. \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

AUTHORIZATION OF DETENTION  
PURSUANT TO IOWA CODE  
SECTION 125.91(2).

Respondent.

DATE \_\_\_\_\_  
TIME OF DETENTION \_\_\_\_\_  
TIME OF NOTIFICATION OF MAGISTRATE \_\_\_\_\_

Respondent has been detained because there is reason to believe respondent is a substance abuser who is incapacitated or is likely to injure himself or herself or others if not immediately detained. My conclusion regarding the need for detention is based upon the following information:

This detention has been authorized by the verbal instruction of \_\_\_\_\_, magistrate.

\_\_\_\_\_  
Facility Administrator

ARRIVAL OF MAGISTRATE

Time of arrival of magistrate \_\_\_\_\_

\_\_\_\_\_  
Magistrate

Form 30.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

No. \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

MAGISTRATE'S REPORT PUR-  
SUANT TO IOWA CODE SEC-  
TION 125.91(2) (b).

Respondent.

1. Reason for failure to respond immediately to the facility administrator's call:
2. Substance of the information on the basis of which the respondent's continued detention was ordered:

TIME OF CALL \_\_\_\_\_  
 TIME OF RESPONSE \_\_\_\_\_  
 TIME OF APPOINTMENT OR NOTIFICATION OF COUNSEL \_\_\_\_\_

Magistrate

Form 31.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY, IOWA  
IN THE MATTER OF: \_\_\_\_\_

No. \_\_\_\_\_

ALLEGED TO BE A  
SUBSTANCE ABUSER,

MAGISTRATE'S ORDER OF  
DETENTION PURSUANT TO  
IOWA CODE SECTION  
125.91(3).

Respondent.

TIME OF NOTIFICATION OF MAGISTRATE \_\_\_\_\_  
 TIME OF ACTION BY MAGISTRATE \_\_\_\_\_

Information and evidence has been presented to this magistrate that respondent should be immediately detained due to substance abuse;

This magistrate finds that there is probable cause to believe that respondent is a substance abuser, and because of that abuse is likely to injure himself or herself or others if not immediately detained;

The finding is based on the following circumstances and grounds: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

It is hereby ordered that \_\_\_\_\_ shall be detained in custody at \_\_\_\_\_ for \_\_\_\_\_ (facility)

examination and care for a period not to exceed forty-eight hours (excluding Saturdays, Sundays and holidays).

It is further ordered that the facility may provide treatment which is necessary to preserve the respondent's life, or to appropriately control behavior by the respondent which is likely to result in physical injury to himself or herself or others if allowed to continue, or is otherwise deemed medically necessary by the chief medical officer, but the facility may not otherwise provide treatment to the respondent without his or her consent.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Time \_\_\_\_\_

\_\_\_\_\_  
Magistrate

## HOUSE CONCURRENT RESOLUTION 117

A Concurrent Resolution relating to the bonding authority of the state board of regents.

WHEREAS, pursuant to chapter 262A, the Seventieth General Assembly of the State of Iowa passed Senate Concurrent Resolution 13 authorizing the state board of regents to undertake and carry out certain projects and to pay all or any part of the cost of carrying out such projects by borrowing money and issuing negotiable revenue bonds under chapter 262A in a total amount not to exceed sixty-three million seven hundred eighty thousand (\$63,780,000) dollars during the biennium commencing July 1, 1983 and ending June 30, 1985; and

WHEREAS, it is desired to amend Senate Concurrent Resolution 13 to authorize the state board of regents to undertake and carry out additional projects and to pay all or any part of the cost of carrying out the additional projects by borrowing money and issuing negotiable revenue bonds under chapter 262A but without increasing the authority to issue revenue bonds during the biennium beginning July 1, 1983 and ending June 30, 1985; NOW THEREFORE,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING, That the state board of regents is authorized to undertake and carry out the following projects, in addition to the projects set out in Senate Concurrent Resolution 13 of the Seventieth General Assembly, and to pay all or any part of the cost of carrying out the projects by borrowing money and issuing negotiable revenue bonds under chapter 262A, in the amount authorized in Senate Concurrent Resolution 13 of not to exceed sixty-three million seven hundred eighty thousand (\$63,780,000) dollars, during the biennium commencing July 1, 1983 and ending June 30, 1985:

State University of Iowa

University theater addition equipment

Fire safety deficiency corrections

Iowa State University of Science and Technology

Agronomy building renovation

Mechanical engineering equipment.

It is the intent of the legislature that any amount expended for fire safety deficiency corrections or mechanical engineering equipment shall be in addition to, not in place of, the amounts included in the regents' operating budget.

BE IT FURTHER RESOLVED, That, as amended by this concurrent resolution, Senate Concurrent Resolution 13 of the Seventieth General Assembly is ratified and confirmed in all respects.

Adopted H.J. 1542; S.J. 1480

Approved May 15, 1984

**SENATE CONCURRENT RESOLUTIONS**

*[Priorities determined by Legislative Council, SCR 125]*

- SCR 101 Amend rule 17 of joint rules of the house and senate with respect to fiscal notes. Adopted, S.J. 19, 23, 57, 58; Adopted, H.J. 62, 63, 985.
- SCR 102 Designating February 11, 1984, as a day to celebrate freedom from alcohol and drug dependency. Adopted, S.J. 74, 127, 203, 221; Adopted, H.J. 226, 322, 349.
- SCR 103 Congratulations to Governor and Mrs. Terry Branstad on the birth of their son, Marcus Andrew. Adopted, S.J. 198; Adopted, H.J. 166.
- SCR 104 Relating to federal highway funds and the release of interstate cost estimates. Adopted, S.J. 210, 223, 346, 373, 374; Introduced, H.J. 404.
- SCR 105 Relating to industrial homework. Introduced, S.J. 348, 386.
- SCR 106 Legislative approval of the plan of operation for the state of Iowa federal surplus property program of the department of general services as drafted in accordance with Public Law 94-519. Adopted, S.J. 627, 1317, 1320, 1459; Adopted, H.J. 1973, 2147.
- SCR 107 Relating to development of library service. Introduced, S.J. 704, 720.
- SCR 108 State department of transportation procedure for selection of engineering and architectural service. Introduced, S.J. 795, 820.
- SCR 109 Adoption and termination statutes and procedures, interim study committee. Introduced, S.J. 926, 933. (See HCR 113)
- SCR 110 National Medical Assistants' Week, November 4-10, support passage by Congress. Adopted, S.J. 1097, 1171, 1458, 1462; Introduced, H.J. 1996.
- SCR 111 Emergency assistance from the federal government requested for farmers. Adopted, S.J. 1342, 1348, 1355, 1375, 1376; Adopted, H.J. 1740.
- SCR 112 American POW's and MIA's—urging U.S. Government to obtain information. Introduced, S.J. 1406. (See HCR 120)
- SCR 113 Hazardous waste superfund study recommended. Introduced, S.J. 1419, 1441.
- SCR 114 Antitrust enforcement void should be eliminated. Adopted, S.J. 1432, 1441, 1487; Adopted, H.J. 1997, 2189.
- SCR 115 Food and hunger problems in Iowa. Adopted, S.J. 1441, 1458; Introduced, H.J. 1973.
- SCR 116 Joint rules amended by adding new Rule 21. Introduced, S.J. 1462, 1500.
- SCR 117 Refugees of civil war in El Salvador be permitted asylum. Introduced, S.J. 1462, 1500. (See HCR 119)
- SCR 118 State mental health institutes management evaluation. Adopted, S.J. 1492, 1496, 1557; Adopted, H.J. 2052, 2459, 2496, 2497.
- SCR 119 Funeral expense payment for families on assistance. Introduced, S.J. 1492, 1500.
- SCR 120 Health care insurance coverage availability. Introduced, S.J. 1572, 1573. (See HCR 122)
- SCR 121 Iowa Health Data Commission renewal study. Introduced, S.J. 1614.
- SCR 122 Education visitation subcommittee interim visitation days. Introduced, S.J. 1637.
- SCR 123 Inmate classification systems and physical facilities of correctional institutions—interim study committee. Introduced, S.J. 1675.
- SCR 124 Cattle industry—interim study. Introduced, S.J. 1697, 1698, 1730. (See HCR 108)
- SCR 125 Interim studies. Adopted, S.J. 1711; Adopted, H.J. 2497.
- SCR 126 Sine die adjournment. Adopted, S.J. 1761; Adopted, H.J. 2500.

## HOUSE CONCURRENT RESOLUTIONS

*[Priorities determined by Legislative Council, SCR 125]*

- HCR 16 American Library Association's symbol designated as official symbol for Iowa libraries. 1983 Regular Session Adopted, H.J. 553, 1128, 1129; Introduced, S.J. 1204, 1223; 1984 Regular Session, Adopted, S.J. 1611, 1634.
- HCR 32 Request for evaluation of Department of Social Services child care licensing, registration and inspection procedures. 1983 Regular Session, Adopted, H.J. 2014, 2138; Introduced, S.J. 1740; 1984 Regular Session, S.J. 12.
- HCR 38 Adoption of rules to prevent area education agency printing services from unfairly competing. 1983 Regular Session, Adopted, H.J. 2155, 2156, 2172; Introduced, S.J. 1787; 1984 Regular Session, S.J. 12.
- HCR 101 Joint convention, January 10, 1984, 10:00 a.m., Governor Branstad's condition of the state and budget message. Adopted, H.J. 7; Adopted, S.J. 18, 19.
- HCR 102 Joint convention, January 17, 1984, 9:30 a.m., observing centennial of dedication of the present capitol building. Adopted, H.J. 7; Adopted, S.J. 18, 30.
- HCR 103 Joint convention, January 19, 1984, 10:00 a.m., message by Supreme Court Chief Justice W. Ward Reynoldson, on the condition of the judicial department. Adopted, H.J. 8; Adopted, S.J. 19, 30.
- HCR 104 Teacher compensation study. Introduced, H.J. 232.
- HCR 105 Requesting recall of House File 359 from the Governor. Defeated, H.J. 232, 242, 243.
- HCR 106 Computer system purchases to be approved by two-thirds of the members of each branch of the General Assembly for any amounts exceeding that specified in the contract. Introduced, H.J. 312.
- HCR 107 Matthew Edel property in Haverhill, Iowa, acceptance of state executive council and historical department urged. Adopted, H.J. 523, 524, 1215; Adopted, S.J. 945, 1002, 1177.
- HCR 108 Cattle industry—interim study. Adopted, H.J. 549, 552, 2056. (See SCR 124)
- HCR 109 National standards for composition of milk requesting change. Introduced, H.J. 578. (See SR 106)
- HCR 110 United States academy of peace and conflict resolution supported. Adopted, H.J. 656, 1202, 1894; Introduced, S.J. 1537, 1563.
- HCR 111 Effective date of salary increase for state legislators to be delayed. Introduced, H.J. 714.
- HCR 112 National silver-haired congress adoption supported. Introduced, H.J. 755, 1228.
- HCR 113 Adoption and termination statutes, interim study. Adopted, H.J. 848, 1228, 1542; Introduced, S.J. 1273, 1274, 1342. (See SCR 109)
- HCR 114 Enactments by Congress of Sex Discrimination in Education Reform Act of 1984 and H.R. 5011 urged. Introduced, H.J. 848, 1511.
- HCR 115 Job training programs evaluation requested by Legislative Fiscal Bureau. Introduced, H.J. 933, 1229, 1230.
- HCR 116 Federal Bankruptcy Act, urged Congress to amend. Introduced, H.J. 1008, 1230.
- HCR 117 Bonding authority of the board of regents. Adopted, H.J. 1300, 1372, 1542; Adopted, S.J. 1285, 1342, 1437, 1480, 1489. Signed by the Governor May 15, 1984.

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- HCR 118 Joint Rule 7, Reprinting of Bills, amended. Introduced, H.J. 1546.
- HCR 119 Refugees of the civil war in El Salvador. Introduced, H.J. 1722. (See SCR 117)
- HCR 120 U.S. Government urged to continue quest for information in regard to POW's and MIA's. Adopted, H.J. 1825, 1894; Introduced, S.J. 1537, 1563. (See SCR 112)
- HCR 121 Business and industry encouraged for Iowa. Adopted, H.J. 1972, 2147; Introduced, S.J. 1658, 1674.
- HCR 122 Health care insurance benefit coverage study. Introduced, H.J. 1973. (See SCR 120)
- HCR 123 Investment of idle public funds. Introduced, H.J. 1996.
- HCR 124 Sine die adjournment, Thursday, April 19, 1984. Introduced, H.J. 2052.
- HCR 125 Interim study of family farm survival in Iowa. Introduced, H.J. 2117, 2120.
- HCR 126 Warranties on merchandise—interim study. Introduced, H.J. 2400.
- HCR 127 Appropriations subcommittees procedures in developing budgets. Introduced, H.J. 2400.

**SENATE RESOLUTIONS**

- SR 101 Permanent rules of the Senate, 1984 amendments. Adopted, S.J. 19, 23, 65, 66, 67.
- SR 102 Agricultural disaster area designation for entire state. Adopted, S.J. 219, 226, 254.
- SR 103 Gubernatorial appointments requiring Senate confirmation. Adopted, S.J. 393, 415, 432.
- SR 104 Hon. Clair Strand memorial resolution. Introduced, S.J. 393, 394.
- SR 105 Drainage issues, interim study committee. Introduced, S.J. 431, 439, 445.
- SR 106 National milk standards change requested. Adopted, S.J. 454, 467, 568, 1177. (See HCR 109)
- SR 107 Agricultural Producers Antitrust Access Act in United States Congress supported. Adopted, S.J. 657, 670, 1058.
- SR 108 Liabilities and immunities of governmental entities. Introduced, S.J. 1226, 1253.
- SR 109 Commending Senator Bass Van Gilst and Representative Lester Menke for efforts in field of education. Adopted, S.J. 1393, 1410, 1417.
- SR 110 Student appointment to the State Board of Regents. Introduced, S.J. 1404.
- SR 111 Telephone service for legislators. Introduced, S.J. 1492, 1500.
- SR 112 Senate daily operations expenditures. Adopted, S.J. 1606, 1611, 1635, 1661.
- SR 113 Female veterans recognition September 14 each year urged. Introduced, S.J. 1646, 1654.
- SR 114 International congress on "The Overuse of Incarceration and Alternative Strategies" endorsed. Adopted, S.J. 1654, 1712.
- SR 115 Recognition of Senators Bass Van Gilst, Dale Tieden, and William Palmer upon completion of 20 years of service in the General Assembly. Adopted, S.J. 1764, 1765.
- SR 116 Recognition of Senator James E. Briles on his retirement and 28 years of service in the General Assembly. Adopted, S.J. 1764.
- SR 117 Recognition of Senator Bass Van Gilst on his retirement and service in the General Assembly. Adopted, S.J. 1763.
- SR 118 Recognition of Senator Tom Slater on his retirement and eight years of service in the General Assembly. Adopted, S.J. 1738, 1739.



**HOUSE RESOLUTIONS**

- HR 101 Permanent rules of the House, 1984 amendments. Adopted, H.J. 85-88, 139, 140, 227, 228.
- HR 102 Iowa Family Farm Development Authority, Congress urged to pass H.R. 4170 to allow continuation of programs. Adopted, H.J. 549, 552, 815.
- HR 103 State budget preparation. Introduced, H.J. 637.
- HR 104 Industrial homework federal rules be rescinded, the President and Congress urged to take action. Introduced, H.J. 755, 1969.
- HR 105 State racing commission rules, termination of emergency filing urged. Introduced, H.J. 633, 848.
- HR 106 Governmental immunity and liability—study committee. Introduced, H.J. 2052.
- HR 107 Female veterans recognition day, September 14, urged. Adopted, H.J. 2249, 2496.
- HR 108 Representative Lester Menke and Senator Bass Van Gilst commended for efforts in field of education. Introduced, H.J. 2246, 2249.
- HR 109 Harry S. Truman's 100th birthday, May 8, 1984, commemorated. Adopted, H.J. 2400, 2497.
- HR 110 Sanitary and improvement districts—interim study. Introduced, H.J. 2401.

**TABLE OF SENATE AND HOUSE FILES  
AND JOINT RESOLUTIONS**

**SENATE FILES**

File No.	Chap. No.	File No.	Chap. No.	File No.	Chap. No.
24	1322	2089	1016	2223	1134
159	1008	2091	1165	2228	1238
163	1130	2095	1110	2232	1205
176	1160	2098	1280	2233	1167
190	1233	2101	1166	2235	1142
253	1181	2102	1236	2238	1219
256	1117	2104	1163	2243	1069
292	1137	2116	1087	2244	1021
324	1034	2119	1054	2247	1249
345	1006	2121	1113	2248	1085
347	1250	2122	1168	2250	1102
400	1138	2129	1067	2253	1143
407	1234	2135	1101	2254	1191
414	1122	2137	1048	2257	1251
420	1217	2138	1080	2261	1112
441	1065	2153	1189	2262	1290
442	1014	2154	1049	2263	1070
449	1235	2155	1118	2268	1239
451	1161	2156	1190	2269	1144
465	1256	2159	1111	2271	1259
475	1007	2160	1045	2273	1257
480	1139	2163	1088	2276	1104
497	1046	2167	1036	2277	1282
505	1162	2168	1037	2283	1064
510	1072	2169	1252	2284	1103
511	1132	2170	1186	2285	1055
513	1202	2173	1119	2293	1279
517	1084	2175	1038	2294	1185
2002	1066	2176	1050	2295	1086
2005	1133	2182	1187	2297	1053
2014	1218	2183	1188	2298	1231
2021	1047	2184	1068	2301	1248
2035	1321	2188	1169	2304	1105
2040	1204	2189	1120	2306	1145
2042	1035	2197	1051	2310	1146
2043	1232	2202	1081	2311	1172
2045	1005	2205	1082	2312	1071
2050	1009	2212	1170	2317	1147
2053	1079	2213	1121	2318	1025
2057	1109	2214	1158	2323	1240
2059	1171	2215	1296	2327	1241
2063	1164	2217	1159	2328	1266
2069	1141	2220	1230	2330	1305
2082	1148	2221	1083	2332	1281
2084	1184	2222	1052	2333	1306

SENATE FILES – Continued

File No.	Chap. No.	File No.	Chap. No.	File No.	Chap. No.
2334 .....	1307	2352 .....	1311	2361 .....	1315
2335 .....	1308	2353 .....	1312	2363 .....	1297
2337 .....	1309	2354 .....	1140	2365 .....	1298
2342 .....	1253	2356 .....	1289	2366 .....	1237
2346 .....	1183	2357 .....	1313		
2351 .....	1310	2359 .....	1314		

SENATE JOINT RESOLUTIONS

No.	Chap. No.
9 .....	1318
2001 .....	1319

**TABLE OF SENATE AND HOUSE FILES  
AND JOINT RESOLUTIONS**

**HOUSE FILES**

File No.	Chap. No.	File No.	Chap. No.	File No.	Chap. No.
4	1198	2071	1043	2354	1201
48	1123	2100	1269	2372	1090
74	1004	2101	1010	2373	1211
80	1040	2110	1286	2375	1029
111	1114	2111	1058	2378	1156
123	1246	2126	1026	2379	1030
162	1001	2136	1075	2380	1061
169	1128	2164	1258	2385	1224
189	1196	2167	1192	2386	1200
205	1176	2170	1019	2387	1099
224	1206	2172	1212	2389	1228
245	1041	2180	1243	2390	1178
257	1095	2183	1062	2391	1100
323	1011	2184	1018	2392	1245
359	1002	2187	1124	2393	1157
406	1260	2189	1076	2396	1135
425	1097	2194	1125	2398	1229
434	1194	2211	1268	2400	1324
446	1261	2212	1027	2401	1262
456	1107	2229	1013	2404	1031
508	1174	2232	1077	2405	1032
509	1098	2234	1283	2409	1033
523	1199	2243	1059	2412	1063
526	1320	2247	1274	2414	1197
531	1153	2263	1017	2415	1272
540	1270	2265	1060	2416	1129
558	1276	2267	1126	2417	1127
573	1154	2272	1226	2421	1039
580	1056	2274	1263	2423	1242
582	1193	2284	1073	2424	1136
590	1057	2301	1074	2425	1214
591	1042	2302	1207	2426	1182
601	1089	2306	1213	2427	1149
602	1012	2323	1028	2428	1116
658	1003	2326	1195	2430	1208
2015	1220	2330	1022	2431	1150
2019	1015	2331	1155	2432	1151
2043	1177	2334	1247	2433	1255
2048	1115	2335	1020	2436	1284
2062	1273	2338	1023	2437	1287
2065	1131	2340	1227	2438	1044
2067	1106	2347	1316	2439	1265
2068	1225	2348	1244	2440	1277

HOUSE FILES — Continued

File No.	Chap. No.	File No.	Chap. No.	File No.	Chap. No.
2444	1223	2472	1275	2511	1300
2447	1264	2473	1180	2516	1294
2452	1152	2474	1092	2517	1209
2454	1091	2478	1221	2518	1301
2457	1299	2480	1024	2519	1302
2458	1078	2481	1222	2520	1303
2459	1203	2485	1093	2521	1304
2463	1215	2486	1292	2522	1295
2465	1323	2487	1293	2524	1288
2466	1096	2501	1175	2525	1216
2467	1278	2502	1094	2528	1285
2468	1291	2503	1254	2531	1210
2470	1271	2507	1173	2532	1267
2471	1108	2510	1179		

HOUSE JOINT RESOLUTION

No.	Chap. No.
2	1317

**TABLE OF CHAPTERS AND SECTIONS REPEALED OR AMENDED  
CODE AND SUPPLEMENT 1983**

Code Section	Acts Chapter	Code Section	Acts Chapter	Code Section	Acts Chapter
1	1024,§1	28.1	1187,§1	68A.7(13) S	1014,§1
2.15	1171,§1	28.2	1187,§2	68A.8	1185,§7
2	1042,§1	28.6	1187,§3	68A.9	1185,§8
2.42(16) S	1067,§1	28.83(3) S	1164,§1	68B.2 S	1067,§13
2.51	1026,§1	28.85 S	1079,§1	73.7	1147,§1
2.52	1172,§1	28.86 S	1164,§2	74.1	1010,§1
3.1(2),(3)	1067,§2	28.88 S	1164,§3	76.5	1021,§1
7A.1	1138,§1	28.89 S	1067,§8; 1164,§4;1303,§10	76.10 S	1021,§2
8	1305,§21	28.90 S	1067,§9; 1164,§5	79	1180,§1-5;1219,§4
8.6(20) S	1067,§3	28.93 S	1164,§6	79.20(2)	1146,§2
8.15 S	1219,§1	28E.19 S	1067,§10	79.23	1146,§1
8.22(2)"e"	1231,§2	29A.27	1170,§1	80	1154,§1;1259,§5
8.33 S	1091,§1; 1305,§17	29A.41	1181,§1	80A	1235,§18
8.41(2)	1067,§4	33.2	1180,§7	80A.2	1135,§1
11.6	1123,§1;1128,§1	43	1291,§1	80B.11	1245,§2; 1246§1
11.18	1128,§2	43.115	1291,§2	80B.11(4)	1245,§1
11.20	1118,§1	47.2	1291,§3	80B.11(5)	1245,§3
12.8	1180,§6	48.3	1067,§11;1291,§4	80B.13	1246,§3
12.10 S	1266,§2	48.6(9) S	1067,§12; 1291,§5	80B.13(3)	1246,§2
14.13	1117,§1	48.7(1)"a" S	1291,§6	83.15	1153,§1
17.9	1102,§1	49	1291,§7	83.15(1)	1153,§2
17.23	1067,§5	49.8 S	1052,§1	83.15(4)	1153,§2
17A	1007,§1	49.89	1291,§8	85.1 S	1067,§14
18.6(1)	1301,§12	49.90	1291,§9	85.26(3) S	1067,§15
18.37	1055,§1	49.108	1067,§51	85.38 S	1086,§1
18.43	1055,§2	49.112	1067,§51	85.59 S	1280,§1
18.97 S	1301,§13	49.113	1219,§2	85.60 S	1184,§22
18.137	1067,§51	49.122	1067,§51	85A.13(3)	1053,§1
19.33(2)"c"	1191,§1	50.24	1291,§10	86.9	1067,§16
19.33(3),(6),(8)	1191,§3	53.2 S	1291,§11	91A.2(2),(3)	1270,§1
19.33(4),(5)	1191,§2	53.8(3) S	1291,§12	91A.2(4)	1129,§2
19A.3 S	1266,§1	53.11	1291,§13	91A.3	1270,§2
19A.9(2)	1067,§6	53.12	1291,§14	91A.10(5)	1270,§3
19A.19	1015,§1	53.15	1291,§15	92.17 S	1111,§1
23	1045,§1	53.16	1291,§16	93	1313,§1
23.18	1055,§3	53.17	1291,§17	93A.4(1) S	1303,§22
24.39	1067,§51	53.22	1291,§19	93A.5(1)	1303,§23
24.40	1067,§51	53.22(1)	1291,§18	95.2	1212,§1
24.41	1067,§51	53.40	1219,§3	96.3(5) S	1067,§17
24.42	1067,§51	53.44	1291,§20	96.4(3) S	1255,§1
24.43	1067,§51	56.18(3) S	1263,§1	96.4(5) S	1255,§2
24.44	1067,§51	68A	1185,§9,10,11	96.6(2) S	1255,§3
24.45	1067,§51	68A.1	1145,§1;1185,§1	96.7(3)"d" S	1255,§4,5
24.46	1067,§51	68A.2	1185,§2	96.7(3)"e" S	1255,§6
24.47	1067,§51	68A.4	1185,§3	96.7(15)	1255,§7
25A.2(5)"b" S	1259,§1	68A.5	1185,§4	96.8(2)	1067,§18
25A.14 S	1085,§20	68A.7 S	1185,§5,6	96.11(7)"b"(3) S	1163,§1
25A.14(4) S	1067,§7	68A.7(1),(2) S	1185,§5	96.13(3)	1204,§1
25A.21	1259,§2			96.14(5)	1255,§8
25A.22	1259,§3			97.51	1285,§1

TABLE OF CHAPTERS AND SECTIONS REPEALED OR AMENDED  
CODE AND SUPPLEMENT 1983 — Continued

Code Section	Acts Chapter	Code Section	Acts Chapter	Code Section	Acts Chapter
97A.6(14)"a"(2)	1285,§2	99D.9(6) S	1266,§10	110.3	1260,§3
97A.8(3)	1180,§8	99D.11(3) S	1266,§11	110.4	1260,§4
97B	1285,§17	99D.11(5) S	1266,§12	110.7	1260,§15
97B.7(2)"b"(6)	1180,§9; 1285,§3	99D.11(6) S	1266,§13	110.10	1260,§5
97B.41(1)"b" S	1285,§5	99D.12 S	1266,§14	110.11	1260,§6
97B.41(1)"b"(6) S	1285,§4	99D.14 S	1266,§16	110.12 S	1260,§7
97B.41(3)"b"	1285,§8	99D.14(4) S	1266,§15	110.17	1260,§8
97B.41(3)"b"(7) S	1285,§6	99D.15 S	1266,§17	110.18	1260,§9
97B.41(3)"b"(9) S	1285,§7	99D.16	1266,§23	110.24 S	1260,§10
97B.49 S	1285,§10	99D.18 S	1266,§18	110.26	1260,§11
97B.49(8)"a" S	1285,§9	99D.21 S	1266,§19	110.38	1260,§15
97B.50	1285,§12	99D.22 S	1266,§20,21	111	1262,§1,2
97B.50(1)"b"	1285,§11	99D.24 S	1265,§5	111A.4(6)	1097,§1
97B.51(5)	1285,§13	99D.27	1266,§23	111A.4(10)	1097,§1
97B.52	1285,§15	99D.28	1266,§23	111A.5	1097,§2
97B.52(1)	1285,§14	100	1095,§8	111A.6 S	1262,§5
97B.53(5)	1285,§16	100.2	1095,§1	111A.10	1097,§3
97B.69	1285,§30	100.3	1095,§2	111D	1115,§1
97B.72	1285,§18	100.4	1095,§3	114.2	1104,§2
97B.73	1285,§19	100.5	1095,§4	114.3	1104,§3
97C.11	1285,§20	100.12	1095,§5	114.11	1104,§1
98.28	1173,§1	100.26	1095,§6	114.13	1104,§4
98.46(5),(6)	1173,§2	100.28	1095,§7	114.14	1104,§5
99B	1220,§1,2	101	1095,§9	114.20	1104,§6
99B.1(3),(6)	1220,§3	101A.2(1),(2)	1074,§1	118.18	1057,§1
99B.2	1220,§4	101A.3(1),(2) S	1074,§2	123.28	1275,§1
99B.7 S	1220,§11	101A.4(1)	1074,§3	123.36(6) S	1275,§2
99B.7(1) S	1220,§5,8	101A.5	1074,§4	123.36(8) S	1312,§6
99B.7(1)"c" S	1220,§6	101A.7 S	1074,§5	123.49(2)"b"	1275,§3
99B.7(1)"l" S	1220,§7	101A.8	1074,§6	123.50	1275,§4;1292,§1
99B.7(1)"m" S	1305,§22	101A.9	1074,§7	123.134(5)	1275,§5
99B.7(3)"b" S	1220,§9	101A.14(2)	1074,§8	123.143(1) S	1312,§7
99B.7(3)"c" S	1220,§10	103A.	1113,§2-6	125.43 S	1067,§21
99B.14	1220,§12	103A.3	1113,§1	125.78	1219,§5
99B.19	1220,§13	103A.11(3),(4)	1067,§19	135	1284,§2-8
99C	1106,§1	104.1	1094,§1	135C.16(3) S	1227,§1
99D S	1265,§4	104.3	1094,§2	135C.19(1)	1227,§2
99D.2 S	1265,§1	104.9	1067,§20	135C.30(4)	1136,§1
99D.2(6) S	1266,§3	104A.7	1110,§1	135C.37	1227,§3
99D.5 S	1266,§5	106.5(1)	1082,§1	135C.40(1)	1227,§4
99D.5(5) S	1266,§4	106.5(3)	1082,§2	136C	1286,§1-9
99D.6 S	1265,§2	107.16	1263,§2	136C.1	1286,§10
99D.7(2),(6) S	1266,§6	107.17	1262,§3	136C.2	1286,§11
99D.7(9) S	1265,§3	107.19	1262,§4	136C.3	1286,§14
99D.9(1) S	1266,§8	108A	1261,§1,2,4-18	136C.4	1286,§12
99D.9(2)"a","b" S	1266,§9	109.38(1)	213,§1	136C.5	1286,§13
		109.38(2)	1213,§1; 1260,§1	144.57	1219,§41
		109.95	1199,§1	147	1006,§1
		110	1260,§12	147.1(2),(3)	1075,§6
		110.1(1-4)	1260,§2	147.3	1075,§7
		110.1(4)"e"	1199,§2	147.13	1075,§8
				147.14(1)	1075,§9

TABLE OF CHAPTERS AND SECTIONS REPEALED OR AMENDED  
CODE AND SUPPLEMENT 1983 — Continued

Code	Acts	Code	Acts	Code	Acts
Section	Chapter	Section	Chapter	Section	Chapter
147.25	1075,§10	204.204(3)"i"	1013,§6	219.17	1277,§18
147.74	1075,§11	204.204(4)	1013,§7	219.18	1277,§14
147.80	1075,§12	204.204(6)	1013,§8	219.19	1277,§15
147.103	1161,§1	204.206	1013,§9	219.20	1277,§18
147A	1287,§12	204.208	1013,§10	219.21	1277,§16
147A.1(1),(3),(8)	1287,§1	204.210	1013,§11	219.23	1277,§18
147A.2	1287,§2	204.212	1013,§12	219.24 S	1277,§18
147A.3(1),(2)	1287,§3	204.401(1)"a"	1013,§13	220.1 S	1281,§5
147A.4(1)	1287,§4	204.401(1)"c"	1105,§2	220.1(2) S	1281,§1
147A.5	1287,§5	204.401(1)"d"	1105,§3	220.1(28) S	1281,§3
147A.6	1287,§6	204.401(2)"a"	1013,§14	220.1(28)"b" S	1281,§2
147A.7	1287,§7	204.406	1013,§15	220.1(32) S	1281,§4
147A.8	1287,§8	204.409(1)	1013,§16	220.2(1)	1281,§6
147A.9	1287,§9	204.411(2)	1013,§17	220.5(9)	1230,§2
147A.10(1)	1287,§10	214A.2(2)	1083,§1	220.8	1281,§8
147A.11	1287,§11	217A S	1184,§3	220.10(1) S	1236,§2
148A.1	1268,§1	217A.2(4) S	1184,§1	220.26(1) S	1281,§7
148A.3(4)	1268,§2	217A.2(5-7) S	1219,§9	220.38(2)	1219,§10
148A.4(1) S	1268,§3	217A.8 S	1150,§1	220.45	1305,§24
148A.5	1067,§51; 1268,§4	217A.8(1) S	1245,§4	221 S	1219,§41
154B	1122,§2	217A.18 S	1148,§1	222.18	1299,§1
154B.6(1)	1122,§1	217A.19 S	1148,§2	222.31 S	1299,§2
155.30	1105,§1	217A.31 S	1214,§1	222.31(1) S	1299,§3
155.37(2)"c" S	1038,§1	217A.32 S	1148,§3	222.33	1299,§19
159.5(4),(7) S	1067,§22	217A.33 S	1148,§4	222.34	1299,§4
161.3	1222,§1	217A.52 S	1184,§2	222.35	1299,§19
161.7	1222,§2	218	1004,§1;1256,§1	222.45	1299,§5
161.10	1222,§3	218.9 S	1277,§17	222.51	1299,§6
161.12	1222,§4	218.58 S	1256,§2	222.55	1299,§7
165.18(3) S	1178,§1	218.59	1256,§2	222.56	1299,§8
169.5(8)"i" S	1067,§23	218.60	1256,§2	223.1 S	1184,§4
172C.1(11)"a"	1219,§6	218.61 S	1055,§4; 1256,§2	223.2 S	1184,§5
172D.1(2)	1219,§7	218.62	1256,§2	223.4 S	1184,§6
172D.3(2)"b"(3),(4)	1219,§8	218.63	1256,§2	225C.10(1)"b"	1030,§1
174.14 S	1178,§2	218.64 S	1256,§2	225C.10(3)	1030,§2
175.2(7) S	1305,§23	218.73 S	1184,§22	226.27	1323,§1
175.6(9)	1230,§1	218.74 S	1184,§22	226.28	1323,§7
175.7(1),(2)	1236,§1	219	1277,§10,11,12	226.29	1323,§7
176A.12 S	1003,§4	219.1	1277,§1	229.1(1) S	1323,§2
179.2	1183,§1	219.2	1277,§2	229.20	1323,§7
194.6	1120,§1	219.3	1277,§3	229.26	1323,§3
194.8	1120,§2	219.4	1277,§4	232	1279,§12;1280,§2
194.9	1120,§3	219.5	1277,§5	232.2 S	1279,§1
200	1269,§2	219.6	1277,§6	232.2(5) S	1279,§2
200.3	1269,§1	219.7 S	1277,§7	232.8(1)	1275,§6
204.101	1013,§1	219.8	1277,§8	232.37(2)	1279,§3
204.101(16)	1013,§2	219.9	1277,§9	232.52 S	1279,§5
204.101(17)"d"	1013,§3	219.13	1277,§13	232.53	1166,§1
204.204(2)	1013,§4	219.14	1277,§18	232.68(2) S	1207,§2
204.204(3)	1013,§5	219.15	1277,§18	232.68(2)"b" S	1207,§1
		219.16	1277,§18	232.69(1) S	1279,§4
				232.69(1)"b" S	1279,§6



TABLE OF CHAPTERS AND SECTIONS REPEALED OR AMENDED  
CODE AND SUPPLEMENT 1983 - Continued

Code	Acts	Code	Acts	Code	Acts
Section	Chapter	Section	Chapter	Section	Chapter
232.71 S	1207,§3	242.6	1214,§2	273.8(1)	1219,§13
232.71(4) S	1279,§7	245.1 S	1184,§7	273.8(3)	1219,§14
232.71(9),(13) S	1279,§8	245.3 S	1184,§8	275.1	1078,§1
232.78(1),(2)	1279,§9	245.5	1214,§2	275.2	1078,§2
232.79(1) S	1279,§10	245.8 S	1184,§9	275.4	1078,§3
232.91	1279,§11	245.9 S	1184,§10	275.5	1078,§4
232.95(2)"a"	1279,§13	245.12 S	1184,§11	275.8(2)	1078,§5
232.96(6) S	1207,§4	245.15 S	1184,§12	275.12(1) S	1078,§6
232.97(1),(3) S	1279,§14	246.11 S	1184,§13	275.12(2) S	1078,§7
232.98(1)	1279,§15	246.16 S	1184,§14	275.12(4) S	1078,§8
232.102(3)"b" S		246.17	1184,§15	275.15	1078,§9
	1279,§16	246.46	1004,§2	275.16	1078,§10
232.102(5) S	1279,§17	247A.2 S	1244,§1	275.27	1078,§11
232.102(6) S	1279,§18	247A.7 S	1184,§16	275.29	1078,§12
232.116(4)"b","d"		247A.10 S	1244,§2	279	1294,§1;1296,§1,2
	1279,§19	249.9 S	1297,§1	279.8	1315,§35
232.116(5)"b"	1279,§20	249A.2 S	1297,§2	280A.11	1219,§15
232.117 S	1279,§21	249A.3	1297,§5	280A.17	1003,§2
232.147(3) S	1208,§2	249A.3(2)"f","g"	1297,§3	280A.22(1)"a"	1003,§3
233.2	1219,§11	249A.3(4)	1297,§4	280A.23	1315,§36
234	1208,§1	249A.9	1297,§7	281.6	1070,§1
234.11	1279,§22	249A.12 S	1297,§6	281.8	1001,§1
235A.12	1035,§1	252.16	1165,§1	283.1	1067,§29
235A.13	1035,§2	252.22	1165,§2	285.2	1302,§19
235A.17	1279,§23	252B	1242,§1	291.9(4)	1219,§16
235A.18(2) S	1279,§24	255.28 S	1067,§25	291.10(11)	1219,§17
235A.24 S	1035,§3	255.29 S	1184,§17	294.15	1285,§21
235B.1(5)"c" S	1178,§3	257.12	1068,§1	297.7(3)	1036,§1
236	1258,§1	257.41(3) S	1302,§14	298.7	1288,§1
237	1279,§26-33	257.42 S	1302,§15	303A.10	1067,§30
237.4	1050,§1	258A.3(1)"a"	1056,§1	303B.6	1315,§37
237A.13 S	1279,§34,35	258A.1(1)"g" S		303B.8	1160,§1
237A.14	1279,§36		1067,§26	304	1093,§6
237A.15(1),(2)	1279,§37	258A.3(2)"a" S		304.2	1093,§1
237A.16	1279,§38		1067,§27	304.3	1093,§2
237A.17	1279,§39	258A.4(1)"f" S		304.6	1093,§3
237A.18	1279,§40		1067,§28	304.7	1093,§4
238.1 S	1279,§41	260	1296,§3	304.14	1093,§5
239.1 S	1276,§1	260A	1315,§1-6	304A	1073,§2-11
239.2 S	1276,§2	261.12(1)"b" S	1302,§16	304A.5	1073,§1
239.3 S	1276,§3	261.45 S	1302,§17	307	1305,§45
239.4	1276,§4	261.45(1) S	1060,§1	307.10 S	1231,§1
239.5 S	1276,§5	261.53 S	1302,§18	307A.2(14)	1043,§1
239.6	1276,§6	261.54 S	1044,§1;	307B.7(11) S	1230,§3
239.8	1276,§7		1060,§2	307B.23	1289,§1
239.9 S	1276,§8	262.34	1055,§5	309	1102,§5
239.12 S	1067,§24;	263.11(2)	1219,§12	309.1	1102,§2
	1276,§9	266	1315,§13,14,16,18,	309.10 S	1102,§3;
239.15	1276,§13		21,27		1178,§4
239.17	1276,§10	273.2	1103,§1	309.22	1102,§4
239.18 S	1276,§11	273.3	1010,§2;	309.93	1102,§6
239.20	1276,§12		1315,§34	309.94	1102,§7

TABLE OF CHAPTERS AND SECTIONS REPEALED OR AMENDED  
CODE AND SUPPLEMENT 1983—Continued

Code	Acts	Code	Acts	Code	Acts
Section	Chapter	Section	Chapter	Section	Chapter
312.2 S	1305,§46	321.194 S	1022,§5; 1219,§24	324.76	1174,§4
312.2(5) S	1309,§10	321.196	1219,§25	324.83	1012,§2
312.2(8) S	1178,§5	321.197	1305,§68	324.84	1012,§1
312.3(1)	1219,§18	321.210	1016,§2;1022,§1	325.1	1253,§8
312.5	1219,§19	321.215(3)	1022,§6; 1219,§26	325.6(3)	1253,§9
314	1114,§1;1229,§1	321.218	1142,§1	326.34	1174,§6
317.19 S	1219,§20	321.238	1305,§73	326.35	1174,§6
321	1016,§1	321.281	1292,§7	326.36	1174,§6
321.1 S	1292,§2	321.281(1),(2)	1292,§4	326.37	1174,§6
321.1(2) S	1219,§21	321.281(7),(8)	1292,§5	326.38	1174,§6
321.1(16) S	1252,§1	321.281(9)	1292,§6	327A.19	1219,§29
321.19 S	1253,§3	321.283(13)	1022,§7	327G.78 S	1067,§34
321.19(1) S	1253,§1	321.310	1226,§1	331.321(1)"h" S	1067,§35
321.19(2) S	1253,§2	321.354	1022,§2	331.302(2)	1219,§30
321.20	1305,§47	321.366	1022,§8; 1219,§27	331.402(2)	1123,§2
321.22	1253,§4	321.366(1-4)	1219,§27	331.421(1),(2) S	1178,§6
321.23(1),(4) S	1305,§48	321.366(5)	1022,§8; 1219,§27	331.424(1)"a"(4) S	1312,§8
321.34(2) S	1027,§1	321.445	1016,§3	331.424(1)"m" S	1178,§7
321.34(5)"a" S	1305,§49	321.457(2)"b" S	1077,§1	331.427(2)"k" S	1206,§1
321.34(8) S	1250,§1	321.482	1067,§33	331.427(2)"l" S	1107,§1
321.37	1305,§50	321.492	1305,§69	331.429(1)"a" S	1178,§8
321.42	1305,§51	321.494	1219,§41	331.429(1)"b" S	1178,§9
321.43	1067,§31	321.555(2)	1016,§4; 1022,§9	331.429(2)"i" S	1178,§10
321.46(2) S	1305,§52	321A.32(2)	1142,§2	331.430(2)"b" S	1178,§11
321.47	1243,§1; 1305,§53	321B.1	1292,§8	331.507(2)"a" ..	1198,§1
321.48(2) S	1169,§1; 1305,§54	321B.2	1219,§28; 1292,§9	331.552 S	1003,§1
321.50(1) S	1305,§55	321B.4(1)	1292,§10	331.557(3)	1305,§72
321.51 S	1305,§73	321B.4(1)"d"	1292,§11	331.559(10)	1003,§5
321.52(3)	1169,§2	321B.12	1292,§12	331.604	1124,§1
321.52(4)	1305,§56	321B.13	1292,§13,14	331.756(5) S	1163,§2
321.60	1305,§57	321B.15	1292,§15	331.756(42) S	1299,§9
321.71(7)	1243,§2	321B.16	1292,§16	331.902(3) S	1125,§1
321.71(9)	1243,§3	321B.26	1292,§17	347.12	1003,§6
321.71(11)	1305,§58	321B.28	1292,§18	347.13	1201,§2
321.89(4)	1305,§59	321B.30	1292,§19	347.13(2)	1201,§1
321.109(1)	1305,§60	324.3(4) S	1253,§5	347A.1	1003,§7
321.116 S	1067,§32	324.3(5) S	1141,§1	349.18 S	1069,§1
321.117 S	1305,§61	324.11	1174,§6	352	1206,§2
321.119	1305,§62	324.12(1)	1174,§1	356.29	1144,§1
321.123 S	1305,§63	324.14	1174,§6	356.30	1144,§2
321.135	1219,§22	324.35	1253,§6	356.36 S	1127,§1
321.152 S	1305,§64	324.53	1174,§2	356.43 S	1127,§2
321.178(2)"b"	1022,§3	324.55	1174,§3	357.14	1055,§6
321.184	1219,§23	324.57	1253,§7	357A.2	1055,§7
321.189(1)	1292,§3	324.65	1173,§3	357D.8	1216,§1
321.189(2)"c"	1022,§4			357D.10	1216,§2
321.190(1)	1305,§65			358	1051,§4
321.191	1305,§66				
321.192 S	1305,§67				

TABLE OF CHAPTERS AND SECTIONS REPEALED OR AMENDED  
CODE AND SUPPLEMENT 1983—Continued

Code Section	Acts Chapter	Code Section	Acts Chapter	Code Section	Acts Chapter
358.2	1055,§8	422.43(9) S	1140,§2; 1254,§2;1305,§77	450.47 S	1240,§7
358.4	1051,§1	422.58(1) S	1173,§6	450.55 S	1240,§8
358.5	1051,§2	422.73 S	1155,§1	450.63(2)	1173,§9
358.9	1009,§1;1051,§3	422.87	1067,§51	450.94 S	1240,§10
358A	1238,§1	422.100 S	1067,§37	450.94(3) S	1240,§9
358B.13 S	1168,§1	422A.2(4)"d" S	1067,§38	450A.1(2)	1305,§38
358B.16	1168,§2	423.1(4) S	1140,§3; 1254,§3	450B.1(1) S	1305,§39
359.21	1003,§8	423.18(1) S	1173,§7	451.1(8)	1305,§40
359.42	1008,§1	425.23(3)"b" S	1305,§35	451.12	1240,§11
359.43	1008,§2	425.25	1190,§1	452.10	1194,§1;1230,§4
362.5	1228,§2	425.27	1190,§2	453.	1230,§11,17,19-24
362.5(4)	1228,§1	427.1(36) S	1222,§5,6	453.1 S	1230,§5
364	1232,§1	427.1(36)"e" S	1222,§7	453.2	1230,§6
364.3(2) S	1219,§31	427.3(1),(2), S	1219,§32	453.3	1230,§7
364.12(2)	1002,§1	427.5	1221,§2	453.4	1230,§8
384.11	1003,§9	427.8	1219,§33	453.5	1230,§9
384.15	1274,§1	427.10	1219,§34	453.6	1230,§10
384.82(2)	1058,§1	427.12	1219,§35	453.7(1)	1230,§12
384.84(1) S	1221,§1	427A.12(7) S	1298,§1	453.8	1230,§13
384.97(5)	1055,§9	427A.13	1298,§2	453.9	1230,§14
386.1(7)	1179,§1	427B.1	1232,§2	453.10	1230,§15
390.1(10)	1251,§1	427B.3	1232,§3	453.12	1230,§16
390.3	1067,§36	428.28	1177,§1	453.14	1230,§18
403.6 S	1210,§1	435.5	1173,§8	454 S	1230,§29
403.8	1210,§3	441.21(9)"a"	1223,§1	455.40	1055,§10;1189,§1
403.8(1),(2)	1210,§2	441.22	1222,§8	455.42	1055,§11
409.1	1271,§1	442.5(1)"b"	1294,§2	455.43	1055,§12
409.25	1271,§2	442.9(1)"a" S	1315,§7	455.63	1028,§1;1189,§2
411.1(12)	1285,§22	442.15	1305,§36	455B	1059,§1;1159,§1
411.6(12)"a"(2)	1285,§23	442.44 S	1302,§20	455B.103(8)	1158,§1
414	1238,§2	442.51 S	1037,§1	455B.171 S	1121,§1
414.4	1018,§1	442.52 S	1037,§2	455B.171(22) S	1121,§2
414.5	1176,§1	442.53 S	1037,§3	455B.172(2) S	1121,§3
414.24	1018,§2	442.54 S	1037,§4	455B.183(1) S	1099,§1
419.1(2)"a" S	1266,§22	443.2	1195,§1	455B.183(3) S	1121,§4
422.3	1305,§25	443.5	1195,§3	455B.220	1099,§2
422.4(17) S	1305,§26	443.22	1195,§2	455B.381	1108,§1
422.4(19) S	1305,§27	445.8(2)	1221,§3	455B.386	1108,§2
422.6 S	1305,§28	445.24	1221,§4	455B.387 S	1108,§3
422.7 S	1305,§30	446.7 S	1221,§5	455B.411	1108,§8
422.7(6) S	1305,§29	446.9	1221,§6	455B.411	1157,§1
422.9(1) S	1305,§31	450.3(2)	1240,§1	455B.411(2)"a"(2)	1158,§2
422.12(1)"a" S	1305,§32	450.6	1240,§2	455B.412	1157,§2
422.16(10)"b" S	1173,§4	450.7(2) S	1240,§3	455B.412(3)	1158,§3
422.25(2) S	1173,§5	450.8	1240,§4	455B.413(1)	1158,§4
422.25(3) S	1025,§1	450.37(1)"b" S	1305,§37	455B.414	1158,§5
422.32(4) S	1305,§34	450.45 S	1240,§5	455B.415(1),(2),(4) S	1158,§6
422.32(12) S	1305,§33	450.46 S	1240,§6	455B.417(1)"a","b"	1158,§7
422.43 S	1140,§1; 1254,§1			455B.417(3-6)	1158,§8
422.43(2) S	1305,§76				

TABLE OF CHAPTERS AND SECTIONS REPEALED OR AMENDED  
CODE AND SUPPLEMENT 1983 — Continued

Code	Acts	Code	Acts	Code	Acts
Section	Chapter	Section	Chapter	Section	Chapter
455B.419	1158,§9	524.1802	1230,§25	556.2(4)	1295,§7
455B.420	1085,§21	524.1901	1067,§51	556.3(2)	1295,§8
455B.422	1182,§2	533	1230,§27	556.5	1295,§9
455B	1108,§4-7,9-18	533.1(1)"c"	1197,§1	556.6	1295,§10
459	1040,§1	533.4	1197,§4;1230,§26	556.7	1295,§11
467A.48	1192,§1	533.4(5)"d"	1197,§2	556.8	1295,§12
467D.17 S	1067,§39	533.4(5)"g"	1197,§3	556.9	1295,§13
467D.20	1055,§13	533.5	1197,§5	556.9A S	1266,§23
472.3	1065,§2	533.6(4)	1067,§43	556.11(2)"a","c"	
472.3(1)	1065,§1	533.17(1)	1197,§6		1295,§14
472.20	1065,§3	534	1112,§1,8;1196,§4	556.12(2)	1295,§15
472.21	1119,§1	534.2	1081,§1	556.13	1295,§16
472.25	1065,§4	534.5(1)	1112,§2	556.14	1295,§17
472.35	1065,§5	534.10	1112,§3	556.15	1295,§18
472.36	1065,§6	534.15	1112,§9	556.17	1295,§19
476	1267,§1	534.17(1)	1112,§4	556.18(1) S	1295,§20
476.1 S	1031,§1	534.19(7)	1112,§5	556.20 S	1295,§21
476.6(2) S	1023,§1	534.19(13)	1112,§6	556.23	1295,§22
476.18(3) S	1225,§1	534.48	1081,§2	556.25	1295,§23
476.20(2),(3) S	1273,§1	534.48(8)	1067,§44	556.30	1295,§25
476.20(5) S	1131,§1	534.49	1081,§3	556.31	1295,§25
476.25	1101,§1	534.50	1081,§4	556.32	1295,§25
478	1132,§1	534.51	1081,§5	556.33	1295,§25
478.1	1101,§2	534.55	1081,§6	556.34	1295,§25
478.19	1101,§3	534.79(6)	1112,§7	556.35	1295,§25
499A.13	1033,§1	534.92(5)"e"	1067,§45	556.36	1295,§25
509.3 S	1290,§1	535	1272,§1	558.6	1067,§46
509A.5	1071,§1	536A.20(3) S	1205,§1	572	1248,§1
509A.7	1285,§24	536A.23	1205,§2	572.18	1215,§1
511.6	1067,§51	536A.31(3)	1205,§3	573.4	1055,§14
511.8(10)"a"	1067,§40	537.2202(3)	1237,§1	589.1	1090,§1
514.1 S	1122,§3	537.2402	1237,§2	589.2	1090,§2
514.4 S	1282,§1	537.3205(2)	1237,§3	589.3	1090,§3
514.5 S	1122,§4	542.3(4)"b" S	1224,§1	589.4	1090,§4
514.6	1122,§5	542.5	1100,§1	589.5	1090,§5
514.7 S	1122,§6;1290,§2	542.6	1100,§2	589.6	1090,§6
514.8	1122,§7	542.9	1224,§2	589.8	1090,§7
514.13	1122,§8	543.2	1100,§3	589.9	1090,§8
514B.1(2) S	1290,§3	543.33	1100,§4	589.10	1090,§9
524	1167,§1,2;1196,§1,3	543.37	1100,§5	589.11	1090,§10
524.101	1067,§41	553	1143,§2	589.12	1090,§11
524.302(10)	1032,§1	553.6	1020,§1	589.13	1090,§12
524.310(1)	1202,§1	553.12(3)	1020,§2	589.14	1090,§13
524.508	1032,§2	553.14	1143,§1	589.17	1090,§14
524.706(1)"a"(2,3) S		554.3507	1217,§1	589.18	1090,§15
	1032,§3	554.9407(3) S	1072,§12	589.19	1090,§16
524.1202(2)"a"(1-4)		556	1295,§24	589.21	1090,§17
	1202,§2	556.2	1295,§5	589.23	1090,§18
524.1507	1202,§3	556.2(1)	1295,§1,2	589.24	1090,§19
524.1602(1)	1067,§42	556.2(2)	1295,§3,4	589.25	1090,§20
524.1701	1196,§2	556.2(3)	1295,§6	598	1211,§1

TABLE OF CHAPTERS AND SECTIONS REPEALED OR AMENDED  
CODE AND SUPPLEMENT 1983 - Continued

Code	Acts	Code	Acts	Code	Acts
Section	Chapter	Section	Chapter	Section	Chapter
598.1	1088,§1	629.1	1248,§3	692.2 S	1061,§1
598.23	1133,§1	630	1239,§8	692.2(1) S	1265,§6
598.24	1133,§2	631.3(3)	1322,§1	692.8	1145,§2
598.41	1088,§4	631.4(1)	1322,§2	692.10	1145,§3
598.41(1),(2)	1088,§2	631.5(2)	1322,§3	701.4	1320,§1
598.41(3)	1088,§3	631.5(5)	1322,§4	702.12	1247,§1
598.41(4)	1088,§5	631.12	1322,§5	709.1(1)	1188,§1
600.23	1219,§41	631.13(1)	1322,§6	709.3(1)	1188,§2
601A.2(10)	1096,§1	631.13(4)"a"	1322,§7	712.2	1064,§1
601A.13	1011,§1	633	1299,§12,15	713.1	1247,§2
601A.16(3)	1096,§2	633.213	1067,§47	713.2	1247,§3
601G.6	1046,§1	633.230	1080,§1,2	714.3	1162,§1
601G.7(2)	1046,§2	633.237	1080,§3	714.8(3)	1048,§2
601J	1151,§1;1200,§6	633.241	1080,§4	714.14	1162,§2
601J.1	1200,§1	633.247	1080,§5	719.1	1246,§4
601J.2 S	1200,§2	633.304	1080,§6	724.6 S	1235,§17
601J.2(1),(2) S	1200,§2	633.305	1080,§7	801.4(7)"d" S	1019,§1
601J.3	1200,§3	633.309	1080,§8	801.4(7)"e" S	1019,§2
601J.4(1)	1200,§4	633.361 S	1092,§1	804	1264,§1
601J.4(2)	1200,§5	633.410	1080,§9	805.8(1) S	1219,§37
602 S	1285,§28	633.412	1080,§10	805.8(2) S	1016,§5
602.1303(7) S	1301,§14	633.427	1080,§11	805.8(2)"p" S	1174,§5
602.1611(1),(2) S	1285,§26	633.433	1080,§12	805.10(1) S	1067,§50
602.1613 S	1285,§27	633.434	1080,§13	811	1152,§3,4
602.6405(1) S	1275,§7	633.480	1221,§7	811.2(1) S	1152,§1
602.6501(3) S	1219,§36	633.481	1221,§8	811.2(1)"d" S	1152,§2
602.9111 S	1180,§10	633.516	1080,§14	815.13 S	1178,§12;
602.9115 S	1285,§29	633.552(2)	1299,§10		1301,§16
602.9208(3) S	1234,§1	633.553	1299,§19	901.2	1126,§1
602.9209 S	1234,§2	633.554	1299,§11	901.5	1063,§1
602.11101(1) S	1301,§15	633.566(2)	1299,§13	902.4 S	1139,§1;
602.11104 S	1301,§17	633.567	1299,§19		1149,§1
607.1	1181,§2	633.568	1299,§14	902.9	1219,§38
607.2	1181,§3	633.574	1067,§48	902.9(3),(4)	1134,§1
607.3	1181,§4	633.635	1299,§16	903.1 S	1219,§39
608.8	1181,§5	633.669	1299,§17	903.2	1139,§2
609	1181,§10	633.670	1299,§18	903A.3(2) S	1244,§3
609.1	1181,§7	634.5	1305,§41	904.3	1067,§51;1156,§3
609.1(1-3)	1181,§6	635.13	1080,§15	905	1029,§1
609.2	1181,§11	642	1239,§12	905.4(4) S	1244,§4
609.5	1181,§8	642.5	1239,§9	905.11 S	1219,§40
609.11	1181,§9	642.14	1239,§10	906.2	1019,§3
613.3 S	1293,§12	642.21(1)	1239,§11	906.17 S	1244,§5
615.4	1067,§51	648.3	1054,§1	907.2	1019,§4
619.17	1293,§13	654	1272,§2	907.4	1292,§20
622	1048,§1	656	1203,§1	907.13	1280,§3
622A	1137,§1,2	656.2	1203,§2	908.2	1089,§1
625.22	1217,§2	656.4	1203,§3	908.7 S	1156,§1
628	1116,§1	657.9	1067,§49	908.8 S	1156,§2
629	1248,§2	663A.3	1193,§1	908.11	1244,§6
		690.4 S	1184,§18	910.3	1041,§1
		691.9	1154,§2	910.8	1047,§1

---

TABLE OF CHAPTERS AND SECTIONS REPEALED OR AMENDED  
CODE AND SUPPLEMENT 1983—Continued

Code Section	Acts Chapter	Code Section	Acts Chapter	Code Section	Acts Chapter
911.2 .....	1274,§2	912.1(4) .....	1292,§21	912.13 .....	1292,§24
911.3 S .....	1274,§3	912.6 .....	1292,§22		

**TABLE OF CHAPTERS AND SECTIONS REFERRED TO  
CODE AND SUPPLEMENT 1983**

Code	Acts	Code	Acts	Code	Acts
Section	Chapter	Section	Chapter	Section	Chapter
2.10(2) S	1301,§6	17A.18	1287,§5,7	69.19	1113,§5
2.12	1187,§2;1218,§1	17A.19	1098,§3;	73	1045,§1
4.1(13)	1122,§3;		1185,§9	74	1010,§2
	1307,§4	18.9	1301,§4	74A.2	1010,§2
7A.21-7A.28	1049,§1	18.12(9)	1301,§3	74A.3 S	1010,§2
8	1151,§1;1301,§3;	18.16	1301,§3	74A.7	1010,§2
	1304,§2;1309,§3	18.57	1301,§4	76.1	1021,§1
8.2(5)	1304,§2;1307,§6	18.119	1301,§4	76.2 S	1021,§1;1051,§4
8.15 S	1256,§1	18A	1301,§1	76.3 S	1021,§1
8.22,Part I,(2)"e"		19A	1076,§5,8;1233,§1;	76.4	1021,§1
	1067,§4		1309,§4,6	79.1	1180,§3
8.23	1256,§1	19A.18	1233,§1	79.18 S	1314,§9
8.33 S	1151,§1;	20	1302,§9;1314,§4	80.9(1)"c","g"	1246,§3
	1164,§4;1235,§14;	20.9	1180,§1	80A	1235,§17
	1301,§9,10;1302,§10;	23	1067,§38;1256,§1	80B.11	1246,§3
	1303,§7,8,9,16,18;	23.1 S	1045,§1	80C	1301,§10
	1305,§21;1313,§2;	25A	1085,§6;1108,§18;	83.14	1153,§1
	1315,§33;1316,§3		1136,§1;1148,§2;	85	1309,§5,7
8.39	1151,§1;		1154,§2;1280,§2,3	85.59 S	1280,§3
	1301,§10;1310,§7	25A.2(3) S	1136,§1	85.61(10)	1278,§10
8.41	1311,§1,2,4,5,6,7,	25A.2(5)"b"	1259,§2,3	85A	1067,§15,16
	9,10,13,14	25A.13	1293,§10	85B	1067,§3,15,16
8.43	1314,§7	25A.14 S	1259,§4	88	1085,§8
8.45	1306,§2	28.89 S	1303,§7	91A	1129,§1
8C.1,Art.II S	1286,§7	28A	1098,§3;1164,§3;	91A.2	1129,§1
11.6	1123,§2		1279,§32	93.15	1313,§2
12.10 S	1164,§4	28E	1039,§3,4,6;	96.5(1)"a","i" S	1255,§3
17A	1017,§1;		1085,§16;1184,§20;	96.5(3)	1255,§1
	1062,§8,10;		1185,§11;1194,§1	96.5(10)	1255,§3
	1085,§12,17;1095,§7;	28E.2	1039,§2	96.7(15) S	1204,§1
	1098,§3;1101,§1;	28F	1039,§5	96.9	1204,§1
	1108,§15;1113,§2;	29A.33 S	1309,§1	96.19(5)"a"-“g"	
	1122,§8;1137,§1;	29A.57	1315,§32		1067,§18
	1148,§1;1153,§1;	39.3(1),(2)	1078,§1	96.19(5)"i","m"	
	1175,§9;1185,§10,11;	43	1218,§1;1291,§1		1067,§18
1200,§6;1220,§12;1230,§4;		43.24	1291,§2	96.19(6) S	1255,§2
1235,§15;1246,§2,3;		48.3	1291,§6	96.19(6)"h","i" S	
1256,§1;1261,§13,18;		49	1051,§2		1067,§18
1276,§11;1277,§14;		49.3	1052,§1	97	1304,§2
1279,§29;1282,§1;		49.5	1052,§1	97A	1180,§1;1305,§20;
1284,§4,8;1286,§1,12;		49.90	1291,§8		1309,§2;1315,§26
1296,§3;1303,§2;		53.13	1291,§11	97B	1180,§1;
1311,§1,2,4,5,6,7,9,10;		53.16	1291,§18		1285,§27,28
	1315,§6	53.17	1291,§10	97B.4	1285,§3
17A.2 S	1269,§1	56.18 S	1263,§2	97B.7(2)"b"	1230,§20
17A.2(1)S	1185,§8	68A	1148,§1;1164,§3;	97B.41(13)	1285,§17,28
17A.3	1148,§1		1175,§11;1279,§32	97B.49 S	1285,§12,28
17A.4(2)	1007,§2;	68A.2	1148,§1	97B.49(1),(5)	1285,§13
	1279,§45;1310,§10	68A.7 S	1095,§4	97B.51	1285,§15
17A.5(2)"b"	1007,§2;	68A.7(6)	1267,§1	97B.69	1285,§26
	1279,§45;1310,§10	69.14	1291,§1,19	97C	1304,§2
17A.11	1070,§1	69.15	1113,§5	99B.2	1220,§10
17A.12	1287,§5	69.16	1113,§5	99B.2(3)"a"	1220,§4

TABLE OF CHAPTERS AND SECTIONS REFERRED TO  
CODE AND SUPPLEMENT 1983—Continued

Code	Acts	Code	Acts	Code	Acts
Section	Chapter	Section	Chapter	Section	Chapter
99B.7 S	1220,§1,4	125.80	1327,Form 10	148C	1161,§1;1302,§9
99B.7(3)"b", "c"	1220,§4	125.80(2)	1327,#12,13	150	1016,§1;1161,§1; 1268,§2;1284,§1
99D.7 S	1266,§2	125.80(4)	1327,#12,Form 11	150A	1016,§1;1161,§1; 1268,§2;1284,§2; 1290,§1,2,3
99D.17 S	1266,§6	125.81	1327,#3,5,6,10, 11,14,15,31,Form 4,9	152	1284,§2,12
99D.18 S	1266,§6	125.81(1),(2)	1327, Form 4	155.29(1)	1104,§1
99D.22 S	1266,§14	125.81(3)	1327,#15, Form 4	161.1	1222,§5,8
100.2	1095,§2,3	125.82	1327,#5,6,16, 17,18,20,21,22,31,Form 12	161.2	1222,§1,5,8
100.3	1095,§3,4	125.82(1)	1327,Form 13	161.3-161.6	1222,§5,8
100.14	1095,§6	125.82(4)	1327, Form 14,16	161.7	1222,§1,5,8
100.27	1095,§7	125.83	1327,#23,24, Form 15,18,19,23	161.8-161.13	1222,§5,8
101A.9	1074,§5	125.84	1327,#25, Form 20,21,22,24	165.18 S	1186,§1
104.13	1067,§20	125.85	1327, Form 21, 22	170A.3	1303,§1
104.14	1067,§20	125.85(4)	1327,Form 16, 25,26	172C.1(8)	1040,§1
104A	1113,§4	125.86	1292,§4;1327, #26,27	179	1285,§8
104A.4	1307,§1	125.86(1)	1327,Form 21	179.5	1183,§1
106.52	1303,§3	125.86(2)	1327,Form 22	181	1285,§8
107.16	1263,§1	125.90	1327,Form 17	183	1285,§8
107.17	1303,§3	125.91	1327, #28,29,30,31	184A	1285,§8
111	1262,§4	125.91(2)	1327,Form 29	185	1285,§8
111.35-111.57	1097,§3	125.91(2)"b"	1327, Form 30	185C	1285,§8
111A	1262,§4	125.91(3)	1327,Form 31	194.6	1120,§2
111D.2	1115,§1;1261,§2	125.93	1327,#2, Form 14,26	196A	1285,§8
114	1057,§1;1271,§1	125.94 S	1327	198.3	1072,§1
114.3	1104,§7	135C	1297,§6;1310,§5	199.1	1072,§1
120.10	1067,§28	135C.1	1268,§2	200	1269,§2
123.24(1)	1292,§1	135C.40	1227,§2	200.3	1072,§1
123.47	1275,§4,6,7; 1292,§1	135D.1	1238,§1,2	200.14	1269,§2
123.49	1292,§27	135D.22 S	1178,§8,9	203A	1286,§10
123.49(2)"h"	1275,§7	135D.26 S	1238,§1,2	204.403	1105,§1
125	1050,§1;1312,§7	139A S	1307,§5	204.406	1306,§2
125.13(1)	1312,§2	147	1075,§4,13	204.411	1105,§1
125.25(2)	1312,§1	147.83	1075,§2	204.413	1306,§2
125.33	1292,§6	147.86	1006,§1	206	1085,§4
125.44	1067,§21; 1292,§4;1312,§1	147A	1161,§1	206.2 S	1072,§1;1085,§4
125.45 S	1067,§21; 1312,§1	147A.10	1287,§12	206.2(12)	1085,§4
125.46	1312,§1	148	1016,§1;1161,§1; 1268,§2;1284,§2; 1290,§1,2,3	206.2(17)	1085,§4
125.47 S	1312,§1			206.2(18)	1085,§4
125.48	1067,§21			206.2(19)	1085,§4
125.49 S	1312,§1			206.2(24)	1085,§4
125.50-125.54	1312,§1			217.23(2)	1306,§12
125.57	1312,§1			217.30	1208,§1;1279,§32
125.75	1327,#1, Form 1,2,			217A.3(1) S	1184,§23
125.76	1327,Form 7			217A.18(2) S	1148,§2
125.77	1327,#3,Form 3			217A.75 S	1306,§2
125.78	1327,Form 6,28			218.1 S	1256,§1
125.78(2)	1327, Form 7,8,9			218.14 S	1277,§13
125.79	1327,#3			218.96 S	1306,§4
				218.100 S	1306,§11
				219.7 S	1277,§17



TABLE OF CHAPTERS AND SECTIONS REFERRED TO  
CODE AND SUPPLEMENT 1983 - Continued

Code	Acts	Code	Acts	Code	Acts
Section	Chapter	Section	Chapter	Section	Chapter
219.19	1277,\$11	249A.4(2)"g"	1297,\$5	307A.7	1309,\$6
222.2(5)	1306,\$2	249B.15-249B.21	1307,\$1	309	1045,\$1;1102,\$8
222.73	1306,\$6	250.13	1067,\$35	309.22	1102,\$8
225C	1306,\$9,10	252.16	1165,\$2	309.93	1102,\$8
225C.7	1306,\$8	252.43 S	1310,\$3	309.94	1102,\$5
229	1306,\$5	252A	1278,\$1	309.96(2)	1102,\$5
229.19 S	1323,\$3	252B	1278,\$2	310	1045,\$1
229.20	1323,\$3	252B.2 S	1239,\$1	314.1	1229,\$1
229.21	1285,\$8	255	1302,\$9;1310,\$3	321.1 S	1283,\$1;1292,\$9
229.21(3)	1327, Form 16,17	257.28 S	1078,\$2	321.1A S	1260,\$11
229.21(4)	1327,Form 27	257.41 S	1302,\$6	321.24 S	1305,\$64
230.20 S	1306,\$5	258	1302,\$6	321.46(3) S	1169,\$2
231 S	1178,\$7	258.14	1302,\$6	321.47	1130,\$4
232	1279,\$31;1280,\$1	258A	1075,\$4;1099,\$2; 1161,\$1;1287,\$7	321.51 S	1305,\$56,59
232.45	1214,\$1	260	1068,\$1;1296,\$2	321.71	1305,\$45
232.52(2)"d","e","f" S	1279,\$5	261.9-261.16	1302,\$2	321.89	1154,\$1
232.73 S	1207,\$3	261.18	1302,\$3	321.109	1309,\$11
232.94	1279,\$12	261.19	1302,\$3	321.122(1) S	1309,\$11
232.102(6)	1279,\$42	261.25(1) S	1302,\$2; 1315,\$11	321.123 S	1252,\$1
232.103	1306,\$5	261.28	1302,\$18	321.145	1305,\$70; 1315,\$26
232.117 S	1279,\$31	261.29	1302,\$18	321.153	1305,\$64
232.141(4)"d"	1310,\$3	261.51 S	1302,\$18	321.178(2)	1219,\$24
232.142(4)	1310,\$3	261.52 S	1302,\$18	321.181	1219,\$26
234	1278,\$1	262A	HCR 117	321.209 S	1142,\$1; 1292,\$7,9
234.1 S	1277,\$10; 1297,\$2	263A	1302,\$9	321.209(2) S	1292,\$13
234.9	1297,\$2	272A	1296,\$2;1302,\$6	321.210	1022,\$3,4,5,6,7,9
234.35(1),(2),(4)	1279,\$26	273	1010,\$1	321.238	1305,\$59,71
234.36 S	1279,\$26	275.3	1078,\$2	321.252	1293,\$10
235A.15 S	1279,\$23,32	275.4	1078,\$9	321.281	1275,\$7; 1292,\$13,14,21
235A.18 S	1279,\$23	275.16	1078,\$5,9	321.283	1275,\$7
235A.21	1279,\$23	277.3	1103,\$1	321.354	1022,\$1
235A.23	1035,\$1,2	277.28	1219,\$14	321.354(1)	1022,\$1
235A.24 S	1035,\$1,2	278.1(7)	1294,\$1	321.355-321.361	1022,\$1
237	1279,\$44	279	1233,\$1	321.366(6)	1022,\$1
237A.13 S	1310,\$3	279.13	1296,\$1,2	321.426	1178,\$10
237A.13(4) S	1310,\$3	279.13(3)	1296,\$1	321.445	1016,\$1
237B.2(2),(3)	1076,\$9	279.14	1296,\$2	321.463	1252,\$1
239	1278,\$1	279.15-279.19	1296,\$1,2	321.494	1219,\$28; 1292,\$9
239.3 S	1067,\$24; 1276,\$9	279.27	1296,\$1,2	321.500	1325
239.12 S	1067,\$24; 1276,\$9	279.31	1219,\$14	321B	1142,\$1;1292,\$7
242.4	1166,\$1	280.4	1302,\$6	321B.3	1264,\$1
242.13	1166,\$1	280.15	1078,\$2	321B.4(1)	1292,\$16
246.16 S	1184,\$11	280A	1302,\$6;1315,\$9	321B.11	1292,\$12
246.17	1184,\$11	280A.2	1302,\$6,7; 1305,\$1	321B.13	1292,\$12,21
247A.10 S	1306,\$2	282.7 S	1078,\$2	321B.16	1292,\$12,21
249A	1277,\$7,10; 1306,\$7;1310,\$3,6	285.1(3)	1302,\$19	321G.7	1303,\$3
249A.4(1),(2)	1297,\$5	290	1078,\$9	324	1304,\$6
		294.15	1304,\$2	324.2	1072,\$1
		297.5	1294,\$1	324.14	1174,\$4,5
		301.1	1302,\$6		

TABLE OF CHAPTERS AND SECTIONS REFERRED TO  
CODE AND SUPPLEMENT 1983—Continued

Code Section	Acts Chapter	Code Section	Acts Chapter	Code Section	Acts Chapter
324.52	1174,\$4	409.31	1271,\$1	453.9	1230,\$9
324.57(11)	1253,\$5,6	409.32	1271,\$1	453.10	1230,\$9
324.79	1012,\$1	409.33	1271,\$1	454	1230,\$1-3,13,28,29
324.79(1),(2),(3),(5)	1303,\$4	409.37	1271,\$1	454.1	1230,\$28
	1012,\$1	414.4	1018,\$2	454.19	1230,\$14
324.83	1303,\$4	421.7	1173,\$1,2	455B.416	1108,\$12
324.84	1045,\$1	421.17(21)"b" S	1263,\$2	455B.420	1157,\$2
331	1067,\$38	422.3	1281,\$4;	462	1040,\$1
331,Div.IV,Part 3	1168,\$1,2		1305,\$22-24,35,37-41	467A	1303,\$16
	1312,\$1	422.3(5)	1305,\$27,33	467A.47	1303,\$16
331.305	1178,\$4,5	422.4 S	1240,\$1;	467A.48	1303,\$16
331.401(1)"c"	1301,\$15		1305,\$22-24,35,37,	472.37	1065,\$2
331.429(1)"e" S	1312,\$1		38,39,40	472.38	1065,\$2
	1312,\$1	422.4(11) S	1273,\$1	476.3 S	1267,\$1
331.506(2) S	1184,\$10	422.4(17) S	1305,\$27	476.6 S	1267,\$1
331.508(3)	1163,\$1	422.4(18) S	1305,\$21	476.7	1267,\$1
331.552(10) S	1312,\$1	422.8 S	1305,\$31	476.51 S	1273,\$1
331.655(1) S	1312,\$1	422.10 S	1305,\$36	478.3(1)	1101,\$2
331.756(5)	1067,\$10	422.11 S	1305,\$28,36	491	1040,\$1
331.756(26) S	1307,\$4	422.12 S	1305,\$28	494	1040,\$1
331.778	1304,\$4	422.32(4) S	1305,\$33	496A	1040,\$1
331.802	1304,\$4	422.72(1) S	1172,\$1	504	1073,\$2
334A.1	1304,\$4	422.100 S	1304,\$3	504A	1073,\$2
334A.2	1271,\$1	423.9	1173,\$7	507	1175,\$12
355.4	1271,\$1	426A	1178,\$8,9	507B	1293,\$9
355.7	1271,\$1	426A.4 S	1221,\$2	508.12	1067,\$40
355.16	1144,\$1,2	427.1 S	1232,\$1;	508.36	1067,\$40
356.26	1144,\$1		1262,\$1	509	1034,\$1
356.27-356.35	1127,\$1	427.1(31) S	1303,\$6	512	1175,\$3
356A	1009,\$2	427.8	1219,\$34	512A	1175,\$3
358.9	1008,\$2	427.9 S	1219,\$34,35	514	1034,\$1;1175,\$3
359.42	1018,\$1;1168,\$2	427.17 S	1178,\$8,9	514A	1034,\$1
362.3	1003,\$9	427A.1(1)"h"	1179,\$1	514B.1 S	1122,\$3
364.12	1209	427B.1	1232,\$1	521	1175,\$12
368.39	1051,\$3	441.65	1271,\$1	521A	1175,\$12
372.13(2)	1045,\$1	442	1303,\$6;1315,\$5	524.103	1230,\$5
384	1003,\$9	442.7 S	1315,\$3	524.305(1)"c"-“F”	1202,\$3
384,Div.IV	1274,\$3	442.7(4) S	1304,\$10		1202,\$3
384.15	1221,\$5,6	442.9 S	1315,\$5	524.305(2-6)	1202,\$3
384.84 S	1245,\$2	442.13 S	1302,\$6	524.312	1202,\$3
400	1245,\$2	442.14(3),(4)	1294,\$1	524.1702	1196,\$3
400.8	1245,\$2	442.14-442.20	1294,\$1	524.1801	1167,\$1,2
400.11 S	1210,\$1	443.5	1195,\$1,2	533.1	1230,\$17
403.8(1)	1210,\$1,3	445.23	1221,\$4	533.44 S	1067,\$43
403.19(2)	1232,\$1	450.3(2)	1240,\$4	533.45 S	1067,\$43
404	1304,\$5	450.7 S	1240,\$11	534	1230,\$17
405.1	1271,\$1	451	1240,\$3	534.2	1230,\$17
409.3	1271,\$1	452.10	1230,\$14,15,17,20	534.3(3)"a"	1067,\$44;
409.14	1271,\$1		1081,\$2		1081,\$2
409.15	1271,\$1	453	1194,\$1;1230,\$4,26	534.89(1)	1081,\$2
409.16	1271,\$1	453.2	1230,\$7	535	1237,\$2
409.21	1271,\$2	453.6	1230,\$11,24	535.8(1) S	1205,\$1
409.30	1271,\$1	453.7	1313,\$1	535.8(2)"b" S	1272,\$1

TABLE OF CHAPTERS AND SECTIONS REFERRED TO  
CODE AND SUPPLEMENT 1983 - Continued

Code	Acts	Code	Acts	Code	Acts
Section	Chapter	Section	Chapter	Section	Chapter
535.13	1116,\$1	602.34	1178,\$7	702.7	1246,\$4
536A.23(5)	1205,\$3	602.42	1178,\$7	702.14	1249,\$1
537	1205,\$3;1272,\$1	602.1204 S	1314,\$8	708.3	1235,\$4
537.2202(2)	1237,\$1	602.1208 S	1314,\$8	708.4	1235,\$4
537.2307	1272,\$1	602.1209 S	1314,\$8	708.5	1235,\$4
537.2402	1272,\$1	602.1401 S	1314,\$8	708.6	1235,\$4
537.2501(2)	1272,\$1	602.4201 S	1325;1326	708.8	1235,\$4
537.2510	1272,\$1	602.4202 S	1067,\$1;	708.9	1235,\$4
537.3205(1)	1237,\$3		1293,\$11;1325;1326;1327	709.10	1307,\$4
553	1039,\$9;1301,\$2	602.4202(3) S	1325;	713	1247,\$1
554	1072,\$4;1130,\$6		1326	714	1217,\$2
554,Art.6	1087,\$6	602.6501 S	1178,\$7	719.1	1258,\$1
554,Art.7	1130,\$2	602,Art.9,Part 1 S		724.1 S	1154,\$2
554,Art.9,Part 5			1285,\$28	724.6 S	1235,\$13
	1072,\$6	602.9104(1) S	1285,\$28	724.7-724.11	1235,\$13
554.3104	1217,\$2	602.9107 S	1234,\$1	725.1	1207,\$2
554.4403	1217,\$1	602.9204 S	1234,\$1	728.12(1) S	1207,\$1
554.7101-554.7603		602.9208(1) S	1234,\$2	801.4(7)"a"- "c", "h"	
	1232,\$2	602.9208(2) S	1234,\$1,2		1305,\$69
556.5	1295,\$17,19	602.11101 S	1301,\$8;	805	1095,\$8
556.11	1295,\$26		1304,\$5	805.8(2) S	1016,\$1
556.13	1295,\$5,26	602.11104 S	1301,\$18	809	1154,\$1
556.16	1295,\$17	607.1	1181,\$5	811.2(1)"d"	1152,\$3
556.17	1295,\$20	607.2	1181,\$2,5,6,9	812	1323,\$1,3
556.18(2) S	1295,\$19	607.3	1181,\$2	812.3	1323,\$6
556.19	1295,\$20	607.5	1301,\$15	812.4 S	1323,\$6
556.20 S	1295,\$20	609.1	1181,\$3	812.5 S	1323,\$6
556.27	1295,\$24	609.2	1181,\$5,9	815.9 S	1306,\$2
558	1048,\$1	609.5	1181,\$5	815.10 S	1067,\$10
558.55	1065,\$2	613A	1085,\$6	815.13 S	1178,\$7
558.58	1221,\$7,8	613A.5	1293,\$10	819.3 S	1178,\$7
570	1072,\$5	617.3 S	1322,\$2	901	1148,\$1
571	1072,\$5	622.46	1185,\$2	901.7 S	1214,\$1;
572	1072,\$11	622B.1(1)"a"	1264,\$1		1306,\$2
572.18	1272,\$2	622B.1(2)	1264,\$1	902.7	1306,\$2
598	1278,\$1	622B.2	1264,\$1	902.8	1306,\$2
598.21 S	1088,\$6;	629.1	1248,\$2	903A S	1306,\$2
	1239,\$1	633	1276,\$5;1299,\$4	905	1148,\$1
598.22	1239,\$1	633.65	1167,\$1,2	906.5 S	1306,\$2
598.41(1)	1088,\$6	633.279(2)	1048,\$1	906.17 S	1306,\$2
598A	1088,\$6	642.21	1239,\$8,12	907.2	1019,\$2
601E.6	1022,\$1	663A.2(6) S	1193,\$1	907.3	1292,\$4
601H	1303,\$3	675	1278,\$1	907.13	1280,\$1
601J	1200,\$6	675.25	1239,\$1	910	1029,\$1;1184,\$16
601J.1	1253,\$9	684.18	1067,\$1	911.2	1219,\$30,31,37-39
601J.4	1200,\$6	690.2	1292,\$9	912	1292,\$19
601J.4(1),(2)	1200,\$6	691.9	1154,\$1		
602 S	1178,\$7;1180,\$1	701.4	1320,\$2		

**TABLE OF SESSION LAWS REPEALED OR AMENDED  
IN ACTS OF THE SEVENTIETH  
GENERAL ASSEMBLY, 1984 SESSION**

**ACTS OF THE SEVENTIETH GENERAL ASSEMBLY, 1984 SESSION**

File	Acts Chapter
House File 2439,§4(ch 1265) .....	1266,§7

**ACTS OF THE SEVENTIETH GENERAL ASSEMBLY, 1983 SESSION**

Chapter	Acts Chapter	Chapter	Acts Chapter	Chapter	Acts Chapter
96 .....	1184,§20	195,§9(1) .....	1305,§8	197,§8(12)"a" .....	1305,§1
96,§155 .....	1184,§19	195,§12(1)"b","d" .....	1305,§9	197,§9(1)"c" .....	1305,§15
123,§78 .....	1003,§4	195,§12(1)"e","f","g" .....	1305,§10	198,§31 .....	1309,§9
191,§11 .....	1305,§3	195,§12(2)"b" .....	1305,§11	198,§34 .....	1309,§12
194,§5(2) .....	1311,§16	195,§12(2)"c","d","e" .....	1305,§12	201,§3(1)"e" .....	1308,§4
194,§11(2) .....	1311,§17	195,§13 .....	1316,§4	205,§7(6) .....	1184,§21
194,§16(4) .....	1308,§3	195,§15(3)"b","c" .....	1305,§13	206,§4(6)"a" .....	1307,§7
195,§1 .....	1305,§16	195,§18 .....	1305,§14	207,§33 .....	1303,§9
195,§2 .....	1305,§4			207,§40 .....	1303,§8
195,§3 .....	1305,§5			207,§54 .....	1303,§17
195,§6(1)"b" .....	1305,§6			211,§2 .....	1005,§1
195,§8(1) .....	1305,§7				

**ACTS OF THE SIXTY-NINTH GENERAL ASSEMBLY, 1982 SESSION**

Chapter	Acts Chapter
1241,§12 .....	1049,§2
1264,§1 .....	1305,§2

**ACTS OF THE SIXTY-NINTH GENERAL ASSEMBLY, 1981 SESSION**

Chapter	Acts Chapter
9,§7(6) .....	1184,§19

**ACTS OF THE SIXTY-EIGHTH GENERAL ASSEMBLY, 1980 SESSION**

Chapter	Acts Chapter
1036,§33(1) .....	1006,§2

**TABLE OF SESSION LAWS REFERRED TO IN  
ACTS OF THE SEVENTIETH GENERAL ASSEMBLY,  
1984 SESSION**

**ACTS OF THE SEVENTIETH GENERAL ASSEMBLY, 1984 SESSION**

Senate File 510 (ch 1072) .....	1304,§2
Senate File 2225 (not passed) .....	1301,§10
Senate File 2248 (ch 1085) .....	1315,§25
Senate File 2330 (ch 1305) .....	1298,§3
House File 2183 (ch1062) .....	1315,§25
House File 2189 (ch 1076) .....	1301,§10
House File 2219 (vetoed) .....	1304,§12
House File 2439,§4 (ch 1265) .....	1266,§7
Senate Concurrent Resolution 13 .....	HCR 117

**ACTS OF THE SEVENTIETH GENERAL ASSEMBLY, 1983 SESSION**

Chapter	Acts	Chapter	Acts
4,§2 .....	1308,§1	201,§5(1)"b" .....	1310,§5
170 .....	1314,§1,8	202,§20 .....	1313,§2
170,§2 .....	1314,§1	202,§21 .....	1313,§2,3
185,§31 .....	1312,§1	204,§1"e" .....	1301,§9
185,§32 .....	1312,§1	204,§1"h" .....	1301,§1
185,§62 .....	1312,§1	207,§3 .....	1313,§2,3
196,§2(1) .....	1300,§1	207,§4 .....	1313,§2,3
196,§2(16) .....	1300,§2	207,§5 .....	1313,§2,3
201,§4 .....	1308,§3	207,§92 .....	1301,§10

**ACTS OF THE SIXTY-NINTH GENERAL ASSEMBLY, 1982 SESSION**

1241,§3-12 .....	1049,§1
1260,§91 .....	1308,§1
1260,§96 .....	1310,§5
1265 .....	1316,§1,2

**ACTS OF THE SIXTY-NINTH GENERAL ASSEMBLY, 1981 SESSION**

9,§7(6) .....	1184,§19
---------------	----------

**ACTS OF THE SIXTY-FIFTH GENERAL ASSEMBLY, 1973 SESSION**

74 .....	1303,§6
----------	---------

**ACTS OF THE FIFTY-EIGHTH GENERAL ASSEMBLY, 1959 SESSION**

426 .....	1219,§18,19
-----------	-------------

## IOWA CONSTITUTION REFERRED TO

Article VIII ..... 1230,\$17

## UNITED STATES CONSTITUTION REFERRED TO

Article V ..... 1317  
Amendment 23 ..... 1317

## ACTS OF CONGRESS REFERRED TO

	Acts Chapter
Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272	1279,\$1,26,29,41
Arts and Artifacts Indemnity Act (20 U.S.C. §971-977)	1073,\$4
Atomic Energy Act of 1954	1286,\$10
Atomic Energy Act of 1954,§274b	1286,\$6
Clean Water Act of 1977, Public Law 95-217	1303,\$18
Community Reinvestment Act (12 U.S.C. 2901 et seq.)	1230,\$11
Comprehensive Employment Training Act	1285,\$6
Comprehensive Environmental Response, Compensation and Liability Act of 1980	1108,\$9
Consumer Credit Protection Act, Title III (15 U.S.C. §1671-1677)	1239,\$11
Consumer Credit Protection Act, Title III, 82 Stat. 163	1239,\$1
Dairy Product Stabilization Act of 1983	1183,\$1
Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §135 et seq.)	1085,\$4
Insecticide, Fungicide and Rodenticide Act (40 C.F.R. §170)	1085,\$4
Internal Revenue Code of 1954	1305,\$25
Internal Revenue Code of 1954	1305,\$38,41
Internal Revenue Code of 1954,§86	1305,\$30
Internal Revenue Code of 1954,§103	1281,\$4
Internal Revenue Code of 1954,§103(b)(4)	1281,\$5
Internal Revenue Code of 1954,§103A	1281,\$4,5
Internal Revenue Code of 1954,§105(d)	1305,\$29
Internal Revenue Code of 1954,§170(i)	1305,\$31
Internal Revenue Code of 1954,§2503(a),(e)	1240,\$1
Job Training Partnership Act of 1982, Public Law 97-300	1285,\$6
Public Law 90-248	1276,\$5
Public Law 97-35	1311,\$9,14
Public Law 97-35, Title III, Subtitle A	1311,\$6
Public Law 97-35, Title V, Subtitle D	1311,\$7
Public Law 97-35, Title V, Subtitle D, chapter 2	1311,\$7
Public Law 97-35, Title VI, Subtitle B	1311,\$5
Public Law 97-35, Title IX, Subtitle A	1311,\$1,4
Public Law 97-35, Title XXI, Subtitle D	1311,\$2,4
Public Law 97-35, Title XXIII, Subtitle C	1311,\$10
Public Law 97-35, Title XXVI	1311,\$9
Public Law 97-377	1313,\$2
Public Law 566	1303,\$16
Social Security Act, Title IV	1276,\$5
Social Security Act, Title IV, Part E	1310,\$3
Social Security Act, Title XVIII	1290,\$1,2,3
Social Security Act, Title XIX	1306,\$7,13;1308,\$2;1310,\$3,6

ACTS OF CONGRESS REFERRED TO — Continued

	Acts Chapter
Social Security Act, Title XIX, §1905(a) .....	1297, §2
Social Security Act, Title XIX, §1915(b) .....	1310, §3
Surface Transportation Assistance Act of 1982 .....	1309, §9
Surface Transportation Assistance Act of 1982, §105(f) (Public Law 97-424, 96 Stat. 2100) .....	1229, §2
Uniform Unclaimed Property Act .....	1295, §24
Water Pollution Control Act (33 U.S.C. 466 et seq., §202) .....	1303, §18
Water Pollution Control Act (33 U.S.C. §1288) .....	1121, §1
Wild and Scenic Rivers Act (16 U.S.C. §1271-1287) .....	1261, §17

UNITED STATES CODE REFERRED TO

	Acts Chapter
12 U.S.C., §21 et seq. ....	1167, §1,2
15 U.S.C., §1673b .....	1239, §1
33 U.S.C., §1317(b) .....	1108, §10
33 U.S.C., §1342 .....	1108, §10
42 U.S.C., §606 .....	1276, §1
42 U.S.C., §606(b)(2) .....	1276, §5
42 U.S.C., §627(a)(2)(B) .....	1279, §1,26,41
42 U.S.C., §671(a)(16) .....	1279, §1,26,41
42 U.S.C., §675(1),(5) .....	1279, §1,26,41
42 U.S.C., §1396d(a) .....	1297, §2
42 U.S.C., §1397-1397f .....	1311, §10
42 U.S.C., §5403 .....	1238, §1,2
42 U.S.C., §6921-6934 .....	1085, §17
Title 38, U.S.C., §210 .....	1277, §1
Title XLII, U.S.C. ....	1297, §2

CODE OF FEDERAL REGULATIONS

		Acts Chapter
7 .....	657.5(a) .....	1266, §8
16 .....	703 .....	1283, §1
29 .....	1910.1200(d) .....	1085, §8
29 .....	1910.1200 et seq. ....	1085, §7
45 .....	232.40 et seq. ....	1276, §5
45 .....	234.60 .....	1276, §1,5

**RULES OF CIVIL PROCEDURE  
REPORTED BY THE IOWA SUPREME COURT, 1984**

Rule	Acts Chapter	Rule	Acts Chapter
91 .....	1325	181(a) .....	1325
106 .....	1325	181.4 (new) .....	1325
126(a) .....	1325	225 .....	1325
127 .....	1325	328 .....	1325
130 .....	1325	332 .....	1325
138.1 (stricken) .....	1325	381, Form 2 .....	1325

**RULES OF CIVIL PROCEDURE AMENDED BY  
ACTS OF THE SEVENTIETH GENERAL ASSEMBLY,  
1984 SESSION**

	Acts Chapter
181.2(b) .....	1322, §8

**RULES OF CIVIL PROCEDURE REFERRED TO IN  
ACTS OF THE SEVENTIETH GENERAL ASSEMBLY, 1984 SESSION  
AND REPORT OF THE SUPREME COURT**

Rule	Acts Chapter	Rule	Acts Chapter
52 .....	1322, §2	59 .....	1327, #8
56.1 .....	1322, §2	59.1 .....	1327, #9
56.2 .....	1322, §2	236 .....	1322, §5

**RULES OF CRIMINAL PROCEDURE REPORTED BY  
THE IOWA SUPREME COURT, 1984**

Rule	Acts Chapter
10(4) .....	1326
25(1) .....	1326



**RULES OF CRIMINAL PROCEDURE AMENDED BY  
THE SEVENTIETH GENERAL ASSEMBLY,  
1984 SESSION**

Rule	Acts		Rule	Acts	
	Chapter			Chapter	
1(2) .....	1323,	§4	22(3)“b”,“c” .....	1323,	§6
8(2b) .....	1321,	§1	30 .....	1324,	§1
10(11)“b”(1) .....	1320,	§2	31(new) .....	1324,	§2
21(8) .....	1323,	§5			

**RULES OF CRIMINAL PROCEDURE REFERRED TO  
IN REPORT OF THE SUPREME COURT, 1984**

Rule	Acts	
	Chapter	
8(1) .....	1326,	Rules 10(4),25(1)

**FORMS AND RULES FOR INVOLUNTARY COMMITMENT  
OR TREATMENT OF SUBSTANCE ABUSERS  
REPORTED BY THE IOWA SUPREME COURT, 1984 SESSION**

See Ch 1327

**RULES FOR INVOLUNTARY COMMITMENT OR TREATMENT OF  
SUBSTANCE ABUSERS REFERRED TO  
IN REPORT OF THE SUPREME COURT, 1984 SESSION**

Rule	Acts	
	Chapter	
20 .....	1327,	Form 12

**TABLE OF PROPOSED AMENDMENTS TO THE CONSTITUTION  
OF THE STATE OF IOWA  
IN ACTS OF THE SEVENTIETH GENERAL ASSEMBLY,  
1984 SESSION**

Article	Section	Acts	
		Chapter	
III .....	26 .....	1318	
IV .....	2-5 .....	1319,	§1
IV .....	15,18,19 .....	1319,	§2

**TABLE OF PROPOSED AMENDMENTS TO THE CONSTITUTION  
OF THE UNITED STATES  
BY THE SEVENTIETH GENERAL ASSEMBLY, 1984 SESSION**

Representation of District of Columbia ..... Ratified ..... ch 1317

**VETOED BILLS**

Senate File 244  
 Senate File 2132  
 Senate File 2237  
 Senate File 2270  
 House File 595  
 House File 2031  
 House File 2217  
 House File 2219  
 House File 2295

**ITEM VETO**

	Acts Chapter
Senate File 2330,§42,75,78,80 .....	1305
Senate File 2334,§8 .....	1307
Senate File 2337,§2(1),4(2) .....	1309
Senate File 2351,§3(11) .....	1310
Senate File 2353,§1,5,9 .....	1312
Senate File 2359,§2,6,7(7,9) .....	1314
Senate File 2361,§8,10,29,30,38 .....	1315
House File 2486,§1,23 .....	1292
House File 2519,§12,13,22 .....	1302
House File 2521,§7,9,10(2-5),11,12 .....	1304

**IOWA CODES REFERRED TO IN ACTS OF THE SEVENTIETH GENERAL ASSEMBLY, 1984 SESSION**

	Acts Chapter
1950 ..... ch 97 .....	1285,§1
1973 ..... ch 23 .....	1067,§36
1973 ..... ch 397 .....	1067,§36
1981 ..... 340.2 .....	1109

**GOVERNOR'S EXECUTIVE ORDER REFERRED TO IN ACTS OF THE SEVENTIETH GENERAL ASSEMBLY, 1984 SESSION**

Executive Order No. 4 .....	1300,§3
-----------------------------	---------

**IOWA ADMINISTRATIVE CODE REFERRED TO IN ACTS OF THE SEVENTIETH GENERAL ASSEMBLY, 1984 SESSION**

	Acts Chapter
590-6.3(3) .....	1307,§3

## INDEX

References are to chapters and sections therein. Numerals and letters in parenthesis indicate subsections and paragraphs within a section.

### ABANDONMENT

- Bank deposits, ch 1295,§1-6
- Business association's interest, ch 1295,§9,10
- Life insurance funds, ch 1295,§8
- Personal property, fiduciary holding, ch 1295,§11
- Property
  - Holder's records, investigations by treasurer, interest, penalties, ch 1295,§22,23
  - Interstate agreements, ch 1295,§24
  - Notice, publication, payment, delivery, ch 1295,§15,16,26
  - Reclaiming by holder, ch 1295,§17
  - State's liability, ch 1295,§17
- Safe deposit box contents, ch 1295,§7

### ABORTION

- Appropriations
  - Medically necessary, conditions, ch 1302,§9(2c);ch 1310,§3(2),7
  - Spontaneous, ch 1302,§9(2c); ch 1310,§3(2e),7

### ABUSE

- Adult, legal fees, ch 1178,§3
- Child abuse
  - Child abuse information council abolished, ch 1035
  - Confidentiality, ch 1279,§23
  - Custody of child, ch 1279,§5,10,13,16-18,42
  - Foster care facilities, ch 1279,§12-14,17-19,42
  - Guardian ad litem, ch 1279,§11,14,15
  - Information expunged, ch 1279,§24
  - Juvenile court records maintained, ch 1279,§12
  - Mandatory reporters and investigation, ch 1279,§6-11,23,24
  - Prevention services, appropriation, ch 1310,§3(9b)
  - Reporting and investigation, ch 1279,§4,6-15,23,24
  - Sexual exploitation, ch 1207
- Domestic abuse
  - Domestic violence data and statistics study, ch 1258
  - Notification of victim's rights, ch 1258

### ABUSE — Continued

- Domestic abuse — Continued
  - Peace officers, duties, liability, ch 1258
  - Programs for victims, appropriation, ch 1310,§3(9c)
  - Violations, penalty, ch 1258
- Sexual abuse, ch 1188;ch 1307,§4(6b)

### ACADEMY OF SCIENCE

- Appropriation, ch 1301,§10(9)

### ACCIDENTS

- Comparative fault, ch 1293

### ACCOUNTS AND ACCOUNTING

- Accountancy board, appropriation, ch 1304,§1(3)
- Aid to dependent children account, ch 1276,§9
- Audits of public accounts, completion deadlines, ch 1128
- Certified public accountants, county audits, ch 1123
- Veterans home membership account, ch 1277,§12

### ACKNOWLEDGMENTS

- Real property legalizing Acts, references updated, ch 1090

### ACTIONS

- Agricultural supply dealers, liens, ch 1072
- Anhydrous ammonia plants, nuisance actions, ch 1269,§2
- Child abuse, removal from home, placements, ch 1279
- Civil rights, filing time extended, ch 1096
- Coal mining violations, ch 1153
- Corrections department records, restraint of release, ch 1148,§2
- Dishonored negotiable instruments, collection, ch 1217
- Dissolution of marriage, contempt, ch 1133
- Eminent domain, damage appraisalment on appeal, ch 1119
- Hazardous chemicals, right to know violations, ch 1185,§9

**ACTIONS—Continued**

- Insurers, supervision, rehabilitation, liquidation, ch 1175
- Joint and several liability, ch 1293
- Mobile homes, notice to quit, ch 1054
- Motor vehicles, warranty, ch 1283
- Public records examination
  - Civil enforcement, ch 1185,§9
  - Injunction to restrain, ch 1185,§7
- Real estate contract forfeited, attorney fees, ch 1203,§1
- Restitution, crime victims, tolling statute, ch 1047
- Sanitary district dissolution, contest deadline, ch 1051,§4
- Small claims, money judgments, ch 1322,§2
- Veterans home members, suspension, expulsion, ch 1277,§14
- Wage payment collection, ch 1270
- Zoning, publication of notice, ch 1018

**ADMINISTRATIVE PROCEDURES**

- Asbestos encapsulation and removal, ch 1062,§3,8,10
- Bingo licensee violation, ch 1220,§12
- Contested cases, electric transmission lines, exclusive service areas, ch 1101,§1
- Fire marshal, assessment challenge, hearings, ch 1095,§7
- Health service corporation, independent subscriber nominating committee exemption, ch 1282
- Hospice programs, license revocation, suspension, ch 1284,§4
- Judicial review
  - Bank, state, location change, provision deleted, ch 1202,§3
  - Coal mining, penalty assessments, ch 1153
  - Fire marshal, explosives, licensing refusal, ch 1074,§3
  - Insurance commissioner, health care providers, ch 1122,§8
  - Protected water area system, ch 1261,§13
  - Secretary of state, school registration denial, ch 1098,§3
  - Veterans home, suspension or expulsion, ch 1277,§14
  - Water, air and waste management, violations, ch 1159
- Publications, editorial corrections by Code editor, ch 1117
- Small business regulatory flexibility analysis
  - Analysis requirements, ch 1007,§1(4)

**ADMINISTRATIVE PROCEDURES—Continued****Small business regulatory flexibility analysis—Continued**

- Authority to request analysis, ch 1007,§1(3)
- Definitions, ch 1007,§1(1)
- Emergency adoption of rule, ch 1007,§2
- Notice provisions, ch 1007,§1(2,3)
- Review of existing rules, ch 1007,§3
- Summary published, ch 1007,§1(4)

**ADMINISTRATIVE RULES**

- Administrative bulletin
  - Life policy loans, interest rates published, ch 1017
  - Regulatory flexibility analysis summary published, ch 1007,§1
- Agriculture department, multiflora rose infestation, reimbursement, ch 1303,§2
- Anhydrous ammonia plants, ch 1269
- Arts council, indemnification program, ch 1073,§3,6,10(2)
- Auditor, state, counties, audits by certified public accountants, ch 1123
- Building code, state
  - Historic building code, ch 1113,§2
  - Rules sent to governmental subdivisions, ch 1067,§19
- Campaign finance disclosure commission, lobbyist or political committee contributions, ch 1304,§2(4)
- Commerce commission
  - Deposits, gas or electric service, ch 1131
  - Electric transmission lines, standards, ch 1101,§3
  - Utility disconnections, low income residents, ch 1273
- Conservation commission, protected water area system, ch 1261,§18
- Coordinator, appropriation, ch 1301,§1(1)
- Corrections department
  - Confidentiality, limitation, federal funds, ch 1148,§1
  - Crimes identified, ch 1306,§2(1),16
  - Jails and municipal holding facilities, ch 1127,§1
  - Legal services, inmates, fee schedule, ch 1167,§2(7),16
- Court interpreters, qualifications and compensation, ch 1137,§1
- Educational examiners board, coaching athletics, authorization, ch 1296,§3,4
- Engineering and land surveying examiners, temporary permit, fee, ch 1104,§5

## ADMINISTRATIVE RULES—Continued

- Fire marshal, explosive materials, ch 1074,§4
- Foster care review board, powers and duties, ch 1279,§44,45
- Health department
  - Advanced emergency medical care, ch 1287,§4-9
  - Brain-injured persons, care facilities, study, ch 1310,§5(7)
  - Homemaker-home health aide services, chore services, eligibility, ch 1307,§4(7c)
  - Hospice programs, ch 1284,§8
  - Public health nursing care, eligibility, ch 1307,§4(7b)
  - Radiation equipment, ch 1286,§1(4),4
  - Renal disease program, financial assistance reduction, ch 1307,§4(7a)
- Housing finance authority, bond issuance, tax law compliance, ch 1281,§4
- Human services
  - Aid to dependent children, ch 1276,§11
  - Brain-injured persons, care facilities, study, ch 1310,§5(7)
  - Institutions, construction projects, ch 1256
  - Medical assistance program reimbursements, ch 1310,§10
  - Medically needy program, ch 1310,§10
  - Supplemental assistance and special programs, ch 1310,§10
  - Training school, Eldora campus, ch 1310,§10
  - Veterans home, general management, ch 1277,§3
  - Work incentive demonstration program, allowances, ch 1310,§10
- Insurance commissioner
  - Nonprofit health service corporations, subscriber directors election, ch 1282
  - Policy loan interest rates, exemption life companies, ch 1017
- Labor bureau
  - Asbestos encapsulation and removal, ch 1062,§3,8,10
  - Hazardous chemicals risk, ch 1085,§8,12,14,15,17,21
  - Material lift elevators, ch 1094
- Law enforcement academy, officers, certification revocation, ch 1246,§1
- Pharmacy examiners board, medical assistance, reduction of charges, rules rescission, ch 1310,§5(6)

## ADMINISTRATIVE RULES—Continued

- Physical and occupational therapy examiners, physical therapists, ch 1268
- Professional and occupational licensing boards, authority, ch 1056
- Public instruction, education excellence program, ch 1315,§6
- Public safety department
  - Criminal records
    - Computer access, authorized personnel, ch 1145,§3
    - Youth agencies, access, ch 1061
  - Private investigative and private security agencies, ch 1235,§9,15,19
- Records commission, forms management program, ch 1093,§4
- Revenue department
  - Bingo, ch 1220,§12
  - Optional designation of funds by taxpayer, ch 1263,§2
- Secretary of state
  - Crop liens, forms prescribed, ch 1072,§4
  - Schools, postsecondary, registration, ch 1098,§3
- Small business regulatory flexibility analysis, ch 1007
- Social work examiners, ch 1075,§4,13(2)
- State agencies
  - Public records examination, conditions of federal aid, ch 1185,§8
  - Records, status, access procedures, ch 1185,§10
- Supreme court, interpreters, qualifications and compensation, ch 1137,§1
- Transportation department, public transit, ch 1200,§5,6(3e)
- Water, air and waste management
  - Fine schedule, minor violations, ch 1159
  - Used oil, handling, use, disposal, ch 1157

## ADOPTIONS

- Child placement, parental rights terminated, ch 1279,§21
- Subsidized
  - Appropriation, ch 1310,§3(7,8),7
  - Reimbursement rate, ch 1310,§5(3)
- Vietnamese refugee children, birth certificate requirement repealed, ch 1219,§41

## ADVERTISING

- Political advertisers identified, ch 1291,§7
- Public utility, cost statement required, ch 1225

**AERONAUTICS**

Aviation fund, appropriation to DOT,  
ch 1309,§8

**AGE**

Amateur boxing participants, ch 1106  
Child modeling, ch 1111  
Discrimination, retirement, pensions,  
ch 1011  
Special education, termination age, ch 1001  
Training school, commitment beyond age  
18, ch 1166

**AGENT ORANGE**

Reporting procedure established, legis-  
lative intent, ch 1307,§5(3)

**AGING, COMMISSION ON**

Appropriations  
*General*, ch 1307,§1(1)  
Area agencies, ch 1307,§1(2)  
Elderly services programs, ch 1307,§1(5)  
Older Iowans legislature, ch 1307,§1(4)  
Senior citizen employment, ch 1307,§1(3)  
Public transit system, ch 1200,§5,6

**AGREEMENTS**

Area education agency, lease-purchase  
agreement, ch 1103  
Indemnity, art exhibits, ch 1103

**AGRICULTURE**

Agricultural chemical disposal, ch 1158,§9  
Agricultural products, liens and encum-  
brances, ch 1072  
Agriculture, food and energy demonstra-  
tion center, appropriation, item veto,  
ch 1315,§29,30  
Anhydrous ammonia plants, ch 1269,§1  
Crop diversification research, agricultural  
experiment station, ch 1315,§21,22  
Crop lien law, ch 1072  
"Employee" defined, exemptions,  
ch 1270,§1  
Extension education fund, direct deposits,  
ch 1003,§1,4  
Extension fruit specialist, duties,  
ch 1315,§18,19  
Farm equipment  
Sales tax refund, ch 1241  
Semitrailer converted, ch 1252  
Farm implements or parts franchise,  
termination rights, ch 1087,  
*see also FRANCHISES*  
Farm labor contractor, bond, ch 1270,§2

**AGRICULTURE—Continued**

Horticultural marketing specialist, staff,  
appropriation, ch 1315,§20  
Horticultural research, agricultural experi-  
ment station, ch 1315, §16,17  
Meat export research center, agricultural  
experiment station, ch 1315,§13-15  
New food crops research center, agricul-  
tural experiment station, funds,  
ch 1315,§23  
Promotion board members ineligible for  
IPERS, ch 1285,§8  
Supply dealers, ch 1072

**AGRICULTURE DEPARTMENT**

Appropriations  
*General*, ch 1303,§1(1)  
Horticultural marketing specialist, staff,  
ch 1315,§20  
Laboratory division, ch 1303,§1(3)  
Multiflora rose eradication cost reim-  
bursement, ch 1303,§2  
Regulatory division, condition,  
ch 1303,§1(2)  
Bovine brucellosis, tuberculosis eradication,  
temporary funding, ch 1186  
Climatologist, weather division head,  
ch 1067,§22  
Dairy industry excise tax suspension, na-  
tional order, ch 1183  
Employees, agricultural, hazardous chem-  
ical complaints, ch 1085,§4  
Food service establishment, yearly inspec-  
tion, ch 1303,§1(2)  
Motor vehicle fuel standards, ch 1083  
Pari-mutuel wagering Act  
Native horses or dogs to be defined,  
ch 1266,§20  
Thoroughbred stallions, breeding stan-  
dards, ch 1266,§21  
Publications, subscription fees, ch 1303,§1(1)  
Secretary  
Administrative rules, multiflora rose in-  
festation, reimbursement, ch 1303,§2  
Elections, nomination objection, hearing,  
ch 1291,§1(3),21  
Multiflora rose infestation, duties,  
ch 1303,§2  
Water resources research institute, ad-  
visory panel member, ch 1303,§20

**AID TO DEPENDENT CHILDREN**  
Aid to dependent children account,  
ch 1276,§9,10

## AID TO DEPENDENT CHILDREN - Continued

- Assignment of income, child support pay-  
ments, *general*, ch 1239
- Assistance application
  - Eligibility, ch 1276,§3-6
  - Granting and amount limitations,  
ch 1276,§5,6
  - Investigation, ch 1276,§4,6
  - Out-of-state assistance, ch 1276,§7
  - Payee or protective payee, ch 1276,§5
  - Reconsideration and termination,  
ch 1276,§6
- Child support recovery notification,  
ch 1276,§5
- Definitions, ch 1276,§1
- Eligibility, ch 1276,§2
- Federal financial participation, ch 1276,§11
- Funeral expense allowance, ch 1276,§8
- Grants acceptance repealed, ch 1276,§13
- Rules adopted and enforced, ch 1276,§11,12

## AID TO FAMILIES WITH DEPENDENT CHILDREN

- Appropriations
  - General*, ch 1310,§3(1),7
  - Unemployed parent program, ch 1308,§1
- Grant payments increase prohibited,  
ch 1310,§3(1a),7
- Living costs schedule, ch 1310,§3(1a),7
- Manpower services demonstration projects
  - Expenditure prohibition stricken,  
ch 1308,§4
  - Incorporation with work program,  
ch 1310,§3(1b),7
- Schedule of living costs, rulemaking,  
ch 1310,§10
- Work incentive demonstration program, al-  
lowances, rulemaking,  
ch 1310,§3(1b),7,10

## AIR

- Pollution, grain, emission control equip-  
ment, ch 1303,§18(1)

## ALCOHOL

- Concentration in blood, ch 1292
- Liquor, *see BEER AND LIQUOR  
CONTROL*

## ALIMONY

- Payments, court certification, ch 1239,§6

## AMBULANCES

- Nurses staffing ambulances, ch 1287,§10,12

## AMBULANCES - Continued

- Tax levy, township, ch 1008
- Unauthorized, felony, ch 1287,§11

## ANHYDROUS AMMONIA PLANTS

- Definitions, ch 1269,§1
- Established date of operation, ch 1269,§1
- Military property tax credit, late claim,  
ch 1221,§2
- Nuisance actions, ch 1269,§2

## ANIMALS

- See also FISH AND GAME*
- Bounties eliminated, ch 1206,§1
- Brucellosis, tuberculosis eradication, tem-  
porary funding, ch 1186
- Domestic animal fund repealed, ch 1206,§2

## ANNUITIES

- Senior judges, survivors, computation,  
ch 1234

## ANNULMENT

- Enforcement of decree, ch 1133

## APARTMENTS

- Cooperative housing association, sale and  
encumbrance, ch 1033

## APPEALS

- Eminent domain
  - Damage appraisalment on appeal, ch 1119
  - Records, filing, ch 1065
- Hospice programs, license revocation,  
ch 1284,§4
- Law enforcement officers, certification  
revocation, ch 1246,§3
- Small claims actions, ch 1322
- Special education programs, ch 1070
- Teacher extracurricular athletic contract  
position vacancy, ch 1296,§1,4
- Unemployment compensation, ch 1255,§6,10

## APPRAISALS

- Industrial loan companies, fees, ch 1205

## APPROPRIATIONS

- Academy of science, ch 1301,§10(9)
- Accountancy board, ch 1304,§1(3)
- Administrative rules coordinator,  
ch 1301,§1(1)
- Agencies, reduction, travel expense,  
ch 1180,§11,12
- Aging, commission on  
*General*, ch 1307,§1(1)

## APPROPRIATIONS—Continued

## Aging, commission on—Continued

- Area agencies, ch 1307,§1(2)
- Elderly services program, ch 1307,§1(5)
- Older Iowans legislature, ch 1307,§1(4)
- Senior citizen employment, ch 1307,§1(3)

## Agriculture department

- General*, ch 1303,§1(1)
- Horticultural marketing specialist, staff, ch 1315,§20
- Laboratory division, ch 1303,§1(3)
- Multiflora rose eradication cost reimbursement, ch 1303,§2
- Regulatory division, condition, ch 1303,§1(2)

## Architectural examiners, ch 1304,§1(1)

## Arts council, ch 1301,§1(2)

## Attorney general

- General*, ch 1301,§1(3a)
- Competition law enforcement, contingent appropriation, ch 1301,§2(1)
- Consumer fraud education, contingent appropriation, ch 1301,§2(2)
- Dispute resolution programs, ch 1301,§1(3b)
- Prosecuting attorney training program, ch 1301,§1(3b)
- Prosecuting intern program, ch 1301,§1(3c)

## Auditor of state, ch 1300; ch 1304,§2(1)

## Banking department, ch 1304,§2(2)

## Beer and liquor control department

- General*, ch 1304,§2(3)
- Ministores, establishment, ch 1304,§2(3)

## Blind, commission for

- General*, ch 1302,§1
- Absorption system, overhaul, ch 1315,§32(1),33
- Rebuilding cooling tower, ch 1305,§6; ch 1315,§32(1),33

## Campaign finance disclosure commission, condition, ch 1304,§2(4)

## Capitol planning commission, ch 1301,§1(4)

## Citizens' aide, ch 1301,§1(5)

## Civil rights commission, ch 1307,§2(1)

## College aid commission

- General*, ch 1302,§2(1)
- Guaranteed student loan payments, reimbursement, ch 1302,§17
- Loans to teachers, ch 1302,§18
- National guard education, ch 1302,§4
- Osteopathic college, subvention program, ch 1302,§3
- Science and mathematics loan program, teachers, ch 1302,§18

## APPROPRIATIONS—Continued

## College aid commission—Continued

- Supplemental tuition grants, item veto, ch 1315,§10
- Tuition grant program, ch 1302,§2(2); ch 1315,§11

## Commerce commission, ch 1304,§2(5)

## Comparable worth

- Departmental revolving, trust, or special funds, ch 1314,§7(4)
- Primary road fund, ch 1314,§7(3)
- Road use tax fund, ch 1314,§7(2)
- Salary adjustment fund, ch 1314,§7(1)

## Comptroller

- General*, ch 1304,§2(7a)
- Cancer programs, childhood, legislative intent, ch 1307,§4(6a),7
- Data processing division, legislative intent, ch 1304,§2(7b)
- Hemophilia patient care, legislative intent, ch 1307,§4(6a),7
- Inspector general, efficiency measures implemented, ch 1304,§2(7b)
- Primary road fund, ch 1309,§7
- Regents board, utility contingency fund, item veto, ch 1302,§13,22
- Road use tax fund, ch 1309,§5
- School districts, special courses, ch 1302,§20
- Workers' compensation claims, DOT, ch 1309,§5,7

## Conservation commission

- General*, ch 1305,§13; ch 1315,§32(4),33
- Capital projects, ch 1305,§2,13
- Fish and game division
- General*, ch 1303,§3(2)
- Administration fund, ch 1303,§3(2),5
- Capital projects, contingencies, ch 1303,§3(2d)
- Navigation law enforcement, ch 1303,§3(2b)
- Snowmobile law enforcement, ch 1303,§3(2b)

## Green thumb program, ch 1303,§3(4)

## Land and waters division

- General*, ch 1303,§3(1)
- Snowmobile facilities, ch 1303,§3(2)

## Marine fuel tax fund

- Boating facilities development, ch 1303,§4(1)
- Navigation law enforcement, ch 1303,§4(2)

## Open spaces, school tax payment, ch 1303,§6

## Preserves, advisory board, ch 1303,§3(3)



## APPROPRIATIONS—Continued

## Conservation commission—Continued

Swan lake restoration, ch 1305,§13;  
ch 1315,§32(4),33

Consumer advocate, ch 1304,§2(6)

Contingency expenditures, authorization,  
ch 1301,§4(7)

## Corrections department

*General*, ch 1306,§1,2(11),16

Allocation changes, notification,  
ch 1306,§2(1),16

Community-based corrections programs,  
ch 1306,§2(6),16

Correctional training center,  
ch 1306,§2(3),16

Counties, temporary confinement, reim-  
bursement, ch 1306,§2(8),16

Federal prison reimbursements,  
ch 1306,§2(4),16

Hearing officers, disciplinary hearings,  
ch 1306,§2(1),16

Inmate classification system,  
ch 1306,§2(2),16

Legal assistance, inmates,  
ch 1306,§2(7),16

Luster Heights work camp, construction,  
ch 1305,§7

## Mount Pleasant, medium security

Laundry facility, ch 1305,§7

State industries facility,  
ch 1306,§14(1),16,17

Muslim imam, ch 1306,§2(1),16

Penitentiary, capital improvements,  
ch 1305,§7

Psychological testing, correctional officer  
applicants, ch 1306,§2(1),16

## Women's correctional institution

Bathroom renovation, handicapped,  
ch 1305,§7;ch 1306,§14(1),16,17

Education programs, ch 1306,§2(1),16

Library project, ch 1306,§2(1),16

Council of state governments, ch 1301,§1(6)

County government assistance fund,  
ch 1304,§4

Courts, *see subhead Judicial Department  
below*

Credit union department, ch 1304,§2(8)

Criminal and juvenile justice planning  
agency

*General*, ch 1301,§10(12)

Criminal justice planning,  
ch 1301,§10(12a)

Jailer training and technical assistance,  
ch 1301,§10(12d)

## APPROPRIATIONS—Continued

Criminal and juvenile justice planning  
agency—Continued

Juvenile justice planning,  
ch 1301,§10(12b)

Juvenile victim restitution program,  
ch 1301,§10(12c)

Dental examiners, ch 1307,§3(4),6

Departmental revolving, trust, or special  
funds, comparable worth, ch 1314,§7(4)

Disaster services, ch 1309,§1(3)

Economic emergency fund, ch 1305,§21

Energy conservation projects, capitol com-  
plex, ch 1301,§3(3)

## Energy policy council

*General*, ch 1303,§11(1);

ch 1311,§9,12,13,17

Building energy management programs,  
ch 1313

Energy conservation projects, ch 1305,§4

Energy management program,  
ch 1315,§32(6),33

Low-income home energy assistance  
block grant, ch 1311,§9,12,13

Public buildings energy conservation ad-  
ministration, ch 1303,§11(2)

Engineering examiners board, ch 1304,§1(4)

Executive council, ch 1301,§1(7)

Expenditures, time limitations, ch 1305,§17

## Fair board

Agricultural societies (local fairs), condi-  
tional, ch 1303,§12(3,4)

Maintenance of buildings, ch 1303,§12(1)

Premiums, ch 1303,§12(2)

Roofing projects, electrical system  
overhaul, ch 1315,§32(7),33

Federal grants and receipts, ch 1301,§11;  
ch 1304,§8;ch 1314,§7(6)

Foster care review board, ch 1310,§11

## General services

*General*, ch 1301,§3(1)

Elevator, automation, capitol building,  
ch 1305,§10;ch 1315,§32(2h),33

Emergency major repairs, ch 1305,§9

Energy conservation projects, capitol  
complex, ch 1301,§3(3)

Forms management, ch 1301,§3(2)

## Historical building

Handicapped entrance ramp,  
ch 1305,§12;ch 1315,§32(2k),33

New construction, ch 1316

Restrooms, drinking facilities, handi-  
capped, ch 1305,§12;

ch 1315,§32(2j),33

## APPROPRIATIONS — Continued

## General services — Continued

## Historical building — Continued

- Roof and dome repair, appropriation also to historical department, ch 1305,§11; ch 1315,§32(2i),33
- Inspector general, efficiency measures implemented, ch 1301,§3(1)
- Lamp replacement, capitol building, ch 1305,§10; ch 1315,§32(2g),33
- Land acquisition, ch 1315,§32(2b),33
- Lucas building remodeling, ch 1315,§32(2c),33
- Rental space, ch 1301,§3(4)
- Revolving funds, ch 1301,§4
- Roof repairs, vehicle dispatcher, micrographics buildings, ch 1305,§9; ch 1315,§32(2e),33
- Statehouse renovation, ch 1315,§32(2a),33,38
- Utility costs, ch 1301,§3(3)
- Wallace building repairs, ch 1315,§32(2d),33
- Water heaters, capitol complex, ch 1305,§10; ch 1315,§32(2f),33
- Geological survey, ch 1303,§13
- Governor
  - General*, ch 1301,§5(1)
  - Ad hoc committees, councils and task forces, ch 1301,§5(4)
  - Expenses, ch 1301,§5(2)
  - Terrace Hill, governor's quarters, ch 1301,§5(3)
- Handicapped, employment, ch 1307,§2(3)
- Health department
  - Administration, ch 1307,§4(1); ch 1311,§2(3),4(2),12,13
  - Birth defects, genetic counseling, ch 1307,§4(6a)
  - Child health clinics, ch 1307,§4(6a),7; ch 1311,§2,3,12,13,16
  - Childhood cancer program, ch 1307,§4(6a),7
  - Community health services
    - Community health division, ch 1307,§4(7a); ch 1311,§4(5),12,13
    - Homemaker-home health aide program, ch 1307,§4(7c)
    - In-home health care grants, ch 1307,§6(7b)
    - Well-elderly clinics, ch 1307,§4(7d)

## APPROPRIATIONS — Continued

## Health department — Continued

- Disease prevention division, ch 1307,§4(4); ch 1311,§4(5),12,13
- Fluoridation grants, ch 1311,§4(5),12,13
- Funds transferred, University of Iowa hospitals, ch 1307,§4(6a),7; ch 1311,§2,3,12,13,16
- Health facilities division, ch 1307,§4(2)
- Health planning and development division, ch 1307,§4(3)
- Hemophilia patient care, ch 1307,§4(6a),7
- Lead poisoning prevention program, ch 1311,§2(2),12,13
- Licensing and certification division, ch 1307,§4(5),6
- Maternal and child health services block grant, ch 1311,§2,3,12,13
- Muscular dystrophy, related genetic diseases, ch 1307,§4(6a),7
- Perinatal program, ch 1307,§4(6a),7; ch 1311,§2(2),12,13
- Personal and family health services, ch 1307,§4(6),7
- Preventive health and health services block grant, ch 1311,§4,12,13
- Rape prevention program, ch 1311,§4(3),12,13
- Sexual abuse investigations, ch 1307,§4(6b)
- Sudden infant death syndrome, ch 1307,§4(6c); ch 1311,§2(2),12,13
- Herbert Hoover birthplace foundation, ch 1303,§14
- Historical building (new), construction, ch 1316
- Historical department
  - General*, ch 1301,§7(1)
  - Centennial building, Iowa City, handicapped entrance, ch 1305,§12; ch 1315,§32(3),33
  - Gardner cabin, property adjacent to gravesite, ch 1315,§32(3),33
  - Historical board, ch 1301,§7(2)
  - Historical building
    - Handicapped entrance ramp, restroom facilities, ch 1305,§12; ch 1315,§32(2),33
    - Roof and dome repair, appropriation also to general services, ch 1305,§11; ch 1315,§32(2i),33
- Human services
  - General*, ch 1310,§1,8; ch 1311,§10,12

## APPROPRIATIONS—Continued

## Human services—Continued

- Aid, families with dependent children (AFDC)
  - Manpower services demonstration projects, expenditure prohibition stricken, ch 1308,§4
  - Unemployed parent program, ch 1308,§1
- Block grant funds
  - Excess replaces state funds, local services, ch 1308,§3
  - Supplementation, ch 1310,§4
- Capital improvements
  - General, ch 1305,§8
  - Hospital-schools, ch 1305,§3; ch 1306,§14(2),16
  - Mental health institutes, Cherokee, Independence, ch 1306,§14(2),16
  - Use of funds prohibited, ch 1310,§13
- Civil antitrust judgment, award to state, use in commodities distribution, ch 1310,§1
- Community mental health centers, substance abuse funds transferred, ch 1311,§1(3),12,13
- Field operations, ch 1310,§2,8; ch 1311,§10,12
- Hospital-schools
  - General, ch 1306,§6,16
  - Capital improvements, ch 1305,§3; ch 1306,§14(2),16
- Medical assistance program, joint, federal audit exceptions reimbursed, ch 1308,§2
- Medically needy program, ch 1310,§1,3(2),7
- Mental health institutes, ch 1306,§5(1),16
- Social services block grant, advisory council, ch 1311,§10-12
- Special programs
  - Abortion, medically necessary, ch 1310,§3(2),7
  - Abortion, spontaneous, ch 1310,§3(2e),7
  - Adoption services, ch 1310,§3(7,8),7
  - Aid to families with dependent children, ch 1310,§3(1),7
  - Blind, aid, ch 1310,§3(5)
  - Child abuse prevention services, ch 1310,§3(9b)
  - Child care centers, ch 1310,§3(9a)
  - Child support recoveries, ch 1310,§3(4),8

## APPROPRIATIONS—Continued

## Human services—Continued

## Special programs—Continued

- Community-based services, ch 1310,§3(9)
- Contractual services-medical carrier, ch 1310,§3(3)
- County administration, ch 1311,§10,12
- Diagnostic and evaluation services for juveniles, ch 1310,§3(9e)
- Displaced homemakers, ch 1310,§3(9c)
- Family planning services, ch 1310,§3(7)
- Foster care, ch 1310,§3(8),7; ch 1311,§10,12
- Foster parent training, ch 1310,§3(8),7
- Home and community-based services, ch 1310,§3(2),7
- Home-based services, ch 1310,§3(7); ch 1311,§10,12
- Indians, aid, ch 1310,§3(6)
- Juvenile court costs, county-based reimbursement, ch 1310,§3(10),7
- Juvenile home, Iowa, ch 1310,§3(11),8
- Juvenile homes, county or multicounty, ch 1310,§3(9f)
- Juvenile services, community-based, priority approval, ch 1310,§3(9d)
- Local services, purchase, ch 1311,§10,12,13
- Medical assistance, ch 1310,§3(2),7
- Mental patients, reimbursement by counties, ch 1310,§3(2),7
- Protective day care, ch 1311,§10,12
- Supplementary assistance, ch 1310,§3(5)
- Training school, ch 1310,§3(11),8
- Use of appropriations, transfers, ch 1310,§7
- Volunteers, ch 1310,§3(12); ch 1311,§10,12
- Veterans home
  - General, ch 1306,§4,16
  - Loftus hall renovation, ch 1306,§4,15-17
- Industrial commissioner, ch 1304,§2(9)
- Inspector general, efficiency measures implemented, ch 1301,§3(1);ch 1304,§2(7b)
- Insurance department
  - General, ch 1304,§2(10)
  - Examination expenses, excess, approval, ch 1304,§2(10)
- Iowa development commission
  - General, ch 1303,§7(1)

## APPROPRIATIONS — Continued

## Iowa development commission — Continued

- Agriculture, food and energy demonstration center, item veto, ch 1315,§30
- High technology council, ch 1303,§7(2,3),8
- Product development corporation, ch 1303,§7(5),9
- Tourism, ch 1303,§7(4)
- Job service
  - General*, ch 1304,§2(11)
  - Emergency request to executive council, ch 1204,§3
  - IPERS, ch 1304,§7,9
- Judicial department
  - Boards and commission, ch 1301,§8(2)
  - Court administrator, ch 1301,§8(6)
  - Court reorganization
    - Administrative implementation, ch 1301,§8(5)
    - Costs, ch 1301,§8(4)
    - State funding delay, legislative intent, ch 1301,§8(4)
  - Courts, *general*, ch 1301,§8(1)
  - District court administrators, ch 1301,§8(3)
  - Jury and witness fees, unobligated funds, ch 1301,§9
  - Supreme court clerk, ch 1301,§8(6)
- Judicial qualifications commission, ch 1301,§8(2)
- Labor bureau
  - General*, ch 1301,§10(1)
  - Asbestos, encapsulation and removal, ch 1315,§25
  - Hazardous risks right to know, duties, ch 1315,§25
- Landscape architectural examiners, ch 1304,§1(2)
- Law enforcement academy, ch 1309,§1(1)
- Law examiners board, ch 1301,§8(2)
- Legislative fiscal bureau, ch 1301,§10(2)
- Legislative service bureau
  - General*, ch 1301,§10(3a)
  - Drafting, research, Code data processing, ch 1301,§10(3b)
- Libraries, regional, allocation and administration, ch 1160
- Library department
  - General*, ch 1301,§10(5a)
  - Regional library system, ch 1301,§10(5b)
- Lieutenant governor, *general*, ch 1301,§6
- Medical examiners, ch 1307,§3(1),6
- Mental health, mental retardation services fund, ch 1306,§8,16

## APPROPRIATIONS — Continued

- Merit employment department, ch 1301,§10(6)
- Mississippi river parkway commission, ch 1303,§15
- Moneys and credits replacement fund, ch 1304,§3
- Municipal assistance fund, ch 1304,§5
- National conference of state legislatures, ch 1301,§10(4)
- Nurse examiners board, ch 1307,§3(2),6
- Occupational safety and health review commission, ch 1304,§2(12)
- Old-age and survivors' insurance fund, ch 1285,§1
- Parole board, ch 1306,§3,16
- Pharmacy examiners, ch 1307,§3(3),6
- Pioneer lawmakers, ch 1301,§10(7)
- Planning and programming
  - General*, ch 1301,§10(8c); ch 1311,§5,6,12,13
  - Children, youth and families commission, ch 1301,§10(8e,g,l)
  - Community development block grant administration, ch 1301,§10(8h); ch 1311,§6,12,13
  - Community development loan fund, ch 1301,§10(8i)
  - Community services block grant, ch 1311,§5,12,13
  - Council for children, ch 1301,§10(8e,l)
  - Cultural community grants, uncommitted funds, ch 1301,§10(8j)
  - Economic analysis and planning assistance, ch 1301,§10(8d)
  - Highway safety program, ch 1301,§10(8a)
  - Job training partnership Act, ch 1301,§10(8k)
  - Statistical analysis center, condition, ch 1301,§10(8f)
  - Youth corps, ch 1301,§10(8g,l)
  - Youth services administration, ch 1301,§10(8b)
- Public broadcasting department, ch 1302,§5
- Public defense
  - Clinton armory, construction, ch 1315,§32(8),33
  - Military division, ch 1309,§1(2)
- Public employment relations board, ch 1304,§2(13)
- Public instruction
  - General*, ch 1302,§6(1); ch 1311,§7,8,12,13
  - Computer software clearinghouse, ch 1302,§6(11,14)

## APPROPRIATIONS — Continued

## Public instruction — Continued

- Educational agencies, local,
  - ch 1311,§7,8,12,13
- Educational excellence incentive awards,
  - item veto, ch 1315,§8
- Education block grant, ch 1311,§7,8,12,13
- Fire service education, ch 1302,§6(1)
- Merged area schools
  - General*, ch 1302,§6(12a),7,8;ch 1305,§1
- Equipment replacement, ch 1315,§9
- Industrial start-up training program,
  - ch 1302,§6(12c)
- Vocational education programs,
  - ch 1302,§6(12b)
- Non-English speaking students,
  - ch 1302,§6(10)
- Professional teaching practices commis-
  - sion, ch 1302,§6(5)
- School budget review committee,
  - ch 1302,§6(9)
- School food service, ch 1302,§6(7)
- Science and mathematics teaching pro-
  - grams, ch 1302,§15
- Textbooks, nonpublic schools,
  - ch 1302,§6(8)
- Vocational education
  - Administration, ch 1302,§6(2)
  - Secondary schools, ch 1302,§6(3)
- Vocational rehabilitation, ch 1302,§6(4)
- Vocational youth organization fund,
  - ch 1302,§6(6)
- Public safety
  - Administration, ch 1309,§2(1)
  - Capitol security division, ch 1309,§2(3)
  - Cedar Falls tower, ch 1315,§32(9),33
  - Crime prevention programs, ch 1309,§2(5)
  - Highway safety and uniformed force,
    - ch 1309,§2(5)
  - Inspections, ch 1309,§2(2)
  - Investigation
    - General*, ch 1309,§2(4)
    - Agents, undercover purchases,
      - ch 1309,§2(4b)
    - Pari-mutuel law enforcement agents,
      - ch 1309,§2(4c)
  - Public highways, administration,
    - ch 1305,§20,70;ch 1315,§26
  - Victim reparation program
    - Claims, operational expense,
      - ch 1315,§24
    - Operational expense limitation, leg-
      - islative intent, item veto,
        - ch 1309,§2(1)

## APPROPRIATIONS — Continued

- Racing commission, ch 1304,§2(15)
- Real estate commission, ch 1304,§2(14)
- Regents, board of
  - General*, ch 1302,§9(1)
- Braille and sight-saving school
  - General*, ch 1302,§9(6)
- Capital projects, ch 1305,§5;
  - ch 1315,§31,33
- Collective bargaining representative,
  - condition, ch 1302,§9
- Computer software, field training, finan-
  - cial aid to farm operators, ch 1315,§28
- Deaf, school for, ch 1302,§9(5)
- Energy management projects,
  - ch 1305,§4,16
- Fuel and electricity purposes, ch 1302,§10
- Iowa State University
  - General*, ch 1302,§9(3a);ch 1315,§12
  - Agricultural experiment station,
    - ch 1302,§9(3b)
  - Capital projects, ch 1305,§5;
    - ch 1315,§31,33
  - Cooperative extension service,
    - ch 1302,§9(3c)
  - Crop diversification research,
    - ch 1315,§22
  - Extension fruit specialist, ch 1315,§19
  - Industrial research and service center,
    - ch 1302,§9(3d,e)
  - Meat export research center,
    - ch 1315,§15
  - Muscatine island, horticultural
    - research, ch 1315,§17
  - New food crops research center,
    - ch 1315,§23
  - Revenue deficiencies, ch 1302,§9(1c);
    - ch 1305,§15
  - Western Iowa, horticultural research,
    - ch 1315,§17
- Quad cities graduate study center,
  - ch 1302,§9(1d)
- Tuition replacement funds, ch 1305,§15
- University of Iowa
  - General*, ch 1302,§9(2a);ch 1315,§12
  - Capital projects, ch 1305,§5;
    - ch 1315,§31,33
  - Hospital school, ch 1302,§9(2g)
  - Hygienic laboratory, ch 1302,§9(2f)
  - Oakdale campus, ch 1302,§9(2h)
  - Prisoner assistance clinic, legislative
    - intent, ch 1302,§9(2a)
  - Psychiatric hospital, ch 1302,§9(2e)

APPROPRIATIONS—Continued  
 Regents, board of—Continued  
 University of Iowa—Continued

- Revenue deficiencies, ch 1302,§9(1c);  
ch 1305,§15
- University of Iowa hospitals
  - General*, ch 1302,§9(2b-d)
  - Abortions, condition, ch 1302,§9(2c)
  - Child health clinics, health department  
funds transferred, ch 1307,§4(6a),7;  
ch 1311,§2,3,12,13,16
  - Construction, condition, legislative in-  
tent, ch 1302,§9(2d)
  - Family practice program, condition,  
ch 1302,§9(2b-d)
  - Indigent patients, condition,  
ch 1302,§9(2b-d)
  - Specialized child health care services,  
ch 1307,§4(6a),7
- University of Northern Iowa
  - General*, ch 1302,§9(4);ch 1315,§12
  - Capital projects, ch 1305,§5
  - Revenue deficiencies, ch 1302,§9(1c);  
ch 1305,§15
  - Vitality fund distribution, condition,  
ch 1302,§11
- Utility contingency fund, item veto,  
ch 1302,§13,22
- Western Iowa continuing education,  
ch 1302,§9(1b)
- Revenue department
  - General*, ch 1304,§2(16)
  - Motor fuel tax law and use tax program,  
ch 1304,§6
- Salary adjustment fund, comparable worth  
implementation, ch 1314,§7(1)
- Secretary of state
  - General*, ch 1304,§2(17a)
  - Official register (redbook) publication,  
ch 1304,§2(17b)
- Shorthand reporters, examiners,  
ch 1301,§8(2)
- Soil conservation
  - General*, ch 1303,§16(1)
  - Conservation practices revolving loan  
fund, ch 1303,§17
  - Grants, allocations, ch 1303,§16(2-4)
  - Practices, financial incentives,  
ch 1303,§16(2,3)
- Spanish-speaking peoples commission,  
ch 1307,§2(2)
- Status of women, ch 1307,§2(4)
- Substance abuse
  - General*, ch 1311,§1(2),12,13;ch 1312,§1-3

APPROPRIATIONS—Continued  
 Substance abuse—Continued

- Alcohol abuse and prevention programs,  
ch 1311,§1(4),12,13
- Alcohol, drug abuse, mental health ser-  
vices block grant, ch 1311,§1(1),12,13
- Drug abuse and prevention programs,  
ch 1311,§1(4),12,13
- Program grants, ch 1312,§1-3
- Transfer from beer and liquor fund,  
ch 1312,§2
- Treatment and prevention programs,  
ch 1312,§1,2
- Terrace Hill authority, ch 1301,§10(11)
- Transportation department
  - General*, ch 1309,§3(1),4(1),6(1),8
  - Aviation fund, ch 1309,§8
  - Comparable worth salary adjustments,  
ch 1314,§7(2,3)
  - Driver's license program, ch 1305,§18,19
  - Merit system, ch 1309,§4(3),6(3)
  - Odometer law enforcement, ch 1305,§46
  - Primary road fund, ch 1309,§6
  - Public transit assistance plan,  
ch 1309,§3,9
  - Railroad branch line improvement,  
ch 1309,§3(3)
  - Ride-sharing programs, pilot projects,  
item veto, ch 1309,§4(2)
  - Road use tax fund, ch 1309,§4,10-12,14
  - Unemployment compensation,  
ch 1309,§4(4),6(4)
  - Vehicle replacement, ch 1309,§6(2)
- Treasurer of state
  - General*, ch 1300;ch 1304,§2(18)
  - Investment machine and system, pur-  
chase, ch 1305,§14;ch 1315,§32(5),33
- Uniform state laws commission,  
ch 1301,§10(10)
- Unpaid obligations, listing, repealed,  
ch 1091
- Veterans affairs
  - General*, ch 1307,§5(1)
  - Chemical exposure reporting,  
ch 1307,§5(3)
  - War orphans educational aid,  
ch 1307,§5(2)
- Water, air and waste management depart-  
ment
  - General*, ch 1303,§18(1)
  - AIDEX superfund, ch 1303,§18(3)
  - River coordinator
    - General*, ch 1303,§18(2)

**APPROPRIATIONS—Continued**

Water, air and waste management department—Continued

River coordinator—Continued

Missouri and Mississippi river basin association, ch 1303,§18

Sewage treatment, governing bodies, ch 1303,§18(4)

Water resources research institute, ch 1303,§19

**ARCHITECTS**

Institutions, construction projects, ch 1256

Services, exceptions, ch 1057

State architect appointment repealed, ch 1256,§2

**ARCHITECTURAL EXAMINERS**

Appropriation, ch 1304,§1(1)

**AREA EDUCATION AGENCY**

Audits, annual, completion deadline, ch 1128

Bond issuance for school buildings, ch 1036

Coaching athletics, required courses, ch 1296,§3,4

Directors, term and organization, ch 1219,§13,14

Employees, school credit cards, ch 1315,§34

Lease-purchase agreement, approval, ch 1103

School district reorganization

Community school districts, ch 1078,§11

Joint plan adopted by boards, ch 1078,§5

Petition

Appeal of decision, ch 1078,§9

Board review, ch 1078,§8

Joint meeting for different counties, ch 1078,§10

Program sharing, alternate plan, ch 1078,§2,3

Surveys

Petition, ch 1078,§4

Pupil enrollment, ch 1078,§2

Warrants issued, interest, ch 1010

**AREA SCHOOLS**

See *SCHOOLS AND SCHOOL DISTRICTS, Merged Areas*

**AREA VOCATIONAL SCHOOLS AND COMMUNITY COLLEGES**

School credit cards, ch 1315,§36

Taxes, direct deposits by county treasurer, ch 1003,§1-3

**ARMED FORCES**

Absentee voting, ch 1219,§3;ch 1291,§20

Member, legal settlement in state, ch 1165

Military service property tax exemption, poll tax reference deleted, ch 1219,§32

National guard

Jury duty exemption stricken, ch 1181,§1

Minimum pay, ch 1170

**ARREST**

Domestic abuse, violation of police order, ch 1258

Hearing impaired persons, interpreter, ch 1264

Warrants, work release violators, escapees, ch 1150

**ARSON**

Fire fighter's death, penalty, ch 1064

Investigation and report, ch 1095,§1,2

**ART**

Exhibits indemnified by state, ch 1073

**ARTS COUNCIL**

Appropriation, ch 1301,§1(2)

Indemnification program

Annual report, ch 1073,§11

Application, ch 1073,§5

Approval, terms, ch 1073,§8

Authority, ch 1073,§3

Claims, ch 1073,§10

Definitions, ch 1073,§2

Director's duties, ch 1073,§1

Eligibility and review, ch 1073,§7

Items eligible, ch 1073,§4

Limitations, ch 1073,§9

Qualification, ch 1073,§6

Rulemaking, ch 1073,§3,6,10(2)

Staff, ch 1073,§6(3)

**ASBESTOS**

Definitions, ch 1062,§1

Encapsulation and removal

Appropriation, ch 1315,§25

Bids for governmental projects, ch 1062,§11

Certificates, ch 1062,§3,4,10

Inspections, ch 1062,§2,3

Licenses, ch 1062,§1-9,11

School buildings, funding, ch 1294

Waste disposal, ch 1062,§4,5,7

**ASSESSMENTS**

- Building repairs, effect on taxable value, ch 1223
- Cigarettes and tobacco, interest and penalty, ch 1173,§1,2,10
- Drainage districts, time for payment, ch 1189,§2
- Insurers liquidation, ch 1175,§31
- Plats subdivided, ch 1271,§1
- School, open space acquisition program, ch 1303,§6
- Special
  - Direct deposits by county treasurer, ch 1003,§1,5,9
  - Drainage districts, payment, ch 1028
- Urban renewal, written agreement, ch 1210,§1
- Warehouses and distribution centers, tax exemption, ch 1232,§2,3

**ASSESSORS**

- Fruit-tree, forest reservation, inspections, ch 1222,§4,9
- Uniform assessments, ch 1195
- Urban renewal certification, ch 1210,§1

**ASSIGNMENTS**

- Income, delinquent support payments, ch 1239
- Real property legalizing Acts, references updated, ch 1090

**ATHLETICS**

- Coaching
  - Condition of employment, ch 1296,§3,4
  - Endorsement and authorization, ch 1296,§2-4
- Extracurricular contracts, ch 1296

**ATTORNEY GENERAL**

- Abandoned property, suit by another state, ch 1295,§24
- Aid to dependent children, violators prosecuted, ch 1276,§12
- Appropriations
  - General, ch 1301,§1(3a)
  - Competition law enforcement, contingent appropriation, ch 1301,§2(1)
  - Consumer fraud education, contingent appropriation, ch 1301,§2(2)
  - Dispute resolution programs, ch 1301,§1(3b)
  - Prosecuting attorney training program, ch 1301,§1(3b)

**ATTORNEY GENERAL - Continued**  
**Appropriations - Continued**

- Prosecuting intern program, ch 1301,§1(3c)
- Bingo licensee violation, ch 1220,§13
- Coal mining violations, ch 1153
- Elections, nomination objections, hearing, ch 1291,§1(3),21
- Jail facilities, corrections department order, violation, action, ch 1127,§2
- Odometer law enforcement, ch 1305,§45,58
- Petroleum overcharge funds disbursed, approval, ch 1313,§1
- Veterans, chemical exposure, duties, ch 1307,§5(3)
- Water, air and waste management, violations, ch 1159

**ATTORNEYS**

- Child support debts, responsible party notification, ch 1278,§3
- Court-appointed
  - Criminal defendant, mentally impaired, release notification, ch 1323,§5
  - Minors and indigents, ch 1299,§12,15,18
- Defense, indigents, joint county fund, ch 1067,§10
- Fees
  - Action for dishonored check, ch 1217,§2
  - Dissolution of marriage, ch 1133,§2; ch 1211
  - Forfeiture of real estate contract, ch 1203
  - Inmates, legal assistance, ch 1306,§2(7),16
  - Peace officers, defense costs reimbursed, ch 1259
  - Public records examination, action for damages, ch 1185,§9(3c)
- Real estate conveyed under power, legalizing Acts, references updated, ch 1090,§14

**AUCTIONS**

- Firearms, personal property, acquired by public safety, ch 1154

**AUDITOR OF STATE**

- Administrative rules, counties, audits by certified public accountants, ch 1123
- Appropriations, ch 1300; ch 1304,§2(1)
- Audits and examinations
  - Completion deadline, ch 1128
  - Counties, employment of certified public accountants, ch 1123



**AUDITOR OF STATE—Continued**  
Audits and examinations—Continued

- Expense reporting and payroll procedures, ch 1118
- Elections, nomination objections, hearing, ch 1291,§1(3),21
- Federal block grant funds, audits, ch 1311,§1,2,4-6,9,10,17
- Insurers liquidation, audit receivers books, ch 1175,§49
- Product development corporation audit, ch 1164,§6
- Public funds invested, ch 1230,§11
- Savings and loan associations, foreign, duties, ch 1081

**BAIL**

- Parole violator, amendment of bail, ch 1089
- Release, deferred judgment, ch 1152
- Surety bond, conditions for discharge, ch 1152

**BANKRUPTCY**

- Inmates, legal assistance, appropriation, ch 1306,§2(7),16

**BANKS AND BANKING**

- Account insurance
  - Exemptions, ch 1196,§5
  - Extension granted, ch 1196,§5
  - Requirements, ch 1196,§1-3,5
- Affiliate
  - Defined, ch 1167,§1
  - Succession of fiduciary accounts, ch 1167,§1
- Bankholding company, fiduciary accounts excluded, ch 1167,§2
- Banking department, appropriation, ch 1304,§2(2)
- Business association property distribution, voluntary dissolution, ch 1295,§10
- Change of location
  - Municipal corporations, ch 1202,§3
  - Urban complex, ch 1202,§3
- Consolidate public funds, joint investment, ch 1194
- Credit unions, reciprocity, out-of-state, business with credit unions chartered in Iowa, ch 1230,§27
- Deposits, unclaimed, reduce holding period, ch 1295,§1-6
- Direct deposits of taxes, ch 1003

**BANKS AND BANKING—Continued**

**Fiduciary accounts**

- Publication of notice of succession, ch 1167
- Succession to affiliate, ch 1167,§1
- Succession to independent bank, ch 1167,§2
- Holding companies
  - Deposit basis increased, ch 1230,§25(1)
  - Savings bank deposit basis increased, ch 1230,§25(2)
- Loans to officers, ch 1032,§3
- Meetings of shareholders, ch 1032,§1,2
- Private banks, account insurance, ch 1196,§3,5
- Public funds deposited
  - General, ch 1230,§4-17
  - Securities pledged, ch 1230,§19-24
- Safe deposit box unclaimed, ch 1295,§7
- "State" or "trust" used in name, ch 1202,§1
- Superintendent
  - Holding companies deposit basis increased, ch 1230,§25
  - Public funds invested, ch 1230,§4,11
- Veterans home membership account, ch 1277,§12

**BARGES**

- Missouri river barge compact, ch 1257

**BEER AND LIQUOR CONTROL**

- Alcohol abuse and prevention programs, funds, ch 1311,§1(4),12,13
- Appropriations
  - General, ch 1304,§2(3)
  - Ministores, establishment, ch 1304,§2(3)
- Bingo restrictions, liquor license establishments, ch 1220,§1
- Container law, motor vehicle, ch 1275,§1
- Funds transferred to substance abuse, ch 1312,§1,2
- Liquor price increase, funding substance abuse programs, item veto, ch 1312,§1
- Permit fees, Sunday sales, distribution, ch 1312,§6,7,9
- Sale to minors, serious misdemeanor, ch 1275,§4
- Sunday sales, hours, ch 1275,§2,3,5
- Violations, sale to minors, ch 1275,§4,7

**BENEFITED DISTRICTS**

- Law enforcement, tax levy, ch 1216
- Water, construction bid, share draft deposit, ch 1055,§6

**BIDS AND BIDDERS**

- Asbestos encapsulation and removal for governmental projects, ch 1062,§11
- Construction projects, institutions controlled by human services, ch 1256
- County hospital equipment, ch 1201
- Drainage district improvements, minimum cost, ch 1189,§1
- Highway construction, disadvantaged enterprises, ch 1229
- Public contracts
  - Bid prohibition after conviction, ch 1143,§2
  - Bid-rigging or price fixing, penalty, ch 1143,§1
  - Bid security, share drafts, ch 1055
  - Coal, Iowa preference, ch 1147
  - General services department, bid reciprocity, ch 1301,§12
  - Reciprocity bidding law, ch 1045

**BINGO**

- General*, ch 1220
- Accounts required in financial institutions, ch 1220,§4
- Free and door prize restrictions, ch 1220,§7
- Inspections, ch 1220,§4
- "Jackpot" bingo game restrictions, ch 1220,§6
- Licensing, ch 1220,§4,8-12

**BLIND**

- Appropriation, supplementary assistance, ch 1310,§3(5)
- Braille and sight-saving school
  - Appropriation
    - General*, ch 1302,§9(6);ch 1305,§5
    - Capital projects, ch 1315,§31,33
    - Loans to teachers, ch 1060
- Legal settlement residency requirement, ch 1165
- Voter assistance, ch 1291,§8,9

**BLIND, COMMISSION FOR**

- Appropriations
  - General*, ch 1302,§1
  - Absorption system, overhaul, ch 1315,§32(1),33
  - Rebuilding cooling tower, ch 1305,§6; ch 1315,§32(1),33

**BLOOD**

- Alcoholic concentration, drug level, ch 1292

**BOARDS**

See *COMMISSIONS AND BOARDS*

**BOATS AND VESSELS**

- Boating facilities development, appropriation, ch 1303,§4(1)
- Fees, registration, ch 1082
- Marine fuel tax fund
  - Conservation commission, appropriation, ch 1303,§4
  - Study repealed, ch 1012
- Missouri river barge compact, ch 1257
- Navigation law enforcement, appropriation, ch 1303,§4(2)

**BONDS**

- Child support debts, temporary restraining order, ch 1278,§8
- City projects, general obligation bonds refunded, ch 1058
- Coal mining, penalty assessment appeals, ch 1153
- Farm labor contractor, for wages, ch 1270,§2
- Forfeiture enforcement, professional services permitted, ch 1163
- Housing finance authority, ch 1281
- Insurers liquidation, ch 1175,§7,28(5,7,8)
- Public
  - Payable from taxation, ch 1021
  - Registration costs, ch 1021
- Revenue
  - City projects, general obligation bonds refunded, ch 1058
  - Regents, building and equipment projects, HCR 117
  - Solid waste management projects, ch 1039,§5
  - Sports facility construction, ch 1266,§22,23
- Savings and loan associations, foreign, deposits by, ch 1081,§5
- Schoolhouse erection or repair, meeting requirement, ch 1036
- School, proceeds invested, ch 1230,§18
- Surety
  - Conditions of discharge, ch 1152
  - Corporate, public funds deposited, ch 1230,§20,22
  - Employment agency, license application, ch 1212
  - Private investigative and private security agencies, ch 1235,§10,19

**BOUNDARIES**

- City council elections, form of government, ch 1052
- Sanitary districts, proposed, ch 1051
- School districts, reorganization, ch 1078

**BOUNTIES**

- Payment of, eliminated, ch 1206,§1

**BOXING CONTESTS**

- Amateur, age limit, ch 1106

**BRUCELLOSIS**

- Eradication fund, ch 1178,§1

**BUDGET AND FINANCIAL CONTROL**

- Appropriations, comparable worth salary adjustments, ch 1314,§7(1)
- Federal funds anticipated, update by comptroller, ch 1231
- Historical building funds, reversion, ch 1316,§3
- Institutions construction, multiyear program, ch 1256
- Unpaid obligations, listing, repealed, ch 1091

**BUILDING AND LOAN ASSOCIATIONS**

- See *SAVINGS AND LOAN ASSOCIATIONS*

**BUILDING CODE (STATE)**

- Administration, appropriation, ch 1309,§2(2)
- Commissioner, state historic building code, duties, ch 1113
- Historic building code, state, see *HISTORIC BUILDING CODE, STATE*
- Rules distribution, ch 1067,§19

**BUILDINGS**

- Architects' services, exceptions, ch 1057
- Bingo, liquor in adjacent building, ch 1220,§1
- Fire inspection, ch 1095,§5
- Government owned, energy management programs, funding, ch 1313
- Handicapped entrances, historic building code conflicts, ch 1113,§4
- Handicapped parking space violation, penalty, ch 1110
- Historical building construction, funds, ch 1316
- Historical building, repair and renovation, ch 1305,§11;ch 1315,§32(2i-k),33

**BUILDINGS—Continued**

- Historic buildings, restoration or preservation, ch 1113
- Lucas building remodeling, appropriation, ch 1315,§32(2c),33
- "Occupied structure" defined, ch 1247,§1
- Repairs, effect on taxable value, ch 1223
- School, energy management programs, funding, ch 1313
- Vehicle dispatcher and micrographics buildings, roof repairs, appropriation, ch 1315,§32(2e),33
- Wallace building repairs, appropriation, ch 1315,§32(2d),33

**BURGLARY**

- Defined, ch 1247,§2,3

**BUSES**

- Articulated buses, maximum length, ch 1077
- Regional transit system, ch 1253

**CAMPAIGN FINANCE DISCLOSURE COMMISSION**

- Administrative rules, lobbyist or political committee contributions, ch 1304,§2(4)
- Appropriation, condition, ch 1304,§2(4)
- Political campaigns study committee, membership, assistance, ch 1218

**CAMPAIGN FUNDS**

- Checkoff, income tax contributions, ch 1263
- Political campaigns study committee, ch 1218

**CAPITOL PLANNING COMMISSION**

- Appropriation, ch 1301,§1(4)

**CARE FACILITIES**

- See *HEALTH CARE FACILITIES*

**CERTIFICATES**

- Advanced emergency medical technician or paramedic, ch 1287,§6-8
- Estates, real estate title change, ch 1221,§7,8
- Land surveyor, plats, ch 1271,§1
- Military property tax credit, late claim, ch 1221,§2
- Sheriff's sale, lienholder's advancements, ch 1248,§2,3
- Tax exemptions, motor fuel, ch 1141
- Tax sale redemption, treasurer's, ch 1221,§4

## CERTIFICATES — Continued

- Urban renewal development assessment,  
ch 1210,§1
- Vessels, registration certificates, ch 1082

## CERTIFIED COPIES

- Certification of documents, penalty, ch 1048

## CHARITABLE INSTITUTIONS

- Games of skill, chance and raffles,  
ch 1220,§1,4,8,9,11

## CHECKOFF

- Income tax, optional designation of moneys,  
ch 1263

## CHECKS

## Dishonored

- Court to determine costs, ch 1217,§2
- Defendant's attorney fee allowed,  
ch 1217,§2
- Surcharge, ch 1217

## CHEMICALS

- Agent orange exposure, reporting, legis-  
lative intent, ch 1307,§5(3)
- Defoliants, herbicides, exposure, reporting,  
legislative intent, ch 1307,§5(3)
- Hazardous chemicals, right to know, ch 1085

## CHILD ABUSE INFORMATION

## COUNCIL

- Abolished, ch 1035

## CHILDREN

*See also AID TO DEPENDENT CHILDREN; MINORS*

- Adoption, permanency plan, ch 1279,§21
- Adoption, Vietnamese refugees, birth cer-  
tificate requirement repealed,  
ch 1219,§41
- Alcoholic beverages, violations, ch 1275
- "Baby buckle-up" law, ch 1016
- Birth defects, genetic counseling program,  
ch 1307,§4(6a)
- Cancer treatment program, allocation of  
funds, ch 1307,§4(6a),7
- Central Iowa birth defects registry pilot  
project, ch 1307,§4(6a)
- Child abuse, *see ABUSE, Child Abuse*
- Child care centers, appropriation,  
ch 1310,§3(9a)

## CHILDREN — Continued

- Child custody, correctional system inmates,  
legal assistance, ch 1306,§2(7),16
- Child custody transfer, human services  
department, ch 1279,§5,21
- Child day care facilities
- Food stamp program, ch 1279,§22
- Funds
  - Appeal by registered facility,  
ch 1279,§37
  - Apportioned, ch 1279,§35,36
  - Restrictions, ch 1279,§40
  - Use, ch 1279,§38
  - Renamed, ch 1279,§34,36
- Child health clinics, funds,  
ch 1307,§4(6a),7;ch 1311,§2(2),3,12,13,16
- "Child in need of assistance," definition,  
chemical dependency, ch 1279,§2
- Child-placing agencies, "case permanency  
plan" defined, ch 1279,§41
- Children, youth, and families commission  
established, ch 1076
- Child support debt procedures
  - Administration, *general*, ch 1278
  - Bond to vacate temporary restraining  
order, ch 1278,§8
  - Caretaker's responsibilities, ch 1278
  - Hearings, ch 1278,§3,4
  - Human services department, responsi-  
bilities, ch 1278
  - Judgments docketed, ch 1278,§5
  - Minimum support guidelines, ch 1278,§10
  - Paternity established for support debt,  
ch 1278,§2
  - Subrogation, ch 1278,§2
- Child support payments, assignment of in-  
come, ch 1239
- Child support recovery
  - Appropriation, ch 1310,§3(4),7,8
  - Debtors determined, ch 1278
  - Nonresident parent, ch 1242
  - Staff increase, funding, ch 1310,§3(4),7,8
- Controlled substances, distribution,  
ch 1013,§15
- Council for children and families, duties  
transferred, ch 1076,§8
- Council on child abuse information abol-  
ished, ch 1035
- Criminal records, access by youth agencies,  
ch 1061
- Custody, dissolution of marriage
  - "Best interest of the child" defined,  
ch 1088,§1,6
  - Best interests, factors, ch 1088,§3,4

**CHILDREN—Continued**Custody, dissolution of marriage—  
Continued

- Joint custody, ch 1088,§2;ch 1133,§1
- Physical care, ch 1088,§5
- Rights and responsibilities of custodian, ch 1088,§5
- Visitation, ch 1088,§2;ch 1133,§1
- Day care and group home, child abuse reporting and investigation, ch 1279,§6-12,23,24
- Day care services, funding, ch 1310,§4
- Foster care
  - Appropriation, ch 1310,§3(8),7
  - “Case permanency plan” defined, ch 1279,§1
  - Child abuse, ch 1279,§14-18,23,24
  - Costs, ch 1278
  - Federally funded program, restriction, ch 1310,§3(8),7
  - Foster parent training, appropriation, ch 1310,§3(8),7
  - Foster parent training required, ch 1279,§25,43
  - Review board
    - Appropriation, ch 1310,§11
    - Case permanency plan, ch 1279,§33,44
    - Confidentiality of records—penalty, ch 1279,§32,44
    - Created; repealed 7/1/88, ch 1279,§26-33,44
    - Definitions, ch 1279,§26,44
    - Duties and powers, ch 1279,§29,44
    - Local boards, ch 1279,§30,31,44
    - Registry of children, ch 1279,§28,44
    - Rulemaking, ch 1279,§44,45
    - Substance abuse facility, license exception, ch 1050
- Foster care review committees
  - Child placements, ch 1208
  - Composition and duties, ch 1208
  - Juvenile court records, access, ch 1208
- Foster family homes, reimbursement rate, ch 1310,§5(3)
- Foster parent training, ch 1279,§25,43
- Hemophilia patient care, funds, ch 1307,§4(6a),7
- High risk infant follow-up program, funds, ch 1307,§4(6a),7
- Legal settlement residency, ch 1165
- Medical assistance eligibility, ch 1297,§3
- Missing children reports, ch 1084
- Modeling, limitations, ch 1111
- Motor vehicles, restraint devices, ch 1016
- Muscular dystrophy, related genetic diseases, funds, ch 1307,§4(6a),7

**CHILDREN—Continued**

- Offenders, public work assignment, state liability, tortious acts, ch 1280,§2
- Parent-child relationship terminated, ch 1279,§19-21
- Perinatal care program, funds, ch 1307,§4(6a),7;ch 1311,§2(2),12,13
- Restraint systems, transportation
  - Exceptions, ch 1016
  - Violations, penalty, ch 1016
- Special education
  - Age of termination, ch 1001
  - Appeals, hearing officer appointed, ch 1070
- Sudden infant death syndrome, funds, ch 1307,§4(6c);ch 1311,§2(2),12,13
- Training school, commitment beyond age 18, ch 1166
- Transfer, state training school to corrections department, ch 1214
- Transportation, restraint devices, ch 1016
- Trout license, ch 1260,§5,8,10,14

**CHILDREN, YOUTH, AND FAMILIES  
COMMISSION**

- Appropriation, ch 1301,§10(8e,g,l)
- Director, appointment and duties, ch 1076,§5
- Established, ch 1076,§2
- Expenses, ch 1076,§6
- Gender restriction, voting members, ch 1076,§2
- Grants and gifts received, ch 1076,§7
- Initial terms and appointments, ch 1076,§9
- Meetings and officers, ch 1076,§3
- Membership, ch 1076,§2
- Purpose and duties, ch 1076,§4
- Report to governor and general assembly, ch 1076,§4
- Staff, merit system status, ch 1076,§5,8
- State policy, ch 1076,§1
- Terms, ch 1076,§2,9
- Transfer of responsibilities
  - Council for children and families, ch 1076,§8
  - Youth council, ch 1076,§8
- Vacancies, ch 1076,§2

**CHILD SUPPORT RECOVERY**

- Assignment of income, delinquent payments, *general*, ch 1239

**CHIROPRACTORS**

- Physical therapy treatment, referral by, ch 1268

**CIGARETTES AND LITTLE CIGARS****Taxation**

- Interest and penalty for late payment, ch 1173,§1,2,10
- Penalty for false return, tobacco, ch 1173,§2,10

**CITIES**

*See also MUNICIPALITIES*

- Audits, annual, completion deadline, ch 1128
- Building energy management programs, funding, ch 1313
- Children, youth, and families commission, membership, ch 1076,§2
- Clerk, zoning district change, protest petition, ch 1176
- Community action agencies, sunset provision, ch 1049
- Competition law, exemption, ch 1020
- Contracts**
  - Bid preference, reciprocity, ch 1045
  - Bid prohibition after conviction, ch 1143,§2
  - Bid-rigging or price fixing, penalty, ch 1143,§1
  - Bid security, share drafts, ch 1055
  - Coal, Iowa preference, ch 1147
  - Conflicts of interest, ch 1228
  - Tax exempt property, providing certain services, ch 1232,§1
- Council elections, redrawing precinct boundaries, ch 1052
- Criminal actions, witness costs paid, ch 1301,§14,16
- Criminal surcharge, city fine, ch 1219,§31
- Direct deposits of taxes, ch 1003,§1,5,9
- Drainage or levee districts, trustees, ch 1040
- Election precinct officials, number appointed, item veto, ch 1304,§11,12
- Elections, nomination objection procedure, ch 1291,§1,2,21
- Elective official, leave of absence, ch 1233
- Electric utilities transmission facilities, joint ownership, ch 1251
- Explosives, licenses issued, notification, ch 1074,§5
- Finance committee**
  - Administer law enforcement officer training program, ch 1274
  - Funds, ch 1304,§5
- Fire investigations and reports, ch 1095,§1,2
- Funds, consolidate public funds, joint investment, ch 1194
- Government records examination, ch 1185

**CITIES - Continued**

- Historical projects, county funds, ch 1107
- Jails and municipal holding facilities
  - Inspection and report, ch 1127,§2
  - Standards established, ch 1127,§1
- Law enforcement officer training reimbursement, ch 1274
- Law enforcement officials, licensing exemption, ch 1135
- Legislative committees, aid furnished, ch 1171
- Liability**
  - Failure to erect traffic control device, ch 1293,§10(1)
  - Snow, ice removal, ch 1002;ch 1293,§10(2)
- Libraries funded, ch 1168
- Libraries, withdrawal from county district, ch 1168
- Liens, sewer and solid waste, county treasurer, ch 1221,§1
- Motor fuel tax, exemption certificate, ch 1141
- Municipal assistance fund, appropriation, ch 1304,§5
- Pari-mutuel wagering tax credit, allocation, ch 1266,§17
- Platting requirements, subdivisions, ch 1271,§1
- Property tax exemption, warehouses and distribution centers, ch 1232,§2,3
- Railway property, snow and ice removal, ch 1002
- Records, access by legislative fiscal bureau, ch 1172
- Refunding of general obligation bonds, city projects, ch 1058
- Revenue bonds, sports facility, ch 1266,§22,23
- Ryan city council, property sale, legalized, ch 1209
- Snow and ice removal, ch 1002; ch 1293,§10(2)
- Solid waste as energy source, public service monopoly, ch 1039
- Streets and alleys, vacation by ordinance, ch 1271,§2
- Treasurer, public funds invested, ch 1230,§4-17
- Urban renewal development assessments, ch 1210
- Utilities**
  - Disconnection of service, ch 1273
  - General obligation bonds refunded, ch 1058
  - Ownership report, ch 1177

CITIES—Continued  
Utilities—Continued

Real property definition expanded,  
ch 1179

Zoning

Actions, publication of notice, ch 1018  
District change, protest petition, ch 1176  
Manufactured home, ch 1238

**CITIZENS' AIDE**

Appropriation, ch 1301,§1(5)  
Deputy, penal agencies, activities, ch 1046  
Employment, outside official duties, ch 1046

**CIVIL RIGHTS**

Actions, filing time extended, ch 1096  
Civil rights commission, appropriation,  
ch 1307,§2(1)  
"Public accommodation" definition  
amended, ch 1096  
Retirement plans, sex discrimination,  
ch 1011

**CLAIMS**

Against state, exemptions, ch 1293,§10  
Art exhibits indemnified by state,  
ch 1073,§10  
Comparative fault, ch 1293  
County employees, publication, ch 1069  
Firearms confiscated, disposition, liability  
of state, ch 1154  
Homestead tax credit or reimbursement,  
ch 1190  
Institutions construction projects, ch 1256  
Insurers supervision, rehabilitation, and  
liquidation Act  
*General*, ch 1175  
Holders of voidable rights, ch 1175,§29  
Interstate relations, ch 1175,§50-52,55-59  
Setoffs and counterclaims, ch 1175,§30  
Military property tax exemption, late filing,  
ch 1221,§2  
Petroleum overcharge case funds, dis-  
bursements, ch 1313,§1,2  
Self-service storage facility, possessory  
liens enforcement, ch 1130,§4  
Small claims  
Appeals, ch 1322,§6-8  
Default judgments set aside, ch 1322,§5  
Hearing set, ch 1322,§3  
Money judgment actions, ch 1322,§2  
Original notice, appearance time,  
ch 1322,§1

CLAIMS—Continued

Tort

Defined, ch 1259,§1  
Employee, ch 1259,§2-4  
Hazardous chemicals risk, right to know,  
exception, ch 1085,§20  
Health care facility, suits against  
receiver, ch 1136

**CLERGY**

Correctional institution visitation, ch 1004  
Hospice programs, ch 1284  
IPERS, eligibility, ch 1285,§7(9)

**CLUBS**

"Public accommodation" defined, ch 1096

**COACHES**

Schools, extracurricular activities, ch 1296

**COAL**

Mining violations, penalties, ch 1153  
Public contracts, Iowa preference, ch 1147

**CODE CORRECTIONS**

*General*, ch 1067  
Editorial corrections by Code editor,  
ch 1117

**CODE EDITOR**

Editorial corrections permitted, ch 1117  
Statute references in numerals, ch 1067,§2

**CODE OF IOWA**

Corrections, *general*, ch 1067  
Editorial corrections by Code editor,  
ch 1117  
Free distribution list, ch 1301,§13  
Libraries, microfiche copies provided,  
ch 1301,§13  
Replacement of free copy, cost, ch 1301,§13  
Statute references in numerals, ch 1067,§2

**COLLECTIVE BARGAINING**

Comparable worth  
Appropriations separate, ch 1314,§4  
Contractual employees, consistent im-  
plementation, ch 1314,§4  
Phased retirement incentive program,  
ch 1180,§1,12  
Regents board, representative, appropria-  
tion condition, ch 1302,§9  
Teacher extracurricular athletic contract  
conflict, ch 1296

**COLLEGE AID COMMISSION****Appropriations**

- General*, ch 1302,§2(1)
- Guaranteed student loan payments, reimbursement, ch 1302,§17
- Loans to teachers, ch 1302,§18
- National guard education, ch 1302,§4
- Osteopathic college, subvention program, ch 1302,§3
- Science and mathematics loan program, teachers, ch 1302,§18
- Supplemental tuition grants, item veto, ch 1315,§10
- Tuition grant program, ch 1302,§2(2); ch 1315,§11
- Guaranteed loan payment program, teachers of blind and deaf, ch 1060
- Science and mathematics loan program, repayment cancellation, ch 1044; ch 1060,§2
- Tuition grants, limitation, ch 1302,§16

**COLLEGES AND UNIVERSITIES****Appropriations****Iowa State University**

- General*, ch 1302,§9(3a);ch 1315,§12
- Agricultural experiment station, ch 1302,§9(3b)
- Agronomy building renovation, HCR 117
- Capital projects, ch 1305,§5; ch 1315,§31,33
- Cooperative extension service, ch 1302,§9(3c)
- Crop diversification research, ch 1315,§22
- Extension fruit specialist, ch 1315,§19
- Industrial research and service, ch 1302,§9(3d,e)
- Meat export research center, ch 1315,§15
- Mechanical engineering equipment, HCR 117
- Muscatine island, horticultural research, ch 1315,§17
- New food crops research center, ch 1315,§23
- Revenue deficiencies, ch 1302,§9(1c); ch 1305,§15
- Western Iowa, horticultural research, ch 1315,§17

**University of Iowa**

- General*, ch 1302,§9(2a);ch 1315,§12
- Capital projects, ch 1305,§5; ch 1315,§31,33

**COLLEGES AND UNIVERSITIES –****Continued****Appropriations – Continued****University of Iowa – Continued**

- College of medicine, diabetes mellitus research, ch 1302,§9(2a)
- Fire safety deficiency corrections, HCR 117
- Hospital school, ch 1302,§9(2g)
- Hygienic laboratory, ch 1302,§9(2f)
- Oakdale campus, ch 1302,§9(2h)
- Psychiatric hospital, ch 1302,§9(2e)
- Revenue deficiencies, ch 1302,§9(1c); ch 1305,§15
- University theater addition equipment, HCR 117
- University of Iowa hospitals**
  - General*, ch 1302,§9(2b)
  - Child health clinics, health department funds transferred, ch 1311,§2,3,12,13,16
  - Construction, condition, legislative intent, ch 1302,§9(2d)
  - Family practice program, condition, ch 1302,§9(2b-d)
  - Indigent patients, condition, ch 1302,§9(2b-d)
- University of Northern Iowa**
  - General*, ch 1302,§9(4);ch 1315,§12
  - Capital projects, ch 1305,§5
  - Old administration building renovation, appropriation, item veto, ch 1302,§12
  - Revenue deficiencies, ch 1302,§9(1c); ch 1305,§15
  - Vitality fund distribution, condition, ch 1302,§11
- Area vocational schools and community colleges**
  - Governing board, term, ch 1219,§15
  - School credit cards, ch 1315,§36
- Campus security, weapon requirements, ch 1235,§13,19
- Coaching athletics, required courses, ch 1296,§3,4
- Iowa State University**
  - Crop diversification research, agricultural experiment station, ch 1315,§21,22
  - Extension fruit specialist, duties, ch 1315,§18,19
  - Horticultural research, fruits, vegetables, ch 1315,§16,17
  - Meat export research center
    - Appropriation, ch 1315,§15



**COLLEGES AND UNIVERSITIES—**

Continued

Iowa State University—Continued

Meat export research center—Continued

Director, assistants, salaries,  
ch 1315,§13

Established, ch 1315,§13

Private funds accepted, ch 1315,§14

Registration with secretary of state,  
ch 1098

University of Iowa hospitals

Child health clinics

Appropriation, ch 1311,§2,3,12,13,16

Women and children services inte-  
grated, pilot areas, legislative intent,  
ch 1311,§2(3),12,13**COMMERCE COMMISSION**

Administrative rules

Deposits, gas or electric service, ch 1131

Electric transmission lines, standards,  
ch 1101,§3Utility disconnections, low-income  
residents, ch 1273Appropriations, *general*, ch 1304,§2(5)

Electric transmission lines

Construction near buried line, ch 1132

Easements, petition, ch 1101,§2

Exclusive service areas, conduct pro-  
hibited, ch 1101,§1Franchises, voltage requirement,  
ch 1101,§2

Jurisdiction, ch 1101,§1,2

Rules, construction standards, ch 1101,§3

Electric utilities

Service deposits, ch 1131

Service disconnection moratorium,  
ch 1273

Gas utilities

Service deposits, ch 1131

Service disconnection moratorium,  
ch 1273

Grain dealers and warehouses, fees, ch 1100

Grain dealers, inspection frequency, ch 1224

Public utility advertising cost, statement  
required, ch 1225

Telephone utilities

Directory assistance charges, ch 1023

Nonrate-regulated companies, redefined,  
ch 1031

Tariff filing, exemption, ch 1267

**COMMISSIONS AND BOARDS**

Agriculture promotion board members,

IPERS ineligibility, ch 1285,§8

**COMMISSIONS AND BOARDS—**

Continued

Appropriation reduction, travel expenses,  
ch 1180,§11,12Children, youth, and families commission  
established, ch 1076Compensation commission, eminent domain,  
appeals, ch 1119

County conservation board, ch 1097

Dairy industry commission, suspension,  
ch 1183

Engineering examiners, ch 1104

Foster care review boards, ch 1279

Historic building code advisory board,  
ch 1113,§5,6Professional and occupational education,  
licensing boards, authority, ch 1056Professional teaching practices, appropria-  
tion, ch 1302,§6(5)Racing commission, *see PARI-MUTUEL  
WAGERING ACT, Racing  
Commission*Records commission, forms management  
program, ch 1093

Social work examiners, ch 1075

Spanish-speaking peoples commission, ap-  
propriation, ch 1307,§2(2)Status of women, appropriation,  
ch 1307,§2(4)**COMPACTS**

Missouri river barge traffic

*General*, ch 1257

Administration, ch 1257,§2,3

Liberal interpretation, ch 1257,§4

No conflict of local functions, ch 1257,§5

Rulemaking, ch 1257,§1

**COMPARABLE WORTH**

Appropriations

Collective bargaining funds separate,  
ch 1314,§4Departmental revolving, trust, or special  
funds, ch 1314,§7(4)

Salary adjustment fund, ch 1314,§7(1)

Transportation department, salary ad-  
justments, ch 1314,§7(2,3)Contractual employees, implementation  
consistent with collective bargaining,  
ch 1314,§4Cost, merit system employees, limitation,  
ch 1314,§7(5)Costs for implementation determined,  
ch 1314,§5

Definitions, ch 1314,§1

**COMPARABLE WORTH—Continued**

- Federal grants or receipts appropriated, ch 1314,§7(6)
- Implementation stages, legislative intent, ch 1314,§9
- Judicial department report, appropriation, ch 1314,§7(8),8
- Noncontractual employees, implementation schedule, ch 1314,§3
- Oversight committee and funding, item veto, ch 1314,§6,7(7,9)
- Regents board report, appropriation, ch 1314,§7(8),8
- Reports, agencies with exempt positions, ch 1314,§8
- Review process, item veto, ch 1314,§2

**COMPARATIVE FAULT**

- General*, ch 1293
- Definitions, ch 1293,§1,2
- Effect, ch 1293,§3
- Governmental exemptions, ch 1293,§10
- Insurance practices, ch 1293,§9
- Joint and several liability, ch 1293,§4
- Release, effect, ch 1293,§7
- Right of contribution, ch 1293,§5
- Tolling of statute, ch 1293,§8

**COMPENSATION**

- See *SALARIES AND WAGES*;  
*UNEMPLOYMENT COMPENSA-*  
*TION*; *WORKERS' COMPENSA-*  
*TION*

**COMPETITION LAW**

- Bid prohibition after conviction, ch 1143,§2
- Bid-rigging or price fixing, penalty, ch 1143,§1
- City or county, exemption, ch 1020

**COMPLAINTS**

- Employees, retaliatory discharge or discrimination, ch 1270
- Health care facility investigation procedure, ch 1227
- Missing persons, ch 1084

**COMPTROLLER**

- Aid to dependent children payments, ch 1276,§5
- Appropriations
  - General*, ch 1304,§2(7a)
  - Cancer programs, childhood, legislative intent, ch 1307,§4(6a),7

**COMPTROLLER—Continued****Appropriations—Continued**

- Data processing division, legislative intent, ch 1304,§2(7b)
- Hemophilia patients care, legislative intent, ch 1307,§4(6a),7
- Inspector general, efficiency measures implemented, ch 1304,§2(7b)
- Primary road fund, ch 1309,§7
- Regents board, utility contingency fund, item veto, ch 1302,§13,22
- Road use tax fund, ch 1309,§5
- School districts, special courses, ch 1302,§20
- Workers' compensation claims, DOT, ch 1309,§5,7
- Art exhibits indemnified by state, losses paid, ch 1073,§10(3)
- Audits of local governments, expenses paid, ch 1118
- Budget "triggers" vetoed
  - Court reorganization, state funding delay, ch 1304,§10(5)
  - Machinery and computers, taxation, special valuation, ch 1304,§10(4)
  - Personal property tax phaseout, ch 1304,§10(3)
  - School foundation program
    - Growth, state percent, ch 1304,§10(1)
    - State foundation base, ch 1304,§10(2)
- Child health care services, contingent fund transferred to general fund, ch 1307,§8,9
- City finance committee, funds, ch 1304,§5
- Comparable worth, implementation date and costs determined, ch 1314,§5
- County finance committee, funds, ch 1304,§4
- Economic emergency fund, ch 1305,§21
- Educational improvement projects, approval notification, ch 1315,§2
- Employee suggestion system, ch 1191,§1,2
- Federal funds anticipated, update, ch 1231
- General services, capital projects, transfer of funds, approval, ch 1315,§33
- Health, boards of, legal expense allocation, ch 1307,§4(5),6
- Highway safety patrol, motor and special fuel price estimates, ch 1309,§2(5)
- Human services, construction projects report, ch 1256
- Inspector general, efficiency measures implemented, ch 1301,§3(1);ch 1304,§2(7b)
- Institutions construction projects claims, ch 1256

**COMPROLLER—Continued**

- Insurance company examinations, excess expenses, approval, ch 1304,§2(10)
- Licensing boards, excess examination expenses, approval, ch 1307,§6
- Liens, agricultural products, computer costs, intent, ch 1304,§2(7b)
- Medically needy program, accounting procedures, ch 1310,§3(2),7
- Merged area schools
  - General aid payments, ch 1305,§1
  - State aid, ch 1302,§8
- Military property tax credit, late claim, ch 1221,§2
- Multiflora rose infestation, warrants issued, ch 1303,§2
- Personal property tax credit replacement fund, ch 1298,§1
- Petroleum overcharge fund, expenses, payment, ch 1313,§1
- Product development corporation fund, warrants issued, ch 1067,§8;ch 1303,§10
- School dropout program, ch 1037
- Unpaid obligations, listing, repealed, ch 1091

**COMPUTERS****Crimes**

- Application of law, ch 1249,§15
- Computer damage
  - Defined, ch 1249,§3
  - Degree of offense, ch 1249,§4-8
- Computer theft
  - Defined, ch 1249,§9
  - Degree of offense, ch 1249,§10-14
- Definitions, ch 1249,§1
- Evidence, printouts admissible, ch 1249,§16
- Unauthorized access, penalty, ch 1249,§2
- Criminal intelligence data
  - Access restrictions, ch 1145,§2
  - Rulemaking, computer access, ch 1145,§3
- Liens, agricultural products, computer costs, intent, ch 1304,§2(7b)
- Public records definition, ch 1145,§1
- Software clearinghouse, appropriation, ch 1302,§6(11,14)
- Software development, financial aid to farm operators, ch 1315,§27,28
- Taxation, special valuation, budget "trigger," item veto, ch 1304,§10(4)

**CONDEMNATION**

See *EMINENT DOMAIN*

**CONFIDENTIAL RECORDS**

See also *PUBLIC RECORDS; RECORDS AND RECORDINGS*

- Corrections department, ch 1148
- Criminal records
  - Computer access restricted, ch 1145
  - Racing commission, disclosure, ch 1265,§6
  - Youth agencies, access, ch 1061
- Fire marshal's records, disclosure, ch 1095,§4
- Foster care review committee, ch 1208
- Health care facility
  - Complaints, confidentiality, ch 1227,§2,3
  - Inspection following complaint, ch 1227,§2,3
- Insurers liquidation, proceedings confidential, ch 1175,§11
- Juvenile court records, access, ch 1208
- Legislative committees, aid furnished, disclosure, ch 1171
- Legislative fiscal bureau, access, ch 1172
- Libraries, records, criminal investigation, ch 1014
- Product development corporation, financial aid applications, ch 1164,§3
- Public funds deposited, financial institutions, records, ch 1230,§11(4)
- Savings and loan associations, access, ch 1112,§2
- Social workers, communications with clients, ch 1075,§5,13(2)

**CONFLICTS OF INTEREST**

- Citizens' aide, ch 1046
- City officer or employee, contracts, ch 1228
- Racing commission, ch 1266,§4,5

**CONSERVANCY DISTRICTS**

- Bid deposits, share drafts, ch 1055,§13

**CONSERVATION**

- County boards
  - Compensation, ch 1097,§1
  - Executive officer, official title, ch 1097
  - Fruit-tree, forest reservation, duties, ch 1222,§4,9
- Easements, privately held, ch 1115
- Public outdoor recreation and resources program, ch 1262
- Soil and water, public cost-sharing funds, ch 1192

**CONSERVATION COMMISSION**

- Administrative rules, protected water area system, ch 1261,§15,18

CONSERVATION COMMISSION—  
Continued

- Appropriations
  - General*, ch 1305,§13;ch 1315,§32(4),33
- Fish and game division
  - General*, ch 1303,§3(2)
  - Administration fund, ch 1303,§3(2),5
  - Capital projects, contingencies, ch 1303,§3(2d)
  - Navigation law enforcement, ch 1303,§3(2b)
  - Protection fund, ch 1303,§3(2),4,5
  - Snowmobile law enforcement, ch 1303,§3(2b)
- Green thumb program, ch 1303,§3(4)
- Land and waters division
  - General*, ch 1303,§3(1)
  - Snowmobile facilities, ch 1303,§3(2)
- Marine fuel tax fund
  - Boating facilities development, ch 1303,§4(1)
  - Navigation law enforcement, ch 1303,§4(2)
- Open spaces, school tax payment, ch 1303,§6
- Preserves, advisory board, ch 1303,§3(3)
- Swan lake restoration, ch 1305,§13; ch 1315,§32(4),33
- County conservation board fund
  - Created, ch 1262
  - Grant program, ch 1262,§1,4,5
- Fishing and hunting licenses
  - Depositary fee, ch 1260,§6,7,14
  - Fees, *general*, ch 1260
- Fruit-tree, forest reservation, criteria, ch 1222,§4,9
- Mileage reimbursement limitation, ch 1303,§5(3)
- Missouri river barge compact, duties, ch 1257,§3
- Protected water area system, administration, ch 1261
- Public outdoor recreation, resources fund
  - Advisory council
    - Created, ch 1262,§2,6,7
    - Duties, ch 1262,§2,6,7
    - Membership, ch 1262,§2,6,7
  - Created, ch 1262,§1
  - Distribution of funds, ch 1262,§1
- Soil and water conservation practices, cost-sharing funds, ch 1192
- Watersheds, priority list, publicly owned lakes, ch 1303,§5(2),16(3b)

CONSERVATION COMMISSION—  
Continued

- Wildlife, altering or restricting taking, ch 1213
- CONSERVATORS**
  - Duties and powers revised, ch 1299,§13-16,18
- CONSTITUTIONAL AMENDMENTS, IOWA**
  - Effective date of laws, ch 1318
  - Governor and lieutenant governor
    - Team election, ch 1319,§1
    - Terms, compensation, duties, governor succession, ch 1319,§2
- CONSTITUTIONAL AMENDMENT, UNITED STATES**
  - District of Columbia, representation in Congress, ch 1317
- CONSTRUCTION**
  - Asbestos encapsulation, removal bids, governmental projects, ch 1062,§11
  - Buried electric line, construction nearby, ch 1132
  - "Manufactured home" defined, ch 1238
  - Mechanic's lien, notification to contractor, material furnished, ch 1248,§1
  - Mortgage liens, priority, ch 1215
  - Projects, human services institutions, ch 1256
  - Secondary road construction program, ch 1102
  - Urban renewal development taxation exclusion, ch 1210,§1
  - Warehouses and distribution centers, tax exemption, ch 1232,§2,3
- CONSUMER ADVOCATE**
  - Appropriation, ch 1304,§2(6)
- CONSUMER CREDIT CODE**
  - Appraisal fees on loans, ch 1205,§2,3
  - Finance charges
    - Credit cards
      - Rate unlimited, ch 1237,§2
      - Unconstitutional ruling, rate set, ch 1237,§2
    - Retail credit sales, ceiling, ch 1237,§1
  - Open-end credit
    - Finance charges, ch 1237

**CONSUMER CREDIT CODE—Continued**  
**Open-end credit—Continued**

Terms change, consumer agreement,  
 ch 1237,§3

**CONTAINER LAW**

Alcoholic beverages in motor vehicles,  
 ch 1275

**CONTEMPT**

Dissolution of marriage, ch 1133  
 Probation violations, ch 1244

**CONTINUING EDUCATION**

Licensing boards, authority, ch 1056

**CONTRACTS**

Athletic activities, extracurricular, ch 1296  
 City, officer or employee, interest conflict,  
 ch 1228  
 Construction projects, human services in-  
 stitutions, ch 1256  
 County hospital equipment purchases,  
 ch 1201  
 County or city services, property owners,  
 tax exempt, ch 1232,§1  
 Defined, cities, conflict of interest, ch 1228  
 Drainage district improvements, minimum  
 cost, ch 1189,§1  
 Farm implements or parts franchise,  
 ch 1087  
 Health care providers, ch 1122  
 Highway construction, disadvantaged en-  
 terprises, ch 1229  
**Public**  
 Bid prohibition after conviction,  
 ch 1143,§2  
 Bid-rigging or price fixing, penalty,  
 ch 1143,§1  
 Bid security, share drafts, ch 1055  
 Coal, Iowa preference, ch 1147  
 Disadvantaged business set-aside,  
 ch 1229  
 General services department, bid reci-  
 procity, ch 1301,§12  
 Improvements, residence bidders, pref-  
 erences, ch 1045  
 Reciprocal bidding law, ch 1045  
 State, records access, ch 1172  
 Public library, school district, tax increase,  
 ch 1288  
 Real estate, forfeiture, attorney fees,  
 ch 1203  
 Real property legalizing Acts, references  
 updated, ch 1090

**CONTROLLED SUBSTANCES**

Cocaine, violations, ch 1013,§13-17  
 Definitions, ch 1013,§1,2  
 Dispensing authority, ch 1006  
 Schedules, substances included,  
 ch 1013,§4-12  
 Violations, penalties, ch 1105

**CONVEYANCES**

Real property legalizing Acts, references  
 updated, ch 1090

**COOPERATIVE HOUSING ASSOCIA-  
 TION**

Sale, mortgage priority removed, ch 1033

**CORPORATIONS**

Health service corporations, nonprofit, *see*  
*HEALTH SERVICE CORPORA-  
 TIONS, NONPROFIT*  
 Income tax, refund on loss prior to 12-31-78,  
 ch 1155  
 Nonprofit corporations, art exhibits, indem-  
 nity agreements, ch 1073  
 Product development corporation, ch 1164  
 Public funds deposited, membership not  
 constituted, ch 1230,§17  
 Real property legalizing Acts, references  
 updated, ch 1090

**CORRECTIONAL INSTITUTIONS**

Chief medical officer's prognosis of criminal  
 defendant, report, ch 1323,§5  
 Detention hearings, patient evaluation,  
 ch 1323,§1  
 Escapees, arrest warrants, ch 1150  
 Facilities renamed, Clarinda, Mount  
 Pleasant, Rockwell City, ch 1219,§9  
 Hearing officers, disciplinary hearings,  
 funds, ch 1306,§2(1),16  
 Inmate classification system  
 Psychologist employed, funding,  
 ch 1306,§2(2),16  
 Study, ch 1306,§2(2),16  
 Inmate population legislation, impact state-  
 ment required, ch 1306,§2(1),16  
 Inmate's admittance and transfer,  
 ch 1184,§13  
 Legal assistance, inmates, appropriation,  
 ch 1306,§2(7),16  
 Men's reformatory, population reduction,  
 ch 1306,§2(1),16

**CORRECTIONAL INSTITUTIONS—**  
Continued

- Mount Pleasant, medium security, state industries facility, appropriation, ch 1306,§14(1),16
- Oakdale, medical and classification center, ch 1184
- Officer recruits
  - Mental fitness standards required, ch 1245,§4,5
  - Psychological tests, ch 1245,§4,5
- Prisoner assistance clinic, University of Iowa appropriation, legislative intent, ch 1302,§9(2a)
- "Prison system" defined, ch 1306,§2(1),16
- Security and medical facility renamed, ch 1184
- Visitation, public officials, religious leaders, ch 1004
- Women's correctional institution
  - Bathroom renovation, handicapped, ch 1306,§14(1),16
  - Education programs, ch 1306,§2(1),16
  - Escape or transfer, ch 1184,§11,12
  - Library project, ch 1306,§2(1),16
- Work release violators, arrest warrants, ch 1150

**CORRECTIONAL PROGRAMS,**  
**COMMUNITY-BASED**

- Appropriations
  - Parole services, ch 1306,§2(6)
  - Post-institutional halfway houses, ch 1306,§2(6)
  - Pre-institutional community-based corrections, ch 1306,§2(6)
  - Residential correctional facilities, ch 1306,§2(6)
- Biennial plan, program management, ch 1219,§40
- Fiscal report by district board, ch 1244,§4
- Offenders, unpaid community service program, ch 1280;ch 1306,§2(6)
- Presentence investigation waiver, felonies, ch 1126
- Public work assignment by inmates, ch 1280
- Records, confidentiality, ch 1148
- Residential treatment center residents, earnings surrendered, ch 1029
- Work release in inmate's own home, ch 1244,§1

**CORRECTIONS DEPARTMENT**  
*See also HUMAN SERVICES*

**CORRECTIONS DEPARTMENT—**  
Continued

- Administrative rules
  - Confidentiality, limitation essential for federal funds, ch 1148,§1
  - Crimes identified, ch 1306,§2(1),16
  - Jails and municipal holding facilities, ch 1127,§1
  - Legal services, inmates, fee schedule, ch 1306,§2(7),16
- Affirmative action officer, employment, ch 1306,§1,16
- Appropriations
  - General*, ch 1306,§1,2(1),16
  - Allocation changes, notification, ch 1306,§2(1),16
  - Capital improvements, ch 1305,§7
  - Community-based corrections programs, ch 1306,§2(6),16
  - Correctional training center, ch 1306,§2(3),16
  - Counties, temporary confinement, reimbursement, ch 1306,§2(8),16
  - Federal prison reimbursements, ch 1306,§2(4),16
  - Hearing officers, disciplinary hearing, ch 1306,§2(1),16
  - Inmate classification system, ch 1306,§2(2),16
  - Legal assistance, inmates, ch 1306,§2(7),16
  - Luster Heights work camp, construction, ch 1305,§7
  - Mount Pleasant, medium security
    - Laundry facility, ch 1305,§7
    - State industries facility, ch 1306,§14(1),16,17
  - Muslim imam, ch 1306,§2(1),16
  - Penitentiary, capital improvements, ch 1305,§7
  - Psychological testing, correctional officer applicants, ch 1306,§2(1),16
  - Women's correctional institution
    - Bathroom renovation, handicapped, ch 1305,§7;ch 1306,§14(1),16,17
    - Education program, ch 1306,§2(1),16
    - Library project, ch 1306,§2(1),16
- Community-based correctional programs, *see CORRECTIONAL PROGRAMS, COMMUNITY-BASED*
- Correctional institutions, visitation, public officials, religious leaders, ch 1004
- Correctional officer recruits
  - Mental fitness standards required, ch 1245,§4,5

## CORRECTIONS DEPARTMENT—

Continued

## Correctional officer recruits—Continued

- Psychological tests, ch 1245,§4,5
- Corrections master plan, ch 1306,§2(8), 16
- Diagnostic clinic center, renamed, ch 1184,§2
- Director
  - Children, youth, and families commission, member, ch 1076,§2
  - Corrections master plan, report, ch 1306,§2(8),16
  - Prison overcrowding emergency, ch 1306,§2(1),16
  - Salary range, ch 1184,§19,21
  - Work release violators, escapees, ch 1150
- District corrections, joint agreements, ch 1184,§20
- Escapees, arrest warrants, ch 1150
- Fiscal report by district board, ch 1244,§4
- Inmates
  - Classification system
    - Psychologist employed, funding, ch 1306,§2(3),16
    - Study, ch 1306,§2(2),16
  - Legal assistance, appropriation, ch 1306,§2(7),16
  - Population legislation, impact statement required, ch 1306,§2(1),16
  - Records reproduced, libraries, historical museum, ch 1148,§3
  - Sentence reduction, prison overcrowding, ch 1306,§2(1),16
- Institutions' industries reference obsolete, ch 1184,§22
- Jails and municipal holding facilities
  - Inspection and report, ch 1127,§2
  - Standards established, ch 1127,§1
- Judicial district department
  - Community-based, parole and work release records transferred, ch 1184,§23
  - Inmate's work release income, ch 1184,§16
- Juvenile sentence responsibility, ch 1214
- Medical and classification center, new name, ch 1184,§1,4-6,14,15,24
- Men's reformatory, population reduction, ch 1306,§2(1),16
- Mentally retarded offenders, program and security needs, ch 1306,§2(5),16
- Parole violators, temporary confinement, ch 1244,5§;ch 1306,§2(8),16
- Prison overcrowding emergency, ch 1306,§2(1),16

## CORRECTIONS DEPARTMENT—

Continued

- "Prison system" defined, ch 1306,§2(1),16
- Receipts, general fund, exceptions, ch 1184,§3
- Records
  - Confidentiality, ch 1148
  - Reproduced, ch 1148
  - Restraint of release actions, ch 1148,§2
- Residential treatment centers, residents' earnings surrendered, ch 1029
- Revolving farm fund reference obsolete, ch 1184,§22
- Security and medical facility renamed, ch 1184,§1,4-6,14,15,24
- Transition legislation, ch 1184
- Violations, confidential records, ch 1148,§1,2
- Women's facilities
  - Cost of commitment, ch 1184,§10
  - Escape or transfer, ch 1184,§11,12
  - Manner of committing, ch 1184,§9
  - Name changes, ch 1184,§7,8
- Work release
  - Income controlled by judicial district, ch 1184,§16
  - Inmate's own home, ch 1244,§1
  - Medical care provided, ch 1184,§17
- Violators
  - Arrest warrants, ch 1150
  - Temporary confinement, county reimbursement, ch 1244,§2; ch 1306,§2(8),16

## COUNCIL OF STATE GOVERNMENTS

Appropriation, ch 1301,§1(6)

## COUNTIES

- Adult abuse, legal fees, ch 1178,§3
- Agricultural extension fund, direct deposits, ch 1003,§1,4
- Audits
  - Annual, completion deadlines, ch 1128
  - Certified public accountants employed, ch 1123
- Bid prohibition after conviction, ch 1143,§2
- Block grant funds, allocation, ch 1310,§4
- Bounty on wild animals repealed, ch 1206,§1
- Bovine brucellosis, tuberculosis eradication, temporary funding, ch 1186
- Building energy management programs, funding, ch 1313
- Child day care facilities
  - Food stamp program, social welfare board, ch 1279,§22

## COUNTIES—Continued

## Child day care facilities—Continued

## Funds

Allocated, ch 1279,§36,37

Distribution, ch 1279,§39

Restrictions, ch 1279,§40

Child day care services, funding, ch 1310,§4

Claims publication, ch 1069

Community action agencies, sunset provision, ch 1049

Competition law, exemption, ch 1020

## Conservation boards

Advisory council nominees to governor, ch 1262,§2

Compensation, ch 1097,§1

Executive officer, official title, ch 1097

Fund created, ch 1262

Grants, additional, ch 1262,§4

Public outdoor recreation and resources program created, ch 1262

## Contracts

Bid preference, reciprocity, ch 1045

Bid-rigging or price fixing, penalty, ch 1143,§1

Bid security, share drafts, ch 1055

Coal, Iowa preference, ch 1147

Hospital equipment purchases, ch 1201

County government assistance fund, appropriation, ch 1304,§4

County magistrate appointing commission, expense reimbursement, ch 1219,§36

Court costs, supplemental levy, ch 1178,§7

Court expense fund eliminated, ch 1178,§12

Court reorganization, state funding delay

Budget "trigger," item veto, ch 1304,§10(5)

Notification, legislative intent, ch 1301,§8(4)

Criminal actions, witness costs paid, ch 1301,§14,16

Criminal surcharge, county fine, ch 1219,§30

Direct deposits of taxes, ch 1003

Dispute resolution programs, funding, ch 1301,§1(3b)

Election precinct officials, number appointed, item veto, ch 1304,§11,12

## Elections

Nomination objection procedure, ch 1291,§1,21

Office hours of county commissioner or auditor, ch 1291,§3

Elective official, leave of absence, ch 1233

Eminent domain procedures, ch 1065

## COUNTIES—Continued

## Employees

Court system, benefits elected on becoming state employee, ch 1301,§17,18

Salaries, publication, ch 1069

Explosives, licenses issued, notification, ch 1074,§5

Fairground aid, ch 1178,§2

Fees, reports by treasurer, ch 1125

Finance committee, appropriation, ch 1304,§4

## Funds

Consolidate public funds, joint investment, ch 1194

Farm-to-market road fund allotment, temporary provisions, ch 1219,§19

Road use tax fund apportionment, temporary provisions, ch 1219,§18,19

"General," "rural" services defined, ch 1178,§6

Government records examination, ch 1185

Historical projects, city-owned, funding, ch 1107

## Hospitals

Direct deposits of taxes, ch 1003,§1,6,7

Equipment and supply purchases, ch 1201

Indigent defense fund, joint county, counsel appointed, ch 1067,§10

Law enforcement officer training, reimbursement, ch 1274

Law enforcement officials, licensing exemption, ch 1135

Lee county, county officers' compensation legalized, ch 1109

Legal settlement residency requirement, ch 1165

Legislative committees, aid furnished, ch 1171

Libraries, maintenance, elections for continuance, ch 1168

Medical assistance reimbursement, mentally retarded persons, ch 1297,§6

Medically needy program, counties served, ch 1310,§3(2),7

Mental health and mental retardation services funding, ch 1030

Mental patients, medical care, reimbursement, ch 1310,§3(2),7

Moneys and credits replacement fund, ch 1304,§3

Motor fuel tax, exemption certificate, ch 1141

Pari-mutuel wagering tax credit, allocation, ch 1266,§17



## COUNTIES — Continued

- Parole violators, temporary confinement, reimbursement, ch 1244,§5; ch 1306,§2(8),16
- Personal property tax credit payment, item veto, ch 1305,§80
- Personal property tax credit replacement fund, ch 1298,§1
- Prisoners, meal charges, ch 1144
- Prosecuting intern program, matching funds, ch 1301,§1(3c)
- Real property legalizing Acts, references updated, ch 1090
- Records
  - Access by legislative fiscal bureau, ch 1172
  - Filing and recording fees, ch 1124
- Revenue bonds, sports facility, ch 1266,§22,23
- Secondary road budget and construction program, fiscal year basis, ch 1102
- Secondary road fund, ch 1178,§4,5,8,9,11
- Solid waste as energy source, public service monopoly, ch 1039
- Substance abuse program grants, ch 1312,§2
- Supplemental security income reimbursements, ch 1310,§9
- Tax levies, supplemental, alcoholic treatment center, ch 1312,§8
- Vehicle registration fees, county portion, ch 1305,§64
- Work release violators, temporary confinement, reimbursement, ch 1244,§2; ch 1306,§2(8),16
- Zoning, manufactured home, ch 1238

## COUNTY OFFICERS

- Assessors, military property tax credit, late claim, ch 1221,§2
- Attorney
  - Aid to dependent children, violators prosecuted, ch 1276,§12
  - Bingo licensee violation, ch 1220,§13
  - Child abuse investigation, ch 1279,§8
  - Criminal defendant, mentally impaired, release notification, ch 1323,§5
  - Debt collection, professional services permitted, ch 1163
  - Deferment of judgment records, access, ch 1292,§20
  - Elections, nomination objections, hearing, ch 1291,§1(3),21
  - Job service records, availability, ch 1163

## COUNTY OFFICERS — Continued

- Auditor
  - Elections
    - Nomination objections, hearing, ch 1291,§1(3),21
    - Office hours regulated, ch 1291,§3
  - Property transfer fee, ch 1198
  - Property valuation, tax report, ch 1195
  - Real estate title change certificates, ch 1221,§7,8
  - Sanitary district, establishment, dissolution duties, ch 1051
  - Sewer liens and redemption certificates, treasurer's duties, ch 1221,§1,4
  - Substance abuse treatment, levy rate recalculation, item veto, ch 1312,§5
- Claims against counties, publication, ch 1069
- Engineer, secondary road budget and construction program, fiscal year basis, ch 1102,§4,6,8
- Recorder
  - Boat registration fees, ch 1082
  - Deeds, platting restrictions, ch 1271,§1
  - Elections, nomination objections, hearing, ch 1291,§1(3),21
  - Eminent domain duties, ch 1065
  - Fees, ch 1124
  - Fishing and hunting licenses
    - Depositary fee, ch 1260,§6,7,14
    - Fees, ch 1260
    - Writing fee, ch 1260,§6,7,14
  - Hazardous waste disposal site registry, ch 1108,§17
  - Real estate title change certificates, ch 1221,§7,8
  - Urban renewal certification, ch 1210,§1
  - Vacated plats, ch 1271,§2
- Sheriff
  - Criminal defendant, mentally impaired, release notification, ch 1323,§5
  - Elections, nomination objections, hearing, ch 1291,§1(3),21
  - Eminent domain duties, ch 1065
  - Explosive materials, duties, ch 1074
  - Prisoners, meal charges, ch 1144
  - Real property legalizing Acts, references updated, ch 1090,§11,12,19
  - Weapon permits, campus security, ch 1235,§13,19
- Supervisors
  - Audits by certified public accountants, ch 1123

COUNTY OFFICERS—Continued  
Supervisors—Continued

- Bounty on wild animals repealed, ch 1206,§1
- Children, youth, and families commission, membership, ch 1076,§2
- Drainage district special assessments, ch 1028
- Elections
  - Absentee ballots received after polls closed, canvass, ch 1291,§10
  - Nomination objections, hearing, ch 1291,§1(3),21
- Grant program for recreation fund, ch 1262,§1,4,5
- Hazardous waste disposal report, ch 1108,§13
- Homemaker-home health aide program grants, ch 1307,§4(7c)
- Libraries funded, ch 1168
- Libraries, withdrawal from county district, ch 1168
- Military property tax credit, late claim, ch 1221,§2
- Multiflora rose infestation, combat plan, ch 1303,§2
- Prisoners, meal charges, ch 1144
- Public outdoor recreation and resources program, ch 1262
- Real property tax exemption, warehouses and distribution centers, ch 1232
- Regional transit system, service, funding, ch 1253,§3,7,8
- Sanitary districts, establishment, dissolution duties, ch 1051
- Secondary road budget and construction program, fiscal year basis, ch 1102,§2-8
- Services contract, property owner exempt from taxation, ch 1232,§1
- Substance abusers, mental health institutes admittance, ch 1312,§4
- Weed destruction, fence rows, funding, ch 1219,§20
- Treasurer
  - Certification of redemption, ch 1221,§4
  - Consolidate public funds, joint investment, ch 1194
  - Delinquent tax publication, ch 1221,§6
  - Direct deposits of taxes, ch 1003
  - Drainage district special assessments, ch 1028
  - Elections, nomination objections, hearing, ch 1291,§1(3),21

COUNTY OFFICERS—Continued  
Treasurer—Continued

- Foreign vehicle, resale, title certificate, ch 1169
- Homestead tax credit, claim notice, ch 1190,§2
- Libraries funded, ch 1168
- Military property tax credit, late claim, ch 1221,§2
- Motor vehicles, junking certificates, ch 1169
- Motor vehicles, transfer of title, ch 1243
- Personal property tax credit replacement fund, ch 1298,§1
- Personal property tax delinquent list, ch 1221,§3
- Property, suspended tax list, ch 1219,§35
- Public funds invested, ch 1230,§4-17
- Reporting of receipts, ch 1125
- School, open space acquisition program, ch 1303,§6
- Sewer and solid waste liens, ch 1221,§1,5,6
- Storage facility liens, unclaimed sale funds, ch 1130,§4
- Surcharge increase to criminal penalties, ch 1274

**COURTS**

*See also RULES FOR INVOLUNTARY COMMITMENT OR TREATMENT OF SUBSTANCE ABUSERS; RULES OF CIVIL PROCEDURE; RULES OF CRIMINAL PROCEDURE*

- Appeals court judges, correctional institutions visitation, ch 1004
- Appropriations
  - General, ch 1301,§8(1)
  - Boards and commission, ch 1301,§8(2)
  - Court administrator, ch 1301,§8(6)
  - Court reorganization
    - Administrative implementation, ch 1301,§8(5)
    - Costs, ch 1301,§8(4)
    - State funding delay, legislative intent, ch 1301,§8(4)
  - Dispute resolution programs, ch 1301,§1(3b)
  - District court administrators, ch 1301,§8(3)
  - Jury and witness fees, unobligated funds, ch 1301,§9
  - Supreme court clerk, ch 1301,§8(6)

## COURTS—Continued

- Attendants, costs, state funding delayed, item veto, ch 1304,§10(5)
- Community service, tortious acts by defendant, ch 1280
- Comparative fault, ch 1293
- Corrections department confidential records, disclosure, ch 1148,§1
- Costs
  - Court-appointed attorney, minors, indigents, ch 1299,§12
  - Dishonored checks, ch 1217
- County employee, benefits elected on becoming state employee, ch 1301,§17,18
- County magistrate appointing commission, reimbursements, ch 1219,§36
- Dispute resolution programs, funding, ch 1301, §1(3b)
- Dissolution of marriage
  - Attorney fees, ch 1211
  - Contempt proceeding, costs, ch 1133,§2
- District
  - Aid to dependent children, conservatorship, ch 1276,§5
  - Child committed, state training school, adult correctional facility, ch 1214
  - Child support debts
    - General*, ch 1278
    - Court order prevails, ch 1278,§9
    - Establishing procedures, ch 1278
    - Minimum support guidelines, ch 1278,§2,4,10
    - Notice of financial responsibility, ch 1278,§4
    - Subrogation, ch 1278,§2
- Clerk
  - Assignment of income, child support, *general*, ch 1239
  - Child support debtor judgment, ch 1278,§5
  - Condemnation of land, duties, ch 1065
  - Conservatorship reporting requirements, assistance, ch 1299,§18
  - Guardianship reporting requirements, assistance, ch 1299,§17
  - Postconviction procedure, filing application, ch 1193,§1
  - Probate inventory and report, ch 1092
  - Real estate title change certificates, ch 1221,§7,8
  - Small claims actions, duties, ch 1322
  - Surcharge increase, criminal penalties, ch 1274,§2,3

## COURTS—Continued

## District—Continued

- Coal mining violations, ch 1153
- Condemnation duties of chief judge, ch 1065
- Discharge or discrimination due to wage complaint, ch 1270,§3
- Felon's sentence review, jurisdiction, ch 1139,§1
- Fiduciary succession to fiduciary accounts, ch 1167
- Hazardous chemicals, right to know actions, ch 1085,§9
- Judges
  - Associate, retirement plan options, ch 1285,§28
  - Children, youth, and families commission, membership, ch 1076,§2
  - Conservatorship form approval, ch 1299,§18
  - Correctional institutions visitation, ch 1004
  - Jury commission, instructions, ch 1181,§5
  - Small claims, appeals, ch 1322,§7,8
- Misdemeanant's sentence review, jurisdiction, ch 1139,§2
- Parole violator, amendment of bail, ch 1089
- Peace officers, offense review, ch 1259,§5
- Public records, examination
  - Civil enforcement, ch 1185,§9
  - Injunction to restrain, ch 1185,§7
- Schools, postsecondary, registration enforced, ch 1098,§12
- Teacher extracurricular athletic contract, position vacancy appeal, ch 1296,§1,4
- Felonies, maximum fines, ch 1134
- Felons, sentence reconsideration, disclosure, ch 1149
- Insurers supervision, rehabilitation, and liquidation Act
  - Delinquency proceedings, ch 1175,§4-11
  - Liquidation proceedings, ch 1175,§17-59
  - Rehabilitation proceedings, ch 1175,§12-28
- Interpreters
  - Hearing impaired persons, ch 1264
  - Non-English testimony, recording required, ch 1137,§2
  - Qualification and compensation, rule-making, ch 1137,§1
- Judges
  - Arrest warrants, work release violators, escapees, ch 1150

## COURTS—Continued

## Judges—Continued

- Magistrates, search warrant, hazardous conditions, ch 1108,§6
- Judges, senior
  - Relinquishment or removal
  - Retirement annuity, computation, ch 1234
  - Survivor's annuity, computation, ch 1234
- Judicial district residential treatment centers, residents' earnings, ch 1029
- Judicial retirement fund, investment income usage, ch 1180,§10,12
- Juror service, *see JURORS*
- Juvenile
  - Children in need of assistance, mental health institutes, ch 1306,§5(5),16
  - Parents notified of alcoholic beverage violation, ch 1275,§6
  - Records access, foster care review committees, ch 1208
  - Training school, commitment beyond age 18, ch 1166
- Juvenile probation officers, costs, state funding delayed, item veto, ch 1304,§10(5)
- Library records, criminal investigation, access, ch 1014
- Magistrates
  - Alcoholic beverages to minors, ch 1275,§7
  - Arrest warrants, work release violators, escapees, ch 1150
  - Bail, release, deferred judgment, ch 1152
  - Correctional institution visitation, ch 1004
  - Search warrant forms, R.Cr.P. 30, ch 1324
- Mandatory minimum sentence, defendant informed, ch 1063
- OWI, order sentence, ch 1292,§4,6,7
- Paternity, nonresident, jurisdiction, ch 1242
- Personal property unclaimed, holding period, ch 1295,§12
- Plea of guilty, serious misdemeanor, ch 1321
- Presentence investigation waiver, felonies, ch 1126
- Probation officers' reports, ch 1019
- Reorganization, state funding delay
  - Budget "trigger," item veto, ch 1304,§10(5)
  - Legislative intent, ch 1301,§8(4)
- Restitution plan, victims of crime, ch 1041
- Rules of procedure, comparative fault, ch 1293,§11

## COURTS—Continued

- Search warrant forms, R.Cr.P. 30, ch 1324
- Supreme
  - Court reorganization, state funding delay, legislative intent, ch 1301,§8(4)
  - Governor succession, constitutional amendment, ch 1319
  - Interpreters, rulemaking, ch 1137,§1
  - Judges, correctional institution visitation, ch 1004

**CREDIT**

- Bank officers, restrictions, ch 1032,§3
- Home equity, ch 1272
- Open-end credit accounts, finance charges, ch 1237

**CREDIT UNIONS**

- Department, appropriation, ch 1304,§2(8)
- Fees and penalties, power to charge, ch 1197,§4
- Fiscal agent, ch 1197,§4
- Investments
  - Savings and loan associations, ch 1197,§2
  - Service organizations, ch 1197,§3
- Membership, qualification to retain, ch 1197,§5
- Public contracts, share drafts as security, ch 1055
- Public funds deposited
  - Activities authorized, ch 1230,§26
  - Eligibility, ch 1230,§4-17,26
  - Liability for payment, ch 1230,§24
  - Securities pledged, ch 1230,§19-24,29
- Reciprocity, out-of-state credit unions, chartered in Iowa, ch 1230,§27
- Reserves, ch 1197,§6
- Shares, par value set, ch 1197,§1

**CRIMES AND OFFENSES**

- Alcoholic beverage sale to minor, ch 1275,§4,6
- Alcoholic beverages in motor vehicle, ch 1275,§1
- Arson, fire fighter's death, ch 1064
- Bingo, ch 1220
- "Burglary" defined, ch 1247,§2,3
- Certifications under penalty of perjury, ch 1048
- Cocaine, possession, distribution, ch 1013,§13-17
- Competition law, bid-rigging or price fixing, ch 1143,§1
- Computer offenses, ch 1249

## CRIMES AND OFFENSES—Continued

Controlled substance violation, penalty, ch 1105  
 Corrections department confidential records, violations, ch 1148,§1,2  
 Crime prevention programs, appropriation, ch 1309,§2(5)  
 Criminal defendant, insanity  
   Detention hearings and evaluation, ch 1323,§1,5  
   Involuntary hospitalization following acquittal, ch 1323,§5  
 Defense of insanity, ch 1320  
 Domestic abuse, violation of police order, ch 1258  
 Elections, fraudulent registration, ch 1067,§12;ch 1291,§5,21  
 Explosives violations, penalty, ch 1074,§8  
 Felonies  
   Fines, maximum, ch 1134  
   Horse or dog racing, stimulants, ch 1265,§5  
   Presentence investigation waiver, ch 1126  
   Sentence reconsideration, disclosure, ch 1149  
   Sentence review, jurisdiction, ch 1139,§1  
 Fire fighters, interference with official acts, ch 1246,§4  
 Fire official failing to report, ch 1095,§3  
 Fraud, *see* FRAUD  
 Handicapped parking spaces, ch 1110  
 Hearing impaired persons, interpreter provision, ch 1264  
 Investigation, library records, access, ch 1014  
 Leave of absence, elective office, ch 1233,§2  
 Mandatory minimum sentence, defendant informed, ch 1063  
 Misdemeanants, sentence review, jurisdiction, ch 1139,§2  
 Missing persons, false information, ch 1084  
 Motor vehicles  
   Child restraint devices, ch 1016  
   Driving after suspension or revocation, ch 1142,§1  
   Financial responsibility Act, violation, ch 1142,§2  
   Misdemeanor penalties, ch 1067,§33  
   Odometer violations, ch 1305,§58  
 National park lands and waters, jurisdiction, ch 1024  
 Offenders  
   State liable for injuries, ch 1280,§1,3  
   Tortious acts, state liable, ch 1280

## CRIMES AND OFFENSES—Continued

Peace officers, interference with official acts, ch 1246,§4  
 Postconviction proceedings, filing application, ch 1193  
 Prescription drugs, ch 1105  
 Racing law violations  
   Animal stimulants, ch 1265,§5  
   False applications, ch 1265,§4(4)  
 Restitution  
   Amount set, ch 1041  
   Civil action, tolling statute, ch 1047  
 Search warrants, forms, R.Cr.P. 30, ch 1324  
 Sexual abuse  
   Definition, ch 1188,§1  
   Weapon, threatening manner, ch 1188,§2  
 Theft, value of property, ch 1162,§1  
 Value of property for crime purposes, ch 1162  
 Victim reparation, ch 1292,§19,22-24

## CRIMINAL AND JUVENILE JUSTICE PLANNING AGENCY

Appropriations  
   *General*, ch 1301,§10(12)  
   Criminal justice planning, ch 1301,§10(12a)  
   Jailer training and technical assistance, ch 1301,§10(12d)  
   Juvenile justice planning, ch 1301,§10(12b)  
   Juvenile victim restitution program, ch 1301,§10(12c)

## CRIMINAL HISTORY AND INTELLIGENCE DATA (TRACIS)

Computer systems, access restricted, ch 1145  
 Racing commission, disclosure, ch 1265,§6  
 Youth agencies, access, ch 1061

## CRIMINAL JUSTICE AGENCIES

Library records, access, ch 1014

## CRIMINAL PROCEDURE

Bail  
   Conditions for release of defendant, ch 1152  
   Surety bond discharge, conditions, ch 1152  
 Criminal defendant, insanity commitment and release, ch 1323,§5

## CRIMINAL PROCEDURE - Continued

## Felonies

Fines, maximum, ch 1134

Sentence review, disclosure and jurisdiction, ch 1139,§1;ch 1149

Insanity of defendant, ch 1320

Juvenile committed to state training school or adult correctional facility, ch 1214

Mandatory minimum sentence, defendant informed, ch 1063

Mental illness defined, restrictions, ch 1323,§2-4

Mentally ill, involuntary hospitalization following acquittal, ch 1323,§3,5

Misdemeanants, sentence review, jurisdiction, ch 1139,§2

Parole violations, hearings, ch 1156

Parole violator, amendment of bail, ch 1089

Patient committed to state hospital, detention hearings, ch 1323,§1

Plea of guilty, serious misdemeanor, ch 1321

Presentence investigation waiver, felonies, ch 1126

Restitution, crime victims, tolling statute, ch 1047

## Witness costs

Payable by county or city, ch 1301,§14,16

State responsibility, ch 1301,§15,16

**CROPS**

Liens against, ch 1072

**DAIRY INDUSTRY COMMISSION**

Excise tax suspension, national order, ch 1183

**DAMAGES**

Civil antitrust judgment, award to state, use in commodities distribution, ch 1310,§1

Condemnation proceedings, appeals, ch 1119

Corrections department confidential records, release, ch 1148,§2

Exemplary damages, competition law, ch 1020

Hazardous condition, cleanup assistance, liability, ch 1059

Public records, examination, ch 1185,§9

Restitution, crime victims, tolling statute, ch 1047

Sidewalks, snow and ice removal, ch 1002

**DEAF**

Arrest, interpreter provision, ch 1264

State school

Appropriation, ch 1302,§9(5)

Loans to teachers, ch 1060

**DEATH**

Fire fighters, first degree arson, ch 1064

Funeral expenses, supplementary assistance recipient, ch 1297,§1

Hospice programs, ch 1284

**DEEDS**

Real property legalizing Acts, references updated, ch 1090

Recording after property platted, ch 1271,§1

Vacated public lands, ch 1271,§2

**DEFENSES**

Criminal cases, insanity, ch 1320

**DENTAL EXAMINERS**

Appropriation, ch 1307,§3(4),6

Excess examination expenses, approval, ch 1307,§6

**DENTISTS**

Dental service corporation, directors' independent nominating committee, ch 1282

Drug dispensing, ch 1006

Physical therapy treatment, referral by, ch 1268

**DEPOSITS**

Banks, account insurance, ch 1196

Credit unions, ch 1197

Direct deposits of taxes, ch 1003

Gas or electric service, ch 1131

Public contracts, share drafts as security, ch 1055

Savings and loan associations, foreign, ch 1081

State employee insurance funds, interest, ch 1071

Unclaimed bank deposits, ch 1295,§1-6

**DETECTIVES**

Licensing exemptions, ch 1135

Private investigative and security agencies, ch 1235

**DIES, MOLDS OR FORMS**

Ownership rights, ch 1066

**DISABLED**

*See also HANDICAPPED*

- Disability income exclusion, tax returns, ch 1305,§29,44
- Disability retirement allowance, increase, ch 1285,§2
- Fishing and hunting license, ch 1260,§2,4,5,8,14
- Household aides to, excused from jury, ch 1181,§3
- Juror service, ch 1181,§2
- Property tax credit, notification, ch 1190,§2
- State employees disability program, ch 1146
- Voter assistance, ch 1291,§8,9

**DISASTER SERVICES**

- Appropriation, ch 1309,§1(3)
- Director, hazardous chemicals information interagency council, membership, ch 1085,§16

**DISCRIMINATION**

- Retirement plans, sex discrimination, ch 1011
- Statutes, gender classifications for differential treatment prohibited, ch 1042

**DISEASES**

- Child health care services
  - Cancer treatment program, funds, ch 1307,§4(6a),7
  - Hemophilia patients care, funds, ch 1307,§4(6a),7
  - Muscular dystrophy, related genetic diseases, funds, ch 1307,§4(6a),7
- Diabetes education, health insurance program, ch 1290
- Diabetes mellitus, research appropriation, ch 1302,§9(2a)
- Disease prevention division, appropriation, ch 1307,§4(4)
- Pneumoconiosis, workers' compensation benefits, ch 1053
- Renal disease program, funds, ch 1307,§4(7a)

**DISSOLUTION OF MARRIAGE**

- Alimony payments, court certification, ch 1239,§6
- Attorney fees, ch 1211
- Child custody
  - "Best interest of the child" defined, ch 1088,§1,6
  - Best interests, factors, ch 1088,§3,4
  - Joint custody, ch 1088,§2
  - Physical care, ch 1088,§5

**DISSOLUTION OF MARRIAGE—**

Continued

**Child custody—Continued**

- Rights and responsibilities of custodian, ch 1088,§5
- Visitation, ch 1088,§2
- Contempt proceedings
  - Costs, ch 1133,§2
  - Punishment alternatives, ch 1133,§1
- Inmates, legal assistance, appropriation, ch 1306,§2(7),16

**DISTRICT OF COLUMBIA**

- Constitutional amendment, U.S., representation in Congress, ch 1317

**DOCUMENTS**

- Certification under penalty of perjury, ch 1048

**DOMESTIC ABUSE**

*See ABUSE, Domestic Abuse*

**DRAINAGE AND LEVEE DISTRICTS**

- Assessment, time for payment, ch 1189,§2
- Bid deposits, share drafts, ch 1055,§10-12
- Contract letting, notice, ch 1189,§1
- Improvements, minimum cost, bids, ch 1189,§1
- Special assessments, payment, ch 1028
- Trustees, eligibility requirements, ch 1040

**DRUGS AND DRUGGISTS**

- Controlled substances, definitions, schedules, ch 1013,§1-12
- Controlled substance violation, penalty, ch 1105
- Drug abuse and prevention programs, funds, ch 1311,§1(4),12,13
- Generic drugs, dispensing restriction, ch 1038
- Medical assistance program
  - Drug utilization review program, ch 1310,§3(2),7
  - Over-the-counter drugs, reimbursement, ch 1310,§3(2),7
  - Prescription drugs, prior authorization not required, ch 1310,§3(2),7
- Prescription drugs and controlled substances, dispensing, ch 1006
- Sexual abuse, use of drugs to induce unconsciousness, ch 1188

**EASEMENTS**

## Conservation

- Privately held, ch 1115
- Protected water area system, ch 1261,§2
- Electric transmission lines, ch 1101,§2
- Protected water area system, ch 1261

**EDUCATION***See also SCHOOLS AND SCHOOL DISTRICTS*

- Area education agency, *see* **AREA EDUCATION AGENCY**
- Continuing education, licensing boards, authority, ch 1056
- Diabetes education, health insurance program, ch 1290
- Excellence programs, improvement projects, ch 1315
- Guaranteed loan payment program, teachers of blind and deaf, ch 1060,§1
- Postsecondary schools registered with secretary of state, ch 1098
- Science and mathematics loan program, repayment cancellation, ch 1044; ch 1060,§2
- Special education
  - Age of termination, ch 1001
  - Appeal and review, ch 1070
- Superintendent of public instruction, qualifications, ch 1068
- Training school, commitment beyond age 18, ch 1166

**EDUCATIONAL EXAMINERS**

## Board

- Coaching authorization
  - Higher education required courses, ch 1296,§3,4
  - Rulemaking, ch 1296,§3,4

**ELDERLY**

- Fishing and hunting licenses, ch 1260,§2,5,8,14
- Homemaker-home health aide services, ch 1307,§4(7c)
- Property tax credit, notification, ch 1190,§2
- Public health nursing program, ch 1307,§4(7b)
- Services programs, funds, ch 1307,§1(5)
- Well-elderly clinic grants, ch 1307,§4(7d)

**ELECTIONS**

## Absentee ballots

- Armed forces, ch 1219,§3;ch 1291,§20

**ELECTIONS—Continued**

## Absentee ballots—Continued

- Balloting by confined persons, ch 1291,§12,18,19
- Concealing markings on ballots, ch 1291,§16
- Counting, received after polls closed, ch 1291,§10
- Health care facility residents, ch 1291,§12,18,19
- Hospital patients, ch 1291,§12,18,19
- Mailing or delivering ballot, ch 1291,§17
- Marking ballot, ch 1291,§15
- Notarization requirement stricken, ch 1291,§11,14,18
- Personal delivery, ch 1291,§13
- Assistance to blind or physically disabled voter, ch 1291,§8,9
- Benefited law enforcement districts, proposed tax levy, ch 1216
- City council form of government, boundaries, ch 1052
- Constitutional amendments, Iowa
  - Governor and lieutenant governor
    - Team election, ch 1319,§1
    - Terms, compensation, duties, governor succession, ch 1319,§2
- County commissioner, office hours regulated, ch 1291,§3
- Libraries, withdrawal from county district, ch 1168
- Nomination objection procedure, ch 1291,§1,2,21
- Political advertisers identified, ch 1291,§7
- Political campaigns study committee, ch 1218
- Precinct officials, number appointed, item veto, ch 1304,§11,12
- Public officer, punishment, ch 1219,§2
- Registration of voters
  - Change by written notice, ch 1291,§6
  - Delivery of form, ch 1291,§4
  - Fraudulent registration, penalty, ch 1067,§12;ch 1291,§5,21
- Sanitary district trustees, ch 1009;ch 1051
- School bond issues, meeting requirement repealed, ch 1036
- School district, asbestos encapsulation or removal, optional funding, ch 1294
- State commissioner, ballot requests, ch 1219,§3

**ELECTRICITY**Electric utilities, *see* **PUBLIC UTILITIES**



**ELEVATORS**

- Capitol building elevator, automation, appropriations, ch 1305,§10; ch 1315,§32(2h),33
- Material lift elevators, ch 1094

**EMERGENCY**

- Correctional facilities, construction, repair, improvement projects, ch 1256
- Economic emergency fund, ch 1305,§21
- Emergency response department
  - Defined, ch 1085,§3
  - Hazardous chemicals information, ch 1085,§2,15
- Job service, surcharge fund, ch 1204
- Warning systems, townships, ch 1008

**EMERGENCY MEDICAL TECHNICIANS (EMT), PARAMEDICS**

- Advanced emergency medical care council members, ch 1287,§2
- Certification, ch 1287,§6-8
- Definitions, ch 1287,§1
- Nurses staffing ambulances, ch 1287,§12
- Program application procedure, ch 1287,§5
- Services authorized, ch 1287,§8

**EMINENT DOMAIN**

- Condemnation proceedings
  - Appeal records filed, ch 1065
  - Application for condemnation, filing, ch 1065
  - Damage appraisalment on appeal, ch 1119
  - Notice of pendency, ch 1065
  - Title to property, when passes, ch 1065,§4
- Electric transmission lines, ch 1101,§2

**EMPLOYEES**

- City, contracts, conflict of interest, ch 1228
- County, court system, benefits elected on becoming state employee, ch 1301,§17,18
- Educational institutions, unemployment compensation, ch 1255,§2,10
- Games of skill, chance and raffles, ch 1220,§11
- Hazardous chemicals risk, right to know, ch 1085
- Health benefit plans, continuation rights, ch 1129
- Leave of absence, elective office, ch 1233
- Schools, unemployment compensation, ch 1255,§2,10
- State

Comparable worth, ch 1314, *see also*  
**COMPARABLE WORTH**

**EMPLOYEES — Continued****State — Continued**

- Damaged property reimbursement, human services, ch 1306,§12,16
- Disability program, maximum benefit period, ch 1146
- Elective official, leave of absence, ch 1233
- Firearms confiscated, disposition liability, ch 1154
- Hazardous condition
  - Employee liability and costs, ch 1108,§5
  - Search warrant to investigate, ch 1108,§6
- Holiday pay, temporary employees, ch 1180,§7,12
- Insurance funds, interest earnings, ch 1071
- Phased retirement incentive program
  - Eligibility, ch 1180,§2,12
  - Established, ch 1180,§1,12
  - Funding, ch 1180,§5,12
  - Participation plan, ch 1180,§4,12
  - Salaries and benefits, ch 1180,§3,12
- Product development corporation president, ch 1164,§2
- Reprisals prohibited, ch 1015;ch 1219,§4
- Sick leave, unused, death benefit, ch 1146
- Suggestion system
  - Awards, approval and appeal, ch 1191,§2
  - Awards committee abolished, ch 1191,§3
  - Certificates issued, ch 1191,§2
  - Valuable ideas for productivity fund eliminated, ch 1191,§3
- Tort claims against state, ch 1259
- Unemployment compensation, *general*, ch 1255
- Workers' compensation, *see WORKERS' COMPENSATION*

**EMPLOYERS**

- Child support debtor, assignment of wages and fee, ch 1278,§7
- Definition clarified, ch 1270,§1
- Educational institutions, unemployment compensation, ch 1255,§2,10
- Hazardous chemicals risk, worker right to know, ch 1085
- Leave of absence, elective official, ch 1233
- Unemployment compensation, *general*, ch 1255

**EMPLOYMENT**

- Child modeling, ch 1111

**EMPLOYMENT - Continued**

Handicapped, committee on employment of, appropriation, ch 1307,§2(3)  
 Security contingency fund, ch 1204  
 Senior citizen programs, funds, ch 1307,§1(3)

**EMPLOYMENT AGENCIES**

Bond, surety, license application, ch 1212

**EMPLOYMENT SECURITY**

See *JOB SERVICE*

**ENERGY**

Building energy management programs, funding, ch 1313  
 Conservation projects funded, capitol complex, ch 1301,§3(3)  
 Low income home energy assistance program, utility disconnections, ch 1273  
 Solid waste, recycled as energy source, ch 1039

**ENERGY POLICY COUNCIL****Appropriations**

*General*, ch 1303,§11(1);  
 ch 1311,§9,12,13,17  
 Building energy management programs, ch 1313  
 Energy conservation projects, ch 1305,§4  
 Energy management program, ch 1315,§32(6),33  
 Low-income home energy assistance, ch 1311,§9,12,13  
 Public buildings energy conservation administration, ch 1303,§11(2)  
 Audit, funds appropriated, ch 1311,§9,12,13  
 Building energy management programs, funding, ch 1313  
 Petroleum overcharge fund created, ch 1313,§1  
 Utility disconnections, low income residents, ch 1273  
 Water resources research institute, advisory panel member, ch 1303,§20

**ENGINEERING AND LAND SURVEYING EXAMINERS**

Appropriation, ch 1304,§1(4)  
 "Board," definition expanded, ch 1104,§2  
 Membership, ch 1104,§3,7  
 Registration application, character references, ch 1104,§4

**ENGINEERING AND LAND SURVEYING EXAMINERS - Continued**

Registration records, annual revision, ch 1104,§1  
 Rulemaking, temporary permit, fee, ch 1104,§5,6

**ENGINEERS**

Permits, temporary fee, ch 1104,§5,6  
 Registration application, character references, ch 1104,§4  
 Water supply system construction, ch 1099

**ESCHEAT**

Postal savings, provision repealed, ch 1295,§25

**ESCROW FUNDS**

Industrial loan companies, interest, ch 1205,§1

**ESTATES**

Claims filing, time limitation, ch 1080  
 Fiduciary accounts, succession to affiliate or independent bank, ch 1167  
 Income tax  
   Credits, ch 1305,§28,32,43  
   Personal exemption credit, ch 1305,§32,43  
 Inheritance tax, see *INHERITANCE*  
 Inventory and report, contents, ch 1092  
 Probate, time limitation, ch 1080  
 Real property legalizing Acts, references updated, ch 1090,§10,15,19

**EVIDENCE**

Computer printouts, ch 1249,§16  
 Insanity defense, diminished responsibility, burden of proof, ch 1320  
 Juvenile proceedings, audiotape or videotape admissible, ch 1207,§4

**EXCISE TAX**

Dairy products, tax suspended, national order, ch 1183

**EXECUTIVE COUNCIL**

Appropriation, ch 1301,§1(7)  
 Audits of public accounts, completion deadline extended, approval, ch 1128  
 Conservation commissioners, state aircraft, ch 1303,§5(3)  
 Correctional institution visitation, ch 1004  
 Expenditures, contingency determination, ch 1301,§4(7)

**EXECUTIVE COUNCIL - Continued**

- Fish and game protection fund, contingency allocation, ch 1303,§3(2)
- Job service, emergency request, ch 1204,§3
- Petroleum overcharge funds disbursed, approval, ch 1313,§1
- State employee insurance funds, interest, ch 1071

**EXPLOSIVES**

- Confiscation, improperly stored explosives, ch 1074,§5
- Disposal regulated, ch 1074,§7,8
- Inspection, storage facilities, ch 1074,§5
- Licenses and user permits, ch 1074,§1,2
- Rulemaking by fire marshal, ch 1074,§4
- Theft or loss reports, ch 1074,§6,8
- Violations, penalty, ch 1074,§8

**FAIR BOARD, STATE**

- Appropriations
  - Agricultural societies (local fairs), conditional, ch 1303,§12(3,4)
  - Maintenance of buildings, ch 1303,§12(1)
  - Premiums, ch 1303,§12(2)
  - Roofing projects, electrical system overhaul, ch 1315,§32(7),33
- Contracts, reciprocity bidding, ch 1045

**FAIR INFORMATION PRACTICES ACT**

- Information policies of state agencies, ch 1185,§10

**FAIRS**

- Fairground aid, ch 1178,§2

**FAMILIES**

- Birth control drug dispensing, ch 1006
- Children, youth, and families commission established, ch 1076
- Health services, appropriation, ch 1307,§4(6a),7

**FAMILY FARM DEVELOPMENT****AUTHORITY**

- Administrative expenses, payment provision stricken, ch 1236
- Executive director, appointment, qualifications, ch 1236
- Staff oversight eliminated, ch 1236

**FAMILY PRACTICE PROGRAM**

- Appropriation, condition, ch 1302,§9(2b-d)

**FARMS AND FARMING**

- Agricultural chemical disposal, ch 1158,§9
- Anhydrous ammonia plants, ch 1269
- Crops and livestock, liens, ch 1072
- Family trust definition, ch 1219,§6
- Farm equipment
  - "Implement of husbandry" definition includes semitrailers, ch 1252
  - Sales tax refund, ch 1241
- Farm implements or parts franchise, termination rights, ch 1087
- Farm operators, financial management aid, computer software, ch 1315,§27,28
- Feedlots, definition regarding WAWM department, ch 1219,§7,8
- Missouri river barge compact, ch 1257,§1
- Towing by tractors, ch 1226

**FEDERAL FUNDS**

- Appropriation of federal grants and receipts, ch 1301,§11;ch 1304,§8; ch 1310,§12;ch 1314,§7(6)
- Block grants, appropriations, ch 1311
- Block grant supplementation, ch 1310,§4
- Block or categorical grant funding, procedure when changed, ch 1311,§12-15
- Children, youth, and families commission, acceptance, ch 1076,§7
- Funds anticipated, update by comptroller, ch 1231
- Medically needy program, ch 1310,§3(2),7
- Petroleum overcharge funds received, ch 1313
- Public records examination, conditions of aid, ch 1185,§8
- Social services block grant funds, excess, local services, ch 1308,§3
- Supplemental security income reimbursements to counties, ch 1310,§9
- Transportation department, budget, ch 1231

**FEES**

- Appraisal, industrial loan companies, ch 1205,§2,3
- Asbestos encapsulation and removal, ch 1062,§3,5,6
- Attorney
  - Action for dishonored check, ch 1217,§2
  - Dissolution of marriage, ch 1133,§2; ch 1211
- Boat registrations, ch 1082
- County recorder, recording, filing, ch 1124
- County, treasurer's report, ch 1125

## FEES - Continued

- Criminal records checks, ch 1061
- Fish and game, licenses, ch 1260
- Fur dealers, reciprocity among states, ch 1199
- Grain dealers and warehouses, ch 1100
- Jury and witness fees, appropriation, revision date, ch 1301,§9
- Motor vehicles
  - Driver's license
    - Chauffeur's license, ch 1305,§66
    - Operator's license, ch 1305,§66
    - Temporary driver's permit, ch 1305,§66
  - Motorized bicycle license, ch 1305,§66
  - Regional transit system fee exemption, ch 1253,§1
  - Registration, fee increase, ch 1305,§47,48,51-55
- Racing commission
  - Disposition of fees, ch 1266,§6
  - Fingerprinting applicants, ch 1265,§4(3)
- Schools, postsecondary, registration, ch 1098,§8
- Small claims actions, notices, ch 1322,§2
- Transfer, real estate property, ch 1198
- Witness, criminal actions
  - Payable by county or city, ch 1301,§14,16
  - State responsibility, ch 1301,§15,16

**FELONY**

- Ambulance service, unauthorized, ch 1287,§11
- Computer crimes, ch 1249,§4,5,10,11
- Criminal penalty surcharge, ch 1219,§38
- Fines, maximum, ch 1134
- Horse or dog racing, stimulants, ch 1265,§5
- Law enforcement officers, felony conviction, certificate revoked, ch 1246,§3
- Presentence investigation waiver, ch 1126
- Sentence reconsideration, advance disclosure prohibited, ch 1149
- Sentence review, jurisdiction, ch 1139,§1

**FERTILIZERS**

- Anhydrous ammonia plants, ch 1269

**FIDUCIARIES**

- Fiduciary accounts
  - Bank affiliates, ch 1167
  - Notice of succession, published, ch 1167
  - Replacement of fiduciary, ch 1167
- Property and money, holding period reduced, ch 1295,§11

**FINANCE CHARGES**

- Open-end credit accounts, ch 1237

**FINANCIAL INSTITUTIONS**

- Bingo accounts, ch 1220,§4
- Franchise tax, refund, interest accrual, ch 1025
- Memorandum to agricultural supply dealers, farmers worth or credit, ch 1072,§2
- Public funds deposited
  - General, ch 1230,§4-17
  - Depository defined, ch 1230,§4,5
  - Eligibility, ch 1230,§11
  - Interest rate, ch 1230,§10,11
  - Liability for payment, ch 1230,§24
  - Securities pledged, ch 1230,§19-24,29
- Savings and loan associations, *see* SAVINGS AND LOAN ASSOCIATIONS
- State sinking fund for public deposits, repeal implemented, ch 1230,§1-3,28,29

**FINES**

- Alcoholic beverages or beer, ch 1275
- County attorney, collection, professional services permitted, ch 1163
- Felonies, maximum fines, ch 1134
- Misdemeanors, asbestos encapsulation and removal, ch 1062,§12
- OWI, ch 1292,§4
- Surcharge increase to criminal penalties, ch 1274,§2,3
- Transportation, child restraint devices, ch 1016
- Water, air and waste management, enforcement remedies, ch 1159

**FIREARMS**

- Public safety department, disposition, ch 1154

**FIRE FIGHTERS**

- Arson deaths, penalty, ch 1064
- Interference with official acts, penalty, ch 1246,§4

**FIRE MARSHAL**

- Arson suspected, report required, ch 1095,§2
- Buildings, inspection authority, ch 1095,§5
- Compliance with order, penalty, ch 1095,§6
- Deaths from fire reported, ch 1095,§2

**FIRE MARSHAL—Continued****Explosive materials**

- Confiscated explosives, ch 1074,§5
- Disposal regulated, ch 1074,§7,8
- Inspections, storage facilities, ch 1074,§5
- Judicial review, licensing refusal, ch 1074,§3
- Licenses and permits, ch 1074,§1,2
- Rulemaking, ch 1074,§4
- Theft or loss reports, ch 1074,§6,8
- Violations, ch 1074,§8

Historic building code advisory board, member, ch 1113,§5,6

Inspections, appropriation, ch 1309,§2(2)

Investigation of fires, ch 1095,§1

Notice, assessments, repairs, ch 1095,§7

Penalty for nonreporting, ch 1095,§3

Records confidentiality, ch 1095,§4

Reporting procedures, ch 1095,§2

**Violations**

- Authority to cite, ch 1095,§8
- Failure to report, ch 1095,§3

**FIRE PROTECTION**

*See also FIRE MARSHAL*

Hazardous chemicals information, ch 1085,§2,15

Historic buildings, state historic building code, ch 1113,§2,4

Townships, tax levy, ch 1008

**FISH AND GAME****Licenses and permits**

- Deer, ch 1260,§1,2,5,8,10,14
  - Depositaries, fee, ch 1260,§6,7,14
  - Disabled and handicapped, ch 1260,§2,4,5,8,14
  - Falconry, ch 1260,§5,8,14
  - Fishing, ch 1260,§2,5,8,14
  - Fur harvesters, dealers, ch 1260
  - Game breeders, ch 1260,§2,5,8,14
  - Hunting, ch 1260,§2,5,8,14
  - Hunting and fishing, combined, ch 1260,§2,5,8,14
  - Tenure, ch 1260,§8,13,14
  - Trapping, renamed fur harvester, ch 1260,§2,3,5,8,9,12-14
  - Trout possession limit, stamp, ch 1260,§2,7,8,10,14
  - Wild turkey, ch 1260,§1,2,5,8,10,14
  - Writing fee, ch 1260,§6,7,14
- Pheasant, nonresident hunting stamp eliminated, ch 1260,§2,14,15

**FISH AND GAME—Continued**

Protection fund, moneys designated by taxpayer, ch 1263

Public hunting and fishing areas, funding, ch 1262,§1

Raccoon, nonresident hunting stamp eliminated, ch 1260,§2,14,15

Wild animal bounty eliminated, ch 1206,§1

Wildlife, altering or restricting taking, ch 1213

Wildlife habitat stamp, fur harvester, ch 1260,§3,7,8,12,14

Wild turkey, license application, ch 1260,§1,14

**FOOD AND FOOD ESTABLISHMENTS**

Beverages, sales tax imposed, item veto, ch 1305,§78

Food stamp program, day care facilities, ch 1279,§22

Inspection, agriculture appropriation condition, ch 1303,§1(2)

Milk, acceptable bacteriological count, ch 1120

**FORECLOSURE**

Redemption, ch 1116

**FOREIGN ASSOCIATIONS**

Savings and loan associations, certificate of authority, ch 1081

**FORESTRY****Forest reservation**

- Annual inspection, ch 1222,§4,9
- Defined, ch 1222,§1,9
- Limit on use, ch 1222,§3,9
- Tax exemptions, ch 1222,§4,8,9

**FORFEITURES**

Public contracts, share draft deposit, ch 1055,§2

Real estate contracts, attorney fees, ch 1203

Surcharges, offenses, ch 1274

**FOSTER CARE**

*See CHILDREN, Foster Care*

**FRANCHISES**

Electric transmission lines, ch 1101,§2

**Farm implements or parts**

- Termination of franchise
  - Death, rights exercised, ch 1087,§5
  - Definitions, ch 1087,§1

**FRANCHISES—Continued****Farm implements or parts—Continued**  
**Termination of franchise—Continued**

Penalty, franchiser failure to comply,  
ch 1087,§4

Repurchase requirement exceptions,  
ch 1087,§3

Rights to payment, ch 1087,§2

Security interests not affected,  
ch 1087,§6

Taxation, carryback of loss, ch 1155

**FRATERNITIES**

"Public accommodation" definition, ch 1096

**FRAUD**

Aid to dependent children, recovery of  
assistance, ch 1276,§10

Bingo violations, ch 1220,§4,11

False certifications under penalty of per-  
jury, ch 1048,§2

Fish and game licenses, false residency  
claims, ch 1260,§11

Insurers liquidation, transfers,  
ch 1175,§26,27

Value for purposes of fraudulent practices,  
ch 1162,§2

**FRUIT****Tree reservation**

Annual inspection, ch 1222,§4,9

Application deadline, ch 1222,§2,9

Limit on use, ch 1222,§3,9

Property tax exemption, ch 1222,§4,8,9

**FUNDS**

Abandoned property, state trust fund  
limited, ch 1295,§20

Aviation fund, appropriation to DOT,  
ch 1309,§8

Bank deposits unclaimed, ch 1295,§1-6

**Beer and liquor control fund**

Permit fees, Sunday sales, distribution,  
ch 1312,§6,7

Transfer of funds, substance abuse,  
ch 1312,§1,2

Bingo, ch 1220,§4

Bovine brucellosis, tuberculosis eradication,  
temporary funding, ch 1186

County agricultural extension fund, direct  
deposits of taxes, ch 1003,§1,4

County conservation board fund created,  
ch 1262

**FUNDS—Continued**

Departmental revolving, trust, or special  
funds, appropriation, comparable  
worth, ch 1314,§7(4)

Domestic animal fund repealed, ch 1206,§2

Economic emergency fund, ch 1305,§21

**Fish and game protection fund**

Appropriation, ch 1303,§3(2),4,5

License fee distribution and interest,  
ch 1262,§3,4

Hazardous waste remedial fund,  
ch 1108,§9,11

Highway railroad grade crossing surface  
repair fund, ch 1309,§10,12,14

Indigent defense fund, joint county, counsel  
appointed, ch 1067,§10

Insurers liquidation, unclaimed funds,  
ch 1175,§45,46

**Job service**

Special employment security contingency  
fund

Expenditures, ch 1204,§2

Interest disposition, ch 1204,§1

Temporary emergency surcharge fund,  
interest received, ch 1204,§1

Unemployment trust fund, interest re-  
ceived, ch 1204,§1

Law enforcement training reimbursement  
fund, ch 1274,§1,3

Life insurance moneys unclaimed,  
ch 1295,§8

Marine fuel tax fund, ch 1012;ch 1303,§4

Mental health and mental retardation ser-  
vices

Application dates, ch 1030

Appropriation, ch 1306,§8,16

Petroleum overcharge fund, ch 1313

**Primary road funds appropriated**

Comparable worth, DOT employees,  
ch 1314,§7(3)

Transportation department, ch 1309,§6

Workers' compensation claims, DOT,  
ch 1309,§7

Product development corporation fund,  
ch 1303,§10

Public funds, joint investment, ch 1194

Public outdoor recreation and resources  
fund, ch 1262

Public transit assistance fund, ch 1151

Railroad assistance, appropriation,  
ch 1309,§3(3)

Replacement fund, personal property tax  
credit, two installments, ch 1298,§1,2

**FUNDS—Continued**

- Revolving farm fund, agricultural products, ch 1184,§22
- Road use tax fund
  - Allocations
    - Credit to comptroller, ch 1309,§5
    - Credit to DOT, ch 1309,§4
    - Driver's license program, ch 1305,§18,19
    - Highway railroad grade crossing surface repair fund, ch 1309,§10,12,14
    - Odometer law enforcement, ch 1305,§46
    - Public safety department, ch 1305,§70
  - Comparable worth, DOT employees, ch 1314,§7(2)
  - Motor vehicle registration fees, excess credited, ch 1309,§11
  - Transfer to general fund, public safety appropriation, ch 1315,§26
- Salary adjustment fund, appropriation, comparable worth, ch 1314,§7(1)
- School general fund or tax levy, asbestos encapsulation or removal, ch 1294
- Science and mathematics loan repayment fund, ch 1044
- Secondary road, ch 1178,§4,5,8,9,11
- Sinking fund, repeal, delay, ch 1230,§28,29
- Special railroad facility fund, tourist railroad, ch 1289
- Unemployment compensation, emergency surcharge fund, ch 1204;ch 1255,§7
- Vocational youth organization fund, ch 1302,§6(6)

**FUNERALS**

- State supplementary assistance recipient, ch 1297,§1

**FUR DEALERS**

- License fees, reciprocity among states, ch 1199

**GAMBLING**

- See *GAMES AND RAFFLES; PARI-MUTUEL WAGERING ACT*

**GAMES AND RAFFLES**

- Bingo revision, ch 1220
- Raffle, winner not required to be present, ch 1220,§3
- Skill, tax imposed, ch 1305,§76

**GARBAGE**

- Recycled, energy source, ch 1039

**GARNISHMENT**

- Delinquent support payments, ch 1239
- Limitations on amounts, ch 1239,§11

**GAS**

- Gas utilities, see *PUBLIC UTILITIES*
- Liquefied petroleum, vehicle fuel, marking, dispensing, ch 1095,§9
- Natural, vehicle fuel, marking, dispensing, ch 1095,§9

**GENDER**

- Children, youth, and families commission, voting members, restriction, ch 1076,§2
- Use in legislation, ch 1042

**GENERAL ASSEMBLY**

- Administrative rules impact on small businesses, review, ch 1007,§3
- Block or categorical grant funding, procedure, ch 1311,§12-15
- Chief clerk of house, state publications furnished, ch 1301,§13
- Child health care services, funding, intent, ch 1307,§4(6a)
- Children, youth, and families commission, membership, ch 1076,§2
- Committee, standing, aid furnished, ch 1171
- Community action agencies, sunset provision, ch 1049
- Comparable worth implementation stages, intent, ch 1314,§9
- Constitutional amendments, Iowa
  - Effective date of laws, ch 1318
  - Governor and lieutenant governor
    - Team election, ch 1319,§1
    - Terms, compensation, duties, governor succession, ch 1319,§2
- Correctional institutions, population legislation, impact statement, ch 1306,§2(1),16
- Correctional institutions, visitation, ch 1004
- Corrections department
  - Allocation changes, report, ch 1306,§2(1),16
  - Disciplinary hearings, coverage by hearing officers, report, ch 1306,§2(1),16
  - Inmate classification system study, report, ch 1306,§2(2),16
- Corrections master plan, report, ch 1306,§2(8),16
- Court reorganization, state funding delay, intent, ch 1301,§8(4)
- Domestic violence data and statistics, collection proposal, ch 1258
- Economic emergency fund, ch 1305,§21

## GENERAL ASSEMBLY—Continued

Employment security contingency fund, report, ch 1204,§2  
 Expenditures, contingency, authorization, ch 1301,§4(7)  
 Federal funds anticipated, update by controller, ch 1231  
 Fish and game protection fund, contingency allocation, ch 1303,§3(2)  
 Gender use in legislation, ch 1042  
 Hazardous chemicals risk right to know Act, legislative findings, ch 1085,§2  
 Head start program, licensed practical nurse, intent, ch 1307,§3(2),6  
 Highway safety patrol, motor and special fuel purchases, report, ch 1309,§2(5)  
 Homemaker-home health aide program, report, ch 1307,§4(7c)  
 Hospital-schools revolving fund, abolishment review, ch 1306,§9,16  
 Information disclosure, employee reprisals, ch 1015  
 Iowa development commission, legislative members, ch 1187  
 IPERS fund, South African investment restrictions, item veto, ch 1304,§7,9  
 Legislative visitation committee, membership, ch 1026  
 Liens, agricultural products, computer costs, intent, ch 1304,§2(7b)  
 Medical assistance cost, reduction alternatives presented, ch 1310,§3(2),7  
 Medically needy program, funds, intent, ch 1310,§3(2),7  
 Mental health institutes  
   Psychiatrists, recruitment plan, intent, ch 1306,§5(3),16  
   Uniform daily charges, ch 1306,§5(6),16  
 Merged area schools, appropriation, intent, ch 1305,§1  
 Missouri river barge compact, ch 1257,§1  
 Mount Pleasant mental health institute, evaluation, ch 1306,§5(2),16  
 OWI laws, study committee created, ch 1292,§26  
 Petroleum overcharge funds, power to appropriate, ch 1313,§1  
 Planning and programming  
   Community action agencies, review, ch 1049  
   Director, salary fixed, ch 1138  
 Political campaign study committee, appointments, ch 1218

## GENERAL ASSEMBLY—Continued

Product development corporation fund, reversion, ch 1164,§4  
 Public health nursing program, report, ch 1307,§4(7b)  
 Public safety  
   Criminal investigation division, motor vehicle purchases limited, intent, ch 1309,§2(4)  
   Motor vehicles limited, departmental use, intent, ch 1309,§2(5)  
   Operation expense percentage of appropriation, intent, item veto, ch 1309,§2(1)  
 Public transit assistance plan, funding, ch 1151  
 Public transit purposes, advance allocation, intent, ch 1309,§3  
 Records commission, forms management program report, ch 1093,§3  
 Regents board appropriation, maintenance expenditures, report, ch 1302,§10  
 Register, official (redbook), publication date, intent, ch 1304,§2(17b)  
 Reports  
   Art exhibits indemnified by state, ch 1073,§11  
   Brain-injured persons, care facilities, ch 1310,§5(7)  
   Children, youth, and families commission, ch 1076,§4  
   Child support recoveries, cost effectiveness, ch 1310,§3(4),7  
   Hazardous waste facility study, ch 1182,§1  
   Hazardous waste remedial fund and disposal sites, ch 1108,§11,13  
   Ride-sharing programs, pilot projects, ch 1200,§7  
   Roads, quadrennial need study, ch 1043  
 Secretary of senate, state publications furnished, ch 1301,§13  
 Senate confirmations  
   Children, youth, and families commission director, ch 1076,§5  
   Engineering and land surveying examiners, ch 1104,§3  
   Family farm development director, ch 1236  
   Planning and programming director, ch 1138  
 Social services block grant plan, ch 1311,§11,12  
 Standing committees, information access from agencies, political subdivisions, ch 1171



**GENERAL ASSEMBLY—Continued**

- State employees, reprisals prohibited, ch 1219,§4
- Substance abuse, expenditures limited, intent, ch 1311,§1(4),12,13
- Substance abuse treatment, prevention programs, funds, ch 1312,§1
- Tax study committee, membership increase, ch 1005
- University hospitals construction, appropriation condition, intent, ch 1302,§9(2d)
- University of Iowa appropriation, prisoner assistance clinic, intent, ch 1302,§9(2a)
- Veterans, chemical exposure reporting procedure, intent, ch 1307,§5(3)
- Victim reparation, appropriation, operational expense limitation, intent, item veto, ch 1309,§2(1)
- Women and children services integrated, pilot areas, progress report, intent, ch 1311,§2(3),12,13

**GENERAL SERVICES****Appropriations**

- General*, ch 1301,§3(1)
- Elevator, automation, capitol building, ch 1305,§10;ch 1315,§32(2h),33
- Emergency major repairs, ch 1305,§9
- Energy conservation projects, capitol complex, ch 1301,§3(3)
- Forms management, ch 1301,§3(2)
- Historical building
  - Restroom, drinking facilities, ramp, handicapped, ch 1305,§12; ch 1315,§32(2j,k),33
  - Roof and dome repair, ch 1305,§11; ch 1315,§32(2i),33
- Historical building (new), construction, ch 1316
- Inspector general, efficiency measures implemented, ch 1301,§3(1)
- Lamp replacement, capitol building, ch 1305,§10;ch 1315,§32(2g),33
- Land acquisition, ch 1315,§32(2b),33
- Lucas building remodeling, ch 1315,§32(2c),33
- Rental space, ch 1301,§3(4)
- Revolving funds, ch 1301,§4
- Roof repairs, vehicle dispatcher, micrographics buildings, ch 1305,§9; ch 1315,§32(2e),33

**GENERAL SERVICES—Continued****Appropriations—Continued**

- Statehouse renovation, ch 1315,§32(2a),33,38
- Utility costs, ch 1301,§3(3)
- Wallace building repairs, ch 1315,§32(2d),33
- Water heaters, capitol complex, ch 1305,§10;ch 1315,§32(2f),33
- Art exhibits indemnified by state, ch 1073
- Bid preference, reciprocity, ch 1301,§12
- Bid security, share draft deposits, ch 1055,§1,2
- Capital projects appropriation, transfer of funds, ch 1315,§33
- Inspector general, efficiency measures implemented, ch 1301,§3(1)

**GEOLOGICAL SURVEY**

- Appropriation, *general*, ch 1303,§13
- Water resources research institute, advisory panel member, ch 1303,§20

**GOVERNOR****Appointments**

- Children, youth, and families commission, ch 1076,§2,3
- Engineering and land surveying examiners, ch 1104,§3
- Family farm development director, ch 1236
- Hazardous chemicals information interagency council, ch 1085,§16
- Historic building code advisory board, ch 1113,§5
- Public outdoor recreation and resources advisory council, ch 1262,§2,6,7
- Social work examiners, ch 1075,§13

**Appropriations**

- General*, ch 1301,§5(1)
- Ad hoc committees, councils and task forces, ch 1301,§5(4)
- Expenses, ch 1301,§5(2)
- Terrace Hill, governor's quarters, ch 1301,§5(3)
- Block or categorical grant funding, procedure, ch 1311,§12-15
- Children, youth, and families commission
  - Annual report, ch 1076,§4
  - Appointments, ch 1076,§2,3,5
- Constitutional amendments, Iowa
  - Election as team with lieutenant governor, ch 1319,§1

**GOVERNOR—Continued**

Constitutional amendments, Iowa—  
Continued

Terms, compensation, lieutenant governor duties, governor succession, ch 1319,§2

Disabled population study, report, ch 1306,§10,16

Homemaker-home health aide program, report, ch 1307,§4(7c)

Mental health institutes, psychiatrist recruitment plan, ch 1306,§5(3b),16

National parks, conveyances executed, ch 1024

Product development corporation audit, ch 1164,§6

Public health nursing program, report, ch 1307,§4(7b)

Records commission, forms management program report, ch 1093,§3

Regional transit system areas designated, ch 1253,§3,7,8

**Reports**

Children, youth, and families commission, ch 1076,§4

Comparable worth, agencies with exempt positions, ch 1314,§8

Hazardous chemicals information inter-agency council, ch 1085,§16

Hazardous waste remedial fund and disposal sites, ch 1108,§11,13

Racing commission, ch 1266,§19

Small business regulatory flexibility analysis, authority to request, ch 1007,§1(3)

Social services block grant plan, ch 1311,§11,12

Task force recommendations, implementation, ch 1180

Veterans, chemical exposure, report, ch 1307,§5(3)

Veterans home, management report, ch 1277,§16

**GRAIN AND GRANARIES****Dealers**

Fees, ch 1100,§1,2

Inspection frequency, ch 1224

Storage, emission control equipment, ch 1303,§18(1)

Warehouses, fees, ch 1100,§3-5

**GUARDIANS**

Duties and powers revised,  
ch 1299,§4-12,16,17

Juvenile, permanency plan, ch 1279,§21

**HANDICAPPED**

See also *DISABLED*

**Appropriations**

Centennial building, Iowa City, handicapped entrance, ch 1305,§12;

ch 1315,§32(3),33

**Historical building**

Entrance ramp, ch 1305,§12;

ch 1315,§32(2k),33

Restrooms, drinking facilities, renovation, ch 1305,§12;ch 1315,§32(2j),33

**Children, special education**

Age of termination, ch 1001

Appeal and review, ch 1070

Employment of handicapped committee, appropriation, ch 1307,§2(3)

Entrances, historic building code conflicts, ch 1113,§4

Fishing and hunting license,

ch 1260,§2,4,5,8,14

Hearing impaired persons arrested, interpreter provision, ch 1264

Household aides, excused from jury, ch 1181,§3

Housing assistance, ch 1281

Juror service, ch 1181,§2

Mentally retarded, admission to hospitals, ch 1219,§12

Missing person reports, ch 1084

Parking space violation, penalty, ch 1110

Transit system, certification requirements, ch 1253,§9

**HAZARDOUS CHEMICALS RISK RIGHT TO KNOW ACT**

Actions against employers, ch 1085,§9

Agricultural activities, applicability, ch 1085,§4

**Community right to know**

Hazardous chemicals information,

ch 1085,§12

Record accessibility, ch 1085,§13

Definitions, ch 1085,§3

**Emergency response right to know**

Emergency response department, information required, ch 1085,§2,3,15

Signs identifying hazardous chemicals, ch 1085,§14

Enforcement, tort claim exception, ch 1085,§20

**HAZARDOUS CHEMICALS RISK RIGHT TO KNOW ACT—Continued**

- Hazardous chemicals information inter-agency council
  - Health department role, ch 1085,§18
  - Membership, ch 1085,§16
  - Purpose and duties, ch 1085,§16
  - Recommendations, ch 1085,§13,17,19
- Implementation, ch 1085,§7
- Labor bureau duties, appropriation, ch 1315,§25
- Legislative findings, ch 1085,§2
- Liability, state or political subdivisions, ch 1085,§6
- Rulemaking, ch 1085,§8,12,14,15,17,21
- Transportation, federally regulated, not applicable, ch 1085,§5
- Worker right to know
  - Administration by labor bureau, ch 1085,§8
  - Educational research laboratory, not applicable, ch 1085,§11
  - Employee rights violated, ch 1085,§9
  - Exposure information, ch 1085,§8
  - Federal regulations adopted, ch 1085,§8
  - Training programs, potential exposure, ch 1085,§10,11

**HAZARDOUS CONDITIONS, MATERIAL AND WASTE**

See *WATER, AIR AND WASTE MANAGEMENT DEPARTMENT*

**HEALTH**

- Asbestos encapsulation and removal, ch 1062
- Benefit plans, employee continuation rights, ch 1129
- Diabetes education, health insurance program, ch 1290
- Hazardous chemicals risk, right to know, ch 1085
- Health service corporations, nonprofit, see *HEALTH SERVICE CORPORATIONS, NONPROFIT*
- Service corporations, directors' independent nominating committee, ch 1282

**HEALTH CARE FACILITIES**

- Absentee voting by residents, ch 1291,§12,18,19
- Brain-injured persons, special facilities, study, ch 1310,§5(7)

**HEALTH CARE FACILITIES—Continued**

- Care review committee, complaints, confidentiality, ch 1227,§3,4
- Complaint investigations
  - Citation for violation, ch 1227,§4
  - Confidentiality, ch 1227,§2,3
  - Inspection, ch 1227,§1
- Inspector of complaint, identification required, ch 1227,§1
- Intermediate, medical assistance reimbursement rate, ch 1310,§5(1c)
- Involuntary transfers, medical assistance recipients, ch 1310,§6
- Medical assistance
  - Mentally retarded resident, ch 1297,§6
  - Provider deduction provision repealed, ch 1297,§7
- Receivers and receiverships, ch 1136
- Residential, reimbursement rates, ch 1310,§5(2a,b)
- Skilled nursing care coverage, ch 1034
- Veterans home, veterans and spouse, ch 1277,§1

**HEALTH DEPARTMENT**

- Administrative rules
  - Brain-injured persons, care facilities, study, ch 1310,§5(7)
  - Homemaker-home health aide services, chore services, eligibility, ch 1307,§4(7c)
  - Hospice programs, ch 1284,§8
  - Public health nursing care, eligibility defined, ch 1307,§4(7b)
  - Radiation equipment, ch 1286,§1(4),4
  - Renal disease program, financial assistance reduction, ch 1307,§4(7a)
- Advanced emergency medical care council, composition and responsibilities, ch 1287,§2,3
- Agent orange, exposure by veterans, records, ch 1307,§5(3)
- Appropriations
  - Administration, ch 1307,§4(1); ch 1311,§2(3),4(2),12,13
  - Birth defects, genetic counseling, ch 1307,§4(6a)
  - Child health clinics, ch 1307,§4(6a),7; ch 1311,§2,3,12,13,16
  - Childhood cancer program, ch 1307,§4(6a),7
  - Community health services
    - Community health division, ch 1307,§4(7a); ch 1311,§4(5),12,13

## HEALTH DEPARTMENT—Continued

## Appropriations—Continued

## Community health services—Continued

- Homemaker-home health aide program, ch 1307,§4(7c)
- In-home health care grants, ch 1307,§4(7b)
- Well-elderly clinics, ch 1307,§4(7d)
- Disease prevention division, ch 1307,§4(4);ch 1311,§4(5),12,13
- Fluoridation grants, ch 1311,§4(5),12,13
- Funds transferred, University of Iowa hospitals, ch 1307,§4(6a),7; ch 1311,§2,3,12,13,16
- Health facilities division, ch 1307,§4(2)
- Health planning and development division, ch 1307,§4(3)
- Hemophilia patient care, ch 1307,§4(6a),7
- Lead poisoning prevention program, ch 1311,§2(2),12,13
- Licensing and certification division, ch 1307,§4(5),6
- Maternal and child health services block grant, ch 1311,§2,3,12,13
- Muscular dystrophy, related genetic diseases, ch 1307,§4(6a),7
- Perinatal program, ch 1307,§4(6a),7; ch 1311,§2(2),12,13
- Personal and family health services, ch 1307,§4(6),7
- Preventive health and health services block grant, ch 1311,§4,12,13
- Rape prevention program, ch 1311,§4(3),12,13
- Sexual abuse investigations, ch 1307,§4(6b)
- Sudden infant death syndrome, ch 1307,§4(6c);ch 1311,§2(2),12,13
- Audit, funds appropriated, ch 1311,§2,4,12,13
- Birth defects, genetic counseling, funds, ch 1307,§4(6a)
- Brain-injured persons, care facilities, study and report, ch 1310,§5(7)
- Central Iowa birth defects registry pilot project, ch 1307,§4(6a)
- Chemical defoliants, herbicides, exposure by veterans, records, ch 1307,§5(3)
- Chore services, funding, ch 1307,§4(7c)
- Commissioner
  - Advanced emergency medical care council member, ch 1287,§2
  - Children, youth, and families commission, member, ch 1076,§2

## HEALTH DEPARTMENT—Continued

## Commissioner—Continued

- Hazardous chemicals information inter-agency council, membership, ch 1085,§16
- Health care facility citation for violation, ch 1227,§4
- Diabetes education, health insurance program, ch 1290
- Disabled population study, assistance, ch 1306,§10,16
- Elderly and low-income persons
  - Definitions, ch 1307,§4(7b,c)
  - Homemaker-home health aide services
    - Appropriation, ch 1307,§4(7c)
    - Defined, ch 1307,§4(7c)
    - Evaluation and report, ch 1307,§4(7c)
    - Funds, distribution, ch 1307,§4(7c)
  - Public health nursing program
    - Appropriation, ch 1307,§4(7b)
    - Evaluation and report, ch 1307,§4(7b)
    - Funds, distribution, ch 1307,§4(7b)
    - Well-elderly clinic grants, ch 1307,§4(7d)
- EMT, paramedics, ch 1287, *see EMERGENCY MEDICAL TECHNICIANS (EMT), PARAMEDICS*
- Hazardous chemicals, health hazards, duties, ch 1085,§18
- Hazardous waste disposal sites, health problem, ch 1108,§13
- Hospice programs, ch 1284, *see HOSPICE PROGRAMS*
- Inspectors, health care facility complaints and interviews, ch 1227,§1
- Lead poisoning prevention program instituted, funds, ch 1311,§2(2),12,13
- Legal expenses by boards, funds, ch 1307,§4(5),6
- Licensing and certification division, revenue estimates, ch 1307,§4(5),6
- Nursing board, ambulance service, nurse, ch 1287,§12
- Paramedics, EMT, ch 1287, *see EMERGENCY MEDICAL TECHNICIANS (EMT), PARAMEDICS*
- Public health nursing program, ch 1307,§4(7b)
- Radiation equipment
  - General, ch 1286
  - Donations, loans, ch 1286,§2
  - Emergencies, ch 1286,§8
  - Inspections, ch 1286,§3
  - Registration, licensing
    - Federal, ch 1286,§6

**HEALTH DEPARTMENT—Continued**

## Radiation equipment—Continued

## Registration, licensing—Continued

Fees, ch 1286,§5

Rules, enforcement, ch 1286,§4,13

Renal disease program, funds, ch 1307,§4(7a)

Social workers; *see* **SOCIAL WORKERS**Women and children services integrated,  
pilot areas, legislative intent,  
ch 1311,§2(3),12,13**HEALTH MAINTENANCE  
ORGANIZATIONS**Diabetes education, health insurance pro-  
gram, ch 1290,§3**HEALTH SERVICE CORPORATIONS,  
NONPROFIT**Contracts with health care providers,  
subscribers, ch 1122,§3-7

Definitions, ch 1122,§3

Diabetes education, health insurance pro-  
gram, ch 1290,§2

Directors, nominating committee, ch 1282

Disputes with providers, arbitration,  
ch 1122,§8

Rates, approval, ch 1122,§5

**HEARINGS**Area education agency, lease-purchase  
agreement, ch 1103

Child support debts, ch 1278,§3,4

Criminal defendant, insanity, release or re-  
tention, ch 1323,§5Elections, nomination objections,  
ch 1291,§1(3),21Fire marshal, assessment challenge,  
ch 1095,§7Hazardous chemicals information inter-  
agency council, public concerns,  
ch 1085,§16Historic building code advisory board,  
ch 1113,§6Insurers, liquidation,  
ch 1175,§6(5b),9-11,21(1e),28(7),33(3),  
39(2),56(2)Law enforcement officers, certification  
revocation, ch 1246,§3

Libraries funded, ch 1168,§1

Libraries, withdrawal from county district,  
ch 1168,§2Parole violations, parole board panel,  
ch 1156

Parole violator, amendment of bail, ch 1089

**HEARINGS—Continued**

Protected water areas, ch 1261,§9

Public funds deposited, challenge eligibility  
of financial institution, ch 1230,§11(4)Public records, injunction restraining ex-  
amination, ch 1185,§7Revocation of license, OWI offenders,  
ch 1292,§17

Sanitary districts, establishment, ch 1051

Schools, postsecondary, registration denied,  
ch 1098,§3

Small claims, contested, ch 1322,§3

Water, air and waste management viola-  
tions, penalties, ch 1159

Zoning, change or repeal, ch 1176

**HERBERT HOOVER BIRTHPLACE  
FOUNDATION**

Appropriation, ch 1303,§14

**HERRICK, GLENN GROVER**Historical building construction, appropria-  
tion, ch 1316**HIGHWAYS AND ROADS**Controlled-access highways, parking viola-  
tions, ch 1022

Ditches, topsoil reseeded, ch 1114

Farm-to-market road fund allotment, tem-  
porary provisions expired, ch 1219,§19Highway grade crossing repairs, funds  
allocated, ch 1309,§10,12,14

## Motor vehicles

Alcoholic beverage containers, ch 1275,§1

Public safety, departmental use, limited  
number, legislative intent, ch 1309,§2(5)Primary road fund, appropriation,  
ch 1309,§6,7

Quadrennial need study report, ch 1043

## Road use tax fund

Apportionment, temporary provisions ex-  
pired, ch 1219,§18,19Appropriations, ch 1305,§18,19,46,70;  
ch 1309,§4,5,10-12,14Credit from driver's license fees,  
ch 1305,§67Transfer to general fund, public safety ap-  
propriation, ch 1315,§26

Secondary road fund, ch 1178,§4,5,9,11

## Secondary roads

## Budget

Fiscal year base, ch 1102,§6-8

Transition to fiscal year, ch 1102,§8

## HIGHWAYS AND ROADS—Continued

### Secondary roads—Continued

- Construction program
  - Farm-to-market funds, unexpended, ch 1102,§3,8
  - Progress report by engineer, ch 1102,§4,8
  - Review and operation, ch 1102,§5,8
  - Transition to fiscal year, ch 1102,§8
- "Fiscal year" defined, ch 1102,§2,8
- Snow, ice removal, governmental exemption, ch 1293,§10(2)

## HISTORICAL BUILDING (NEW)

- Construction, appropriation, ch 1316

## HISTORICAL DEPARTMENT

### Appropriations

- General, ch 1301,§7(1)
- Centennial building, Iowa City, handicapped entrance, ch 1305,§12; ch 1315,§32(3),33
- Gardner cabin, property adjacent to gravesite, ch 1315,§32(3),33
- Historical board, ch 1301,§7(2)
- Historical building
  - Handicapped entrance ramp, restroom facilities, ch 1305,§12; ch 1315,§32(2),33
  - Roof and dome repair, ch 1305,§11; ch 1315,§32(2),33
- Historic building code advisory board, consultation, ch 1113,§6
- Museums and archives, corrections department records reproduced, ch 1113

## HISTORICAL PROJECTS

- City-owned project, county funds, ch 1107

## HISTORIC BUILDING CODE, STATE

- Alternative building code, state agencies, governmental subdivisions, ch 1113,§4
- Enforcement, ch 1113,§4
- Handicapped entrances, building code conflicts, ch 1113,§4
- Historic building code advisory board
  - Created, ch 1113,§5
  - Duties, ch 1113,§6
  - Membership, ch 1113,§5
  - Public hearings, ch 1113,§6
  - Rulemaking approval, ch 1113,§2
  - Terms of office, ch 1113,§5

## HISTORIC BUILDING CODE, STATE—Continued

- Historic buildings, alternative building standards, regulations, ch 1113
- National register of historic places, criteria, ch 1113,§2,3
- Purpose, ch 1113,§2
- "State historic building code" defined, ch 1113,§1

## HOLIDAYS

- State employees, temporary, compensation, ch 1180,§7,12

## HOMES

- Equity credit, ch 1272
- Manufactured, zoning regulations, ch 1238

## HOSPICE PROGRAMS

- Definitions, ch 1284,§2
- Inspection, ch 1284,§6
- Licensing
  - Application, fees, ch 1284,§3
  - Denial, revocation, ch 1284,§4
  - Renewal, fee, ch 1284,§5
  - Scope, ch 1284,§5
- Requirements, ch 1284,§7
- Rulemaking, ch 1284,§8

## HOSPITALS

- Absentee voting by patients, ch 1291,§12,18,19
- County
  - Audits by certified public accountants, ch 1123
  - Direct deposits of taxes, ch 1003,§1,6,7
  - Equipment and supply purchases, ch 1201
  - Receipts and disbursements, ch 1003,§7
- Diabetes education, health insurance program, ch 1290
- Health service corporations, nonprofit, *see HEALTH SERVICE CORPORATIONS, NONPROFIT*
- Hospice programs, ch 1284
- Nonprofit hospital service corporation, ch 1282
- Skilled nursing care coverage, ch 1034
- University of Iowa
  - Abortions, appropriation condition, ch 1302,§9(2c)
  - Appropriations
    - General, ch 1302,§9(2b-d)
    - Family practice program, condition, ch 1302,§9(2b-d)

**HOSPITALS—Continued**

## University of Iowa—Continued

## Appropriations—Continued

- Indigent patients, condition, ch 1302,§9(2b-d)
- Psychiatric hospital, ch 1302,§9(2e)
- Specialized child health care services, ch 1307,§4(6a)
- Construction, appropriation condition, legislative intent, ch 1302,§9(2d)
- Medical assistance programs, use, data reported, ch 1310,§3(2),7
- Medically needy program established, ch 1310,§1,3(2),7

**HOSPITAL-SCHOOLS**

## Appropriations

- General*, ch 1306,§6(1),16
- Capital improvements, ch 1305,§3,8; ch 1306,§14(2),16
- Billing, per-patient per-day cost, ch 1306,§6(3,4),16
- Client funds, ch 1306,§6(2),16
- Legal settlement of patient in county, ch 1165
- Medical assistance, payments from clients, ch 1306,§7,16
- Revolving fund, abolishment review, ch 1306,§9,16
- “Severely handicapped” defined, ch 1219,§12
- Title XIX funds, deposited general fund, ch 1306,§13,16

**HOTELS AND MOTELS**

- Alcoholic beverages, Sunday sales, ch 1275,§2,5

**HOUSING FINANCE AUTHORITY**

- Bonding capacity increased, ch 1281,§7
- Bond issuance, tax law compliance, rule-making, ch 1281,§4
- Family farm development, staff duties transferred, ch 1236
- “Low or moderate income families,” definition amended, ch 1281,§1
- Mortgage loan not tax exempt, ch 1219,§10
- Percentage requirements, special units, repealed, ch 1281,§8
- “Qualified residential housing” defined, ch 1281,§5
- Small business loan program authorized, ch 1281,§6
- Small business qualifications, ch 1281,§2,3
- Surplus money, use, ch 1236

**HUMAN SERVICES***See also CORRECTIONS DEPARTMENT*

## Administrative rules

- Aid to dependent children, ch 1276,§11
- Brain-injured persons, care facilities, study, ch 1310,§5(7)
- Medical assistance program reimbursements, rulemaking, ch 1310,§10
- Medically needy program, ch 1310,§10
- Supplemental assistance and special programs, ch 1310,§10
- Training school, Eldora campus, ch 1310,§10
- Work incentive demonstration program, allowances, ch 1310,§10
- Adoptions, subsidized, reimbursement rate, ch 1310,§5(3)
- Aid, families with dependent children
  - Appropriation, ch 1310,§3(1),7
  - Funeral expenses allowed, ch 1276,§8
  - Grant payments increase prohibited, ch 1310,§3(1a),7
  - Living costs schedule, ch 1310,§3(1a),7
  - Manpower services projects incorporated with work program, ch 1310,§3(1b),7
  - Responsibilities of department, ch 1276
  - Work incentive demonstration program, ch 1310,§3(1b),7
- Appropriations
  - General*, ch 1310,§1,8; ch 1311,§10,12
  - Aid, families with dependent children (AFDC)
    - Manpower services demonstration projects, expenditure prohibition stricken, ch 1308,§4
    - Unemployed parent program, ch 1308,§1
  - Block grant funds
    - Excess replaces state funds, local services, ch 1308,§3
    - Supplementation, ch 1310,§4
  - Capital improvements
    - General*, ch 1305,§8
    - Funds prohibited, ch 1310,§13
    - Hospital-schools, ch 1306,§14(2),16,17
    - Mental health institutes, Cherokee, Independence, ch 1306,§14(2),16,17
  - Civil antitrust judgment, award to state, use in commodities distribution, ch 1310,§1
  - Community mental health centers, substance abuse funds transferred, ch 1311,§1(3),12,13
  - Field operations, ch 1310,§2,8; ch 1311,§10,12

**HUMAN SERVICES—Continued**  
**Appropriations—Continued**

- Hospital-schools
  - General*, ch 1306,§6,16
  - Capital improvements, ch 1305,§3,8;  
ch 1306,§14(2),16
- Medical assistance program, joint, federal  
audit exceptions reimbursed,  
ch 1308,§2
- Medically needy program,  
ch 1310,§1,3(2),7
- Mental health institutes, ch 1306,§5(1),16
- Social services block grant, advisory  
council, ch 1311,§10-12
- Special programs
  - Abortion, medically necessary,  
ch 1310,§3(2),7
  - Abortion, spontaneous, ch 1310,§3(2e),7
  - Adoption services, ch 1310,§3(7,8),7
  - Aid, families with dependent children,  
ch 1310,§3(1),7
  - Blind, aid, ch 1310,§3(5)
  - Child abuse prevention services,  
ch 1310,§3(9b)
  - Child care centers, ch 1310,§3(9a)
  - Child support recoveries,  
ch 1310,§3(4),8
  - Community-based services,  
ch 1310,§3(9)
  - Contractual services-medical carrier,  
ch 1310,§3(3)
  - County administration, ch 1311,§10,12
  - Diagnosis and evaluation services for  
juveniles, ch 1310,§3(9e)
  - Displaced homemakers, ch 1310,§3(9c)
  - Domestic abuse victims, ch 1310,§3(9c)
  - Family planning services, ch 1310,§3(7)
  - Foster care, ch 1310,§3(8),7;  
ch 1311,§10,12
  - Foster parent training, ch 1310,§3(8),7
  - Fund transfers, ch 1310,§7
  - Home-based services, ch 1310,§3(7);  
ch 1311,§10,12
  - Indians, aid, ch 1310,§3(6)
  - Juvenile court costs, county-based  
reimbursement, ch 1310,§3(10),7
  - Juvenile home, Iowa, ch 1310,§3(11),8
  - Juvenile homes, county or multicounty,  
ch 1310,§3(9f)
  - Juvenile services, community-based,  
priority approval, ch 1310,§3(9d)
  - Local services, purchase,  
ch 1311,§10,12,13
  - Medical assistance, ch 1310,§3(2),7

**HUMAN SERVICES—Continued**  
**Appropriations—Continued**  
**Special programs—Continued**

- Protective day care, ch 1311,§10,12
- Supplementary assistance,  
ch 1310,§3(5)
- Training school, state, ch 1310,§3(11),8
- Volunteers, ch 1310,§3(12);  
ch 1311,§10,12
- Veterans home
  - General*, ch 1306,§4,16
  - Loftus hall, renovation,  
ch 1306,§4,15-17
- Audit, funds appropriated,  
ch 1311,§10,12,13
- Block grant funds
  - Counties, allocation, ch 1310,§4
  - Income guidelines, increase, ch 1310,§4
  - Sheltered work or work activity services,  
eligibility standards, ch 1310,§4(3)
  - Supplemental appropriation, ch 1310,§4
- Brain-injured persons, care facilities, study  
and report, ch 1310,§5(7)
- Child abuse, mandatory reporting and in-  
vestigation, ch 1279,§6-8,14-18,23,24,42
- Child foster care, substance abuse facility,  
license exception, ch 1050
- Child support debts
  - Administrative procedures, ch 1278
  - Director's responsibilities, ch 1278
  - Public assistance recipient exemption,  
ch 1278,§2
- Child support recoveries
  - Administrative costs, report,  
ch 1310,§3(4)
  - Appropriation, ch 1310,§3(4),7,8
  - Staff increase, funding, ch 1310,§3(4),7,8
- Commissioner
  - Children, youth, and families commission,  
member, ch 1076,§2
  - Definition, ch 1297,§2
  - Disabled population study, report,  
ch 1306,§10,16
  - Institutions
    - Architect or engineer hired, ch 1256
    - Construction projects, ch 1256
    - Emergency repairs, ch 1256
    - Mental health institutes, uniform daily  
charges, ch 1306,§5(6),16
- Contracts
  - Improvement, share draft deposit,  
ch 1055,§4
  - Reciprocity bidding law, ch 1045



## HUMAN SERVICES—Continued

- Council on human services, disabled population study, report, ch 1306,§10,16
- Department
  - Administrative rules, institution construction projects, ch 1256
  - Definition, ch 1297,§2
  - Institutions construction projects, multiyear program, ch 1256
- Disabled population study, report, ch 1306,§10,16
- Domestic violence data and statistics, collection proposal, ch 1258
- Employees, reimbursement for damaged property, ch 1306,§12,16
- Federal funds deposited in general fund, ch 1306,§13,16
- Foster care
  - Federally funded, restriction, ch 1310,§3(8),7
  - Foster parent training approval, ch 1279,§25,43
  - State foster care review board created; repealed 7/1/88, ch 1279,§26-33,44
- Foster care review committees
  - Composition and duties, ch 1208
  - Confidentiality standards, ch 1208
  - Juvenile court records, access, ch 1208
- Foster family homes, reimbursement rate, ch 1310,§5(3)
- Funeral expense allowance, assistance recipient, ch 1297,§1
- Homemaker-home health aide program, funding, ch 1307,§4(7c)
- Hospital-schools
  - Appropriation, ch 1306,§6(1),16
  - Billing, patient per-day cost, ch 1306,§6(3,4),16
  - Capital improvements, ch 1306,§14(2),16
  - Client funds, ch 1306,§6(2),16
  - Medical assistance, payments from clients, ch 1306,§7,16
  - Title XIX funds, deposited general fund, ch 1306,§13,16
- In-home health care, reimbursement rates, ch 1310,§5(2c)
- Judicial district residential treatment centers, residents' earnings, ch 1029
- Juvenile sentence responsibility, ch 1214
- Medical assistance
  - Abortions, conditions, ch 1310,§3(2),7
  - Cost reduction plans to legislature, ch 1310,§3(2),7
  - County reimbursement, ch 1297,§6

## HUMAN SERVICES—Continued

## Medical assistance—Continued

- Drug utilization review program, ch 1310,§3(2),7
- Fund, deposits, ch 1306,§7,16
- Home and community-based services, funding, ch 1310,§3(2),7
- Medically needy program, contracts, funding, ch 1310,§1,3(2),7
- Mental patients, costs reimbursed by county, ch 1310,§3(2),7
- Over-the-counter drugs, reimbursement, ch 1310,§3(2),7
- Prescription drugs, prior authorization not required, ch 1310,§3(2),7
- Reimbursement rates
  - Intermediate care facilities, ch 1310,§5(1c)
  - Medical assistance providers, ch 1310,§5(1)
  - Optometrists, ch 1310,§5(1b)
  - Psychologists, ch 1310,§5(1a)
- Medically needy program established, ch 1310,§1,3(2),7
- Mental health and mental retardation services, applications, ch 1030
- Mental health institutes
  - Appropriation, ch 1306,§5(1),16
  - Cherokee, Independence, capital improvements, ch 1306,§14(2),16
  - Children in need of assistance, custody, ch 1306,§5(5),16
  - Client funds, ch 1306,§5(4),16
  - Mount Pleasant, geriatric program, ch 1306,§5(2),16
  - Mount Pleasant, reduction in population, ch 1306,§5(2),16
  - Psychiatrists, recruitment plan, legislative intent, ch 1306,§5(3),16
  - Title XIX funds, deposited general fund, ch 1306,§13,16
  - Uniform daily charges, report, ch 1306,§5(6),16
- Parent-child relationship termination, ch 1279,§21
- Public transit system, ch 1200,§5,6
- Residential care facilities, reimbursement rates, ch 1310,§5(2a,b)
- Service providers, reimbursement rates, ch 1310,§5(4,5)
- Sheltered work or work activity services, eligibility standards, ch 1310,§4(3)
- Staff additions, federal funding, ch 1310,§8

**HUMAN SERVICES — Continued**

- Supplementary assistance, in-home health care, reimbursements, ch 1310,§5(2c)
- Supplemental security income reimbursements to counties, ch 1310,§9
- Training school, Eldora campus, population cap, item veto, ch 1310,§3(11)
- Veterans home, *see VETERANS HOME*
- Warehouse and supply depot, central, billings, ch 1306,§11,16
- Women and children services integrated pilot areas, legislative intent, ch 1311,§2(3),12,13

**HYGIENIC LABORATORY**

- Hazardous chemicals information inter-agency council, membership, ch 1085,§16

**IDENTIFICATION**

- Nonoperator's identification card
  - Fee, ch 1305,§65
  - Under age 19, ch 1292,§3

**INDEMNITY**

- Art exhibits, agreements, ch 1073

**INDIANS**

- Indigent persons, appropriation, use restricted, ch 1310,§3(6)

**INDIGENTS**

- Counsel appointed
  - Conservator, guardian, ch 1299,§15,16
  - Joint county defense fund, ch 1067,§10
- Indians, Tama settlement, appropriation, use restricted, ch 1310,§3(6)
- Legal settlement residency requirement, ch 1165
- Medically needy program established, ch 1310,§1,3(2),7
- Medical treatment, university hospitals, appropriation condition, ch 1302,§9(2b-d)

**INDUSTRIAL COMMISSIONER**

- Appropriation, ch 1304,§2(9)

**INDUSTRIAL LOAN COMPANIES**

- Appraisal fees on loans, ch 1205
- Escrow accounts, real estate loans, ch 1205

**INHERITANCE**

- Taxation
  - Changes, death tax, *general*, ch 1240

**INHERITANCE — Continued****Taxation — Continued**

- Collection, interest and penalties, ch 1240,§8,13
- Conformity, federal law, ch 1240,§1,12
- Date, filing return, ch 1240,§2,5-7,12
- Late payment penalty, ch 1173,§9,10
- Payment, real or tangible property, ch 1240,§2,12
- Refund, claiming period, ch 1240,§9,12

**INJUNCTIONS**

- Coal mining, ch 1153
- Public records, injunction restraining examination, ch 1185,§7

**INMATES**

*See also PRISONS AND PRISONERS*

- Classification system
  - Appropriation, ch 1306,§2(2),16
  - Study, ch 1306,§2(2),16
- Community service liability, ch 1280
- Education programs, women's correctional institutions, ch 1306,§2(1),16
- Escapees, arrest warrants, ch 1150
- Forfeiture, good conduct time, appeal ch 1244,§3
- Legal assistance, appropriation, ch 1306,§2(7),16
- Parole violation, adult sentencing to jail term, ch 1244,§6
- Parole violator's confinement by county, ch 1244,§5
- Population legislation, impact statement required, ch 1306,§2(1),16
- Postconviction procedure, commencement of proceedings, ch 1193
- Prison overcrowding emergency, ch 1306,§2(1),16
- Records kept, accessibility, ch 1148
- Sentence reduction, prison overcrowding, ch 1306,§2(1),16
- Work release, inmate's own home, ch 1244,§1
- Work release violators
  - Arrest warrants, ch 1150
  - Temporary confinement, reimbursement, ch 1244,§2;ch 1306,§2(8),16

**INSPECTIONS**

- Bingo licensee's records, ch 1220,§4
- Buildings, fire inspections, ch 1095,§5
- Explosive storage facilities, ch 1074,§5
- Grain dealers
  - Inspection frequency, ch 1224
  - Warehouse fees, ch 1100

**INSPECTIONS—Continued**

- Health care facilities, ch 1227
- Jails and municipal holding facilities, ch 1127,§2
- Public records, ch 1185
- Radiation machines, radioactive materials, ch 1286

**INSPECTOR GENERAL**

- Efficiency measures implemented
  - Allocations to comptroller, ch 1304,§2(7b)
  - Allocations to general services department, ch 1301,§3(1)

**INSTITUTIONS**

- Construction projects
  - Emergency repairs, ch 1256
  - Human services control, ch 1256
  - Inmate labor, minor projects, ch 1256
  - Multiyear program, ch 1256
- Contracts, improvements, share draft deposit, ch 1055,§4

**INSTRUMENTS**

- Negotiable, dishonored, ch 1217

**INSURANCE**

- Accident or health
  - Benefit plans, employee continuation rights, ch 1129
  - Skilled nursing care coverage, ch 1034
- Account insurance
  - Banks, ch 1196,§1,3,5
  - Savings and loan associations, ch 1196,§4,5
- Companies, private investigative persons, licensing exception, ch 1235,§2,19
- Comparative fault, *general*, ch 1293
- Diabetes education, health insurance program, ch 1290
- Disability, state employees, maximum benefit period, ch 1146
- Funds, state employee, interest earnings, ch 1071
- Health service corporations, nonprofit, insurance laws excluded, ch 1122
- Insurers supervision, rehabilitation, and liquidation Act
  - General*, ch 1175
  - Applicability, ch 1175,§3
  - Assessments, ch 1175,§31
  - Assets disbursed, ch 1175,§34,44
  - Audit, ch 1175,§49

**INSURANCE—Continued****Insurers supervision, rehabilitation, and liquidation Act—Continued****Claims**

- General*, ch 1175,§34-44,50-52,55-59
- Holders of voidable rights, ch 1175,§29
- Setoffs and counterclaims, ch 1175,§30
- Definitions and purpose, ch 1175,§1,2
- Delinquency proceedings, ch 1175,§4-11,32
- Funds unclaimed, ch 1175,§45,46
- Interstate relations, ch 1175,§50-59
- Liquidation proceedings
  - General*, ch 1175,§17-59
  - Alien or foreign insurers, ch 1175,§50,51
  - Ancillary and domiciliary proceedings, ch 1175,§52-59
- Premium recovery, ch 1175,§33
- Receivers, ch 1175,§49-59
- Records, ch 1175,§48,49,52,53
- Rehabilitation proceedings, ch 1175,§12-28
- Reinsurers obligation, ch 1175,§32
- Seizure order, ch 1175,§10
- Supervision proceedings, ch 1175,§9-11
- Transfers
  - Fraudulent, ch 1175,§26,27
  - Preference, ch 1175,§28
- Joint and several liability, *general*, ch 1293
- Life companies
  - Insurers liquidation, ch 1175,§34,35
  - Policy loans, interest, ch 1017
- Life, unclaimed moneys, ch 1295,§8
- Skilled nursing care coverage, ch 1034
- State employee insurance funds, interest, ch 1071

**INSURANCE DEPARTMENT**

- Administrative rules, life companies, policy loan interest rates, exemption, ch 1017
- Appropriations
  - General*, ch 1304,§2(10)
  - Examination expenses, excess, approval, ch 1304,§2(10)
- Comparable fault, report to legislature, ch 1293,§14
- Health service corporations, nonprofit
  - Contracts, approval, ch 1122,§6,7
  - Directors' nominating committee, ch 1282
  - Disputes, judicial review, ch 1122,§8
  - Rates, approval, ch 1122,§5

**INSURANCE DEPARTMENT—**  
Continued

Insurers supervision, rehabilitation, and liquidation Act  
 Conservator, alien and foreign insurers, ch 1175,§50-59  
 Delinquency proceedings, ch 1175,§4-11,32  
 Liquidator, ch 1175,§17-59  
 Receiver, ch 1175,§5,49-59  
 Rehabilitator, ch 1175,§12-28  
 Life policy loans, interest rates, ch 1017

**INSURERS SUPERVISION,  
 REHABILITATION, AND  
 LIQUIDATION ACT**

*General*, ch 1175, *see also INSURANCE*

**INTEREST**

Abandoned property  
 Failure to deliver, ch 1295,§23  
 Intangible interests in business association, ch 1295,§9  
 Area education agency, warrants, ch 1010  
 Child support debts, ch 1278,§6  
 Home equity line of credit, ch 1272  
 Gas or electric service deposits, ch 1131  
 Industrial loan companies, escrow funds, ch 1205  
 Inheritance tax, ch 1240  
 Life insurance loans, ch 1017  
 Open-end credit accounts, ch 1237  
 Public funds deposit, ch 1230,§10,11  
 Refunding of general obligation bonds, city projects, ch 1058  
 Special employment security contingency fund, disposition, ch 1204  
 State employee insurance fund investments, ch 1071  
 Taxation, fines and penalties, ch 1173

**INTERPRETERS**

Court interpreters  
 Non-English testimony, recording required, ch 1137,§2  
 Qualification and compensation, rule-making, ch 1137,§1  
 Hearing impaired persons, arrest, ch 1264

**INVESTMENTS**

IPERS fund, South African investment restrictions, item veto, ch 1304,§7,9  
 Municipalities and counties, joint investment agreements, ch 1194  
 Savings and loan associations, ch 1112,§4

**IOWA DEVELOPMENT COMMISSION**

Agriculture, food and energy demonstration center, funding, item veto, ch 1315,§29,30  
 Appropriations  
*General*, ch 1303,§7(1)  
 Agriculture, food and energy demonstration center, item veto, ch 1315,§30  
 High technology council, ch 1303,§7(2,3),8  
 Product development corporation, ch 1303,§7(5),9  
 Tourism, ch 1303,§7(4)  
 High technology council, appropriation, ch 1303,§7,8  
 Legislative members  
 Appointment, ch 1187,§1  
 Compensation and expenses, ch 1187,§2  
 Terms, ch 1187,§1  
 Vacancy filled, ch 1187,§1  
 Missouri river barge compact, duties, ch 1257,§3  
 Political affiliation of members, ch 1187,§1  
 Product development corporation, *see PRODUCT DEVELOPMENT CORPORATION*  
 Public outdoor recreation and resources council, membership, ch 1262  
 Quorum established, ch 1187,§3

**IOWA PUBLIC EMPLOYEES'  
 RETIREMENT SYSTEM (IPERS)**

Appropriation, job service department, ch 1304,§7,9  
 Clergy, rabbinic eligible, ch 1285,§7(9)  
 Covered wages, ch 1285,§5  
 Disability allowance, increase, ch 1285,§2,23  
 District associate judges, ch 1285,§28  
 Early retirement, ch 1285,§11,12  
 Employees  
 Ineligible  
 Agricultural promotion board members, ch 1285,§8  
 Judicial hospitalization referees, ch 1285,§8  
 Retirement, out-of-state, ch 1285,§19  
 Group health insurance, early retirees, ch 1285,§25  
 Investment expenses, ch 1285,§3  
 Peace officers, monthly allowance, ch 1285,§9  
 Reinstate account, ch 1285,§16  
 Retirement dividend, ch 1285,§10  
 South African investment restrictions, item veto, ch 1304,§7,9  
 Teachers  
 Former members, ch 1285,§17  
 Pension increase, ch 1285,§21

**IOWA STATE UNIVERSITY***See COLLEGES AND UNIVERSITIES***ITEM VETO***See VETOES***JAILS**

Meal charges, employed prisoners, ch 1144

Municipal holding facilities

Inspection and report, ch 1127,§2

Standards established, ch 1127,§1

**JOB SERVICE**

Appropriations

*General*, ch 1304,§2(11)

IPERS, ch 1304,§7,9

Emergencies

Funds request, ch 1204,§3

Surcharge fund, interest, ch 1204

IPERS fund, South African investment restrictions, item veto, ch 1304,§7,9

Job training partnership Act of 1982, ch 1285,§6

Old-age and survivors' insurance, retirees, ch 1285,§1

Phased retirement program, cost determination, ch 1180,§5,12

Records, availability to county attorney, ch 1163

Special employment security contingency fund

Report, expenditures, ch 1204,§2

Spending limited, ch 1204,§1

Unemployment benefits, *see UNEMPLOYMENT COMPENSATION*

Unemployment trust fund, interest, ch 1204,§1

**JOINT EXERCISE OF****GOVERNMENTAL POWERS**

Public records, access, policy adopted, ch 1185,§11

Solid waste disposal, public service monopoly, ch 1039

**JUDGMENTS**

Child support debts docketed, ch 1278,§5

Civil antitrust, award to state, use in commodities distribution, ch 1310,§1

Deferred

Conditions for defendant release, ch 1152

Operating while intoxicated, ch 1292,§4

Insurers liquidation,

ch 1175,§28(3a),32(5a),36(4),37

Small claims actions, ch 1322

**JUDICIAL DEPARTMENT***See also COURTS*

Appropriations

Court administrator, ch 1301,§8(6)

Court reorganization

Administrative implementation, ch 1301,§8(5)

Costs, ch 1301,§8(4)

State funding delay, legislative intent, ch 1301,§8(4)

Courts, *general*, ch 1301,§8(1)

Dispute resolution programs,

ch 1301,§1(3b)

District court administrators,

ch 1301,§8(3)

Judicial qualifications commission, ch 1301,§8(2)

Jury and witness fees, unobligated funds, ch 1301,§9

Law examiners board, ch 1301,§8(2)

Shorthand reporters, examiners, ch 1301,§8(2)

Supreme court clerk, ch 1301,§8(6)

Comparable worth report, appropriation, ch 1314,§7(8),8

Retirement system, investment income usage, ch 1180,§10,12

**JUDICIAL DISTRICTS**

Correctional services department

Community service program, offenders, ch 1306,§2(6),16

Probation services provided, ch 1019

Residential treatment centers, residents' earnings, ch 1029

**JUDICIAL RETIREMENT SYSTEM**

Senior judges

Relinquishment or removal

Retirement annuity, computation, ch 1234

Survivor's annuity, ch 1234

**JURISDICTION**

District court, reconsideration of felon's sentence, ch 1139

National park lands and waters, ch 1024

Nonresidents, paternity and child support cases, ch 1242

**JURY**

Appropriation for fees, reversion date, ch 1301,§9

Challenges, municipality as defendant, ch 1181,§10

## JURY—Continued

- Comparative fault deliberations, ch 1293,§3
- Deferrals of service, ch 1181,§4
- Disqualification, grounds, ch 1181,§3
- Eligibility, service, ch 1181,§2
- Excused service, ch 1181,§4
- Handicapped persons, ch 1181,§2
- Jury commission, instructions, ch 1181,§5
- Lists
  - Certification, jury lists, ch 1181,§9
  - Commission to make additions, ch 1181,§7
  - Noneligible names, listing repealed, ch 1181,§11
  - Persons qualified to serve, number, ch 1181,§6
  - Public utility customer list, use, ch 1181,§8
- National guard members, exemption stricken, ch 1181,§1

**JUSTICE DEPARTMENT**

See *ATTORNEY GENERAL*

**JUVENILE HOMES**

- County or multicounty, appropriation, ch 1310,§3(9f)
- Iowa juvenile home, appropriation, ch 1310,§3(11),8

**JUVENILE JUSTICE**

- "Case permanency plan" definition, ch 1279,§1
- Child abuse, see *ABUSE, Child Abuse*
- Child in need of assistance, chemical dependency, ch 1279,§2
- Foster care, child abuse, ch 1279,§14-18,23,24,42
- Judicial proceedings
  - Audiotape, videotape admissible evidence, ch 1207,§4
  - Notice of pendency, ch 1279,§3,5
- Jurisdiction waived, committed to state training school or adult correctional facility, ch 1214
- Juvenile court costs, county-based reimbursement, appropriation, ch 1310,§3(10),7
- Offenders, public work assignment, state liability, tortious acts, ch 1280,§2
- Parent-child relationship termination, ch 1279,§19-21
- Training school, commitment beyond age 18, ch 1166

**JUVENILES**

- Community-based juvenile services, appropriation, ch 1310,§3(9d)
- Contributing to delinquency, misdemeanor, ch 1219,§11
- Diagnostic and evaluation services, appropriation, ch 1310,§3(9e)

**KIDNEYS**

- Renal disease program, funds, ch 1307,§4(7a)

**LABOR BUREAU**

- Administrative rules
  - Asbestos encapsulation and removal, ch 1062,§3,8,10
  - Hazardous chemicals risk, right to know, ch 1085
  - Material lift elevators, ch 1094
- Appropriations
  - General*, ch 1301,§10(1)
  - Asbestos, encapsulation and removal, ch 1315,§25
  - Hazardous risks right to know, duties, ch 1315,§25
- Asbestos encapsulation and removal
  - Bids for governmental projects, ch 1062,§11
  - Certificates, ch 1062,§3,4,10
  - Commissioner's responsibilities, ch 1062
  - Inspections, ch 1062,§2,3
  - Licenses, ch 1062,§1-9,11
- Child modeling, limitations, ch 1111
- Commissioner
  - Bond, farm labor contractor, ch 1270,§2
  - Complaint, discharge or discrimination, investigation, ch 1270,§3
  - Hazardous chemicals information inter-agency council, membership, ch 1085,§16
- Hazardous chemicals, ch 1085, see also *HAZARDOUS CHEMICALS RISK RIGHT TO KNOW ACT*
- Health benefit plan broken, wage claims, ch 1129

**LAKES**

- Restoration projects, funding, ch 1262,§1
- Swan lake restoration, appropriation, ch 1315,§32(3),33

**LAND**

- Historical building, appropriation, ch 1316
- National park lands and waters, jurisdiction, ch 1024

**LAND—Continued**

Real property legalizing Acts, references updated, ch 1090  
 Urban renewal development, ch 1210

**LANDLORD AND TENANT**

Mobile homes, notice to quit, action, ch 1054

**LAND PRESERVATION AND USE**

County commission, duties, ch 1303,§22,23  
 County inventories, ch 1303,§22  
 Use plan, ch 1303,§23

**LANDSCAPE ARCHITECTURAL EXAMINERS**

Appropriation, ch 1304,§1(2)

**LAW ENFORCEMENT**

Agents, undercover purchases, appropriation, ch 1309,§4(b)  
 Benefited district, tax levy, ch 1216  
 Corrections department, information disclosure, ch 1148,§1  
 Exemption, licensing, private detectives, ch 1135  
 Library records, access by officials, ch 1014  
 Missing person reports, ch 1084  
 Officer recruits, mental fitness minimum standards, ch 1245,§2,5  
 Officers, training reimbursement program for cities and counties, ch 1274

**LAW ENFORCEMENT ACADEMY**

Administrative rules, officers, certification revocation, ch 1246,§1  
 Appropriation, ch 1309,§1(1)  
 Council, officers' certificates, issuance, revocation authority, ch 1246,§2,3  
 Officer recruits, psychological tests, ch 1245,§2,5

**LAW EXAMINERS BOARD**

Appropriation, ch 1301,§8(2)

**LEASES**

Area education agency, agreements, approval, ch 1103  
 Hazardous waste facilities, ch 1284

**LEAVES OF ABSENCE**

Elective officials, ch 1233

**LEGALIZING ACTS**

Lee county supervisors, county officers' compensation, ch 1109  
 Real property, references updated, ch 1090  
 Ryan city council, property sale, ch 1209

**LEGISLATIVE COUNCIL**

Comparable worth reports, agencies with exempt positions, ch 1314,§8  
 Federal aid, education, matching funds approval, ch 1067,§29  
 Legislative visitation committee, membership, ch 1026  
 Mental health institutes, psychiatrist recruitment plan, ch 1306,§5(3b),16  
 Political campaigns study committee, duties, report, ch 1218  
 Public records law, study committee, ch 1185,§12

**LEGISLATIVE FISCAL BUREAU**

Appropriation, ch 1301,§10(2)  
 Block grants, ch 1311,§12,14,15  
 Comparable worth, implementation costs determined, ch 1314,§5  
 Correctional institutions, population legislation, impact statement, ch 1306,§2(1),16  
 Corrections department, allocation changes, report, ch 1306,§2(1),16  
 Information disclosure, employee reprisals, ch 1015  
 Medically needy program, duties, ch 1310,§3(2),7  
 Osteopathic university, financial audits, ch 1302,§3  
 Records access, ch 1172

**LEGISLATIVE FISCAL COMMITTEE**

Legislative visitation committee, membership, ch 1026

**LEGISLATIVE SERVICE BUREAU**

Appropriations  
   *General*, ch 1301,§10(3a)  
   Drafting, research, Code data processing, ch 1301,§10(3b)  
 Information disclosure, employee reprisals, ch 1015  
 Marine fuel tax fund study repealed, ch 1012  
 Political campaigns study committee, assistance, ch 1218

**LEGISLATURE**

See *GENERAL ASSEMBLY*

**LIABILITY**

Hazardous wastes, cleanup assistance, ch 1069

Joint and several, *general*, ch 1293

Sidewalks, snow and ice removal, ch 1002

State of Iowa, tortious acts by inmates on work assignments, ch 1280

**LIBRARIES**

Appropriations

*General*, ch 1301,§10(5a)

Regional library system, ch 1301,§10(5b)

Corrections department records, reproduced, ch 1148,§3

County, maintenance expense, ch 1168

Librarian, state, records commission membership, ch 1093,§2

Public, school district tax rate increase, ch 1288

Records, criminal investigation, access, ch 1014

Regional library system

Appropriation, ch 1301,§10(5b)

Credit cards, employees, ch 1315,§37

Funds, ch 1160

State publications, free copies

Distribution list, ch 1301,§13

Microfiche copies provided, ch 1301,§13

Replacement document, cost, ch 1301,§13

Women's correctional institution, project funded, ch 1306,§2(1),16

**LICENSES AND PERMITS**

Asbestos encapsulation and removal, ch 1062,§1-9,11

Bingo, ch 1220,§4,8-12

Child foster care in substance abuse facility, license exception, ch 1087

Employment agency, bond required, ch 1212

Engineers, ch 1104

Explosives materials, ch 1074,§1,2

Firearm purchases, public auction, ch 1154

Fishing and hunting, *see FISH AND GAME, Licenses and Permits*

Fur dealers, fees, reciprocity among states, ch 1199

Grain dealers and warehouses, fees, ch 1100

Grain dealers, inspection frequency, ch 1224

Health service providers, ch 1122,§2

Hospice programs, ch 1284

**LICENSES AND PERMITS—Continued**

Industrial waste discharges, ch 1121

Insurers liquidation, insurance license revoked, ch 1175,§6(5b),33(2a)

Motor vehicles, *see MOTOR VEHICLES, Driver License*

Pari-mutuel wagering, ch 1265;ch 1266

Private detectives, persons exempt, ch 1135

Private investigative and security agencies, ch 1235

Psychologists, ch 1122,§1

Public water system construction, ch 1099

Radioactive materials, ch 1286,§4,5

Sewage disposal systems, private and semi-public, ch 1121

Social workers, ch 1075

Water, air and waste management, violations, penalty assessment, ch 1159

**LIENS**

Agricultural crops and livestock, ch 1072

Construction mortgage liens, ch 1215

Inheritance tax, ch 1240,§3,11,12

Insurers liquidation, transfers, ch 1175,§26-28

Lienholder's advancement, protection, ch 1248,§2,3

Mechanics' liens, *see MECHANICS' LIENS*

Real property legalizing Acts, references updated, ch 1090

Release or satisfaction, ch 1090,§7

Self-service storage facilities, ch 1130

Sewer and solid waste, certified to county treasurer, ch 1221,§1

**LIEUTENANT GOVERNOR**

Appropriation, ch 1301,§6

Constitutional amendments, Iowa

Election as team with governor, ch 1319,§1

Terms, compensation, duties, governor succession, ch 1319,§2

Correctional institution visitation, ch 1004

Elections, nomination objections, hearing, ch 1291,§1(3),21

**LIMITATION OF ACTIONS**

Restitution, crime victims, tolling statute, ch 1047

**LIVESTOCK**

Liens, agricultural supply dealers, ch 1072



**LOANS**

- Appraisal fee industrial loan companies, ch 1205,§2,3
- Bank officers, restrictions, ch 1032,§3
- Energy conservation improvements, revolving fund, ch 1313,§3
- Family farm development authority, ch 1236
- Guaranteed loan payment program, teachers of blind and deaf, ch 1060,§1
- Home equity, ch 1272
- Housing finance authority
  - Mortgage loan not tax exempt, ch 1219,§10
  - Small business loan program, ch 1281,§6
- Life insurance, interest, ch 1017
- Public transit assistance, interest-free loan, ch 1309,§9
- Real estate, escrow accounts, ch 1205,§1
- Savings and loan associations
  - Balloon payments, terms, ch 1112,§7
  - Confidential information, ch 1112,§2
  - Consumer, ch 1112,§6
- Science and mathematics loan program, repayment cancellation, ch 1044; ch 1060,§2

**LODGES**

- "Public accommodation" definition, ch 1096

**LOW INCOME PERSONS**

- Housing assistance, ch 1281
- Utility disconnection moratorium, ch 1273
- Weatherization assistance program, appropriation, ch 1313,§3

**MACHINERY**

- Farm implements or parts franchise, termination rights, ch 1087
- Farm tractors and equipment, taxation, discounts, ch 1241
- Taxation, special valuation, budget "trigger", item veto, ch 1304,§10(4)
- Vehicles transporting agricultural products, equipment requirements, ch 1252

**MAGISTRATES**

- See *COURTS, Magistrates*

**MANUFACTURERS**

- Anhydrous ammonia plants, ch 1269
- Plastics, rights to dies, molds or forms, ch 1066

**MEAT**

- Meat export research center, ch 1315,§15

**MECHANICS' LIENS**

- Construction mortgage lien
  - Defined, ch 1215
  - Preference, ch 1215
- Notification to contractor of material furnished, ch 1248,§1

**MEDICAL ASSISTANCE**

- Appropriations
  - Abortions, ch 1310,§3(2),7
  - Medically needy program established, ch 1310,§1,3(2),7
  - Reimbursements from counties, ch 1297,§6
- Brain-injured persons, care facilities, study, ch 1310,§5(7)
- Definitions, ch 1297,§2
- Drug utilization review program, ch 1310,§3(2),7
- Eligibility
  - Ineligible persons, ch 1297,§4
  - Intermediate care facility for mentally retarded, ch 1297,§6
  - Medically needy priority, discretionary assistance, ch 1297,§3,5
  - Mental health institute patient, ch 1297,§3
  - Mentally retarded persons, health care facility, ch 1297,§6
  - Minors, ch 1297,§3
- Federal-state program, audit exceptions reimbursed, ch 1308,§2
- Funeral expense, ch 1297,§1
- Involuntary transfers, medical assistance recipients, ch 1310,§6
- Medical assistance fund, deposits, ch 1306,§7,16
- Medical assistance services, rulemaking, ch 1310,§10
- Medically needy program, rulemaking, ch 1310,§10
- Mental patients, costs reimbursed by county, ch 1310,§3(2),7
- Over-the-counter drugs, reimbursement, ch 1310,§3(2),7
- Pharmacy examiners board, reduction of charges, rules rescission, ch 1310,§5(6)
- Prescription drugs, prior authorization not required, ch 1310,§3(2),7
- Reimbursement rates
  - Intermediate care facilities, ch 1310,§5(1c)
  - Medical assistance providers, ch 1310,§5(1)
  - Optometrists, ch 1310,§5(1b)

**MEDICAL ASSISTANCE—Continued**  
**Reimbursement rates—Continued**

Psychologists, ch 1310,§5(1a)  
 Reimbursements, rulemaking, ch 1310,§10  
 University hospitals, duty to collect program data, ch 1310,§3(2),7

**MEDICAL EXAMINERS**

Appropriation, ch 1307,§3(1),6  
 Excess examination expenses, approval, ch 1307,§6  
 Investigators, peace officer status, ch 1161

**MEDICAL SERVICE CORPORATION**

Independent subscriber nominating committee, ch 1282  
 Skilled nursing care coverage, ch 1034

**MEETINGS**

Banks, shareholder meetings, ch 1032,§1,2  
 Iowa product development corporation directors, ch 1079

**MENTAL HEALTH**

Community mental health and mental retardation funding, application deadline, ch 1030  
 Community mental health centers, funds allocated, ch 1311,§1(3),12,13  
 Mental health and mental retardation commission, mentally retarded offenders, ch 1306,§2(5),16  
 Mental health and mental retardation services fund, appropriation, ch 1306,§8,16  
 Mental retardation comprehensive plan repealed, ch 1219,§41  
 Professionals  
   Hospice programs, ch 1284,§2  
   Veterans home, admission applications denied, ch 1277,§2

**MENTAL HEALTH INSTITUTES**

Appropriation, ch 1306,§5(1),16  
 Cherokee, Independence, capital improvements, ch 1306,§14,16  
 Children in need, custody, ch 1306,§5(5),16  
 Client funds, ch 1306,§5(4),16  
 Criminal defendant committed for evaluation, ch 1323,§1,3,5  
 Legal settlement of patient in county, ch 1165  
 Legal settlement residency, ch 1165  
 Medical assistance  
   Patient eligibility, ch 1297,§3  
   Payments from clients, ch 1306,§7,16

**MENTAL HEALTH INSTITUTES—Continued**

Mount Pleasant  
   Geriatric program, ch 1306,§5(2),16  
   Reduction in population, ch 1306,§5(2),16  
 Psychiatrists, recruitment plan, legislative intent, ch 1306,§5(3),16  
 Substance abusers, preliminary assessment, ch 1312,§4  
 Uniform daily charges, ch 1306,§5(6),16

**MENTALLY ILL PERSONS**

Conservator, ch 1299,§13  
 Correctional facilities, patient transfers, ch 1184,§11,14  
 Criminal defendant, insanity defense, ch 1320  
 Detention hearings, patient evaluation at state hospital, ch 1323,§1  
 Guardian, ch 1299,§10  
 Involuntary hospitalization following acquittal, ch 1323,§3,5  
 Medical care, reimbursement by counties, ch 1310,§3(2),7  
 "Mental illness" defined, ch 1323,§2  
 Missing person reports, ch 1084  
 Veterans home, admission denial, ch 1277,§2

**MENTALLY RETARDED PERSONS**

Formerly designated as feeble-minded, ch 1219,§12,16,17  
 Guardianship proceedings, probate code, ch 1299,§4-12,16,17  
 Intermediate care facility resident, medical assistance, ch 1297,§6  
 Medical care, reimbursement by counties, ch 1310,§3(2),7  
 Mental retardation comprehensive plan repealed, ch 1219,§41

**MERGED AREA SCHOOLS**

*See SCHOOLS AND SCHOOL DISTRICTS*

**MERIT EMPLOYMENT DEPARTMENT**

Appropriations  
   *General*, ch 1301,§10(6)  
   DOT merit system, ch 1309,§4(3),5(3)  
 Comparable worth, ch 1314, *see also*  
   *COMPARABLE WORTH*

**MERIT SYSTEM**

Children, youth, and families commission director, exemption, ch 1076,§5

**MERIT SYSTEM—Continued**

- Comparable worth, ch 1314, *see also*  
**COMPARABLE WORTH**
- Council for children and families, em-  
ployees, applicability, ch 1076,§8
- Employee leave of absence, elective office,  
ch 1233
- Information disclosure, employee reprisals,  
ch 1015
- Racing commission, temporary employees  
exempt, ch 1266,§1
- Youth council employees, applicability,  
ch 1076,§8

**MILK**

- Bacteriological count, acceptable level,  
ch 1120

**MINES AND MINING**

- Coal mining violations, penalties, ch 1153
- Coal, purchase by government institutions,  
ch 1147

**MINORS**

*See also CHILDREN*

- Alcoholic liquor, sale, ch 1292,§1(5)
- Cocaine, distribution to, penalty,  
ch 1013,§15
- Conservators, ch 1299,§13-15
- Driver's school license restrictions,  
ch 1219,§23,24
- Guardians, ch 1299,§10-12,16,17

**MISDEMEANORS**

- Alcoholic beverage sales to minors,  
ch 1275,§4
- Asbestos encapsulation, removal, willful  
violation, ch 1062,§12
- Bingo licensee violations, ch 1220,§4,12,13
- Computer crimes, ch 1249,§2,6-8,12-14
- Contributing to juvenile delinquency,  
ch 1219,§11
- Controlled substance violation, ch 1105
- Corrections department, disclosure of infor-  
mation, ch 1148,§1
- Criminal penalty surcharge, ch 1219,§39
- Domestic abuse, violation of police order,  
ch 1258
- Elections
  - Fraudulent registration, ch 1291,§5,21
  - Public officer, ch 1219,§2
- Explosives, violations, ch 1074,§8
- Fire fighters, interference with official acts,  
ch 1246,§4

**MISDEMEANORS—Continued**

- Fire official failing to report, ch 1095,§3
- Foster care review board, confidentiality,  
ch 1279,§32,44
- Handicapped parking space violation,  
ch 1110
- Insurers liquidation, failure to cooperate,  
ch 1175,§6(5a)
- Leave of absence, elective office, ch 1233,§2
- Missing person report, false information,  
ch 1084,§6
- Motor vehicles
  - Driving after suspension or revocation,  
ch 1142,§1
  - Financial responsibility Act, ch 1142,§2
  - Misdemeanor penalties, ch 1067,§33
- Peace officers, interference with official  
acts, ch 1246,§4
- Private investigative and private security  
agencies, violations, ch 1235,§16,19
- Racing law violations
  - Commission members, conflicts of inter-  
est, ch 1266,§4,5
  - False application, ch 1265,§4(4)
  - Stimulating devices, possession, penalty,  
ch 1265,§5
- Sentence review, jurisdiction, ch 1139,§2
- Serious misdemeanor, plea of guilty, ch 1321
- Special fuel in vehicles, marking, dis-  
pensing, ch 1095,§9

**MISSING PERSONS**

- Child missing, immediate action, ch 1084,§5
- Complaints, information, ch 1084,§2
- Definitions, ch 1084,§1
- Dissemination of report, ch 1084,§4
- Penalty, false information, ch 1084,§6
- Report of complaint, ch 1084,§3

**MISSISSIPPI RIVER PARKWAY  
COMMISSION**

- Appropriation, ch 1303,§15

**MOBILE HOMES AND PARKS**

- Mobile home, when designated as manufac-  
tured home, ch 1238
- Notice to quit, rent nonpayment, ch 1054

**MODELING**

- Child modeling, limitations, ch 1111

**MOLDS, DIES AND FORMS**

- Ownership rights, ch 1066

**MORTGAGES**

- Construction mortgage lien, priority, ch 1215
- Cooperative housing association, ch 1033
- Home equity line of credit, ch 1272
- Housing finance authority, mortgage loan not tax exempt, ch 1219,§10
- Priorities, loans and advances, ch 1272
- Real property legalizing Acts, references updated, ch 1090
- Redemption of nonresidential property, ch 1116
- Release or satisfaction, ch 1090,§7

**MOTORCYCLES**

- Child restraint device, exception, ch 1016

**MOTOR FUEL**

- Liquefied petroleum gas, fuel identification sticker, ch 1095,§9
- Motor and special fuel purchases, highway safety patrol, ch 1309,§2(5)
- Natural gas, fuel identification sticker, ch 1095,§9
- Standards and tests, ch 1083
- Tax
  - Exemption certificate, public purposes, ch 1141
  - Exemption, regional transit system, ch 1253,§5-8
  - Late payment penalty, ch 1173,§3,10
  - Marine fuel tax fund study repealed, ch 1012
  - Regional transit system, exemption, ch 1253,§5-8
  - Revenue department, appropriation, ch 1304,§6
- Transporters, registration plates eliminated, ch 1174

**MOTOR HOMES**

- Towing, four-wheeled trailers, steering axles, ch 1226

**MOTOR VEHICLES**

- Abandoned, transfer of title, ch 1243,§1
- Agricultural products, transportation, vehicle requirements, ch 1252
- Alcoholic beverage containers, ch 1275,§1
- Articulated buses, maximum length, ch 1077
- Automobile or car definition, ch 1219,§21
- "Baby buckle-up" law, ch 1016
- Bicycle license, motorized, fee increase, ch 1305,§66

**MOTOR VEHICLES—Continued**

- Child restraint devices
  - Exceptions, ch 1016
  - Violation, penalty, ch 1016
- Controlled-access facilities restrictions, ch 1219,§27
- Controlled-access highways, parking violations, ch 1022
- Criminal investigation division, purchases limited, legislative intent, ch 1309,§2(4)
- Dealers
  - Foreign vehicle, resale, title certificate, ch 1169
  - Used vehicle, odometer reading requirements, ch 1243,§3
  - Warranties, ch 1283
- Driver license
  - Chauffeur license, fee increase, ch 1305,§66
  - Driving after suspension or revocation, penalties, ch 1142,§1
  - Fee increase, ch 1305,§66
  - Financial responsibility Act, violation, ch 1142,§2
  - Instruction permit, fee increase, ch 1305,§66
  - Minors, school license restrictions, ch 1219,§23,24
  - Moving violations reference stricken, ch 1219,§25,26
  - OWI, revocation, ch 1292,§6,7,17
  - Parking violations, suspension or revocation, ch 1022
  - Photo, side profile, ch 1292,§3
  - Program, administration, funds, ch 1305,§18,19
  - Temporary driver permit, ch 1305,§66
  - Temporary restricted, ch 1292,§7,13,14
- Foreign, resale, certificate of title, ch 1169
- Four-wheeled trailers, steering axles, towing, ch 1226
- Fuel tax, *see MOTOR FUEL, Tax*
- Guest statute repealed, ch 1219,§41
- Handicapped parking space violation, penalty, ch 1110
- Junked, restricted title, ch 1169
- "Lemon" law, ch 1283
- Mandatory inspection, eliminated, ch 1305,§56,59,62,72,73
- Motor fuel transporters, permits, ch 1174
- Multipurpose vehicle, towing, ch 1226
- Nonoperator's identification card
  - Fee, ch 1305,§65
  - Under age 19, ch 1292,§3

## MOTOR VEHICLES—Continued

- Odometer
  - Law enforcement, penalty, ch 1305,§45,46,58
  - Reading requirement for transfer, ch 1243
- OWI
  - General, ch 1292
  - Chemical test, ch 1292,§10-18
  - Deferred judgments, ch 1292,§4
  - Fines, ch 1292,§4
  - Guest statute repealed, ch 1219,§41
  - Study committee created, ch 1292,§26
  - Victim reparation, ch 1292,§19,22-24
- Parking violations, driver license, suspension or revocation, ch 1022
- Plates
  - Frame obstructing view, unlawful, ch 1305,§50
  - Prisoner of war, ch 1250
  - Regional transit system, ch 1253,§4
  - Special, fee, ch 1305,§57
  - Trailers, personalized, ch 1305,§49
  - Transit, fee increase, ch 1305,§60
  - Validation stickers, ch 1027
- Registration and title
  - Abandoned vehicle sale, ch 1243,§1
- Fees
  - General, ch 1305,§47,48,51-55
  - County portion, ch 1305,§64
  - Excess to road use tax fund, ch 1309,§11
  - Motorcycle, ch 1305,§61
  - Nonresident, ch 1305,§60
  - Trailers, ch 1305,§63
- Motor fuel transporters
  - Registration plates eliminated, ch 1174
  - Single cab cards eliminated, ch 1174
- Odometer reading requirements, ch 1243
- Regional transit system
  - Certificate and plates, ch 1253,§4
  - Fee exemption, ch 1253,§1
- Transfer
  - County of new owner, ch 1243
  - Self-service facility lien sale, ch 1130,§4
- Validation stickers, placement, ch 1027
- Replacement
  - Dispute settlement, ch 1283,§6,7
  - Manufacturer, ch 1283,§3,4
- School buses, child restraint devices, exception, ch 1016
- Seat belts, children, ch 1016
- Semitrailers converted to farm equipment, ch 1252

## MOTOR VEHICLES—Continued

- Tire services, sales and use tax, ch 1140
- Towing, ch 1226
- Truck-tractors, validation sticker placement, ch 1027
- Use tax program, appropriation, ch 1304,§6
- Use tax revenue transfer, DOT, public transit assistance, ch 1309,§9
- Violations
  - Child restraints required, ch 1016
  - Driving after suspension or revocation, penalties, ch 1142,§1
  - Financial responsibility Act, penalty, ch 1142,§2
  - Misdemeanor penalties, ch 1067,§33
- Warranty
  - Definitions, ch 1283,§1(1)
  - Provision statement, ch 1283,§8
  - Time in effect, ch 1283,§1(2)

## MUNICIPAL IMPROVEMENT DISTRICTS

- Utility property defined as real property, ch 1179

## MUNICIPALITIES

See also *CITIES*

- Audits, annual, completion deadline, ch 1128
- Building energy management programs, funding, ch 1313
- Contracts
  - Bid preference, reciprocity, ch 1045
  - Bid prohibition after conviction, ch 1143,§2
  - Bid-rigging or price fixing, penalty, ch 1143,§1
  - Bid security, share drafts, ch 1055
  - Coal, Iowa preference, ch 1147
  - Conflicts of interest, ch 1228
- Court cases, juror challenge, ch 1181,§10
- Elections, nomination objection procedure, ch 1291,§1,2,21
- Elective official, leave of absence, ch 1233
- Historical projects, county funds, ch 1107
- Jails and municipal holding facilities
  - Inspection and report, ch 1127,§2
  - Standards established, ch 1127,§1
- Legislative committees, aid furnished, ch 1171
- Liability
  - Failure to erect traffic control device, ch 1293,§10(1)
  - Snow, ice removal, ch 1002;ch 1293,§10(2)

**MUNICIPALITIES – Continued**

- Municipal assistance fund, appropriation, ch 1304,§5
- Records, access by legislative fiscal bureau, ch 1172
- Revenue bonds, sports facility, ch 1266,§22,23
- Snow and ice removal, ch 1002; ch 1293,§10(2)
- Urban renewal
  - Development assessments, ch 1210
  - Disposal to industrial business, ch 1210,§2,3
  - Tax exclusion, ch 1210,§1
  - Transfer for less than market value, ch 1210,§3
- Utilities, disconnection of service, ch 1273
- Utility property defined as real property, ch 1179
- Zoning
  - Actions, publication of notice, ch 1018
  - District change, protest petition, ch 1176
  - Manufactured home, ch 1238

**NATIONAL CONFERENCE OF STATE LEGISLATURES**

- Appropriation, ch 1301,§10(4)

**NATIONAL GUARD**

- Education program, appropriation, ch 1302,§4
- Jury duty exemption stricken, ch 1181,§1
- Pay, minimum, ch 1170
- Per capita annual allowance, ch 1309,§1(2)

**NONRESIDENTS**

- Bid preference, reciprocity, ch 1045; ch 1301,§12
- Child car restraint devices, exception, ch 1016
- Child support recovery, court jurisdiction, ch 1242
- Fish and game licenses, ch 1260,§2,5,10,11
- Fur dealers, license fee, ch 1199
- Paternity, court jurisdiction, ch 1242
- Pheasant hunting stamp eliminated, ch 1260,§2,14,15
- Raccoon hunting stamp eliminated, ch 1260,§2,14,15

**NOTARIES PUBLIC**

- Absentee ballots, notarization requirement stricken, ch 1291,§11,14,18

**NOTES**

- Housing finance authority, ch 1281
- Product development corporation fund, sale, ch 1067,§9;ch 1164,§5

**NOTICE**

- Dies, molds or forms, ownership rights, transfers, ch 1066,§2
- Domestic abuse, abused persons, notice of rights, ch 1258
- Elections, nomination objections, ch 1291,§1(2),21
- Eminent domain, constructive notice, condemnation proceedings, ch 1065
- Estate probate publication
  - Date of death required, ch 1080
  - Time limitation, ch 1080
- Fire marshal, assessment, repairs, challenge, ch 1095,§7
- Forfeiture of real estate contract, attorney fees, ch 1203,§2,3
- Hazardous condition spill, ch 1108,§2
- Hazardous waste disposal site, owner, ch 1108,§15
- Health benefit plan broken, employer liability, ch 1129,§1(3)
- Insurers liquidation, ch 1175,§22-24,26,28,31(4),33(3),34(5),38(2),39(1,2),55(2),56(2)
- Life insurance loans, interest, ch 1017
- Mobile home landlords, notice to quit, ch 1054
- Public funds deposit, interest rate, ch 1230,§10
- Sanitary districts, establishment, dissolution, ch 1051
- Small businesses, administrative rules, ch 1007
- Small claims, appeals, ch 1322,§6
- Utility disconnections, low income residents, ch 1273
- Zoning actions by cities, ch 1018

**NUISANCES**

- Anhydrous ammonia plants, ch 1269

**NURSE EXAMINERS**

- Appropriation, ch 1307,§3(2),6
- Excess examination expenses, approval, ch 1307,§6

**NURSES**

- Diabetes education, health insurance program, ch 1290

**NURSES — Continued**

- Drug dispensing, ch 1006
- Emergency and rescue services, participation, ch 1287
- Hospice programs, ch 1284
- Licensed practical, head start programs, legislative intent, ch 1307,§3(2),6
- Public health nursing program, ch 1307,§4(7b)
- Skilled nursing care coverage, ch 1034

**NURSING BOARD**

- Nurses staffing ambulances, ch 1287,§10,12

**OBLIGATIONS**

- Public
  - Payable from taxation, ch 1021
  - Registration costs, ch 1021

**OBSCENITY**

- Children, sexual exploitation, ch 1207

**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

- Appropriation, ch 1304,§2(12)
- Asbestos encapsulation, removal, workers' protection and training, ch 1062,§2,3,5,7-10

**OIL**

- Used oil regulation, ch 1157

**OLD-AGE AND SURVIVORS' INSURANCE SYSTEM**

- Appropriation, ch 1285,§1
- Benefit increase, ch 1285,§1

**OMBUDSMAN**

- See *CITIZENS' AIDE*

**OPTOMETRISTS**

- Medical assistance reimbursement rate, ch 1310,§5(1b)
- Optometric service corporation, directors' independent nominating committee, ch 1282

**OSTEOPATHY AND OSTEOPATHIC MEDICINE**

- Hospice programs, ch 1284
- Licensing discipline, medical examiners investigators, ch 1161
- Subvention program, appropriation, ch 1302,§3

**OWI**

- See *MOTOR VEHICLES, OWI*

**PARAMEDICS**

- See *EMERGENCY MEDICAL TECHNICIANS (EMT), PARAMEDICS*

**PARI-MUTUEL WAGERING ACT**

- "Applicant" defined, ch 1265,§1
- Breakage distribution, ch 1266,§14,20
- Horse and dog breeders fund, ch 1266,§20,21
- Horse racing, types authorized, ch 1266,§3
- Law enforcement agents, appropriation, ch 1309,§2(4c)

**Licenses**

- Application information, ch 1265,§4
- False application, penalty, ch 1265,§4(4)
- Fingerprinting, fee, ch 1265,§4(3)
- Neighborhood impact study, ch 1266,§8
- Period extended, ch 1266,§8
- "Prime farmland" restriction, ch 1266,§8
- Search consent, ch 1265,§4(5);ch 1266,§7
- Terms and conditions, ch 1266,§9,10
- Native horses or dogs, ch 1266,§20,21

**Racing commission**

- Annual report to governor, ch 1266,§19
- Appropriation, ch 1304,§2(15)
- Authority to expel "undesirables," ch 1265,§3
- Criminal history data, disclosure, ch 1265,§6
- Employees, information required, ch 1265,§2
- Fees, disposition, ch 1266,§6
- Funds collected, not paid to treasurer, ch 1266,§2
- Prohibited activities, ch 1266,§4,5
- Start-up fund repealed, ch 1266,§23
- Temporary employees, merit system exemption, ch 1266,§1

- Revenue bonds, racetrack construction, ch 1266,§22,23

- Surplus funds, how used, ch 1266,§18

**Taxation**

- Excise tax, ch 1266,§15,16
- Receipts verification, revenue department, repealed, ch 1266,§23
- Tax credit, track construction, ch 1266,§17

- Thoroughbred horses, standards, ch 1266,§20,21

**Violations**

- Animal stimulants, penalty, ch 1265,§5
- Racing commission, conflicts of interest, ch 1266,§4,5

**PARI-MUTUEL WAGERING ACT -**  
Continued

Wagering regulations, ch 1266,§11-13  
Winnings unclaimed, provision repealed,  
ch 1266,§23

**PARKS**

National park lands and waters, jurisdic-  
tion, ch 1024  
State parks, establishment, expansion,  
funding, ch 1262,§1

**PAROLE**

Revocation, bail, ch 1089  
Violations, enforcement procedures, ch 1156  
Violators, temporary confinement, reim-  
bursement, ch 1244,§5;ch 1306,§2(8),16

**PAROLE BOARD**

Appropriation, ch 1306,§3,16  
Corrections department confidential re-  
cords, accessibility, ch 1148,§1  
Inmate evaluation, parole criteria,  
ch 1306,§3,16  
Membership, transition provisions re-  
pealed, ch 1156,§3  
Parole, violation hearing, ch 1156  
Prison overcrowding emergency,  
ch 1306,§2(1),16

**PATERNITY**

Nonresident parent, jurisdiction of courts,  
ch 1242

**PEACE OFFICERS**

Chemical testing, OWI, ch 1292,§10-18  
Child restraint device requirements, not ap-  
plicable, ch 1016,§1  
Defense costs, reimbursement by state,  
ch 1259,§5  
Definition amended, ch 1019  
Domestic abuse, duties, liability, ch 1258  
Interference with official acts, penalty,  
ch 1246,§4  
Interpreter provided for hearing impaired  
persons, ch 1264  
Jails and municipal holding facilities, stan-  
dards, ch 1127,§1  
Library records, limited access, ch 1014  
Licenses, private detectives, exemption,  
ch 1135  
Medical examiners, investigators, ch 1161  
Motor vehicles, spot equipment inspections,  
ch 1305,§69

**PEACE OFFICERS - Continued**

Offense review, district judge, ch 1259,§5  
Private security or investigation busi-  
nesses, licensing exception,  
ch 1235,§2,19  
Probation officers, acting as, ch 1019  
Retirement system, investment income  
usage, ch 1180,§8,9,12  
Search warrant forms, R.Cr.P. 30, ch 1324  
Standards, mental fitness, ch 1245  
Training costs, reimbursement to cities or  
counties, ch 1274

**PENALTIES**

Advanced EMT, paramedic violations,  
ch 1287,§5,7  
Ambulance service, unauthorized,  
ch 1287,§11  
Arson, fire fighter's death, ch 1064  
Asbestos encapsulation and removal, willful  
violation, ch 1062,§12  
Bingo licensee violations, ch 1220,§4,11-14  
Civil  
Abandoned property, failure to deliver,  
ch 1295,§23  
Hazardous waste violations, ch 1158  
OWI, victim reparation fund, ch 1292,§19  
Revised schedule for beer and liquor  
violations, ch 1292,§27  
Coal mining violations, ch 1153  
Cocaine, possession, distribution,  
ch 1013,§13-17  
Competition law, bid-rigging or price fixing,  
ch 1143,§1  
Computer crimes, ch 1249,§2,4-8,10-14  
Contributing to juvenile delinquency,  
misdemeanor, ch 1219,§11  
Controlled substance violation, ch 1105  
Corrections department, disclosure of infor-  
mation, ch 1148,§1,2  
County attorney, collection, professional  
services permitted, ch 1163  
Criminal penalty surcharge increase,  
ch 1274,§2,3  
Criminal surcharge, county or city fine,  
ch 1219,§30,31,37  
Domestic abuse, violation of police order,  
ch 1258  
Explosive materials violations, ch 1074,§8  
False certification, documents, ch 1048  
Farm implements or parts franchisers,  
failure to comply, ch 1087,§4  
Felonies  
Criminal penalty surcharge, ch 1219,§38



**PENALTIES — Continued****Felonies — Continued**

- Presentence investigation waiver, ch 1126
- Sentence review, jurisdiction, ch 1139, §1
- Fire fighters, interference with official acts, ch 1246, §4
- Fire official failing to report, ch 1095, §3
- Handicapped parking space violation, ch 1110
- Hazardous waste disposal, ch 1108, §10, 12, 13
- Insurers liquidation proceedings, ch 1175, §6(5b), 9(8), 23(2), 33(2b)
- Leave of absence, elective office, ch 1233, §2
- Misdemeanant's sentence review, jurisdiction, ch 1139, §2
- Misdemeanors, criminal penalty surcharge, ch 1219, §39
- Missing person report, false information, ch 1084, §6
- Motor fuel transporters, ch 1174
- Motor vehicles
  - Driving after suspension or revocation, ch 1142, §1
  - Financial responsibility Act, ch 1142, §2
  - Misdemeanors, ch 1067, §33
  - Odometer violations, ch 1305, §58
- Peace officers, interference with official acts, ch 1246, §4
- Prescription drugs and controlled substances, violations, ch 1006
- Private investigative and private security agencies, violations, ch 1235, §16, 19
- Public utilities, service disconnections, violations, ch 1273
- Racing law violations
  - Animal stimulants, ch 1265, §5
  - Commission members, conflicts of interest, ch 1266, §4, 5
  - False applications, ch 1265, §4(4)
- Radiation equipment, illegal use, ch 1286, §12
- Special fuel in vehicles, marking, dispensing violations, ch 1095, §9
- Tax, *see TAXATION and thereunder specific tax*
- Tax filing, late payments, ch 1173

**PENSIONS**

*See RETIREMENT*

**PERMITS**

*See LICENSES AND PERMITS*

**PERSONAL PROPERTY**

- Abandonment determined, reported, ch 1295, §13, 14, 26
- Delinquent tax list published, ch 1221, §3
- Probate inventory, ch 1092
- Public safety department, disposition, ch 1154
- Self-service storage facilities, ch 1130
- Tax credit, replacement fund, ch 1298, §1
- Unclaimed
  - Business, banking or financial organizations, voluntary dissolution, ch 1295, §10
  - Courts and public officers, holding period, ch 1295, §12
  - Safe deposit box, ch 1295, §7

**PETITIONS**

- Insurers liquidation, ch 1175, §24, 27, 28
- Schools and school districts, reorganization, ch 1078, §4

**PETROLEUM PRODUCTS**

*See also MOTOR FUEL*

- Overcharge funds used in energy management programs, ch 1313
- Used oil regulation, ch 1157

**PHARMACY AND PHARMACISTS**

- Controlled substance violation, penalty, ch 1105
- Diabetes education, health insurance program, ch 1290
- Generic drugs, dispensing restriction, ch 1038
- Hospice programs, ch 1284
- Medical assistance, drug utilization review program, ch 1310, §3(2), 7
- Pharmaceutical service corporation, nominating committee, ch 1282
- Prescription drugs or controlled substances, dispensing, ch 1006

**PHARMACY EXAMINERS**

- Administrative rules rescission, medical assistance, reduction of charges, ch 1310, §5(6)
- Appropriation, ch 1307, §3(3), 6
- Excess examination expenses, approval, ch 1307, §6

**PHYSICAL AND OCCUPATIONAL THERAPY EXAMINERS**

- Physical therapists, eligibility, rulemaking, ch 1268

**PHYSICAL THERAPISTS**

- Definition, nonprofessional workers excluded, ch 1268
- "Physical therapy" redefined, ch 1268
- Referrals by physicians, dentists, chiropractors, ch 1268
- Requirements to practice, ch 1268

**PHYSICIANS AND SURGEONS**

- Advanced emergency medical care council members, ch 1287,§2
- Diabetes education, health insurance program, ch 1290
- Family practice program, appropriation condition, ch 1302,§9(2b-d)
- Hospice programs, ch 1284
- Licensing discipline, medical examiners investigators, ch 1161
- Physical therapy treatment, referral, ch 1268
- Physician's assistants, drug dispensing, ch 1006
- Prescription drugs or controlled substances, dispensing, ch 1006
- Rape victims, medically necessary abortions, appropriation condition, ch 1302,§9(2c)

**PIONEER LAWMAKERS**

- Appropriation, ch 1301,§10(7)

**PLANNING AND PROGRAMMING****Appropriations**

- General*, ch 1301,§10(8c);  
ch 1311,§5,6,12,13
- Children, youth, and families commission, ch 1301,§10(8e,g,l)
- Community development block grant administration, ch 1301,§10(8h);  
ch 1311,§6,12,13
- Community development loan fund, ch 1301,§10(8i)
- Community services block grant, ch 1311,§5,12,13
- Council for children, ch 1301,§10(8e,l)
- Cultural community grants, uncommitted funds, ch 1301,§10(8j)
- Economic analysis and planning assistance, ch 1301,§10(8d)
- Highway safety program, ch 1301,§10(8a)
- Job training partnership Act, ch 1301,§10(8k)
- Statistical analysis center, condition, ch 1301,§10(8f)

**PLANNING AND PROGRAMMING -****Continued****Appropriations - Continued**

- Youth corps, ch 1301,§10(8g,l)
- Youth services administration, ch 1301,§10(8b)
- Audit, funds appropriated, ch 1311,§5,6,12,13
- Children, youth, and families commission, duties, ch 1076,§8
- Community action agencies, sunset provision, ch 1049
- Council for children and families, transfer of duties, ch 1076,§8
- Director
  - Appointment by governor, ch 1138
  - Salary, ch 1138
- Youth council, transfer of duties, ch 1076,§8

**PLASTICS**

- Rights to dies, molds or forms, ch 1066

**PLATS**

- Real estate subdivisions, ch 1271

**PODIATRISTS**

- Prescription drugs or controlled substances, dispensing, ch 1006

**POISONS**

- Lead poisoning prevention program, funds, ch 1311,§2(2),12,13

**POLICE**

- Explosive materials, duties, ch 1074
- Licenses, private detectives, exemption, ch 1135
- Peace officers, *see PEACE OFFICERS*

**POLITICAL ACTION COMMITTEES (PAC)**

- Campaign financing for state offices, study, ch 1218

**POLITICAL COMMITTEES**

- Political campaigns study committee, ch 1218

**POLITICAL PARTIES**

- Checkoff, income tax contributions, ch 1263

**POOR**

- See INDIGENTS*

**POPULAR NAME STATUTES**

- "Baby buckle-up" law, ch 1016
- Budget "triggers," item veto, ch 1304,§10(2-5)
- Computer "hackers" law, ch 1249
- Container law, alcoholic beverages in motor vehicles, ch 1275
- Crop lien law, ch 1072
- "Guest statute" repealed, ch 1219,§41
- "Johnny Gosch" law, ch 1084
- "Lemon" law, motor vehicles, warranty, ch 1283
- "Right to know" Act, hazardous chemicals, ch 1085
- "Tuxedo" tax law, ch 1305,§77

**POSTAL SAVINGS**

- Unclaimed accounts, provisions repealed, ch 1295,§25

**POSTCONVICTION PROCEDURE**

- Filing application, time limit, ch 1193, §1

**PRINTING**

- Sales and use tax, services, ch 1254

**PRINTING, STATE**

- Code and other publications, free copies
  - Distribution, ch 1301,§13
  - Libraries provided microfiche copies, ch 1301,§13
  - Replacement document, costs, ch 1301,§13

**PRIORITIES AND PREFERENCES**

- Coal, government contracts, ch 1147
- Construction mortgage liens, ch 1215
- Cooperative housing associations, mortgages, ch 1033
- General services department, bid reciprocity, ch 1301,§12
- Inheritance tax liens, ch 1240
- Lienholders' advancements, ch 1248
- Mortgages, loans and advancements, ch 1272
- Public improvement contracts, resident bidders, ch 1045

**PRISONS AND PRISONERS**

- See also INMATES*
- Correctional facilities for women, escape, transfer, ch 1184,§11,12

**PRISONS AND PRISONERS—Continued**

- Forfeiture of good conduct time, appeal, ch 1244,§3
- Meal charges, employed prisoners, ch 1144
- Medical and classification center, Oakdale, ch 1184
- Parole violators, temporary confinement, ch 1244,§5;ch 1306,§2(8),16
- Presentence investigation waiver, felonies, ch 1126
- Prisoner assistance clinic, University of Iowa appropriation, legislative intent, ch 1302,§9(2a)
- Prison overcrowding emergency, ch 1306,§2(1),16
- "Prison system" defined, ch 1306,§2(1),16
- Probation violation, adults, jail term, ch 1244,§6
- Security and medical facility renamed, ch 1184,§1,4-6,14,15,24
- Visitation, public officials, religious leaders, ch 1004
- Women's facilities
  - Commitment, ch 1184,§9,10
  - Name changes, ch 1184,§7,8
- Workers' compensation benefits repealed, ch 1184,§22
- Work release
  - Income controlled by judicial district, ch 1184,§16
  - Inmate's own home, ch 1244,§1
  - Medical care provided, ch 1184,§17
  - Temporary confinement, ch 1244,§2; ch 1306,§2(8),16

**PRIVATE DETECTIVES**

- Licensing chapter repealed, *see PRIVATE INVESTIGATIVE AGENCIES AND PRIVATE SECURITY AGENCIES*
- Licensing exemptions, ch 1135

**PRIVATE INVESTIGATIVE AGENCIES AND PRIVATE SECURITY AGENCIES**

- Badges and uniforms, ch 1235,§9,19
- Definitions, ch 1235,§1,19
- Identification cards, fee, ch 1235,§7,19
- Licensing
  - Administrative costs, ch 1235,§14,19
  - Display, ch 1235,§6,19

**PRIVATE INVESTIGATIVE AGENCIES  
AND PRIVATE SECURITY  
AGENCIES - Continued**

**Licensing - Continued**

- Duplicate license, ch 1235,§8,19
- Fee, ch 1235,§5,19
- Requirements, ch 1235,§3,4,19
- Suspension or revocation, ch 1235,§12,19
- Persons exempt, ch 1235,§2,19
- Reports to clients, ch 1235,§11,19
- Rulemaking, ch 1235,§9,15,19
- Surety bonds, ch 1235,§10,12,19
- Violations, penalties, ch 1235,§16,19
- Weapon permits, ch 1235,§13,17,19

**PROBATE CODE**

- Conservatorships, ch 1299,§13-16,18
- Estates
  - Decedents, time limitation, ch 1080
  - Real estate title change certificates, ch 1221,§7,8
- Guardianships, ch 1299,§10-12,16,17
- Inventory and report
  - Contents, ch 1092
  - Filing procedure, ch 1092
- Wills, foreign, legalization of Iowa Acts, references updated, ch 1090,§15

**PROBATION**

- Officers, duties, ch 1019
- Violation, contempt of court, ch 1244,§6

**PRODUCT DEVELOPMENT  
CORPORATION**

- Appropriation, ch 1303,§7(5),9
- Audits, ch 1164,§6
- Board action, voting requirement, ch 1079
- Board, compensation, ch 1164,§1
- Financial aid applications, confidential, ch 1164,§3
- President designated state employee, ch 1164,§2
- Product development corporation fund
  - Notes, sale, ch 1067,§9;ch 1164
  - Warrants issued, ch 1067,§8;ch 1303,§10

**PROFESSIONS AND OCCUPATIONS**

- Continuing education, licensing boards, authority, ch 1056

**PROPERTY**

**Abandonment**

- Delivery or payment, relief from liability, ch 1295,§16,17,26
- Fiduciary holding period reduced, ch 1295,§11
- Interstate agreements, ch 1295,§24
- Notice and publication, lists, ch 1295,§15
- Owner's dividends accrued, ch 1295,§18
- Records investigated by treasurer of state, interest and penalties, ch 1295,§22,23
- State assumes liability, ch 1295,§17
- Computer damage, theft, penalties, ch 1249
- Condemnation procedures, ch 1065; ch 1119
- Insurers liquidation, fraudulent and preference transfers, ch 1175,§26(2a,b),27,28
- Legalizing Acts, real property, references updated, ch 1090
- Personal, *see* **PERSONAL PROPERTY**
- Real, *see* **REAL ESTATE**
- Search warrant forms, R.Cr.P. 30, ch 1324
- Taxation
  - Inheritance, *general*, ch 1240
  - Manufactured homes, ch 1238
- Unclaimed
  - Disposition, ch 1295
  - Uniform unclaimed property Act, interstate agreements, ch 1295,§24
- Utility property defined as real property, ch 1179
- Value for crime purposes, ch 1162
- Zoning district change, protest petition, ch 1176

**PROTECTED WATER AREA SYSTEM**

*See* **WATERS AND WATERCOURSES**

**PSYCHOLOGISTS**

- Health service providers, *general*, ch 1122
- Inmate classification system, psychologist employed, funds, ch 1306,§2(2),16
- Licensure requirements, ch 1122,§1
- Medical assistance reimbursement rate, ch 1310,§5(1a)

**PUBLIC ACCOMMODATIONS**

- Civil rights actions, ch 1096
- Defined, ch 1096

**PUBLICATION**

- Agriculture department, subscription fees, ch 1303
- Claims against counties, ch 1069
- Fiduciary accounts, notice of succession, ch 1167
- Insurers liquidation, notice, ch 1175,§22(1e),31(4)
- Libraries, withdrawal from county district, notice, ch 1168
- Life insurance loans, interest, ch 1017
- Probate notices, time limitation, ch 1080
- Public safety personal property, disposition notice, ch 1154
- Sanitary districts, establishment, dissolution, ch 1051
- Self-service storage facility liens, sale, ch 1130,§4
- State publications, free copies
  - Distribution list, ch 1301,§13
  - Libraries, microfiche copies, ch 1301,§13
  - Replacement document, cost, ch 1301,§13
- Teacher, athletic contract, extracurricular, ch 1296
- Zoning actions by cities, ch 1018

**PUBLIC BROADCASTING DEPARTMENT**

- Appropriation, ch 1302,§5

**PUBLIC DEFENSE**

- Appropriations
  - Clinton armory, construction, ch 1315,§32(8),33
  - Military division, ch 1309,§1(2)
- Dubuque armory sale, proceeds to general fund, ch 1315,§32(8),33

**PUBLIC EMPLOYMENT RELATIONS BOARD**

- Appropriation, ch 1304,§2(13)

**PUBLIC FUNDS**

- Consolidation, joint investment, ch 1194
- Deposits
  - Corporation membership, ch 1230,§17
  - Credit unions, savings and loans, ch 1230,§4-17
  - Depository defined, ch 1230,§4,5
  - Eligibility, financial institutions, ch 1230,§11
  - Financial institution, securities pledge, ch 1230,§20-24,29
  - Interest rate, ch 1230,§10,11
  - Sinking fund, repeal, ch 1230,§1-3,28,29
- Soil and water conservation, cost-sharing funds, ch 1192

**PUBLIC IMPROVEMENTS**

- Contracts, share drafts as security, ch 1055,§14

**PUBLIC INSTRUCTION**

- Administrative rules, educational excellence program, ch 1315,§6
- Appropriations
  - General*, ch 1302,§6(1);ch 1311,§7,8,12,13
  - Computer software clearinghouse, ch 1302,§6(11,14)
  - Educational agencies, local, ch 1311,§7,8,12,13
  - Educational excellence incentive awards, item veto, ch 1315,§9
  - Education block grant, ch 1311,§7,8,12,13
  - Fire service education, ch 1302,§6(1)
  - Merged area schools
    - General*, ch 1302,§6(12a),7,8;ch 1305,§1
    - Equipment replacement, ch 1315,§9
    - Industrial start-up training programs, ch 1302,§6(12c)
    - Vocational education programs, ch 1302,§6(12b)
  - Non-English speaking students, ch 1302,§6(10)
  - Professional teaching practices commission, ch 1302,§6(5)
  - School budget review committee, ch 1302,§6(9)
  - School food service, ch 1302,§6(7)
  - Science and mathematics teaching programs, ch 1302,§15
  - Textbooks, nonpublic schools, ch 1302,§6(8)
  - Vocational education
    - Administration, ch 1302,§6(2)
    - Secondary schools, ch 1302,§6(3)
    - Vocational rehabilitation, ch 1302,§6(4)
    - Vocational youth organization fund, ch 1302,§6(6)
- Area education agencies, lease-purchase agreements, approval, ch 1103
- Child abuse investigations, ch 1207,§3
- Disabled population study, assistance, ch 1306,§10,16
- Educational excellence program, *general*, ch 1315,§1-8
- Educational improvement projects
  - Applications, approval notification, ch 1315,§2

**PUBLIC INSTRUCTION—Continued****Educational improvement projects—  
Continued**

- Cost limited, ch 1315,§2
- Defined, ch 1315,§2
- Educational excellence incentive awards
  - General*, ch 1315,§2-6
  - Appropriation, item veto, ch 1315,§8
- Funding, ch 1315,§2,3
- Federal aid, matching funds approval, ch 1067,§29
- Rulemaking, special education appeals, ch 1070
- School dropout program, ch 1037
- Special education
  - Age of termination, ch 1001
  - Appeals, hearing officer appointed, rule-making, ch 1070
- Superintendent
  - Children, youth, and families commission, member, ch 1076,§2
  - Qualifications, ch 1068
- Teacher extracurricular athletic contract, ch 1296
- Transportation for nonpublic pupils, reimbursement claims, ch 1302,§19
- Women and children services integrated, pilot areas, legislative intent, ch 1311,§2(3),12,13

**PUBLIC LANDS**

- Vacating by city, ch 1271,§2

**PUBLIC OFFENSES**

See *CRIMES AND OFFENSES*

**PUBLIC RECORDS**

- Civil enforcement, examination rights, ch 1185,§9
- Computer data storage systems, ch 1145,§1
- Fair information practices Act, ch 1185,§10
- "Government body" defined, ch 1185,§1
- Government records, confidentiality, ch 1185,§6
- Health care facility inspection following complaint, ch 1227,§2
- Injunction restraining examination, ch 1185,§7
- "Lawful custodian" defined, ch 1185,§1
- Political subdivisions, access to records, policy adopted, ch 1185,§11
- Professional counselor records, confidential information, ch 1185,§5(2)

**PUBLIC RECORDS—Continued**

- References to "citizen" changed to "person," ch 1185,§3,4
- Right to examine, ch 1185,§2
- Rulemaking, state agencies
  - Examination of records, conditions of federal aid, ch 1185,§8
  - Records, status, access procedures, ch 1185,§10
- School records, confidential information, ch 1185,§5(1)
- Schools, postsecondary, registry, ch 1098,§6
- State agencies, personally identifiable information, restriction, ch 1185,§10(2)
- Study committee on government records, ch 1185,§12

**PUBLIC SAFETY**

- Administrative rules
  - Criminal records
    - Computer access, authorized personnel, ch 1145,§3
    - Youth agencies, access, ch 1061
  - Private investigative and private security agencies, ch 1235,§9,15,19
- Appropriations
  - Administration, ch 1309,§2(1)
  - Capitol security division, ch 1309,§2(3)
  - Cedar Falls tower, ch 1315,§32(9),33
  - Crime prevention programs, ch 1309,§2(5)
  - Highway safety and uniformed force, ch 1309,§2(5)
  - Inspection, ch 1309,§2(2)
  - Investigation
    - General*, ch 1309,§2(4)
    - Agents, undercover purchases, ch 1309,§2(4b)
    - Pari-mutuel law enforcement agents, ch 1309,§2(4c)
  - Public highways, administration, ch 1305,§20,70;ch 1315,§26
- Victim reparation program
  - Claims, operational expense, ch 1315,§24
  - Operational expense limitation, legislative intent, item veto, ch 1309,§2(1)
- Arson investigators, appropriation, ch 1309,§2(2)
- Criminal investigation and identification
  - Agents, undercover purchases, appropriation, ch 1309,§2(4b)
  - Bingo, ch 1220,§2,4,13

**PUBLIC SAFETY - Continued**

- Criminal investigation and identification - Continued
  - Laboratory equipment, appropriation, ch 1309,§2(4a)
  - Law enforcement officers, violations, ch 1246,§3
  - Motor vehicle purchases limited, legislative intent, ch 1309,§2(4)
  - Racing law enforcement, consent to search, ch 1265,§4(5);ch 1266,§7
  - Racing license applicants, fingerprinting, ch 1265,§4(3)
- Criminal records
  - Computer access restricted, ch 1145
  - Youth agencies, access, ch 1061
- Domestic violence data and statistics, collection proposal, ch 1258
- Explosives, responsibilities transferred, ch 1074
- Fees
  - Criminal records checks, ch 1061
  - Racing license applicants, fingerprinting, ch 1265,§4(3)
- Firearms and ammunition, disposition, ch 1154
- Fire marshal, *see FIRE MARSHAL*
- Fire protection division, hazardous chemicals information interagency council, membership, ch 1085,§16
- Highway safety patrol, motor and special fuels, purchased from DOT, report, ch 1309,§2(5)
- Law enforcement officials, licensing exemption, ch 1135
- Motor vehicles, departmental use, limited number, legislative intent, ch 1309,§2(5)
- Peace officer
  - Reimbursement, defense costs, ch 1259,§5
  - Spot equipment inspections, motor vehicles, ch 1305,§69
- Personal property acquired, disposition, ch 1154
- Private investigative and private security agencies, ch 1235, *see PRIVATE INVESTIGATIVE AGENCIES AND PRIVATE SECURITY AGENCIES*
- Special fuel in vehicles, marking, approval, ch 1095,§9

**PUBLIC SERVICE**

- Work assignment, child, tortious act, ch 1280

**PUBLIC UTILITIES**

- Advertising costs, statement required, ch 1225
- City, ownership report, ch 1177
- City projects, general obligation bonds refunded, ch 1058
- Customer lists for jury use, ch 1181,§8
- Electric transmission lines
  - Construction near buried line, ch 1132
  - Easements, petition, ch 1101,§2
  - Exclusive service areas, conduct prohibited, ch 1101,§1
  - Franchises, voltage requirement, ch 1101,§2
  - Jurisdiction, ch 1101,§1,2
  - Rules, construction standards, ch 1101,§3
- Electric utilities
  - Service deposits, ch 1131
  - Service disconnection moratorium, ch 1273
- Gas utilities
  - Service deposits, ch 1131
  - Service disconnection moratorium, ch 1273
- Municipal plants, disconnection of service, ch 1273
- Telephone utilities
  - Customer lists for jury use, ch 1181,§8
  - Directory assistance charges, ch 1023
  - Nonrate-regulated companies, redefined, ch 1031
  - Tariff filings, exemption, ch 1267
- Transmission facilities, joint ownership, ch 1251
- Utility property defined as real property, ch 1179

**RACING COMMISSION**

- See PARI-MUTUEL WAGERING ACT, Racing Commission*

**RADIATION**

- Equipment, materials
  - Definitions, ch 1286,§10
  - Health department duties, ch 1286
  - Operators, ch 1286,§9
  - Penalties, ch 1286,§12
- Radioactive waste, low-level, disposal, regulation, ch 1286,§7

**RAILROADS**

- Branch line improvement, appropriation, ch 1309,§3(3)
- Highway grade crossing repairs, funds allocated, ch 1309,§10,12,14

**RAILROADS - Continued**

- Sidewalk maintenance, snow and ice removal, ch 1002
- Tourist railroad, special facility funds, ch 1289

**RAILWAY FINANCE AUTHORITY**

- Tourist railroad, special facility funds, ch 1289

**RAPE**

*See also SEXUAL ABUSE*

- Abortions, medically necessary, appropriation condition, ch 1302,§9(2c)
- Rape prevention program, funds, ch 1311,§4(3),12,13

**REAL ESTATE**

- Area education agencies, lease-purchase agreements, ch 1103
- Conservation easements, ch 1184
- Contract forfeited, attorney fees, ch 1203
- Cooperative housing associations, sales and encumbrances, ch 1033
- Eminent domain, ch 1065
- Forfeiture of contract
  - Attorney fees, ch 1203,§1
  - Compliance with notice, ch 1203,§3
  - Notice, ch 1203,§2
- Home equity line of credit, ch 1272
- Legalizing Acts, references updated, ch 1090
- Plat requirements for subdivision, ch 1271
- Probate inventory and report, contents, ch 1092
- Redemption of nonresidential property, ch 1116
- Tax sales, ch 1221,§5,6
- Transfer fee, county auditor, ch 1198
- Urban renewal
  - Sale or lease of property, ch 1210
  - Valuation during construction, ch 1210,§1
- Utility property defined as real property, ch 1179

**REAL ESTATE COMMISSION**

- Appropriation, ch 1304,§2(14)

**REAL PROPERTY**

*See REAL ESTATE*

**RECEIVERS**

- Health care facilities, ch 1136
- Insurers liquidation
  - General, ch 1175,§5,49-59

**RECEIVERS - Continued****Insurers liquidation - Continued**

- Ancillary receiver, ch 1175,§51-53,55,56,59
- Audit, ch 1175,§49
- Domiciliary receiver, ch 1175,§51

**RECIPROCITY**

- Bid preference, public contracts, ch 1045
- Fur dealers license fees, nonresidents, ch 1199

**RECORDS AND RECORDINGS**

*See also CONFIDENTIAL RECORDS; PUBLIC RECORDS*

- Asbestos encapsulation and removal, ch 1062,§7
- Bingo licensee, ch 1220,§4,10
- Child abuse information registry, ch 1035
- Criminal records
  - Computer access restricted, ch 1145
  - Youth agencies, access, ch 1061
- Eminent domain, filing, ch 1065
- Hazardous chemicals risk, right to know, accessibility, ch 1085,§13
- Inmates of correctional institutions, ch 1148
- Insurers liquidation, ch 1175,§48,49,52,53
- Job service, availability to county attorney, ch 1163
- Legislative fiscal bureau, access, ch 1172
- Libraries, criminal investigation, access, ch 1014
- Non-English testimony, tape recording required, ch 1137,§2
- Records commission
  - Definitions, ch 1093,§1
  - Form management program
    - Agencies, procedures, standards established, ch 1093
    - Agency records and forms coordinator designated, ch 1093,§5
    - Annual report, ch 1093
    - Powers and duties, ch 1093
    - Rulemaking, ch 1093,§4
    - State librarian, member, ch 1093,§2
  - Sanitary districts, dissolved, ch 1051,§4
  - Telephone directory assistance, ch 1023

**RECREATION**

- Advisory council, ch 1262,§2,6,7
- County conservation board fund, ch 1262,§1,3
- Public outdoor recreation and resources fund, ch 1262,§1,3
- Tourism grant program, ch 1262,§1,4,5



**REDEMPTION**

Nonresidential property, mortgage redemption, ch 1116

**REFUNDS**

Farm equipment, sales tax, ch 1241

**REGENTS BOARD**

## Appropriations

*General*, ch 1302,§9(1);ch 1311,§1(2),12,13

Braille and sight-saving school

*General*, ch 1302,§9(6)

Capital projects, ch 1305§5;  
ch 1315,§31,33

Building and equipment projects,  
HCR 117

Collective bargaining representative,  
condition, ch 1302,§9

Computer software, field training, financial aid to farm operators, ch 1315,§28

Deaf, school, ch 1302,§9(5)

Energy management projects,  
ch 1305,§4,16

Fuel and electricity purposes, ch 1302,§10  
Iowa state university

*General*, ch 1302,§9(3a);ch 1315,§12

Agricultural experiment station,  
ch 1302,§9(3b)

Capital projects, ch 1305,§5;  
ch 1315,§31,33

Cooperative extension service,  
ch 1302,§9(3c)

Crop diversification research,  
ch 1315,§22

Extension fruit specialist, ch 1315,§19

Industrial research and service center,  
ch 1302,§9(3d,e)

Meat export research center,  
ch 1315,§15

Muscatine island, horticultural research, ch 1315,§17

New food crops research center,  
ch 1315,§23

Revenue deficiencies, ch 1302,§9(1c);  
ch 1305,§15

Western Iowa, horticultural research,  
ch 1315,§17

Quad cities graduate study center,  
ch 1302,§9(1d)

Tuition replacement funds, ch 1305,§15

## University of Iowa

*General*, ch 1302,§9(2a);ch 1315,§12

Capital projects, ch 1305,§5;  
ch 1315,§31,33

Hospital school, ch 1302,§9(2g)

**REGENTS BOARD—Continued**

## Appropriations—Continued

## University of Iowa—Continued

Hygienic laboratory, ch 1302,§9(2f)

Oakdale campus, ch 1302,§9(2h)

Prisoner assistance clinic, legislative intent, ch 1302,§9(2a)

Psychiatric hospital, ch 1302,§9(2e)

Revenue deficiencies, ch 1302,§9(1c);  
ch 1305,§15

## University of Iowa hospitals

*General*, ch 1302,§9(2b-d)

Abortions, condition, ch 1302,§9(2c)

Child health clinics, health department funds transferred, ch 1307,§4(6a),7;  
ch 1311,§2,3,12,13,16

Construction, condition, legislative intent, ch 1302,§9(2d)

Family practice program, condition,  
ch 1302,§9(2b-d)

Indigent patients, condition,  
ch 1302,§9(2b-d)

Specialized child health care services,  
ch 1307,§4(6a),7

## University of Northern Iowa

*General*, ch 1302,§9(4);ch 1315,§12

Capital projects, ch 1305,§5

Old administration building renovation, appropriation item veto, ch 1302,§12

Revenue deficiencies, ch 1302,§9(1c);  
ch 1305,§15

Vitality fund distribution, condition,  
ch 1302,§11

Western Iowa continuing education,  
ch 1302,§9(1b)

Comparable worth report, appropriation,  
ch 1314,§7(8),8

## Contracts

Improvement, share draft deposit,  
ch 1055,§5

Reciprocity bidding, ch 1045

Disabled population study, assistance,  
ch 1306,§10,16

## Iowa State University

Meat export research center

Appropriation, ch 1315,§15

Director, assistants, salaries,  
ch 1315,§13

Established, ch 1315,§13

Private funds accepted, ch 1315,§14

Small businesses, funding, ch 1302,§9(3d,e)

Utility contingency fund, appropriation, item veto, ch 1302,§13,22

Veterans, chemical exposure, duties,  
ch 1307,§5(3)

**REGISTER, IOWA OFFICIAL  
(REDBOOK)**

Appropriation, ch 1304,§2(17b)  
 Publication date, legislative intent,  
 ch 1304,§2(17b)

**REGISTRATION**

Motor vehicle license plates, validation  
 stickers, ch 1027  
 Public bonds, cost, ch 1021  
 Radiation machines, ch 1286,§4,5  
 Schools, postsecondary, registered with  
 secretary of state, ch 1098  
 Vessels, fees, ch 1082

**RELIGION**

Correctional institution visitation, ch 1004

**REPORTS**

Bingo licensee, ch 1220,§4,10  
 City utility, ownership report, ch 1177  
 Conservatorships, ch 1299,§18  
 Guardianships, ch 1299,§17  
 Hazardous conditions, spills, notification  
 and civil penalty, ch 1108,§2  
 Missing person reports, ch 1084  
 Reports to general assembly, *see*  
*GENERAL ASSEMBLY, Reports*  
 Reports to governor, *see GOVERNOR,*  
*Reports*

**RESTITUTION**

Crime victims, civil action, tolling statute,  
 ch 1047  
 Criminal cases, amount set, ch 1041  
 Residential treatment centers, residents'  
 earnings, ch 1029

**RETIREMENT**

Benefits, taxable, federal provisions  
 adopted, ch 1305,§30,44  
 Investment income usage, ch 1180,§6,12  
 Judges, senior  
   Relinquishment or removal  
     Retirement annuity, computation,  
     ch 1234  
     Survivor's annuity, computation,  
     ch 1234  
 Judicial system  
   Associate judges, retirement plan op-  
   tions, ch 1285,§28  
   Investment income usage, ch 1180,§10,12  
 Peace officers, investment income usage,  
 ch 1180,§8,9,12

**RETIREMENT—Continued**

Phased retirement incentive program  
 Eligibility, ch 1180,§2,12  
 Established, ch 1180,§1,12  
 Funding, ch 1180,§5,12  
 Participation plan, ch 1180,§4,12  
 Salaries and benefits, ch 1180,§3,12  
 Public retirement and benefit systems,  
*general*, ch 1285  
 Sex discrimination, ch 1011

**REVENUE DEPARTMENT**

Administrative rules, optional designation  
 of funds by taxpayer, ch 1263,§2  
 Appropriations  
   *General*, ch 1304,§2(16)  
   Motor fuel tax law and use tax program,  
   ch 1304,§6  
 Bingo control, ch 1220,§1,4,12,13  
 Cigarettes and tobacco  
   Interest and penalty, late payment,  
   ch 1173,§1,2,10  
   Tobacco, false return, penalty,  
   ch 1173,§2,10  
 City utility, ownership report, ch 1177  
 Franchise tax, refund, interest accrual,  
 ch 1025  
 Homestead tax, claims, credit and reim-  
 bursement, ch 1190,§1,2  
 Income tax (corporate), refund, interest ac-  
 crual, ch 1025  
 Income tax (individual)  
   Charitable contributions, federal provi-  
   sions adopted, ch 1305,§31,44  
   Foreign products, interest deduction  
   study, legislative intent, item veto,  
   ch 1305,§42,43  
   Optional designation of funds by tax-  
   payer, ch 1263  
   Refund, interest accrual, ch 1025  
   Social security, railroad retirement  
   benefits, federal provisions adopted,  
   ch 1305,§30,44  
   Withholding, late payment penalty,  
   ch 1173,§4,5,10  
 Inheritance and estate tax, late payment  
 penalty, ch 1173,§9,10  
 Inheritance tax changes, ch 1240  
 Internal revenue code references updated,  
 ch 1305,§22-41,43  
 Motor fuel tax, exemption certificate,  
 ch 1141  
 Pari-mutuel wagering receipts verification  
 repealed, ch 1266,§23

## REVENUE DEPARTMENT—Continued

- Property tax, military exemption, late claim, ch 1221,§2
- Property valuation, tax report, duplicate reporting eliminated, ch 1195
- Railroads, mileage tax, late payment penalty, ch 1173,§8,10
- Sales and services
  - Farm equipment tax refund, ch 1241
  - Late payment penalty, ch 1173,§6,10
- Use tax, late payment penalty, ch 1173,§7,10

**RULES, ADMINISTRATIVE**

See *ADMINISTRATIVE RULES*

**RULES FOR INVOLUNTARY  
COMMITMENT OR TREATMENT  
OF SUBSTANCE ABUSERS**

- Amendment of proof of service, Exhibit A(9), ch 1327
- Application, involuntary commitment or treatment, Exhibit A(1), ch 1327
- Attorney appointed, Exhibit A(30), ch 1327
- Attorney conference, location, Exhibit A(6), ch 1327
- Chemotherapy procedure, Exhibit A(31), ch 1327
- Clerk's filing system, Exhibit A(27), ch 1327
- Counsel, right to, Exhibit A(3), ch 1327
- Custody, immediate
  - Detention, time limitation, Exhibit A(15), ch 1327
  - Evidence and argument by attorney, Exhibit A(10,11), ch 1327
  - Order for, Exhibit A(3,7), ch 1327
  - Probable cause to injure, Exhibit A(14), ch 1327
- Emergency detention
  - Magistrate's approval, Exhibit A(28), ch 1327
  - Medical officer absent from facility, Exhibit A(29), ch 1327
- Evaluation and treatment, placement, Exhibit A(23), ch 1327
- Evaluation report, Exhibit A(25), ch 1327
- Evaluation, time extension, Exhibit A(24), ch 1327
- Evidence offered after confinement, Exhibit A(11), ch 1327
- Examination
  - Court-designated physician's report, Exhibit A(13), ch 1327
  - Report to attorney, Exhibit A(12), ch 1327
  - Right of respondent, Exhibit A(3), ch 1327

**RULES FOR INVOLUNTARY  
COMMITMENT OR TREATMENT  
OF SUBSTANCE ABUSERS—  
Continued**

## Forms

- Affidavit, support of application, Exhibit B, Form 2, ch 1327
- Appeal, notice, Exhibit B, Form 27, ch 1327
- Application alleging substance abuse, Exhibit B, Form 1, ch 1327
- Attorney for applicant, order appointing, Exhibit B, Form 8, ch 1327
- Attorney for respondent, order appointing, Exhibit B, Form 6, ch 1327
- Chief medical officer's periodic reports, Exhibit B, Forms 21, 22, ch 1327
- Chief medical officer's substance abuse evaluation report, Exhibit B, Form 20, ch 1327
- Continuance order, Exhibit B, Form 11, ch 1327
- Counsel for applicant, application, appointment, Exhibit B, Form 7, ch 1327
- Counsel for respondent, application, appointment, Exhibit B, Form 5, ch 1327
- Custody order, Exhibit B, Form 4, ch 1327
- Detention authorization, Exhibit B, Form 29, ch 1327
- Discharge and termination order, Exhibit B, Form 26, ch 1327
- Discharge report, Exhibit B, Form 25, ch 1327
- Facility administrator's request for extension of time, Exhibit B, Form 23, ch 1327
- Fees claim by attorney or physician, Exhibit B, Form 28, ch 1327
- Findings of fact and order, Exhibit B, Form 15, ch 1327
- Magistrate's order of detention, Exhibit B, Form 31, ch 1327
- Magistrate's report, Exhibit B, Form 30, ch 1327
- Medical officer's report, Exhibit B, Form 20, ch 1327
- Medication notice, Exhibit B, Form 13, ch 1327
- Notice to respondent, Exhibit B, Form 3, ch 1327
- Order after evaluation, Exhibit B, Form 24, ch 1327
- Order for extension of time for evaluation, Exhibit B, Form 19, ch 1327

**RULES FOR INVOLUNTARY  
COMMITMENT OR TREATMENT  
OF SUBSTANCE ABUSERS –**  
Continued

Forms – Continued

- Order for immediate custody, Exhibit B, Form 4, ch 1327
- Periodic reports, Exhibit B, Forms 21, 22, ch 1327
- Physician's appointment, Exhibit B, Form 9, ch 1327
- Physician's report of examination, Exhibit B, Form 10, ch 1327
- Referee's notice of order, Exhibit B, Form 17, ch 1327
- Referee's notice of termination of proceedings, Exhibit B, Form 16, ch 1327
- Stipulation, absence from hearing, Exhibit B, Form 12, ch 1327
- Termination of proceedings, insufficient grounds, Exhibit B, Form 14, ch 1327
- Time extension for evaluation, application, Exhibit B, Form 18, ch 1327
- Forms obtained from clerk, Exhibit A(1), ch 1327
- Hearings, commitment
  - Continuance, Exhibit A(5), ch 1327
  - Electronic recording, Exhibit A(21), ch 1327
  - Mandatory attendance, Exhibit A(20), ch 1327
  - Respondent's rights, Exhibit A(3), ch 1327
  - Transfer from county of confinement, Exhibit A(22), ch 1327
  - Where held, Exhibit A(16,17), ch 1327
- Notice requirement, waiver, Exhibit A(4), ch 1327
- Records, confidential, Exhibit A(2), ch 1327
- Reports to attorney, Exhibit A(26), ch 1327
- Respondent's duties, jurisdiction and examination, Exhibit A(3), ch 1327
- Respondent's notice of procedures, Exhibit A(3), ch 1327
- Return of service, Exhibit A(8), ch 1327
- Rights of respondent, Exhibit A(3), ch 1327
- Rights of respondent explained before hearing, Exhibit A(18), ch 1327
- Service of notice, personal, Exhibit A(3), ch 1327
- Service, other than personal, Exhibit A(7), ch 1327
- Subpoenas, enforcement, Exhibit A(19), ch 1327
- Termination of proceedings, insufficient grounds, Exhibit A(2), ch 1327

**RULES OF CIVIL PROCEDURE**

- Amendment of pleadings, R.C.P. 106, ch 1325
- Child support debts, notice to responsible person, ch 1278,§3
- Child support recovery, nonresident parent, jurisdiction of courts, ch 1242
- Claim and counterclaim, R.C.P. 225, ch 1325
- Conservatorships, ch 1299,§14
- Fee for late settlement of jury trial, R.C.P. 181.4, ch 1325
- Forms
  - Original notice against nonresident motor vehicle owner or operator, R.C.P. 381, Form 2, ch 1325
  - Trial certificate, R.C.P. 181(a), ch 1325
- Guardianships, ch 1041,§11
- Hearing to dissolve temporary injunction, R.C.P. 328, ch 1325
- Interrogatories to parties, procedures for use, R.C.P. 126(a), ch 1325
- Pleadings, contracts, R.C.P. 91, ch 1325
- Production of documents or entry, procedure, R.C.P. 130, ch 1325
- Public records, injunction restraining examination, ch 1185,§7(2)
- Request for admission, R.C.P. 127, ch 1325
- Sanction for late settlement, R.C.P. 138.1 stricken, ch 1325
- Small claims appeals, R.C.P. 181.2(b), ch 1322,§8
- Small claims procedures, ch 1322,§2,5
- Time for special appearance, motion or answer, R.C.P. 332, ch 1325

**RULES OF CRIMINAL PROCEDURE**

- Criminal defendant
  - Insanity commitment and release, R.Cr.P. 21(8), ch 1323,§5
  - Judgment entry, mental disorder, R.Cr.P. 22(3b,c), ch 1323,§6
- Defendants, presence during trial, felony cases, written arraignment, exception, R.Cr.P. 25(1), ch 1326
- Defense of insanity, R.Cr.P. 10(11b), ch 1320
- Mentally ill
  - Defined, R.Cr.P. 1(2), ch 1323,§4
  - Involuntary hospitalization following acquittal, R.Cr.P. 21(8), ch 1323,§5
- Motions and pleadings, time of filing, written arraignment, R.Cr.P. 10(4), ch 1326
- Plea of guilty, serious misdemeanor, ch 1321
- Search warrant forms, R.Cr.P. 30, ch 1324

**SALARIES AND WAGES**

- Assignment of income, *general*, ch 1239

**SALARIES AND WAGES—Continued**

- Corrections department director, ch 1184,§19,21
- County officers and employees, publication, ch 1069
- Court
  - Employees, benefits elected on becoming state employee, ch 1301,§17,18
  - Interpreters, rulemaking, ch 1137,§1
- Garnishment, ch 1239,§11,12
- Holiday pay, temporary state employees, ch 1180,§7,12
- National guard, minimum pay, ch 1170
- Planning and programming director, ch 1138
- Prisoners, county, meal charges, ch 1144
- Residential treatment centers, resident earnings surrendered, ch 1029
- State auditors, examinations of local governments, ch 1118
- Wage payment collection law, "employer" and "employee" defined, ch 1270,§1

**SALES**

- Abandoned property, securities, ch 1295,§19
- Firearms, personal property acquired by public safety department, ch 1154
- Real estate tax sales, ch 1221,§5,6

**SALES AND SERVICES**

See *TAXATION, Sales and Services*

**SANITARY DISTRICTS**

- Dissolution
  - Action to contest, deadline, ch 1051,§4
  - Costs, tax levy, ch 1051,§4
  - Notice, publication, ch 1051,§4
  - Records and assets, disposition, ch 1051,§4
- Petition for establishment, share draft deposit, ch 1055,§8
- Proposed district
  - Boundaries, ch 1051
  - Hearing, date and notice, ch 1051
  - Objections filed, ch 1051,§2
- Supervisors, establishment and dissolution duties, ch 1051
- Trustees, elections and terms of office, ch 1009;ch 1051,§3

**SAVINGS AND LOAN ASSOCIATIONS**

- Account information, confidentiality, ch 1112,§2

**SAVINGS AND LOAN ASSOCIATIONS—Continued**

- Account insurance
  - Exemption, ch 1196,§5
  - Extension granted, ch 1196,§5
  - Requirements, ch 1196,§4,5
- Bank holding companies, deposit basis increased, ch 1230,§25(2)
- Bank prohibitions repealed, ch 1112
- Borrowing limits, ch 1112,§5
- Capital certificates, issuance and sale, ch 1112,§1
- Foreign associations
  - Amendment to articles, ch 1081,§6
  - Certificate of authority, issuance, ch 1081,§3
  - Conditions for approval, ch 1081,§4
  - Definition, ch 1081,§1
  - Deposit with state auditor, ch 1081,§5
  - Documentation required for approval, ch 1081,§2
- Investment by credit unions, ch 1197,§2
- Loans
  - Balloon payments, terms, ch 1112,§7
  - Consumer, ch 1112,§6
  - Name, requirements, ch 1112,§8
- Out-of-state investments, ch 1112,§4
- Public funds
  - Eligibility, ch 1230,§4-17
  - Liability for payment, ch 1230,§24
  - Securities pledged, ch 1230,§19-24,29
- Savings liability, share accounts, ch 1112,§3
- Supervisor, foreign associations, duties, ch 1081,§2-6

**SCHOOLS AND SCHOOL DISTRICTS**

- Area education agency, *see AREA EDUCATION AGENCY*
- Area vocational schools and community colleges, school credit cards, ch 1315,§36
- Asbestos encapsulation and removal funded, ch 1294
- Audits, annual, completion deadline, ch 1128
- Bond elections, meeting requirement repealed, ch 1036
- Braille and sight-saving school
  - Appropriations, ch 1302,§9(6); ch 1315,§31,33
  - Loans to teachers, ch 1060
- Budget review committee, appropriation, ch 1302,§6(9)
- Building energy management programs, funding, ch 1313
- Buses, child restraint devices, exception, ch 1016

SCHOOLS AND SCHOOL DISTRICTS—  
Continued

- Census, mentally retarded formerly designated feeble-minded, ch 1219,§16,17
- Children, youth, and families commission, membership, ch 1076,§2
- Coaches, extracurricular contracts, ch 1296
- Contracts
  - Bid prohibition after conviction, ch 1143,§2
  - Bid-rigging or price fixing, penalty, ch 1143,§1
  - Coaching athletics, ch 1296
  - Coal, Iowa preference, ch 1147
  - Reciprocal bidding law, ch 1045
- Courses in foreign languages, science, mathematics, appropriation, ch 1302,§20
- Credit cards, expenses incurred by employees, ch 1315,§35
- Deaf, school for
  - Appropriation, ch 1302,§9(5)
  - Loans to teachers, ch 1060
- Directors
  - Athletic contracts, extracurricular, ch 1296
  - School credit cards, rulemaking, ch 1315,§35
- Dropouts, prevention and returning programs
  - Funding, ch 1037
  - "Potential dropouts" defined, ch 1037
- Educational excellence program, *general*, ch 1315,§1-8
- Educational improvement projects
  - Applications, approval notification, ch 1315,§2
  - Cost limited, ch 1315,§2
  - Defined, ch 1315,§2
  - Educational excellence incentive awards, ch 1315,§2-6,8
  - Funding, ch 1315,§2,3
- Employees, unemployment compensation, ch 1255,§2,10
- Food service, appropriation, ch 1302,§6(7)
- Foundation program
  - Asbestos encapsulation or removal expenditure, ch 1294,§2
  - "District cost per pupil," exclusion, ch 1315,§7
  - Growth, state percent, budget "trigger," ch 1304,§10(1)
  - State foundation base, budget "trigger," item veto, ch 1304,§10(2)

SCHOOLS AND SCHOOL DISTRICTS—  
Continued

- Government records examination, ch 1185
- Guaranteed loan payment program, teachers of blind and deaf, ch 1060,§1
- Land sales, legalizing Acts, references updated, ch 1090,§20
- Legislative committees, aid furnished, ch 1171
- Library fee tax rate increase, ch 1288
- Merged areas
  - Appropriations
    - General*, ch 1302,§6(12a),7,8;ch 1305,§1
    - Allocation of funds, legislative intent, ch 1305,§1
    - Equipment replacement, ch 1315,§9
    - Industrial start-up training program, ch 1302,§6(12c)
    - Vocational education programs, ch 1302,§6(12b)
  - Coaching athletics, required courses, ch 1296,§3,4
  - Governing board, term, ch 1219,§15
  - Motor fuel tax, exemption certificate, ch 1141
  - Non-English speaking students, appropriation, ch 1302,§6(10)
  - Open spaces, school tax payment, ch 1303,§6
  - Postsecondary schools registered with secretary of state, ch 1098, *see also SECRETARY OF STATE, School Registration*
  - Records, confidential information, ch 1185,§5(1)
  - Reorganization
    - "Elector" defined, ch 1078,§1
  - Petition
    - AEA board review, ch 1078,§8
    - Appeal of decision, ch 1078,§9
    - Joint meeting for different counties, ch 1078,§10
    - Proposed district named, ch 1078,§7
    - Qualified electors, ch 1078,§6
  - Program sharing, alternate plan, ch 1078,§2,3
  - "School districts affected" defined, ch 1078,§1
  - Surveys
    - Petition, ch 1078,§4
    - Pupil enrollment, ch 1078,§2
    - Scope, ch 1078,§2,3
  - School corporation directors, bond proceeds invested, ch 1230,§18
  - School fund mortgages, legalizing Acts, references updated, ch 1090,§16

## SCHOOLS AND SCHOOL DISTRICTS— Continued

- Science and mathematics loan program, re-  
payment cancellation, ch 1044;  
ch 1060,§2
- Science and mathematics teaching pro-  
grams, appropriation, ch 1302,§15
- Special education
  - Age of termination, ch 1001
  - Appeal and review, ch 1070
- Student driver, license restrictions,  
ch 1219,§23,24
- Superintendent of public instruction,  
qualifications, ch 1068
- Tax levy election, asbestos encapsulation  
and removal, ch 1294
- Teachers
  - Extracurricular athletic contracts,  
ch 1296
  - Leave of absence, elective office, ch 1233
- Textbooks, nonpublic schools, appropria-  
tion, ch 1302,§6(8)
- Transportation of nonpublic pupils, reim-  
bursement claims, ch 1302,§19
- Tuition grants, limitation, ch 1302,§16
- Vocational education, secondary schools,  
funding, ch 1302,§6(3)

## SEARCHES AND SEIZURES

- Racing law enforcement, warrantless  
searches, ch 1265,§4(5);ch 1266,§7
- Search warrant forms, R.Cr.P.30, ch 1324

## SECRETARY OF STATE

- Appropriations
  - General, ch 1304,§2(17a)
  - Official register (redbook) publication, in-  
tent, ch 1304,§2(17b)
- Crops and livestock, lien statement, forms  
prescribed, ch 1072
- Election duties
  - Armed forces, absentee ballots,  
ch 1219,§3;ch 1291,§20
  - Nomination objection procedure,  
ch 1291,§1,21
- Liens, agricultural products, computer  
costs, intent, ch 1304,§2(7b)
- Publication of proposed amendments to  
Iowa constitution, ch 1318;ch 1319,§3
- School registration
  - Advisory committee, ch 1098,§10,13
  - Application, ch 1098,§3
  - Definitions, ch 1098,§2
  - Disclosure to students, ch 1098,§9

## SECRETARY OF STATE—Continued School registration—Continued

- Enforcement, ch 1098,§12
- Exceptions, ch 1098,§11
- Fees, ch 1098,§8
- Hearing on denial, ch 1098,§3
- Information required, ch 1098,§4,5
- Listing, public record, ch 1098,§6
- Policy, ch 1098,§1
- Rulemaking authority, ch 1098,§3
- Unauthorized representation, ch 1098,§7
- Small claims, money judgments, notices  
filed, ch 1322,§2

## SECURITIES

- Abandoned, sale of, ch 1295,§19
- Financial institutions, public funds de-  
posited, ch 1230,§19-24
- Savings and loan associations, foreign,  
deposits by, ch 1081,§5

## SECURITY AND MEDICAL FACILITY

- Renamed security and classification center,  
ch 1184,§1,4-6,14,15,24

## SEEDS

- Prairie grass, highway ditches, ch 1114

## SENIOR CITIZENS

- See also *AGING, COMMISSION ON*
- Bingo exceptions, ch 1220,§6

## SEPARATE MAINTENANCE

- Enforcement of decree, ch 1133

## SEWERS

- Sewage treatment facilities, appropriation,  
ch 1303,§18(4)
- "Sewer disposal systems" defined, ch 1121
- Waste water disposal systems, ch 1121

## SEXUAL ABUSE

- Child abuse, ch 1207
- Definition, ch 1188,§1
- Medical examination, appropriation,  
ch 1307,§4(6b)
- Weapon, threatening manner, ch 1188,§2

## SHERIFF

- See *COUNTY OFFICERS, Sheriff*

## SHORTHAND REPORTERS

- Board of examiners, appropriation,  
ch 1301,§8(2)

**SICK LEAVE**

## State employees

Cash payment on death, ch 1146

Workers' compensation, ch 1086

**SIDEWALKS**

Snow and ice removal, ch 1002

**SMALL BUSINESS**

Assistance, funding, ch 1302,§9(3d,e)

Regulatory flexibility analysis, ch 1007

**SNOW**

## Removal

Sidewalks, ch 1002

State, municipalities, ch 1293,§10(2)

**SNOWMOBILES**

Facilities, appropriation, ch 1303,§3(1)

Law enforcement, appropriation,  
ch 1303,§3(2)**SOCIAL WORKERS**Client information, confidentiality,  
ch 1075,§5,13(2)

Definitions, ch 1075,§1,6,13(2)

## Examiners, board of

Compensation, ch 1075,§13

Definitions, ch 1075,§1,13(2)

Implementation, ch 1075,§13

Membership, ch 1075,§9,13(2)

Rulemaking, ch 1075,§4,13(2)

Licensing requirements, ch 1075,§3,13(2)

Qualifications, ch 1075,§7,13(2)

Title, words or abbreviations,  
ch 1075,§11,13(2)**SOIL CONSERVATION**

## Appropriations

*General*, ch 1303,§16(1)Conservation practices revolving loan  
fund, ch 1303,§17

Grants, allocations, ch 1303,§16(2-4)

Soil conservation practices, financial in-  
centives, ch 1303,§16(2,3)

Coal mining, penalty assessments, ch 1153

Erosion practices, cost-sharing funds,  
ch 1192Multiflora rose infestation, reimbursement  
applications, ch 1303,§2Water resources research institute, ad-  
visory panel member, ch 1303,§20**SOLID WASTE**Collection, transportation, storage, dis-  
posal, ch 1039**SOLID WASTE - Continued**

## Disposal, public service monopoly

Annual report, ch 1039,§6

Created, ch 1039,§3

Powers, ch 1039,§4,8

Purpose, ch 1039,§1

"Recyclable material" defined, ch 1039,§2

Resource recovery facilities, ch 1039

Revenue bonds, ch 1039,§5

**SPANISH-SPEAKING PEOPLES  
COMMISSION**

Appropriation, ch 1307,§2(2)

Court interpreters, qualification and com-  
pensation, rulemaking, ch 1137,§1**SPORTS**

Boxing contests, age limit, ch 1106

Coaching, teacher extracurricular contract,  
ch 1296

Facility, bonds to construct, ch 1266,§22

**STATE OFFICERS AND  
DEPARTMENTS**Administrative rules impact on small  
businesses, ch 1007

Correctional institutions, visitation, ch 1004

## Departments

Appropriation reduction, travel ex-  
penses, ch 1180,§11,12

Budget, anticipated federal funds, ch 1231

Employees, *see EMPLOYEES, State*Legislative committees, aid furnished,  
ch 1171Librarian, state, records commission mem-  
bership, ch 1093Merit employees, information disclosure,  
reprisals, ch 1015**STATE OF IOWA**

## Abandoned property

Owner's dividends and interest,  
ch 1295,§18

State's liability, ch 1295,§17

## Agencies

Appropriation reduction, travel ex-  
penses, ch 1180,§11,12Comparable worth reports, exempt posi-  
tions, ch 1314,§8Forms management program, proce-  
dures, standards, ch 1093Legislative committee, aid furnished,  
ch 1171



STATE OF IOWA—Continued  
Agencies—Continued

- Legislative visitation committee, membership, ch 1026
- Motor fuel tax, exemption certificate, ch 1141
- Public records examination, conditions of federal aid, ch 1185,§8
- Records and forms coordinator, designated, ch 1093,§5
- Records, status, access procedures, rulemaking, ch 1185,§10
- Unpaid obligations, listing, repealed, ch 1091
- Armed forces member, legal settlement, ch 1165
- Art exhibits indemnified by state, ch 1073
- Building energy management programs, funding, ch 1313
- Contracts
  - Bid prohibition after conviction, ch 1143,§2
  - Bid-rigging or price fixing, penalty, ch 1143,§1
  - Bid security, share drafts, ch 1055
  - Coal, Iowa preference, ch 1147
  - General services department, bid reciprocity, ch 1301,§12
  - Reciprocal bidding law, ch 1045
- Elective official, leave of absence, ch 1233
- Federal funds anticipated, update by comptroller, ch 1231
- Firearms confiscated, disposition liability, ch 1154
- Government records examination, ch 1185
- Hazardous conditions cleanup liability, costs, ch 1108,§3-5
- Hazardous waste facility, state-owned, ch 1182
- National park lands and waters, jurisdiction, ch 1024
- Political campaigns study committee, ch 1218
- Protected water area systems, management plan, ch 1261
- Public funds deposited, eligibility, ch 1230,§11
- Sinking fund for public deposits, repeal implemented, ch 1230,§1-3,28,29
- Substance abuse programs, funding responsibilities, ch 1312, §1

STATE OF IOWA—Continued

- Tort claims
  - Liability exemption, ch 1293,§10
  - Negligence, ch 1259,§1-4
  - Restitution from employee, ch 1259,§3
- Tort liability, inmates on work assignments, ch 1280

**STATUS OF WOMEN**

- Appropriation, ch 1307,§2(4)

**STATUTES**

- Code editor, editorial corrections, ch 1117
- Corrections, *general*, ch 1067
- Effective date, constitutional amendment, ch 1318
- Gender classifications, differential treatment prohibited, ch 1042
- References expressed in numerals, ch 1067,§2

**STOCKS**

- Unclaimed, holding period, ch 1295,§9

**STORAGE FACILITY LIEN ACT, SELF-SERVICE**

- Definitions, ch 1130,§2
- Possessory liens on personal property
  - Enforcement, ch 1130,§4
  - Priority over other liens, ch 1130,§3
  - Redemption right, ch 1130,§4
  - Sale, unclaimed funds, ch 1130,§4
- Residential use of facility prohibited, ch 1130,§6
- Supplemental nature of Act, ch 1130,§5

**SUBSTANCE ABUSE**

- Appropriations
  - General*, ch 1311,§1(2),12,13;ch 1312,§1-3
  - Alcohol abuse and prevention programs, ch 1311,§1(4),12,13
  - Alcohol, drug abuse, mental health services block grant, ch 1311,§1(1),12,13
  - Drug abuse and prevention programs, ch 1311,§1(4),12,13
  - Program grants, ch 1312,§1-3
  - Transfer from beer and liquor fund, ch 1312,§2
  - Treatment and prevention programs, ch 1312,§1,2
- Audit, funds appropriated, ch 1311,§1(2),12,13

## SUBSTANCE ABUSE - Continued

- Child foster care facility, license, exception, ch 1050
- Director, children, youth, and families commission, member, ch 1076, §2
- Evaluation, treatment, ch 1292, §4
- Expenditures limited, legislative intent, ch 1311, §1(4), 12, 13
- Funds for treatment program, item veto, ch 1292, §1
- Petition for involuntary treatment, ch 1219, §5
- Program financing, property tax reduction procedure, item veto, ch 1312, §5
- Treatment and prevention programs, funding, ch 1312

## SURCHARGE

- Criminal penalties, ch 1219, §38, 39; ch 1274
- Dishonored checks, ch 1217
- Unemployment compensation, emergency surcharge fund, ch 1204; ch 1255, §7

## SURVEYORS

## Land

- Engineering and land surveying examiners, name expanded, ch 1104
- Registration applications, character references, ch 1104, §4

## SURVEYS

- Real estate subdivisions, ch 1271
- School reorganization
  - Petition, ch 1078, §4
  - Program sharing, alternate plan, ch 1078, §2, 3
  - Survey, pupil enrollment, ch 1078, §2

## TAXATION

## Assessments

- Buildings, repair, effect on taxable value, ch 1223
- Drainage and levee districts, payment date, ch 1189, §2
- Bonds, public, levy for registration cost, ch 1021
- Brucellosis and tuberculosis fund, ch 1178, §1
- Carryback of loss, time limitation, ch 1155
- Cigarettes and tobacco, interest and penalty, late payment, ch 1173, §1, 2, 10
- Confidential information, access, ch 1172
- Director deposits by county treasurer, ch 1003

## TAXATION - Continued

- Emergency warning system, township levy, ch 1008
- Excise tax, dairy products, tax suspended, national order, ch 1183
- Franchise, refund, interest accrual, ch 1025
- Homestead tax credit, claim notice, elderly and disabled, ch 1190, §2
- Income (corporate)
  - Refund, interest accrual, ch 1025
  - Refund on loss prior to 12-31-78, ch 1155
- Income (individual)
  - Charitable contributions, federal provisions adopted, ch 1305, §31, 44
  - Deductions apply to estates, trusts, ch 1305, §28, 32, 43
  - Disability income exclusion, ch 1305, §29, 44
  - Fish and game protection, designation of moneys, ch 1263
  - Foreign products, interest deduction study, legislative intent, item veto, ch 1305, §42, 43
  - Political contribution, checkoff, ch 1263
  - Refund, interest accrual, ch 1025
  - Refund on loss prior to 12-31-78, ch 1155
  - Social security, railroad retirement benefits, federal provisions adopted, ch 1305, §30, 44
  - Surtax, item veto, ch 1305, §75
  - Withholding, late payment penalty, ch 1173, §4, 5, 10
- Inheritance tax
  - General, ch 1240
  - Assessment, statute of limitations, ch 1240, §10, 12
  - Collection, interest and penalties, ch 1240, §8, 13
  - Conform to federal exclusion, ch 1240, §1, 12
  - Date for filing returns, ch 1240, §2, 5-7, 12
  - Late payment penalty, ch 1173, §9, 10
  - Lien on property, ch 1240, §3, 11, 12
  - Payment in real or tangible property, ch 1240, §2, 12
  - Probate inventory, taxable list, ch 1092
  - Refund, period for claiming, ch 1240, §9, 12
- Internal revenue code references updated, ch 1305, §22-41, 43
- Levies
  - Benefited law enforcement districts, ch 1216
  - Sanitary district, dissolution costs, ch 1051, §4

## TAXATION—Continued

## Levies—Continued

- School districts, asbestos encapsulation or removal, ch 1294
- Machinery and computers, special valuation, budget "trigger," item veto, ch 1304,§10(4)
- Manufactured homes, ch 1238
- Marine fuel tax fund, transfer, ch 1012
- Motor fuel
  - Exemption, regional transit system, ch 1253,§5-8
  - Late payment penalty, ch 1173,§3,10
  - Marine fuel tax fund study repealed, ch 1012
  - Public purposes, exemption certificate, ch 1141
- Pari-mutuel wagering, *see PARI-MUTUEL WAGERING ACT, Taxation*
- Penalties and fines, ch 1173
- Personal property
  - Delinquent list published, ch 1221,§3,6
  - Phaseout delayed, budget "trigger," item veto, ch 1304,§10(3)
- Personal property tax credit
  - Appropriation from general fund, ch 1298,§2
  - Funds, delayed payment, item veto, ch 1305,§80
  - Replacement fund, two installments, ch 1298,§1
- Property
  - Exempt
    - Military service, poll tax reference deleted, ch 1219,§32
    - Poll tax reference deleted, ch 1219,§32-35
  - Fruit-tree and forest reserves
    - Exempt, ch 1222,§4,8,9
    - Recapture tax, ch 1222,§4,9
  - Land acquired, public outdoor recreation program, consolidated levy, ch 1262,§1
  - Military credit, late claim, ch 1221,§2
  - School districts, asbestos encapsulation or removal, ch 1294
  - Suspended tax list, temporary provision deleted, ch 1219,§35
- Property valuation and tax report eliminated, ch 1195
- Railroad mileage tax, late payment penalty, ch 1173,§8,10
- Real property
  - Plat for assessment purposes, ch 1271,§1
  - Specified services to owners exempt from taxation, ch 1232,§1

## TAXATION—Continued

## Real property—Continued

- Tax sales, ch 1221,§5,6
- Warehouses and distribution centers exempt, ch 1232,§2,3
- Repairs, buildings, value increase, ch 1223
- Sales and services
  - Beverages, item veto, ch 1305,§78
  - Bingo receipts, ch 1220,§3
  - Electronic repair and installation, ch 1305,§77
  - Engraving, photography, retouching, printing, and binding services, ch 1254
  - Executive search agencies, ch 1305,§77
  - Farm equipment tax refund, ch 1241
  - Games of skill, ch 1305,§76
  - Late payment penalty, ch 1173,§6,10
  - Rental of tangible personal property, ch 1305,§77
  - Vulcanizing, recapping, retreading services, ch 1140,§1,2,4,5
- School district, asbestos encapsulation or removal, ch 1294
- Schools, public library fee, rate increase, ch 1288
- School tax payment, open spaces, ch 1303,§6
- Sewer and solid waste liens, certification, ch 1221,§1
- Special assessments
  - Direct deposits by county treasurer, ch 1003
  - Drainage districts, ch 1028
- Tax deeds, legalizing Acts, references updated, ch 1090,§13,19
- Tax study committee, membership increase, ch 1005
- Urban renewal, valuation during construction, ch 1210
- Use tax
  - Late payment penalty, ch 1173,§7,10
  - Public transit assistance, revenue transfer to DOT, ch 1309,§9
  - "Tangible personal property" defined, ch 1140,§3,4;ch 1254,§3

## TEACHERS

- Courses in foreign languages, science, mathematics, appropriation, ch 1302,§20
- Extracurricular athletic contracts, ch 1296
- Guaranteed loan payment program, teachers of blind and deaf, ch 1060,§1
- Guaranteed student loan payments, reimbursement, appropriation, ch 1302,§17

**TEACHERS — Continued**

- Leave of absence, elective office, ch 1233
- Loans to teachers, appropriation, ch 1302,§18
- Pension increase, ch 1285,§21
- Science and mathematics loan program
  - Appropriation, ch 1302,§18
  - Repayment cancellation, ch 1044; ch 1060,§2
- Science and mathematics teaching programs, appropriation, ch 1302,§15

**TELEPHONE COMPANIES**

See **PUBLIC UTILITIES**

**TERRACE HILL**

- Appropriations
  - Authority, operation, tours, ch 1301,§10(11)
  - Governor's quarters, ch 1301,§5(3)

**THEFT**

- "Burglary" defined, ch 1247,§2,3
- Computer theft, ch 1249
- Valuables, storage, ch 1247
- Value of property, ch 1162,§1

**TIRES**

- Vulcanizing, retreading services, sales and use tax, ch 1140,§1,2,4,5

**TOBACCO**

See **CIGARETTES AND LITTLE CIGARS**

**TORTS**

- Claims
  - Hazardous chemicals risk, right to know, exception, ch 1085,§20
  - Health care facility, suits against receivers, ch 1136
- Liability, comparative fault, *general*, ch 1293
- State claim
  - Defined, ch 1259,§1
  - Employee, *general*, ch 1259,§2,3
- State liability
  - Offender, public work assignment
    - Child, ch 1280,§2
    - Defendant, ch 1280,§3

**TOURISM**

- Grant program, ch 1262,§1,4,5
- Promoted, advertising fund, ch 1262,§1

**TOURISM — Continued**

- Regional tourism districts, appropriation, ch 1303,§7(4)
- Tourist railroad, special facility fund, use, ch 1289

**TOWNSHIPS**

- Audits, annual, completion deadline, ch 1128
- Contracts
  - Bid prohibition after conviction, ch 1143,§2
  - Bid-rigging or price fixing, penalty, ch 1143,§1
  - Coal, Iowa preference, ch 1147
  - Reciprocal bidding law, ch 1045
- Direct deposits of taxes, ch 1003,§1,8
- Emergency warning systems
  - Established, ch 1008
  - Tax levy, ch 1008
- Fire investigations and reports, ch 1095,§1,2
- Government records examination, ch 1185
- Legislative committees, aid furnished, ch 1171

**TRAINING SCHOOL**

- Appropriation, ch 1310,§3(11),8
- Commitment beyond age 18, ch 1166
- Eldora campus
  - Population cap, item veto, ch 1310,§3(11)
  - Rulemaking, ch 1310,§10
- Juvenile inmates, transfer, ch 1214
- Visitation, public officials, religious leaders, ch 1004

**TRANSIT SYSTEMS**

- Equipment plates, free, ch 1253,§4
- Public
  - Advance allocation, legislative intent, ch 1309,§3(2)
  - Assistance plan, appropriation, ch 1309,§3(2)
  - Assistance, use tax revenue transfer, ch 1309,§9
  - Defined, ch 1200,§1
  - Transit assistance fund established, ch 1151
- Regional
  - Defined, ch 1200,§1; ch 1253,§3,7,8
  - Disadvantaged persons transportation, certification requirements, ch 1253,§9
  - Fuel tax exemption, ch 1253,§5-8
  - Registration fee exempted, ch 1253,§1
- Ride-sharing programs, pilot projects
  - Appropriation, item veto, ch 1309,§4(2)

**TRANSIT SYSTEMS—Continued**

Ride-sharing programs, pilot projects—Continued

Established, ch 1200,§7

Transportation department assistance, *general*, ch 1200

Urban, defined, ch 1200,§1

**TRANSPORTATION COMMISSION**

Public transit assistance fund, duties, ch 1151

Roads, quadrennial need study report, ch 1043

**TRANSPORTATION DEPARTMENT (DOT)**

Administrative rules, public transit, ch 1200,§5,6(3e)

Annual report provisions, ch 1102,§1,8

Appropriations

*General*, ch 1309,§3(1),4(1),6(1),8

Aviation fund, ch 1309,§8

Comparable worth salary adjustments, ch 1314,§7(2,3)

Driver license program, ch 1305

Merit system, ch 1309,§4(3),6(3)

Primary road fund, ch 1309,§6

Public transit assistance plan, ch 1309,§3,9

Railroad branch line improvements, ch 1309,§3(3)

Ride-sharing programs, pilot projects, item veto, ch 1309,§4(2)

Road use tax fund, ch 1309,§4,10-12,14

Unemployment compensation, ch 1309,§4(4),6(4)

Vehicle replacement, ch 1309,§6(2)

Budget, estimated federal funds, ch 1231

Driver license program, funding, ch 1305,§18,19

Highway construction bids, disadvantaged enterprises, ch 1229

Highway ditches, topsoil reseeded, ch 1114

Inspection station, permit fee refund, ch 1305,§71

Missouri river barge compact, administration, ch 1257,§2,3

Motor and special fuel sales, highway safety patrol, ch 1309,§2(5)

Motor fuel transporters, registration, ch 1174

Motor vehicles

Child restraint devices

Exceptions, ch 1016

Violations, penalty, ch 1016

**TRANSPORTATION DEPARTMENT (DOT)—Continued**

Motor vehicles—Continued

Parking violations, license suspension or revocation, ch 1022

Prisoner of war plates, ch 1250

Regional transit system

Areas designated, ch 1253,§3,7,8

Certificate and plates, ch 1253,§4

Defined, ch 1253,§3,7,8

Fee exemption, ch 1253,§1

Motor and special fuel tax exemption, ch 1253,§5-8

Spot inspections, employees designated, ch 1305,§69

Validation stickers, placement, ch 1027

Odometer law enforcement,

ch 1305,§45,46,58

Public transit system

Advance allocation application, ch 1309,§3

Departmental coordination, ch 1200,§3,5,6

Funding, ch 1200,§4,5

Public transit assistance fund established, ch 1151

Technical assistance, ch 1200,§2

Ride-sharing programs, pilot projects

Appropriation, item veto, ch 1309,§4(2)

Established, ch 1200,§7

Secondary roads

Budget

Fiscal year base, ch 1102,§6-8

Transition to fiscal year, ch 1102,§8

Construction program

Farm-to-market funds, unexpended, ch 1102,§3,8

Progress report by engineer, ch 1102,§4,8

Review and operation, ch 1102,§5,8

Transition to fiscal year, ch 1102,§8

"Fiscal year" defined, ch 1102,§2,8

Surface transportation assistance Act of 1982, ch 1229

**TREASURER OF STATE**

Abandoned property

Claims allowed, ch 1295,§21

Holder's records investigated, interest, penalties, ch 1295,§22,23

Reciprocity agreements with other states, ch 1295,§24

**TREASURER OF STATE — Continued**  
Abandoned property — Continued

Reclaiming by holder, dividends accrued,  
ch 1295,§17,18  
Securities sold, ch 1295,§19  
State's liability, ch 1295,§16,17,26  
Trust fund limit, ch 1295,§20  
Aid to dependent children account  
Assistance payments, ch 1276,§9  
Recovery by fraudulent acts, ch 1276,§10  
Appropriations  
General, ch 1300;ch 1304,§2(18)  
Investment machine and system,  
ch 1305,§14;ch 1315,§32(5),33  
Children, youth, and families commission,  
federal funds deposited, ch 1076,§7  
County government assistance fund, appro-  
priation, ch 1304,§4  
Deposits, racing funds, exception,  
ch 1266,§2  
Elections, nomination objections, hearing,  
ch 1291,§1(3),21  
Hazardous waste remedial fund created,  
ch 1108,§9  
Highway railroad crossing repairs, funds  
allocated, ch 1309,§10,12,14  
Institutions, construction projects, claim  
warrants, ch 1256  
Insurers liquidation funds, ch 1175,§45  
Job service funds, interest disposition,  
ch 1204  
Law enforcement training reimbursement  
fund created, ch 1274  
Marine fuel tax fund, transfer, ch 1012  
Motor vehicle registration fees, excess to  
road use tax fund, ch 1309,§11  
Municipal assistance fund, appropriation,  
ch 1304,§5  
Odometer law enforcement, funding,  
ch 1305,§46  
Pari-mutuel wagering tax credit, allocation,  
ch 1266,§17  
Private investigative and private security  
agencies, fees, ch 1235,§14,19  
Product development corporation fund,  
transfer of duties, ch 1067,§8  
Public funds invested, ch 1230,§4-17  
Public transit assistance fund, ch 1151  
Racing commission, start-up fund repealed,  
ch 1266,§23  
Retirement systems, investment income  
usage, ch 1180,§6,12  
Secondary road fund, ch 1178,§5  
Share drafts as bid security, ch 1055

**TREASURER OF STATE — Continued**

Social workers, licensing fees,  
ch 1075,§10,13(2)  
Substance abuse, funds transferred,  
ch 1312,§1,2  
Surcharge, criminal penalties, disposition,  
ch 1274,§3  
Veterans home, support of members,  
ch 1277,§7,18

**TREES**

Forest or fruit-tree reservations, tax  
exempt, ch 1222,§4,8,9

**TRUSTS AND TRUSTEES**

Cooperative housing association, sale,  
ch 1033  
Drainage or levee districts, eligibility re-  
quirements, ch 1040  
Income tax, personal exemption credit,  
ch 1305,§32,43  
Sanitary districts, election, terms of office,  
ch 1009;ch 1051

**TUBERCULOSIS**

Eradication fund, ch 1178,§1

**TUITION**

Grant program  
Appropriation, ch 1315,§10,11  
Limitation, ch 1302,§16

**UNEMPLOYMENT COMPENSATION**

Benefits  
Educational institution employees,  
ch 1255,§2,10  
Eligibility and proof, ch 1255,§3  
Contributions  
Rate computation and appeal,  
ch 1255,§6,10  
Refunds, settlements, ch 1255,§8,10  
Trust fund, ch 1255,§4,10  
DOT, appropriation, ch 1309,§4(4),6(4)  
Special employment security contingency  
fund, ch 1204  
Surcharge fund, ch 1204; ch 1255,§7  
Work search requirements, waiver,  
ch 1255,§1

**UNIFORM COMMERCIAL CODE**

Dishonored instrument surcharge,  
ch 1217,§1  
Farm implements or parts franchise ter-  
mination, exemption, ch 1087,§6  
Lien statement, crops, livestock, ch 1072

**UNIFORM STATE LAWS COMMISSION**  
Appropriation, ch 1301,§10(10)

**UNITED STATES**

Elective official, leave of absence, ch 1233  
Federal funds anticipated, update by controller, ch 1231  
National park lands and waters, jurisdiction, ch 1024  
Veterans administration, chemical exposure by veterans, report, ch 1307,§5(3)

**UNITED STATES CONSTITUTION**

See *CONSTITUTIONAL AMENDMENT, UNITED STATES*

**UNIVERSITIES**

See *COLLEGES AND UNIVERSITIES*

**URBAN RENEWAL**

Municipalities  
Real estate development taxation exclusion, ch 1210  
Tax increments, ch 1210,§1  
Transfer for less than market value, ch 1210

**USE TAX**

See *TAXATION, Use Tax*

**UTILITIES**

See *PUBLIC UTILITIES*

**VENDORS**

Sale of alcoholic liquor to minors, ch 1292,§1(5)

**VESSELS**

See *BOATS AND VESSELS*

**VETERANS**

Agent orange exposure, report, legislative intent, ch 1307,§5(3)  
Chemical defoliants, herbicides, exposure, report, legislative intent, ch 1307,§5(3)  
Prisoners of war, special license plates, ch 1250

**VETERANS AFFAIRS**

Agent orange exposure, reporting, legislative intent, ch 1307,§5(3)  
Appropriations  
  *General*, ch 1307,§5(1)  
  Chemical exposure reporting, ch 1307,§5(3)  
  War orphans educational aid, ch 1307,§5(2)

**VETERANS AFFAIRS—Continued**

Chemical defoliants, herbicides, exposure, reporting, legislative intent, ch 1307,§5(3)  
Veterans home admission, eligibility certificate, ch 1277,§6

**VETERANS HOME**

Admission eligibility, ch 1277,§2,8,18  
Appropriations  
  *General*, ch 1306,§4,16  
  Loftus hall renovation, ch 1306,§4,15-17  
Bank accounts for members' deposits, ch 1277,§12  
Certificates of eligibility, ch 1277,§6  
Commandant, *general*, ch 1277,§13  
Contributing to own support, ch 1277,§7,18  
County of settlement upon discharge, ch 1277,§9  
Payment to dependents, ch 1277,§10,18  
Pensions, personal funds of members, ch 1277,§11,18  
Purpose of home, ch 1277,§1  
Report by commissioner, ch 1277,§16  
Rulemaking, general management, ch 1277,§3  
Staff quarters available, rental rate, ch 1277,§4  
Surviving spouses of veterans, ch 1277,§5  
Suspension or expulsion of members, ch 1277,§14  
Veterans per diem, deposited general fund, ch 1306,§13,16

**VETERINARIANS**

Drug dispensing, ch 1006

**VETOES**

Item veto  
  Agriculture, food and energy demonstration center, appropriation, ch 1315,§29,30  
  Beer and liquor violations, penalties earmarked, substance abuse programs, ch 1292,§1  
  Child health care, contingent fund transferred to general fund, ch 1307,§8  
  Comparable worth pay system  
  Oversight committee and funding, ch 1314,§6,7(7,9)  
  Review process, ch 1314,§2

VETOES - Continued  
Item veto - Continued

Court reorganization, state funding delay, budget "trigger," ch 1304,§10(5)  
Educational excellence incentive awards programs, appropriation, ch 1315,§8  
Foreign products, interest deduction study, legislative intent, ch 1305,§42  
Income surtax, ch 1305,§75  
IPERS fund, South African investment restrictions, ch 1304,§7,9  
Liquor price increase, funding substance abuse programs, ch 1312,§1  
Machinery and computers, taxation, special valuation, budget "trigger," ch 1304,§10(4)  
Personal property tax credit payments, ch 1305,§80  
Personal property tax phaseout, budget "trigger," ch 1304,§10(3)  
Precinct election officials, number appointed, ch 1304,§11,12  
Regents board, utility contingency fund, appropriation, ch 1302,§13,22  
Ride-sharing programs, pilot projects, appropriation, ch 1309,§4(2)  
Sales tax on beverages, ch 1305,§78  
School foundation base, budget "trigger," ch 1304,§10(2)  
Statehouse renovation appropriation, effective date, ch 1315,§38  
Substance abuse programs, property tax reduction procedure, ch 1312,§5  
Sunday beer and liquor license fees, date of deposit, ch 1312,§9  
Supplemental tuition grants, mathematics and science, appropriation, ch 1315,§10  
Training school, Eldora campus, population cap, ch 1310,§3(11)  
University of Northern Iowa, old administration building renovation, appropriation, ch 1302,§12  
Victim reparation fund, reversion, ch 1292,§23  
Victim reparation program appropriation, operational expense limitation, legislative intent, ch 1309,§2(1)  
Vetoed bills  
Collective bargaining, correctional services employees (HF 2031)  
Crime victim reparation program, earmarking funds (SF 2270)  
Election day registration (HF 2219)

VETOES - Continued  
Vetoed bills - Continued

Felon, deferred judgment or sentence (HF 595)  
Inheritance, surviving spouse, intestate share (SF 2132)  
Injured workers, choice of physician (SF 244)  
Judicial magistrates, retention election (SF 2237)  
Lottery, state (HF 2295)  
Teaching standards board (HF 2217)

**VICTIMS**

Victim reparation civil penalty, ch 1292,§19  
Victim reparation program  
Appropriation, operational expense limitation, legislative intent, item veto, ch 1309,§2(1)  
Claims, operational expenses, appropriation, ch 1315,§24  
Computation of reparation, ch 1292,§22  
Reversion of funds, item veto, ch 1292,§23  
Sunset clause repealed, ch 1292,§24  
Victim restitution  
Amount set by court, ch 1041  
Civil liability, tolling statute, ch 1047  
Residential treatment centers, resident's earnings, ch 1029

**VOTERS AND VOTING**

See *ELECTIONS*

**WAIVER**

Hearing impaired person, arrest, use of interpreter, ch 1264  
Presentence investigations, ch 1126

**WAREHOUSES**

Inspection fees, ch 1100,§4  
Warehouses and distribution centers, property tax exemption, ch 1232,§2,3

**WARRANTIES**

Motor vehicles, new, ch 1283

**WARRANTS**

Area education agency, ch 1010  
Arrest warrants, work release violators, escapees, ch 1150  
Search  
Forms for warrants, R.Cr.P. 30, ch 1324  
Hazardous conditions, ch 1108,§6



**WARRANTS—Continued****Search—Continued**

- Racing law violations, warrantless searches, ch 1265,§4(5);ch 1266,§7
- State, art exhibits, losses paid, ch 1073,§10(3)

**WASTE**

*See also SOLID WASTE; WATER, AIR AND WASTE MANAGEMENT DEPARTMENT*

- Radioactive, disposal, ch 1286,§7

**WATER, AIR AND WASTE MANAGEMENT DEPARTMENT**

- Agricultural chemicals disposal
  - “Farmers” defined, ch 1158,§9
  - Violations, farmers exempt, ch 1158,§9
- Approprations
  - General*, ch 1303,§18(1)
- AIDEX superfund, ch 1303,§18(3)
- River coordinator
  - General*, ch 1303,§18(2)
  - Missouri and Mississippi river basin association, ch 1303,§18
  - Sewage treatment, governing bodies, ch 1303,§18(4)
- Asbestos encapsulation and removal, ch 1062
- “Department” defined, feedlot purposes, ch 1219,§7,8
- Director
  - Hazardous chemicals information inter-agency council, membership, ch 1085,§16
  - Hazardous condition cleanup responsibilities, ch 1108,§4
  - Hazardous waste
    - Liability, ch 1108,§18
    - Remedial fund uses, ch 1108,§9
    - Uncontrolled disposal sites, ch 1108,§8,12-17
  - Fines, schedule established, ch 1159
  - Grain storage, emission control equipment, ch 1303,§18(4)
  - Hazardous conditions
    - Cleanup liability and costs, ch 1059; ch 1108,§3-5,9
    - Definitions, ch 1108,§1
    - Public information, ch 1108,§7,12
    - Search warrant, ch 1108,§6
    - Spills, notification, civil penalty, ch 1108,§2

**WATER, AIR AND WASTE MANAGEMENT DEPARTMENT—Continued**

- Hazardous substance, transporting liability, ch 1108,§4
- Hazardous waste
  - Asbestos disposal, ch 1062,§4,5,7
  - Definition amended, ch 1158,§2
  - Fees and penalties, ch 1108,§10,19
  - Regulation, listing of wastes not necessary, ch 1158,§3-7
  - Remedial fund, ch 1108,§9-11
  - Rulemaking, ch 1085,§17,21
  - State-owned facility study, report, ch 1182
  - Uncontrolled disposal site, ch 1108,§8,12-17
  - Used oil, definitions, rulemaking, ch 1157
  - Violations, civil penalty, ch 1158,§8
  - Violations investigated, private dwellings, ch 1158,§1
- Missouri river barge compact, duties, ch 1257,§3
- Oil, used and recycled, ch 1157
- Penalty schedule, minor violations
  - Enforcement remedies, ch 1159
  - Rulemaking, ch 1159
- Permits
  - Industrial waste discharges, ch 1121
  - Public water system construction, ch 1099
  - Sewage disposal systems, private, semi-public, ch 1121
- Private sewage disposal systems
  - Definition, ch 1121
  - Discharges into state waters, jurisdiction, ch 1121
  - Permit requirement, exemption, ch 1121
- Public water system construction
  - Advisory review by department, ch 1099
  - Plans and specifications, certification, ch 1099
- Semipublic sewage disposal systems
  - Definition, ch 1121
  - Permit requirements, exemption, ch 1121
- Solid waste management project report, ch 1039,§6
- Waste discharges into state waters, jurisdiction, ch 1121
- Water distribution systems, certification, ch 1099
- Water resources research institute, advisory panel member, ch 1303,§20

**WATER RESOURCES RESEARCH  
INSTITUTE**

Advisory panel established, ch 1303,§20  
Appropriation, ch 1303,§19

**WATERS AND WATERCOURSES**

Boating facility development, appropriation, ch 1303,§4(1)  
Conservation practices, public cost-sharing funds, ch 1192  
Missouri river barge traffic compact, ch 1257  
National park lands and waters, jurisdiction, ch 1024  
Navigation law enforcement, appropriation, ch 1303,§3(2),4(2)  
Protected water area system  
Definitions, ch 1261,§2  
Eminent domain, cooperation with landowners, ch 1261,§12  
Funding, ch 1261,§10,14  
Hearing on management plan, ch 1261,§9  
Management plan, ch 1261,§8  
Nomination of prospective water areas, ch 1261,§5  
Prospective designation  
Effective period, ch 1261,§6  
Public hearing, ch 1261,§7  
Protection methods, ch 1261,§11  
Purpose, ch 1261,§3  
State plan, ch 1261,§4  
Water access sites, funding, ch 1262,§1  
Water districts  
Benefited, construction bid, share draft deposit, ch 1055,§6  
Rural, petition, share draft deposit, ch 1055,§7  
Watershed restoration projects, funding, ch 1262,§1  
Watersheds, priority list, publicly owned lakes, ch 1303,§5(2),16(3b)

**WEAPONS**

Disposition, stolen or confiscated property, ch 1154  
Permits, private investigative and private security agencies, ch 1235,§13,17,19  
Sexual abuse, use of weapon, ch 1188,§2

**WEATHER**

Weather division, headed by climatologist, ch 1067,§22

**WEATHERIZATION**

Weatherization assistance program  
Appropriation, ch 1313,§3  
Utility disconnection moratorium, ch 1273

**WEEDS**

Fence row weed destruction, funding, ch 1219,§20  
Multiflora rose eradication cost reimbursement, ch 1303,§2

**WILDLIFE**

See *FISH AND GAME*

**WILLS**

Probate inventory and report, ch 1092  
Probate proceedings, time limitations, ch 1080

**WITNESSES**

Appropriation for fees, reversion date, ch 1301,§9  
Criminal actions, costs  
Payable by county or city, ch 1178,§12; ch 1301,§14,16  
State responsibility, ch 1301,§15,16

**WORKERS' COMPENSATION**

DOT employee claims, appropriation, ch 1309,§5,7  
Inmates  
Benefits repealed, ch 1184,§22  
Community services performed, ch 1280,§1,3  
Pneumoconiosis cases, benefits, ch 1053  
Supplementation of benefits prohibited, ch 1086

**WORK RELEASE**

Inmates  
Home work release, ch 1244,§1  
Income controlled by judicial district department, ch 1184,§16  
Medical care provided, ch 1184,§17  
Records transferred to judicial district, ch 1184,§23  
Violators  
Arrest warrants, ch 1150  
Temporary confinement, reimbursement, ch 1244,§2; ch 1306,§2(8),16

**YOUTH**

Children, youth, and families commission  
established, ch 1076  
Sexual exploitation, ch 1207  
Youth corps, appropriation, ch 1301,§10(8g,l)  
Youth council, transfer of duties, ch 1076,§8  
Youth service agencies, criminal history  
data, disclosure, ch 1061

**ZONING**

Actions by cities, publication, ch 1018  
Manufactured homes, regulations, ch 1238  
Protest of zoning changes, ch 1176