

State of Iowa
1988

ACTS AND JOINT RESOLUTIONS (Session Laws)

Enacted At The
1988 REGULAR SESSION
Of The
Seventy-Second General Assembly
Of The
State Of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE
IN THE ONE HUNDRED FORTY-SECOND YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE ELEVENTH DAY OF JANUARY
AND ENDED ON THE SEVENTEENTH DAY OF APRIL, A.D. 1988



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GENERAL ASSEMBLY OF IOWA
Des Moines

143547

PREFACE

CERTIFICATION

We, Donovan Peeters, Director, Legislative Service Bureau; JoAnn Brown, Iowa Code Editor; and Phyllis Barry, Administrative Code Editor, certify that, to the best of our knowledge, the Acts and Resolutions in this volume have been prepared from the original enrolled Acts and Resolutions on file in the office of the Secretary of State; are correct copies of those Acts and Resolutions; are published under the authority of the Statutes of this State; and constitute the Acts and Resolutions of the 1988 Regular Session of the Seventy-second General Assembly of the State of Iowa.

STATUTES AS EVIDENCE

Iowa Code section 622.59 is as follows:

622.59 Printed copies of statutes. 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.

EXPLANATORY NOTES

Temporary Code numbers. CODE NUMBERS ASSIGNED TO NEW SECTIONS AND SUBSECTIONS IN THE ACTS ARE TEMPORARY AND MAY BE CHANGED WHEN THE 1989 IOWA CODE IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts at the back of the 1989 Iowa Code.

Typographic style. The Acts and Resolutions in this volume are printed exactly as they appear on file in the office of the Secretary of State. No editorial corrections have been made. Underlines indicate new material added to existing statutes; strike-through type indicates deleted material. Italics and asterisks in appropriation Acts indicate material vetoed by the Governor. The asterisks are placed where the brackets initialed by the Governor appear on the original enrolled Acts on file in the office of the Secretary of State. Asterisks may also indicate explanatory footnotes.

Effective dates. The Acts took effect on or before July 1, 1988, unless otherwise provided. See Iowa Code section 3.7. The date of enactment is the date an Act is approved by the Governor, which is shown at the end of each Act.

Court rules. This volume includes the Rules and Forms of the Supreme Court submitted to the Legislative Council as provided in Iowa Code section 602.4202.

Resolutions. Concurrent resolutions and Senate and House resolutions are not listed. See bound Senate and House Journals for adopted resolutions.

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ELECTIVE OFFICERS

Name and Office

County from which
originally chosen

GOVERNOR

TERRY E. BRANSTAD Winnebago
Douglas E. Gross, Executive Assistant Polk

LIEUTENANT GOVERNOR

JO ANN ZIMMERMAN Dallas
Danita Edwards, Administrative Assistant Polk
Brett Toresdahl, Administrative Assistant Story

SECRETARY OF STATE

ELAINE BAXTER Des Moines
Marilyn Larson, Deputy Secretary of State Des Moines
Sandra Steinbach, Director of Elections Polk
Harry Davis, Director of Uniform Commercial Code Polk
Allen Welsh, Director of Corporations 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

TREASURER OF STATE

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

SECRETARY OF AGRICULTURE

DALE M. COCHRAN Webster
Shirley Danskin-White, Deputy Secretary Polk
David Werning, Administrative Division Director Warren
Ed Lowe, Agriculture Marketing Division Director Polk
Daryl Frey, Laboratory Division Director Polk
Ronald Rowland, Regulatory Division Director Polk
James Gulliford, Soil Conservation Division Director Polk
William H. Greiner, Agriculture Development Authority Director Polk

ATTORNEY GENERAL

THOMAS J. MILLER Clayton
Earl Willits, Deputy Attorney General Polk
Gordon Allen, Deputy Attorney General Polk
Elizabeth Osenbaugh, Deputy Attorney General Lucas
John Perkins, Deputy Attorney General Polk

GENERAL ASSEMBLY

SENATORS

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Boswell, Leonard L. Davis City	Farmer, Small Businessman	46th—Adair, Adams, Cass, Clarke, <i>Decatur</i> , Ringgold, Taylor, Union	71, 72(1st), 72X, 72XX
Bruner, Charles H. Ames	37th— <i>Story</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Carr, Bob	Securities Broker ..	18th— <i>Dubuque</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Coleman, C. Joseph	Farmer, Businessman	7th—Hamilton, <i>Webster</i>	57, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Corning, Joy	Homemaker	12th— <i>Black Hawk</i>	71, 72(1st), 72X, 72XX
Deluhery, Patrick J. Davenport	College Teacher ...	21st— <i>Scott</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Dieleman, Wm. W. (Bill) . Pella	Life Insurance Underwriter	35th—Jasper, <i>Marion</i> , Polk, Warren	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Doyle, Donald V. Sioux City	Lawyer	2nd—Ida, Monona	57, 58, 61, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Drake, Richard F. Muscatine	General Farming ..	28th—Des Moines, Louisa, .. <i>Muscatine</i> , Washington	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Fraise, Eugene S. Fort Madison	Farmer	31st—Des Moines, <i>Lee</i> , Van Buren	71(2nd), 72(1st), 72X, 72XX
Fuhrman, Linn	Farmer	5th— <i>Buena Vista</i> , Calhoun, Pocahontas, Sac, Webster	72(1st), 72X, 72XX
Gentleman, Julia	Housewife	41st— <i>Polk</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Gettings, Donald E. Ottumwa	Retired—Deere & Co.	33rd—Appanoose, Davis, ... <i>Wapello</i>	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Goodwin, Norman J. DeWitt	Retired County Extension Director	19th—Cedar, <i>Clinton</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Gronstal, Michael E. Council Bluffs	50th— <i>Pottawattamie</i>	70, 71, 72(1st), 72X, 72XX
Hall, Hurley W. Marion	Northwestern Bell Telephone Engineer, (Retired), Farmer	24th—Buchanan, Delaware, <i>Linn</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Hannon, Beverly A. Anamosa	Homemaker, Student	22nd—Cedar, <i>Jones</i> , Linn ...	71, 72(1st), 72X, 72XX

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Hester, Jack W. Honey Creek	Farmer	49th—Cass, Harrison, <i>Pottawattamie, Shelby</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Holden, Edgar H. Davenport	Entrepreneur	20th— <i>Scott</i>	62, 63, 64, 65, 67(2nd), 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Holt, Lee W. Spencer	Automobile Dealer	6th— <i>Clay, Dickinson,</i> <i>Emmet, Palo Alto</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Horn, Wally E. Cedar Rapids	Teacher	25th— <i>Linn</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Hultman, Calvin O. Red Oak	Businessman	47th—Fremont, Mills, <i>Montgomery, Page,</i> <i>Pottawattamie</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Husak, Emil J. Toledo	Farmer	38th—Benton, <i>Black Hawk, Marshall,</i> <i>Tama</i>	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Hutchins, Bill Audubon	Businessman	48th— <i>Audubon, Carroll,</i> <i>Crawford, Shelby</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Jensen, John W. Plainfield	Farmer	11th—Black Hawk, <i>Bremer, Butler, Grundy</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Kinley, George R. Des Moines	Owner, Driving Range & Golf Sales	40th— <i>Polk</i>	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Lind, Jim Waterloo	Service Station Owner-Operator	13th— <i>Black Hawk</i>	71(2nd), 72(1st), 72X, 72XX
Lloyd-Jones, Jean Iowa City	Legislator	23rd— <i>Johnson</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Mann, Thomas, Jr. Des Moines	Attorney	43rd— <i>Polk</i>	70, 71, 72(1st), 72X, 72XX
Miller, Alvin V. Ventura	Insurance Agency	10th— <i>Cerro Gordo,</i> <i>Winnebago, Worth</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Miller, Charles P. Burlington	Doctor of Chiropractic	30th— <i>Des Moines, Henry</i>	60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Murphy, Larry Oelwein	Printing Broker, Writer	14th—Black Hawk, <i>Buchanan, Chickasaw,</i> <i>Fayette</i>	71, 72(1st), 72X, 72XX
Nystrom, John N. Boone	Legislator	44th— <i>Boone, Carroll,</i> <i>Greene, Story</i>	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Palmer, William D. Des Moines	Insurance Executive	39th— <i>Polk</i>	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Peterson, John A. Albia	Livestock Market Owner	34th—Clarke, Lucas, <i>Monroe, Warren, Wayne</i>	71(2nd), 72(1st), 72X, 72XX

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Priebe, Berl E. Algona	Farmer, Businessman	8th — Hancock, Humboldt, . . . <i>Kossuth</i> , Palo Alto, Pocahontas, Winnebago	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Readinger, David M. Des Moines	Sales	42nd — <i>Polk</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Rensink, Wilmer Sioux Center	Farmer	6th — Plymouth, <i>Sioux</i> , Woodbury	70, 71, 72(1st), 72X, 72XX
Rife, Jack Moscow	Farmer	29th — <i>Muscatine</i> , Scott	70, 71, 72(1st), 72X, 72XX
Riordan, James R. Waukee	Nursery Owner	45th — Adair, <i>Dallas</i> , Guthrie, Madison	71(2nd), 72(1st), 72X, 72XX
Schwengels, Forrest V. Fairfield	Legislator, Public Service Consultant	32nd — <i>Jefferson</i> , Keokuk, Mahaska, Wapello	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Scott, Kenneth D. Clear Lake	Realtor, Farmer, Auctioneer	15th — <i>Cerro Gordo</i> , Chickasaw, Floyd, Howard, Mitchell	64, 65, 66, 72(1st), 72X, 72XX
Soorholtz, John E. Melbourne	Farmer-Pork Producer	36th — Jasper, <i>Marshall</i>	70(2nd), 71, 72(1st), 72X, 72XX
Sturgeon, Al Sioux City	Legislator	1st — <i>Woodbury</i>	69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Taylor, Ray Steamboat Rock	Farmer, Business	9th — Franklin, Hamilton, Hancock, <i>Hardin</i> , Wright	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Tieden, Dale L. Elkader	Retired	16th — Allamakee, <i>Clayton</i> , Winneshiek	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Vande Hoef, Richard Harris	Farmer	4th — Cherokee, Clay, Lyon, O'Brien, <i>Osceola</i> , Sioux	69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Varn, Richard Solon	Law, Teaching	54th — Iowa, <i>Johnson</i> , Poweshiek	70, 71, 72(1st), 72X, 72XX
Wells, James D. Cedar Rapids	Cereal Company Employee	26th — <i>Linn</i>	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Welsh, Joe J. Dubuque	Businessman, Private Investigator	17th — <i>Dubuque</i> , Jackson, Jones	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX

REPRESENTATIVES

Name and Residence	Occupation	Representative District	Former Legislative Service
Adams, Janet Webster City	Teacher	14th— <i>Hamilton, Webster</i>	72(1st), 72X, 72XX
Arnould, Robert C. Davenport	Legislator	42nd— <i>Scott</i>	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Avenson, Donald D. Oelwein	Tool & Die Maker	28th— <i>Chickasaw, Fayette</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Beaman, Jack Osceola	Self-employed	91st— <i>Adair, Adams, Cass, Clarke, Union</i>	72(1st), 72X, 72XX
Beatty, Linda Indianola	Homemaker	68th— <i>Warren</i>	71, 72(1st), 72X, 72XX
Bennett, Wayne Galva	Farmer	4th— <i>Ida, Monona, Woodbury</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Bisignano, Tony Des Moines	Local Union President	80th— <i>Polk</i>	72(1st), 72X, 72XX
Black, Dennis Grinnell	Jasper County Conservation Board Director	71st— <i>Jasper, Marshall</i>	70, 71, 72(1st), 72X, 72XX
Blanshan, Eugene Scranton	Farmer	88th— <i>Boone, Carroll, Greene</i>	70, 71, 72(1st), 72X, 72XX
Brammer, Philip E. Cedar Rapids	Insurance Agent	50th— <i>Linn</i>	70, 71, 72(1st), 72X, 72XX
Branstad, Clifford O. Thompson	Farmer	16th— <i>Hancock, Kossuth, Winnebago</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Buhr, Florence D. Des Moines	Legislator	85th— <i>Polk</i>	70, 71, 72(1st), 72X, 72XX
Carpenter, Dorothy F. West Des Moines	Legislator	82nd— <i>Polk</i>	69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Chapman, Kay Cedar Rapids	Lawyer	49th— <i>Linn</i>	70, 71, 72(1st), 72X, 72XX
Clark, Betty Jean Rockwell	Legislator	29th— <i>Cerro Gordo, Floyd, Mitchell</i>	67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Cphoon, Dennis Burlington	Teacher	60th— <i>Des Moines</i>	72(1st), 72X, 72XX
Connolly, Michael W. Dubuque	Teacher	35th— <i>Dubuque</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Connors, John H. Des Moines	Retired Fire Captain and Labor Arbitrator	79th— <i>Polk</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Cooper, James J. Russell	Farmer	67th— <i>Clarke, Monroe, Lucas, Wayne</i>	70, 71, 72(1st), 72X, 72XX
Corbett, Ron J. Cedar Rapids	Insurance Representative	52nd— <i>Linn</i>	72(1st), 72X, 72XX

Name and Residence	Occupation	Representative District	Former Legislative Service
Corey, Virgil E. Morning Sun	Farmer	55th—Des Moines, <i>Louisa</i> , ... Washington	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Daggett, Horace C. Kent	Farmer	92nd— <i>Adams</i> , Decatur, Ringgold, Taylor	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
De Groot, Kenneth R. ... Doon	Farmer	8th— <i>Lyon</i> , O'Brien, Osceola, Sioux	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Diemer, Marvin E. Cedar Falls	Retired	23rd— <i>Black Hawk</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Doderer, Minnette F. ... Iowa City	Legislator	45th— <i>Johnson</i>	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Dvorsky, Robert E. Coralville	Legislator	54th—Iowa, <i>Johnson</i>	72(1st), 72X, 72XX
Eddie, Russell J. Storm Lake	Hog Producer, Farmer	10th— <i>Buena Vista</i> , Pocahontas	72(1st), 72X, 72XX
Fey, Thomas H. Davenport	Legislator	41st— <i>Scott</i>	69(2nd), 70, 71, 72(1st), 72X, 72XX
Fogarty, Daniel P. Cylinder	Farmer	11th—Clay, <i>Palo Alto</i>	70, 71, 72(1st), 72X, 72XX
Fuller, Robert D. Steamboat Rock	Farmer	18th—Franklin, Hamilton, ... <i>Hardin</i>	72(1st), 72X, 72XX
Garman, Teresa Ames	Farmer	87th—Boone, <i>Story</i>	72(1st), 72X, 72XX
Groninga, John Mason City	College Instructor	20th— <i>Cerro Gordo</i>	70, 71, 72(1st), 72X, 72XX
Gruhn, Josephine Spirit Lake	Farm Owner/ Operator	12th— <i>Dickinson</i> , Emmet ...	70, 71, 72(1st), 72X, 72XX
Halvorson, Rod Fort Dodge	Real Estate Salesman, Political Consultant	13th— <i>Webster</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Halvorson, Roger A. Monona	Insurance Real Estate Broker	32nd—Allamakee, <i>Clayton</i> ..	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Hammond, Johnie Ames	Legislator	74th— <i>Story</i>	70, 71, 72(1st), 72X, 72XX
Hansen, Steve D. Sioux City	Director, Woodbury Co. Juvenile Detention Center	1st— <i>Woodbury</i>	72(1st), 72X, 72XX
Hanson, Darrell R. Manchester	Insurance Adjuster	48th—Buchanan, <i>Delaware</i> , Linn	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Harbor, William H. Henderson	Grain Elevator Owner-Operator	94th— <i>Mills</i> , Montgomery, ... Pottawattamie	56, 57, 58, 62, 63, 64, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX

Name and Residence	Occupation	Representative District	Former Legislative Service
Harper, Patricia M. Waterloo	Educator	26th— <i>Black Hawk</i>	72(1st), 72X, 72XX
Hatch, Jack Des Moines	Owner, Research . . . Consulting Firm	81st— <i>Polk</i>	71, 72(1st), 72X, 72XX
Haverland, Mark Polk City	College Teacher . . .	77th— <i>Polk</i>	70, 71, 72(1st), 72X, 72XX
Hermann, Donald F. Bettendorf	Retired Industrial Relations Manager	40th— <i>Scott</i>	70, 71, 72(1st), 72X, 72XX
Hester, Joan L. Honey Creek	Farm Wife	98th— <i>Harrison, Pottawattamie</i>	71, 72(1st), 72X, 72XX
Holveck, Jack Des Moines	Attorney	84th— <i>Polk</i>	70, 71, 72(1st), 72X, 72XX
Hummel, Kyle Vinton	Real Estate Broker, Appraiser	76th— <i>Benton, Black Hawk</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Jay, Daniel Centerville	Attorney	66th— <i>Appanoose, Davis, Wapello</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Jochum, Thomas J. Dubuque	Legislator	36th— <i>Dubuque</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Johnson, Paul W. Decorah	Farmer	31st— <i>Allamakee, Winneshek</i>	71, 72(1st), 72X, 72XX
Knapp, Donald J. Cascade	Legislator	33rd— <i>Dubuque, Jones</i>	69(2nd), 70, 71, 72(1st), 72X, 72XX
Koenigs, Deo A. McIntire	Farmer	30th— <i>Chickasaw, Howard, Mitchell</i>	70, 71, 72(1st), 72X, 72XX
Kremer, Joseph M. Jesup	Farmer	27th— <i>Black Hawk, Buchanan</i>	71, 72(1st), 72X, 72XX
Lageschulte, Raymond Waverly	Farm Manager, Insurance Adjuster	22nd— <i>Black Hawk, Bremer, Butler</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Lundby, Mary A. Marion	Home Environmental Engineer	47th— <i>Linn</i>	72(1st), 72X, 72XX
Maulsby, Ruhl Rockwell City	Owner-Operator . . . Livestock Farm	9th— <i>Calhoun, Sac, Webster</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
May, Dennis Kensett	Farmer, Real Estate Broker	19th— <i>Cerro Gordo, Winnebago, Worth</i>	72(1st), 72X, 72XX
McKean, Andy Anamosa	Lawyer, College Instructor	44th— <i>Jones, Linn</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
McKinney, Wayne H., Jr. Waukee	Lawyer, Farmer . . .	89th— <i>Dallas</i>	72(1st), 72X, 72XX
Metcalf, Janet S. Des Moines	Self-employed	83rd— <i>Polk</i>	71, 72(1st), 72X, 72XX

Name and Residence	Occupation	Representative District	Former Legislative Service
Miller, Tom H. Cherokee	Journalist	7th— <i>Cherokee</i> , Clay, O'Brien	71, 72(1st), 72X, 72XX
Muhlbauer, Louis J. Manilla	Agriculture, Business	96th— <i>Crawford</i> , Shelby	70, 71, 72(1st), 72X, 72XX
Mullins, Sue Corwith	Farmer	15th— <i>Humboldt, Kossuth</i> , Palo Alto, Pocahontas	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Neuhauser, Mary Iowa City	Attorney	46th— <i>Johnson</i>	72(1st), 72X, 72XX
Norrgard, Clyde L. Danville	Administrator, Clergyman	59th— <i>Des Moines</i> , Henry	72(1st), 72X, 72XX
Ollie, C. Arthur Clinton	Teacher	38th— <i>Clinton</i>	70, 71, 72(1st), 72X, 72XX
Osterberg, David Mt. Vernon	Economic Consultant	43rd— <i>Cedar, Linn</i>	70, 71, 72(1st), 72X, 72XX
Parker, Edward G. Mingo	Contractor	70th— <i>Jasper, Marion</i> , Polk, Warren	70, 71, 72(1st), 72X, 72XX
Paulin, Donald J. Le Mars	Independent Manufacturers Representative, Kitchen Retailer	5th— <i>Plymouth</i> , Woodbury	70, 71, 72(1st), 72X, 72XX
Pavich, Emil S. Council Bluffs	Cereal Co. Employee	100th— <i>Pottawattamie</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Pellett, Wendell C. Atlantic	Farmer	97th— <i>Cass, Harrison</i> , Pottawattamie, Shelby	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Peters, Michael R. Sioux City	Department of Transportation	2nd— <i>Woodbury</i>	72(1st), 72X, 72XX
Petersen, Daniel F. Muscatine	Farmer	57th— <i>Muscatine</i> , Scott	71(2nd), 72(1st), 72X, 72XX
Peterson, Michael K. Carroll	Legislator	95th— <i>Audubon, Carroll</i> , Shelby	71, 72(1st), 72X, 72XX
Plasier, Lee Sioux Center	Manager, Wholesale Co.	6th— <i>Plymouth, Sioux</i>	72(1st), 72X, 72XX
Platt, Donald R. Muscatine	Legislator	56th— <i>Louisa, Muscatine</i>	71, 72(1st), 72X, 72XX
Poncy, Charles N. Ottumwa	Retired, Public Teacher	65th— <i>Wapello</i>	62, 63, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Renaud, Dennis L. Altoona	D.M. Fire Dept., Barber Business	78th— <i>Polk</i>	69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Renken, Robert H. Aplington	Farmer	21st— <i>Butler, Grundy</i>	68(2nd), 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Rosenberg, Ralph Ames	Attorney	73rd— <i>Story</i>	69(2nd), 70, 71, 72(1st), 72X, 72XX
Royer, Bill D. Essex	Real Estate Broker, Appraiser	93rd— <i>Fremont, Mills</i> , <i>Page</i>	70, 71, 72(1st), 72X, 72XX

GENERAL ASSEMBLY — REPRESENTATIVES — Continued

Name and Residence	Occupation	Representative District	Former Legislative Service
Running, Richard V. Cedar Rapids	Quality Control Technologist	51st — <i>Linn</i>	69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Schnekloth, Hugo	Farmer	39th — <i>Scott</i>	67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Schrader, David	Businessman,	69th — <i>Marion</i>	72(1st), 72X, 72XX
Monroe	Vending Route Operator		
Sherzan, Gary	Parole Officer	86th — <i>Polk</i>	70, 71, 72(1st), 72X, 72XX
Des Moines			
Shoning, Don	Legislator	3rd — <i>Woodbury</i>	71, 72(1st), 72X, 72XX
Sioux City			
Shultz, Don	Public School	25th — <i>Black Hawk</i>	70, 71, 72(1st), 72X, 72XX
Waterloo	Teacher		
Siegrist, J. Brent	Teacher	99th — <i>Pottawattamie</i>	71, 72(1st), 72X, 72XX
Council Bluffs			
Skow, Bob	Insurance,	90th — <i>Adair, Dallas,</i>	70, 71, 72(1st), 72X, 72XX
Guthrie Center	Real Estate Broker	<i>Guthrie, Madison</i>	
Spear, Clay	Retired Postal	61st — <i>Des Moines, Lee</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Burlington	Service Employee		
Stromer, Delwyn	Farmer,	17th — <i>Franklin, Hancock,</i> ..	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Garner	Legislator	Wright	
Stueland, Vic	Farmer,	37th — <i>Cedar, Clinton</i>	69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Grand Mound	Businessman		
Svoboda, E. Jane	Homemaker,	75th — <i>Black Hawk,</i>	72(1st), 72X, 72XX
Clutier	Farmwife	<i>Marshall, Tama</i>	
Swartz, Thomas E.	Legislator	72nd — <i>Marshall</i>	69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Marshalltown			
Swearingen, George R. .	Retired Teacher, . . .	63rd — <i>Jefferson, Keokuk,</i> ..	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Sigourney	Self-employed, Legislator	Wapello	
Tabor, David M.	Farmer	34th — <i>Dubuque, Jackson</i> ...	70, 71, 72(1st), 72X, 72XX
Baldwin			
Teaford, Jane	Legislator	24th — <i>Black Hawk</i>	71, 72(1st), 72X, 72XX
Cedar Falls			
Tyrrell, Phil	Owner-Operator	53rd — <i>Iowa, Poweshiek</i>	68, 69, 69X, 69XX, 72(1st), 72X, 72XX
North English	Independent Insurance Agency		
Van Camp, Mike	Electrician	58th — <i>Scott</i>	70, 71, 72(1st), 72X, 72XX
Davenport			
Van Maanen, Harold	Farmer	64th — <i>Keokuk,</i>	68, 69, 69X, 69XX, 70, 71, 72(1st), 72X, 72XX
Oskaloosa		<i>Mahaska, Wapello</i>	
Wise, Philip	Teacher	62nd — <i>Lee, Van Buren</i>	72(1st), 72X, 72XX
Keokuk			

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
David Harris	Jefferson	Dec. 31, 1990
Arthur A. McGiverin, C. J.	Des Moines and Ottumwa	Dec. 31, 1988
Jerry Larson	Harlan	Dec. 31, 1988
Louis W. Schultz	Iowa City	Dec. 31, 1990
James H. Carter	Cedar Rapids	Dec. 31, 1992
Louis Lavorato	Des Moines	Dec. 31, 1988
Linda K. Neuman	Davenport	Dec. 31, 1988
Bruce M. Snell, Jr.	Ida Grove	Dec. 31, 1988
James H. Andreasen	Algona	Dec. 31, 1990

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Allen L. Donielson	Des Moines	Dec. 31, 1989
Leo E. Oxberger, C. J.	Des Moines	Dec. 31, 1989
Dick Schlegel	Ottumwa	Dec. 31, 1990
Maynard Hayden	Indianola	Dec. 31, 1990
Rosemary Shaw Sackett	Spencer	Dec. 31, 1990
Albert L. Habhab	Fort Dodge	Dec. 31, 1990

CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

UNITED STATES SENATORS

Senator Tom Harkin (D)
316 Hart Senate Office Bldg.
Washington, D.C. 20510
(202) 224-3254

Senator Charles Grassley (R)
135 Hart Senate Office Bldg.
Washington, D.C. 20510
(202) 224-3744

Box H
307 Federal Building
Council Bluffs, Iowa 51501
(712) 325-5533

721 Federal Building
Des Moines, Iowa 50309
(515) 284-4890

733 Federal Building
210 Walnut
Des Moines, Iowa 50309
(515) 284-4574

210 Waterloo Building
531 Commercial Street
Waterloo, Iowa 50701
(319) 232-6657

Lindale Mall
Suite 101
4444 1st Avenue, N.E.
Cedar Rapids, Iowa 52402
(319) 393-6374

206 Federal Building
101 First Street, S.E.
Cedar Rapids, Iowa 52401
(319) 399-2555

131 E. 4th Street
314 B Federal Building
Davenport, Iowa 52801
(319) 322-1338

103 Federal Courthouse Bldg.
320 6th Street
Sioux City, Iowa 51101
(712) 233-3331

Room 901 Badgerow Bldg.
4th and Jackson Streets
Sioux City, Iowa 51101
(712) 252-1550

116 Federal Building
131 E. 4th Street
Davenport, Iowa 52801
(319) 322-4331

UNITED STATES REPRESENTATIVES

First District

Congressman Jim Leach (R)
1514 Longworth House Office Bldg.
Washington, D.C. 20515
(202) 225-6576

322 West 3rd Street
Davenport, Iowa 52801
(319) 326-1841

306 F & M Bank Bldg.
Third & Jefferson
Burlington, Iowa 52601
(319) 752-4584

Parkview Plaza, Room 204
107 E. 2nd Street
Ottumwa, Iowa 52501
(515) 682-8549

Second District

Congressman Thomas J. Tauke (R)
2244 Rayburn House Office Bldg.
Washington, D.C. 20515
(202) 225-2911

698 Central Avenue
Dubuque, Iowa 52001
(319) 557-7740

3271 Armar Drive
P. O. Box 2310
Cedar Rapids, Iowa 52406
(319) 373-1379

116 South 2nd Street
Clinton, Iowa 52732
(319) 242-6180

Third District

Congressman David Nagle (D)
214 Cannon House Office Bldg.
Washington, D.C. 20515
(202) 225-3301

524 Washington Street
Waterloo, Iowa 50701
(319) 234-3623

102 S. Clinton Street
Iowa City, Iowa 52240
(319) 351-0789

Room 160
16 E. Main Street
Marshalltown, Iowa 50158
(515) 752-6701

Fourth District

Congressman Neal Smith (D)
2373 Rayburn House Office Bldg.
Washington, D.C. 20515
(202) 225-4426

544 Insurance Exchange Bldg.
Des Moines, Iowa 50309
(515) 284-4634

215 Post Office Bldg.
P.O. Box 1748
Ames, Iowa 50010
(515) 232-5221

UNITED STATES REPRESENTATIVES – Continued

Fifth District

Congressman James Lightfoot (R)
1609 Longworth House Office Building
Washington, D.C. 20515
(202) 225-3806

501 W. Lowell
Shenandoah, Iowa 51601
(712) 246-1984
1-800-432-1984 (toll-free)

105 Pearl Street
Council Bluffs, Iowa 51501
(712) 325-5572

Suite 7
Warden Plaza
Fort Dodge, Iowa 50501
(515) 955-5319

220 West Salem
Indianola, Iowa 50125
(515) 961-0591

Sixth District

Congressman Fred Grandy (R)
1711 Longworth House Office Bldg.
Washington, D.C. 20515
(202) 225-5476

508 Pierce Street
Sioux City, Iowa 51101
(712) 252-3733

211 North Delaware
Mason City, Iowa 50401
(515) 424-0233

14 W. 5th Street
Spencer, Iowa 51301
(712) 262-6480

CONDITION OF STATE TREASURY

Receipts, Disbursements, and Balances in the Several Funds
For the Fiscal Period Ending June 30, 1987

	Balance June 30, 1986	Total Receipts and Transfers	Total Available	Total Redemptions and Disbursements	Balance June 30, 1987
General Fund	\$ 45,984,480	\$ 3,232,478,513	\$ 3,278,462,993	\$ 3,212,156,622	\$ 66,306,371
Special Revenue Fund	621,252,003	1,133,258,465	1,754,510,468	1,492,538,923	261,971,545
Capitol Project Fund	2,132,380	18,431,696	20,564,076	18,474,880	2,089,196
Debt Service Fund	2,761,130	29,351,229	32,112,359	30,791,713	1,320,646
Enterprise Fund	5,302,681	200,982,742	206,285,423	191,180,919	15,104,504
Internal Service Fund	4,962,136	31,259,161	36,221,297	29,339,900	6,881,397
Expendable Trust Fund	38,172,962	206,735,634	244,908,596	219,997,907	24,910,689
Non-Expendable					
Trust Fund	4,482,025	505,659	4,987,684	85	4,987,599
Pension Fund	3,025,581,699	584,554,301	3,610,136,000	167,623,008	3,442,512,992
Trust and Agency Fund	95,724,542	1,890,836,373	1,986,560,915	1,875,523,520	111,037,395
Totals	<u>\$ 3,846,356,038</u>	<u>\$ 7,328,393,773</u>	<u>\$ 11,174,749,811</u>	<u>\$ 7,237,627,477</u>	<u>\$ 3,937,122,334</u>

Balance July 1, 1986	\$ 3,846,356,038
Receipts and Transfers	7,328,393,773
Total Available	11,174,749,811
Redemptions and Disbursements	7,237,627,477
Balance June 30, 1987	\$ 3,937,122,334

DEPARTMENT OF REVENUE AND FINANCE
May 24, 1988

ANALYSIS BY CHAPTERS

REGULAR SESSION

CH.	FILE	TITLE
1001	SF 2031	Precinct caucuses
1002	SF 455	Physical therapy
1003	SF 2037	Scholarships and grants
1004	SF 387	Joint purchases by political subdivisions
1005	HF 327	Taxes on cigarettes, little cigars, and tobacco products
1006	HF 164	Notaries public
1007	HF 2193	In-transit stickers
1008	HF 2011	Vessels-watercraft
1009	HF 2128	Drugs, devices, and cosmetics
1010	HF 2237	Alcoholic liquor records
1011	SF 348	Veterans' medical services
1012	SF 2036	First in the nation in education fund
1013	SF 2069	State board of education
1014	SF 2060	Unemployment insurance
1015	SF 2089	Vietnam veterans memorial
1016	SF 2267	Water treatment systems
1017	SF 2061	Foreclosure moratorium
1018	SF 2094	Human growth and development instruction
1019	SF 2196	Gas tax, highways, transportation funding
1020	HF 433	Securities registration exemption
1021	HF 2264	Community-based corrections plan report
1022	HF 2306	Coal mining
1023	HF 2318	Debt documents
1024	HF 2322	Controlled substances
1025	HF 2337	Employment appeal board
1026	HF 2355	Cooperative associations
1027	SF 2168	Investment of public moneys
1028	SF 2074	Taxation of income, inheritances, and estates
1029	SF 2256	Evidence from criminalistics laboratory
1030	SF 2258	Destruction of court records
1031	SF 2270	Suspension of property taxes
1032	SF 2271	Remedies after bond waiver on public improvement contracts
1033	SF 2020	Appearance bond deposit
1034	SF 2064	Agent for surety in criminal cases
1035	SF 2183	Drainage district hearing notice
1036	SF 2011	Meat and poultry regulation
1037	SF 2159	Hospice services under Medicare
1038	SF 2236	School board members and officers qualification
1039	SF 2129	Drainage assessments
1040	SF 2142	Foreclosure filing fee
1041	SF 2167	Tip-up fishing devices
1042	SF 2174	Safety laws
1043	HF 2061	Assessor examining and review boards
1044	HF 2129	Truck and tractor brakes
1045	HF 2166	Disclaimer by beneficiary-fiduciary
1046	HF 2168	Recorded instruments

CH.	FILE	TITLE
1047	HF 2259	Motor vehicle rebuilders
1048	HF 2263	Iowa state industries revolving fund
1049	HF 2265	Correctional institutions
1050	HF 2287	Property tax credit for elderly or disabled
1051	HF 2363	Parasitic infestations of bees
1052	HF 2388	City special election petition
1053	HF 2427	Health-related regulation
1054	HF 2247	Liability for certain job-related reports
1055	SF 2216	State fair security
1056	SF 2202	Reciprocity for private investigators and security officers
1057	SF 2090	Joint law enforcement services
1058	HF 2179	Civil service
1059	HF 2127	Check cashing practices
1060	HF 2063	Bed and breakfast homes
1061	HF 470	Area school expenses
1062	HF 2384	Notice of levy of execution
1063	HF 2156	Aircraft registration
1064	HF 2123	Inheritance laws
1065	HF 209	Enforcement of orders in marriage dissolutions
1066	SF 2062	Acting county attorney
1067	SF 456	Dogs trained to assist persons
1068	SF 156	Liability of care review committee members and state
1069	SF 2269	Drainage subdistricts
1070	SF 2182	Drainage special assessments
1071	SF 2172	Appeal of state purchasing decisions
1072	SF 2273	Rest areas
1073	SF 2180	Elders' eligibility
1074	SF 2205	Interstate natural gas pipelines
1075	SF 2302	Bank investments in shares
1076	SF 2281	Garnishment notice
1077	SF 2280	Nonprofit corporation reports
1078	SF 2190	Women and minorities employment in schools
1079	SF 450	Railroad safety
1080	SF 2246	Water and hazardous waste regulation
1081	SF 2164	Economic development board
1082	SF 2088	Veterans' eligibility
1083	SF 2070	Vehicle definitions and safety rules
1084	HF 2371	Joint investments
1085	HF 2228	Civil service vacancies
1086	HF 2415	Retirement incentives
1087	SF 2234	School starting date and calendar
1088	SF 2201	Bonds for liquor control licenses and wine and beer permits
1089	SF 2285	Motor vehicle fraud and theft, and wrecked, salvaged, junked, and rebuilt vehicles
1090	HF 2323	Security for deposit of public funds
1091	HF 2369	Parole and work release
1092	SF 2063	Jurisdiction of magistrates
1093	SF 2091	Disorderly conduct

CH.	FILE	TITLE
1094	SF 2257	Judicial nominating commission expenses
1095	SF 2306	Review of juvenile court referee's actions
1096	HF 2226	Budget enrollment of reorganized school district
1097	HF 2313	Child day care for sick children
1098	HF 2416	Case management assistance for small business ventures
1099	HF 2451	Alternative minimum tax for corporations
1100	HF 2153	Rehearings before utilities board
1101	HF 2315	Sum certain negotiable instruments
1102	HF 2319	Banking days
1103	HF 2320	Credit union powers
1104	HF 2347	City special assessments
1105	HF 2088	Work release for jailed prisoners
1106	HF 2255	Confidentiality of client advocacy records
1107	HF 2260	Employer sanctions regarding unsafe working conditions
1108	HF 2423	Sureties for public officers and employees
1109	HF 2430	Administrative law judges
1110	HF 431	Cosmetologists and barbers
1111	HF 2303	Nontraditional insurance arrangement regulation
1112	HF 2307	Insurance industry regulation
1113	SF 323	Open enrollment in contiguous school districts
1114	SF 2295	Educational programs for at-risk children
1115	SF 2313	Hazardous waste fees
1116	SF 2335	Valuation of agricultural property
1117	SF 370	Museum property Act
1118	SF 2106	Chlordane sale and use prohibitions
1119	SF 2232	Elections and election procedures
1120	SF 2245	Laboratory certification by department of natural resources
1121	HF 2374	Nomination of lieutenant governor
1122	SF 2018	Family support subsidies for children requiring special education
1123	SF 2291	Payment of public employees' prior service retirement allowance
1124	SF 2274	Licensee discipline relating to practice of dentistry or dental hygiene
1125	SF 2203	Composition of engineering and land surveying examining board
1126	SF 2307	Physical criminal evidence registry study
1127	SF 149	Insurance coverage for dentist services
1128	SF 201	Senate confirmation of gubernatorial appointments
1129	SF 2253	History and government high school graduation requirement
1130	SF 2192	Child development services for at-risk children
1131	SF 2303	Iowa small business new jobs training funding
1132	SF 2301	Library financial support by governmental subdivisions
1133	SF 2331	Service of legal process and levy of execution
1134	SF 2171	Nonsubstantive code and reorganization corrections
1135	HF 2296	Unallocated annuity contract coverage under guaranty association
1136	HF 2317	Venture capital investment Act repeal
1137	SF 2263	Drugging and numbing of race horses and dogs
1138	SF 2259	Mobile home abandonment and disposal
1139	SF 2188	Property tax credits, rent reimbursements, and mobile home taxes for elderly and disabled
1140	HF 2461	Tax refund claims to the county

CH.	FILE	TITLE
1141	HF 666	Property transfers and homestead tax credits upon dissolution of marriage
1142	HF 2117	Name changes as part of marriage dissolution or annulment decrees
1143	HF 2458	Modular home tax exemptions
1144	HF 2327	Urban renewal area revenue use
1145	HF 2407	Title guaranty and housing finance programs
1146	HF 613	Mortgage bankers, brokers, and lenders regulation
1147	HF 653	Motor vehicle rental collision damage waivers
1148	SF 2135	Grain trading regulation
1149	SF 2289	Foreign savings and loan association certificates of deposit
1150	SF 2170	Membership and gender balance on state commissions
1151	HF 2473	Military service tax credit and franchise tax administration
1152	HF 2471	Milk industry regulation
1153	HF 2463	Local option taxes
1154	HF 2459	Sales, services, and use taxes on out-of-state retailers
1155	SF 2296	Special education services federal funding
1156	SF 2247	Pesticide regulation
1157	SF 2058	Income tax withholding regarding nonresident agricultural sales
1158	SF 2238	Code and reorganization corrections
1159	SF 2338	Annuity contract premiums tax
1160	SF 173	Community-based correctional programs
1161	SF 2304	Public defender representation of indigent adults and juveniles
1162	SF 2318	Construction contractor registration
1163	HF 185	Civil rights violations
1164	HF 498	Dangerous weapons and knives
1165	HF 2233	Inmate work programs
1166	HF 2262	Inmate allowance deductions and distributions
1167	HF 2278	Juvenile detention and prosecution
1168	HF 2412	Criminal sentencing options
1169	SF 2250	Groundwater quality
1170	SF 2248	Legal liabilities of certain officers, employees, and volunteers
1171	SF 2233	Registration of voters in state offices
1172	HF 2395	Water districts, utilities, and associations
1173	HF 2387	Cable system, telegraph, and telephone line construction
1174	HF 2316	Gas and electric utility cost information
1175	HF 683	Energy assistance programs for low-income persons
1176	HF 382	Demolition insurance reserves for property within cities
1177	HF 2400	Emergency telephone communication systems
1178	HF 2470	Resale power group of Iowa legalizing Act
1179	HF 2437	Energy resource utilization and conservation
1180	HF 2464	Lease-purchase and disposal of property by the state
1181	HF 2462	Dog licensing
1182	HF 2453	Sale and taxation of degradable packaging products
1183	HF 2192	Display of vessel registration and capacity numbers
1184	HF 2102	Taking of white deer
1185	SF 2086	Procurement of starch-based plastics and soybean-based inks
1186	SF 394	Animal care by commercial establishments
1187	SF 69	Public funds investment in drainage district certificates
1188	SF 38	Agricultural drainage wells

CH.	FILE	TITLE
1189	HF 2381	Water protection projects and practices
1190	HF 2338	Emergency response and environmental protection funding
1191	HF 2283	Agricultural property holdings
1192	HF 2191	Commercial concessions in state park areas
1193	HF 2016	County conservation boards
1194	HF 678	Benefited recreational lake districts
1195	SF 2262	Organically produced food
1196	SF 2126	Floodway structures and stream straightening
1197	SF 2055	Pesticide applicator certification
1198	SF 2051	Soil and water resource conservation plans
1199	SF 299	Practice of podiatry
1200	SF 443	Beverage container redemption
1201	SF 2316	Commission on the status of blacks
1202	SF 2327	Olympic sports income tax checkoff
1203	HF 429	Failure to obey school bus warning devices
1204	HF 578	Vintage motor vehicle registration plates
1205	HF 2465	Aircraft and aircraft fuel taxation
1206	HF 2460	Motor vehicle rebate taxation
1207	HF 2396	Economic development finance corporation
1208	HF 2383	Movement of vehicles of excess size and weight
1209	HF 2352	Highway right-of-way and urban renewal relocation assistance
1210	HF 2346	Rural development coordination
1211	HF 2269	Rail line operation and funding
1212	HF 2258	Trespass upon public road
1213	HF 665	Tax levy for city libraries
1214	SF 2117	Motor vehicle speeding and OWI violations
1215	SF 2039	Motor vehicle titling, registration, and plates
1216	HF 395	Taking of animals
1217	SF 2092	Community and rural infrastructure, housing, and sewage treatment development and financing
1218	HF 2452	Support payment receipt and disbursement
1219	SF 302	Brain injury
1220	SF 356	Home food preparation, food establishments, and farmers markets
1221	SF 464	Physical exercise club regulation
1222	SF 2017	Handicapped parking
1223	SF 2107	Foster home insurance fund
1224	SF 2157	Comprehensive AIDS prevention and intervention plan
1225	SF 2169	Physician assistants' regulation
1226	SF 2284	Mental health information disclosure
1227	HF 102	Polygraph examination prohibition
1228	HF 105	Tax assessor appointments
1229	HF 278	Local government reorganization
1230	HF 529	Governmental competition with and purchasing from private enterprise
1231	HF 2106	AIDS home testing
1232	HF 2113	Prescription drug dispensing
1233	HF 2170	Foster care review
1234	HF 2294	AIDS testing
1235	HF 2339	State employee grievances and discipline

CH.	FILE	TITLE
1236	HF 2344	Civil rights of persons with AIDS
1237	HF 2354	Radon testing and reporting
1238	HF 2367	Training for mandatory reporters of abuse
1239	HF 2466	Residential care facilities
1240	SF 452	Personal property tax cancellation
1241	HF 393	Alcoholic beverage sale regulation
1242	HF 2405	Public retirement administration and benefits
1243	HF 2477	State taxation
1244	HF 2441	Underground storage tank regulation
1245	SF 2330	Services for persons with mental retardation, developmental disabilities, and mental illness
1246	HF 2348	City government code corrections
1247	HF 2406	Citizens' aide access to confidential records
1248	HF 2432	Athlete agents' registration
1249	HF 2456	Human services programs
1250	HF 2457	State fund allocations to local government
1251	HF 2476	Property tax challenges
1252	SF 2075	Child abuse and crimes against children
1253	SF 2225	Family development and self-sufficiency council
1254	SF 2230	County gravel pit sales
1255	HF 649	Execution exemptions
1256	HF 2336	Confidentiality of library and video rental records
1257	HF 2386	Economic development assistance guidelines
1258	HF 2428	Court filing fees
1259	HF 650	School attendance and duration requirements
1260	HF 2046	Student member of state board of regents
1261	HF 2377	College education financing
1262	SF 2278	School standards
1263	HF 2419	School enrollment, district dissolutions, and whole-grade sharing agreements
1264	HF 2433	Vocational agriculture education
1265	HF 2449	M-F-L community school district legalizing Act
1266	SF 2193	Teacher education programs
1267	SF 2321	Salaries and benefits for public officials and employees
1268	SF 2328	Lottery revenues appropriated and allocated
1269	HF 2082	Supplemental appropriation to human services department
1270	SF 2050	Appropriation for legal assistance for farmers
1271	HF 2443	Appropriations and duties related to the justice system
1272	HF 2440	Appropriations and fees for agriculture and land stewardship and natural resources departments
1273	SF 2309	Appropriations and programs for economic development
1274	HF 2444	Appropriations, fees, and duties relating to state regulatory agencies
1275	SF 2311	Appropriations and fees for state and local government
1276	HF 2447	Human services appropriations, limitations, and powers
1277	SF 2310	Appropriations and other matters relating to civil and human rights, elder affairs, health, and justice
1278	SF 2314	Appropriations and related matters for public defense, public safety, and transportation

CH.	FILE	TITLE
1279	SF 2315	Appropriation for claims against the state
1280	SF 2323	Federal funds appropriated and allocated
1281	HF 2469	Appropriations of petroleum overcharge funds, and energy development and conservation
1282	SF 2322	Appropriations and provisions relating to compensation, training, and benefits of state officials and employees
1283	SF 2344	Appropriation to attorney general for economic development legal assistance
1284	SF 2312	Appropriations and provisions relating to educational, cultural, and rehabilitation programs
1285	SJR 1	Proposed constitutional amendment relating to governor and lieutenant governor
1286	SJR 2006	Administrative rule relating to child abuse information nullified

1988 Regular Session
Of The
Seventy-Second General Assembly
Of The
State Of Iowa

CHAPTER 1001
PRECINCT CAUCUSES
S.F. 2031

AN ACT relating to the reporting of results of the precinct caucuses, providing a penalty, and providing an effective date.

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

Section 1. Section 43.4, unnumbered paragraph 2, Code 1987, is amended to read as follows:

There shall be selected among those present at a precinct caucus a chairperson and a secretary who shall forthwith certify to the county central committee and the county commissioner the names of those elected as party committee members and delegates to the county convention. When the rules of a political party require the selection and reporting of delegates selected as part of the presidential nominating process, or the rules of a political party require the tabulation and reporting of the number of persons attending the caucus favoring each presidential candidate, it is the duty of a person designated as provided by the rules of that political party to report the results of the precinct caucus as directed by the state central committee of that political party. When the person designated to report the results of the precinct caucus reports the results, representatives of each candidate may, if they so choose, accompany the person as the results are being reported to assure that an accurate report of the proceedings is reported. If ballots are used at the precinct caucus, representatives of each candidate or other persons attending the precinct caucus may observe the tabulation of the results of the balloting.

Sec. 2. Section 43.119, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any person who is designated pursuant to section 43.4 to report the results of a precinct caucus as it relates to the selection and reporting of delegates selected as part of the presidential nominating process or who is designated pursuant to section 43.4 to tabulate and report the number of persons attending the caucus favoring each presidential candidate who willfully fails to perform those duties, willfully falsifies the information, or willfully omits information required to be reported under section 43.4 commits a simple misdemeanor.

Sec. 3. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 3, 1988

CHAPTER 1002**PHYSICAL THERAPY***S.F. 455*

AN ACT relating to physical therapy by providing that physical therapy evaluation and treatment may be rendered without a prescription or referral and specifying limitations on the practice of physical therapy.

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

Section 1. Section 148A.1, Code Supplement 1987, is amended to read as follows:
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 effective 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 and treatment~~ may be rendered by a physical therapist with or 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, podiatrist, or dentist, or referral from a chiropractor, except that a hospital may require that physical therapy evaluation and treatment provided in the hospital shall be done only upon prior review by and authorization of a member of the hospital's medical staff.~~

Sec. 2. **NEW SECTION. 148A.5 LIMITATIONS.**

A license to practice physical therapy does not authorize the licensee to practice operative surgery or osteopathic or chiropractic manipulation, or to administer or prescribe any drug or medicine included in materia medica.

Approved February 5, 1988

CHAPTER 1003**SCHOLARSHIPS AND GRANTS***S.F. 2037*

AN ACT relating to certain scholarship and grant programs administered by the college aid commission, including the requirements for receipt of a state scholarship and the repeal of the supplemental grant program, and providing appropriations and an effective date for the repeal.

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

Section 1. Section 261.2, subsection 4, Code 1987, is amended to read as follows:

4. Prepare and administer a state plan for a state supported and administered scholarship program. ~~Said~~ The state plan shall provide for scholarships based on ability and need to deserving students of Iowa, matriculating in Iowa universities, colleges, area vocational schools, area community colleges, or schools of professional nursing. Eligibility of a student for receipt of

a scholarship during the student's first year of eligibility shall be based upon academic achievement and completion of advanced level courses prescribed by the commission. Continuation of the scholarship in subsequent years shall be based upon the student's financial need and the maintenance by the student of a cumulative grade point average of at least a three point zero on a four point zero grading scale or its equivalent.

Sec. 2. Section 261.25, subsection 2, Code Supplement 1987, is amended to read as follows:

2. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~four~~ seven hundred fifty thousand dollars for scholarships.

Sec. 3. Section 261.61, unnumbered paragraph 1, Code 1987, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

An individual who graduates from a public or nonpublic high school in this state and meets all of the following requirements is eligible for a supplemental grant:

1. Has successfully completed at least eight units of science and mathematics courses, and at least four of the eight units include sequential mathematics courses at the advanced algebra level or higher, chemistry, advanced chemistry, physics, or advanced physics courses.

2. Attends an eligible institution.

3. Has not received a state scholarship under section 261.2, subsection 4.

Sec. 4. Section 261.63, Code Supplement 1987, is amended to read as follows:

261.63 APPROPRIATION.

Commencing July 1, ~~1987~~ 1988, there is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~eight~~ four hundred fifty thousand dollars for supplemental grants.

Sec. 5. Section 261.62, Code 1987, is repealed effective July 1, 1989.

Sec. 6. Section 261.63, Code Supplement 1987, as amended by section 4 of this Act, is repealed effective July 1, 1989.

Sec. 7. Section 261.61, Code 1987, as amended by section 3 of this Act, Code 1987, is repealed effective July 1, 1989.

Approved February 15, 1988

CHAPTER 1004

JOINT PURCHASES BY POLITICAL SUBDIVISIONS

S.F. 387

AN ACT directing certain political subdivisions of the state to consider joint purchases of equipment.

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

Section 1. **NEW SECTION. 28E.20 JOINT PURCHASES OF EQUIPMENT.**

Before a city, county, township, school district, or other political subdivision purchases one or more items of equipment or accessories or attachments to equipment, the total cost of which is estimated to be fifty thousand dollars or more, the city, county, township, school district,

or other political subdivision shall consider making the purchase with another political subdivision of the state under an agreement negotiated under this chapter. The minutes of the governing body initiating the purchase shall state which other governing body or bodies were contacted.

Approved February 18, 1988

CHAPTER 1005

TAXES ON CIGARETTES, LITTLE CIGARS, AND TOBACCO PRODUCTS

H.F. 327

AN ACT increasing the tax on tobacco products and on cigarettes and little cigars and imposing an inventory tax on cigarettes and little cigars, unused tax stamps and metered imprints, granting a one-time credit purchase of cigarette stamps, and providing effective dates.

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

Section 1. Section 98.6, subsection 2, Code 1987, is amended to read as follows:

2. Notwithstanding subsection 1, there is imposed and shall be collected and paid to the department a tax on all cigarettes used or otherwise disposed of in this state for any purpose at the rate of nine mills on each cigarette for the period beginning July 1, 1981 and ending September 30, 1985 and at the rate of thirteen seventeen mills on each cigarette for the period beginning March 1, 1988, and ending June 30, 1989, and at the rate of fifteen and one-half mills on each cigarette beginning October July 1, 1985 1989.

Sec. 2. **NEW SECTION. 98.40 INVENTORY TAX.**

1. All persons required to be licensed under section 98.13 as distributors having in their possession and held for resale on the effective date of an increase in the tax rate cigarettes or little cigars upon which the tax under section 98.6 or 98.43 has been paid, unused cigarette tax stamps which have been paid for under section 98.8, or unused metered imprints which have been paid for under section 98.12 shall be subject to an inventory tax on the items as provided in this section.

2. Persons subject to the inventory tax imposed under this section shall take an inventory as of the close of the business day next preceding the effective date of the increased tax rate of those items subject to the inventory tax for the purpose of determining the tax due. These persons shall report the tax on forms provided by the department of revenue and finance and remit the tax due within thirty days of the prescribed inventory date. The department of revenue and finance shall adopt rules as are necessary to carry out this section.

3. The rate of the inventory tax on each item subject to the tax as specified in subsection 1 is equal to the difference between the amount paid on each item under section 98.6, 98.8, 98.12, or 98.43 prior to the tax increase and the amount that is to be paid on each similar item under section 98.6, 98.8, 98.12, or 98.43 after the tax increase except that in computing the rate of the inventory tax any discount allowed or allowable under section 98.8 shall not be considered.

Sec. 3. Section 98.43, subsections 1 and 2, Code 1987, are amended to read as follows:

1. A tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor thereof, at the rate of fifteen nineteen percent of the wholesale

sales price of the tobacco products, except little cigars as defined in section 98.42. Little cigars shall be subject to the same rate of tax imposed upon cigarettes in section 98.6, payable at the time and in the manner provided in section 98.6; and stamps shall be affixed as provided in division I of this chapter. The tax on tobacco products, excluding little cigars, shall be imposed at the time the distributor does any of the following:

a. Brings, or causes to be brought, into this state from without the state tobacco products for sale.

b. Makes, manufactures, or fabricates tobacco products in this state for sale in this state.

c. Ships or transports tobacco products to retailers in this state, to be sold by those retailers.

2. A tax is imposed upon the use or storage by consumers of tobacco products in this state, and upon the consumers, at the rate of ~~fifteen~~ nineteen percent of the cost of the tobacco products.

The tax imposed by this subsection shall not apply if the tax imposed by subsection 1 on the tobacco products has been paid.

This tax shall not apply to the use or storage of tobacco products in quantities of:

a. Less than 25 cigars.

b. Less than 10 oz. snuff or snuff powder.

c. Less than 1 lb. smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Sec. 4. Notwithstanding any provision of section 98.8 or of other provisions of chapter 98, during the period beginning March 1, 1988, and ending April 15, 1988, a holder of a state distributor's permit issued under chapter 98 may at the permit holder's option purchase cigarette tax stamps on credit for a period of forty-five days following such purchase. At the end of the forty-five day period the permit holder shall remit the amount due. As a condition for this credit-purchase, the purchase must be made from the department of revenue and finance office in Des Moines, and the permit holder shall provide, at the time of such purchase, a bond to the department of revenue and finance to insure the payment of the face value of the tax stamps at the end of the forty-five day period. A permit holder is entitled to make only one credit purchase under this section.

Sec. 5. Sections 1 and 3 of this Act take effect on March 1, 1988.

Sec. 6. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 19, 1988

CHAPTER 1006

NOTARIES PUBLIC

H.F. 164

AN ACT relating to notaries public.

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

Section 1. Section 77.1, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

77.1 APPOINTMENT.

1. The secretary of state may appoint notaries public and may revoke an appointment for cause.

2. The secretary of state shall appoint members of the general assembly as notaries public and may revoke the appointment for cause.

Sec. 2. Section 77.2, Code 1987, is amended to read as follows:
77.2 TERMS.

The term of a notary who is an Iowa resident is three years. The term of a notary who is a resident of a state bordering Iowa and whose place of work or business is in Iowa, is one year. The term of a notary who is a member of the general assembly is the member's term of office.

Sec. 3. Section 77.4, subsections 2, 3, and 4, Code 1987, are amended by striking the subsections.

Sec. 4. Section 77.4, subsection 5, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Remit the sum of fifteen dollars to the secretary of state. Persons appointed as notaries under section 77.1, subsection 2, are not subject to the fee imposed by this subsection.

Sec. 5. Section 77.6, Code 1987, is amended to read as follows:
77.6 REVOCATION – NOTICE.

Should the commission of any a person appointed notary public be revoked by the secretary of state, the secretary shall immediately notify sueh the person through the mail. The notice shall state the cause of the revocation and shall inform the person of the right to a hearing on the revocation. The secretary of state shall adopt rules under chapter 17A to provide for a hearing for persons whose commission is revoked.

Sec. 6. NEW SECTION. 77.8 DISCRETION – LIMITATION.

A notary public may exercise reasonable discretion in performing or declining to perform notarial services, but a notary shall not condition the performance of notarial services upon the requirement that the person served be a customer or client of the establishment by which the notary is employed.

The employer of a notary public shall not condition the performing of notarial services upon the requirement that the person served be a customer or client of the establishment by which the notary is employed.

Sec. 7. Sections 77.15 and 77.16, Code 1987, are repealed.

Approved February 19, 1988

CHAPTER 1007
IN-TRANSIT STICKERS
H.F. 2193

AN ACT to increase the time period for which in-transit stickers are valid.

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

Section 1. Section 321.109, subsection 2, Code 1987, is amended to read as follows:

2. Dealers may, in addition to other provisions of this section, purchase from the department in-transit stickers, for which a fee of two dollars per sticker shall be paid at time of purchase. One such sticker shall be displayed on each vehicle purchased from a dealer by a

nonresident for removal to the state of the nonresident's residence, and one such sticker shall also be displayed on each vehicle not currently registered in Iowa and purchased by an Iowa dealer for removal to the dealer's place of business in this state. The stickers shall be void ~~three~~ fifteen days after issuance by the selling dealer. Each sticker shall contain the following information:

- a. The words "in-transit" in bold type.
- b. The dealer's license number.
- c. The date issued.
- d. The purchaser's name and address.
- e. The word "Iowa" in bold type.
- f. The words "good for ~~three~~ fifteen days after the date of issuance".
- g. Other information the director requires.

This information shall be on the gummed side of the sticker and the sticker shall be made of a type of material which is self-destructive when the sticker is removed. The sales invoice verifying the sale shall be in the possession of the driver of the vehicle in transit and shall be signed by the owner or an authorized individual of the issuing dealership.

Motor vehicles brought into the state on a transit sticker for the purpose of installation of special equipment may also be subject to the provisions of this subsection.

Approved March 2, 1988

CHAPTER 1008

VESSELS — WATERCRAFT

H.F. 2011

AN ACT relating to the ownership of certain vessels by defining vessel, by requiring a certificate of origin for certain vessels, by requiring the purchaser of a registered vessel to obtain a certificate of title, by providing for the perfection of a security interest, and by providing an effective date.

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

Section 1. Section 106.2, subsection 29, Code Supplement 1987, is amended to read as follows:
29. "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice. Ice boats are watercraft. ~~The term includes the vessel's motor, spars, sails, and accessories.~~

Sec. 2. Section 106.77, subsection 3, Code Supplement 1987, is amended to read as follows:
3. A person who, on January 1, 1988, is the owner of a vessel seventeen feet or longer in length with a valid certificate of number issued by the state is not required to file an application for a certificate of title for the vessel ~~unless the person transfers an interest in the vessel.~~ A person who, on or after January 1, 1988, purchases a vessel seventeen feet or longer in length which was registered with a valid certificate of number issued by this state before January 1, 1988, shall obtain a certificate of title for the vessel.

Sec. 3. Section 106.79, Code Supplement 1987, is amended to read as follows:
106.79 OBTAINING MANUFACTURER'S OR IMPORTER'S CERTIFICATE OF ORIGIN. A manufacturer or dealer shall not transfer ownership of a new vessel required to be titled

without supplying the transferee with the manufacturer's or importer's certificate of origin signed by the manufacturer's or importer's authorized agent. The certificate shall contain information the department requires. The department may adopt rules providing for the issuance of a certificate of origin for a vessel by the department upon good cause shown by the owner.

Sec. 4. Section 106.84, Code Supplement 1987, is amended to read as follows:
106.84 PERFECTION AND TITLES.

1. ~~In addition to the requirements of chapter 554, a~~ A security interest created in this state in a vessel required to have a certificate of title is not perfected ~~unless and~~ until the security interest is noted on the certificate of title.

a. To perfect the security interest, an application for security interest must be presented along with the original title. The county recorder shall note the security interest on the face of the title and on the copy in the recorder's office.

b. The application fee for a security interest is five dollars. The fees shall be credited to the county general fund.

2. The certificate of title shall be ~~filed with~~ presented to the county recorder when the ~~financing statement application for that security interest or assigning for assignment of the security interest is filed~~ presented and a new or endorsed certificate of title shall be issued to the secured party with the name and address of the secured party upon it.

3. The secured party shall ~~file~~ present the certificate of title ~~with~~ to the county recorder when a ~~termination or~~ release statement is filed and a new or endorsed certificate shall be issued to the owner.

Sec. 5. Section 106.85, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The department shall prescribe and provide suitable forms for applications, certificates of title, notices of security interests, and all other notices and forms, ~~other than those provided under chapter 554, necessary to carry out this division.~~

Sec. 6. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 2, 1988

CHAPTER 1009

DRUGS, DEVICES, AND COSMETICS

H.F. 2128

AN ACT relating to drugs, devices, and cosmetics.

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

Section 1. Section 203A.14, subsection 2, Code 1987, is amended to read as follows:

2. For the purpose of this chapter the advertisement of a drug or device representing it to have any effect in the diagnosis, prevention, or treatment of albuminuria, appendicitis, arteriosclerosis, arthritis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, degenerative neurological diseases, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, diseases of the immune system, mastoiditis, measles, meningitis, mumps, nephritis, otitis-media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, venereal disease, shall also be deemed to be false, except that no advertisement not in violation of subsection 1 shall be deemed to be false under

this subsection if it is disseminated only to doctors, dentists or veterinarians, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public-health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices; provided, that whenever the board determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the board shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the board may deem necessary in the interests of public health; provided, that this subsection shall not be construed as indicating that self-medication for disease other than those named herein is safe or efficacious.

Sec. 2. Section 203A.20, Code 1987, is amended to read as follows:
203A.20 EXCEPTION TO CHAPTER.

The provisions of this chapter shall not apply to any person, firm or corporation ~~subject to~~ which complies with the federal Food, Drug and Cosmetics Act.

Approved March 2, 1988

CHAPTER 1010
ALCOHOLIC LIQUOR RECORDS
H.F. 2237

AN ACT providing that the records of the purchase of alcoholic liquor from the alcoholic beverages division by individual class "E" liquor control licensees are confidential and providing an effective date.

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

Section 1. Section 22.7, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 25. Records of purchases of alcoholic liquor from the alcoholic beverages division of the department of commerce which would reveal purchases made by an individual class "E" liquor control licensee. However, the records may be revealed for law enforcement purposes or for the collection of payments due the division pursuant to section 123.24.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 3, 1988

CHAPTER 1011
VETERANS' MEDICAL SERVICES
S.F. 348

AN ACT authorizing a state agency or a political subdivision of the state to contract to provide medical services.

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

Section 1. NEW SECTION. 35.6 CONTRACT WITH VETERANS ADMINISTRATION.

A state agency or a political subdivision of this state operating a hospital or medical facility may contract with the United States veterans administration to receive and to provide medical services to patients who are the responsibility of a United States veterans administration hospital or medical facility in the same jurisdiction or medical service area.

Approved March 3, 1988

CHAPTER 1012
FIRST IN THE NATION IN EDUCATION FUND
S.F. 2036

AN ACT relating to moneys available to the first in the nation in education foundation.

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

Section 1. Section 257A.7, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The governing board of the foundation may accept gifts, grants, bequests, ~~and~~ other moneys, and in-kind contributions for deposit in the fund as a part of the endowment or for the use of the foundation.

Sec. 2. Section 302.1A, Code Supplement 1987, is amended to read as follows:
302.1A TRANSFER OF INTEREST.

The department of revenue and finance shall transfer the interest earned on the permanent school fund to the first in the nation in education foundation in the manner provided in this section. Prior to July 1, October 1, January 1, and March 1 of each year, the governing board of the first in the nation in education foundation established in section 257A.2 shall certify to the director of revenue and finance the cumulative total amount of the endowment in the first in the nation in education fund value of contributions received under section 257A.7 for deposit in the fund and for the use of the foundation. The value of in-kind contributions shall be based upon the fair market value of the contribution determined for income tax purposes. The portion of the permanent school fund that is equal to the cumulative total amount of the endowment value of contributions is dedicated to the first in the nation in education foundation for that year. The interest from this dedicated amount shall be transferred to the credit of the first in the nation in education foundation. The remaining portion of the interest earned on the permanent school fund shall become a part of the permanent school fund.

Approved March 3, 1988

CHAPTER 1013

STATE BOARD OF EDUCATION S.F. 2069

AN ACT relating to the organizational meeting of the state board of education.

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

Section 1. Section 256.6, Code 1987, is amended to read as follows:

256.6 REGULAR AND SPECIAL MEETINGS.

The state board shall hold at least six regular meetings each year. The first regular meeting shall be held on the second Thursday in January for purposes of organization. The state board shall meet in May of each year for purposes of organization and shall hold at least five additional regular meetings during the twelve-month period ending April 30. Special meetings of the state board may be called by the president or by any five members of the board on five days' notice given to each member.

Approved March 3, 1988

CHAPTER 1014

UNEMPLOYMENT INSURANCE S.F. 2060

AN ACT relating to the benefit ratio array system under the unemployment insurance law by making the benefit ratio array system permanent, by making a change related to new construction employers, by resolving potential federal conformity issues concerning nonconstruction experience-based rates and access to job service information by business and labor organizations, by abolishing the special employer contribution rate for employers with certain negative balance account histories with retroactive applicability, and by providing an effective date.

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

Section 1. Section 96.7, subsection 2, paragraph c, subparagraph (1), Code Supplement 1987, is amended to read as follows:

(1) A nonconstruction contributory employer newly subject to this chapter shall pay contributions at the rate specified in the twelfth benefit ratio rank but not less than one percent until the end of the calendar year in which the employer's account has been chargeable with benefits for ~~twenty~~ twelve consecutive calendar quarters immediately preceding the computation date.

Sec. 2. Section 96.7, subsection 2, paragraph c, subparagraph (2), Code Supplement 1987, is amended to read as follows:

(2) A construction contributory employer, as defined under rules adopted by the division, which is newly subject to this chapter shall pay contributions at the rate specified in the twenty-first benefit ratio rank until the end of the calendar year in which the employer's account has been chargeable with benefits for twelve consecutive calendar quarters ~~immediately preceding the computation date.~~

Sec. 3. Section 96.7, subsection 2, paragraph d, unnumbered paragraph 5, Code Supplement 1987, is amended by striking the unnumbered paragraph.

Sec. 4. Section 96.11, subsection 7, paragraph c, subparagraph (9), Code Supplement 1987, is amended by striking the subparagraph.

Sec. 5. 1987 Iowa Acts, chapter 222, section 10, is repealed.

Sec. 6. **APPLICABILITY.** Section 3 of this Act applies retroactively to contribution rates for calendar year 1988 and subsequent calendar years.

Sec. 7. **EFFECTIVE DATE.** Sections 3 and 6 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved March 9, 1988

CHAPTER 1015

VIETNAM VETERANS MEMORIAL

S.F. 2089

AN ACT establishing the eligibility of Iowans for inclusion of their names on the Iowa Vietnam veterans memorial.

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

Section 1. Section 35A.6, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Establish, by rule, the qualifications of Iowa veterans whose names are eligible for inclusion on the Iowa Vietnam veterans memorial. The qualifications adopted by the commission shall be the same qualifications, to the extent possible, as used for selecting veterans' names for inclusion on the national Vietnam veterans memorial in Washington, District of Columbia.

Approved March 15, 1988

CHAPTER 1016

WATER TREATMENT SYSTEMS

S.F. 2267

AN ACT relating to residential water treatment systems, incorporating a penalty, and providing effective dates.

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

Section 1. Section 714.16, subsection 1, Code Supplement 1987, is amended by adding the following new lettered paragraphs.

NEW LETTERED PARAGRAPH. h. "Water treatment system" means a device or assembly for which a claim is made that it will improve the quality of drinking water by reducing one or more contaminants through mechanical, physical, chemical, or biological processes or combinations of the processes. As used in this paragraph and in subsection 2, paragraph "h", each model of a water treatment system shall be deemed a distinct water treatment system.

NEW LETTERED PARAGRAPH. i. "Contaminant" means any particulate, chemical, microbiological, or radiological substance in water which has a potentially adverse health effect

and for which a maximum contaminant level (MCL) has been specified in the national primary drinking water regulations.

NEW LETTERED PARAGRAPH. j. "Label", as used in subsection 2, paragraph "h", means the written, printed, or graphic matter permanently affixed or attached to or printed on the water treatment system.

NEW LETTERED PARAGRAPH. k. "Manufacturer's performance data sheet" means a booklet, document, or other printed material containing, at a minimum, the information required pursuant to section 714.16, subsection 2, paragraph "h".

NEW LETTERED PARAGRAPH. l. "Seller", as used in subsection 2, paragraph "h", means the person offering the water treatment system for sale, lease, or rent.

NEW LETTERED PARAGRAPH. m. "Buyer", as used in subsection 2, paragraph "h", means the person to whom the water system is being sold, leased, or rented.

NEW LETTERED PARAGRAPH. n. "Consummation of sale" means completion of the act of selling, leasing, or renting.

NEW LETTERED PARAGRAPH. o. "Consumer information pamphlet" means a publication which explains water quality, health effects, quality expectations for drinking water, and the effectiveness of water treatment systems.

Sec. 2. Section 714.16, subsection 2, Code Supplement 1987, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. h. It is an unlawful practice for a person to sell, lease, rent, or advertise the sale, lease, or rental of a water treatment system in this state, for which claims or representations of removing health-related contaminants are made, unless the water treatment system:

(1) Has been performance tested by a third-party testing agency that has been authorized by the Iowa department of public health. The testing agency shall use approved methods of performance testing determined to be appropriate by the state hygienic laboratory.

(2) Has met the performance testing requirements specified in the testing protocol.

(3) Bears a conspicuous and legible label stating, "IMPORTANT NOTICE—Read the Manufacturer's Performance Data Sheet" and is accompanied by a manufacturer's performance data sheet.

The manufacturer's performance data sheet shall be given to the buyer and shall be signed and dated by the buyer and the seller prior to the consummation of the sale of the water treatment system. The manufacturer's performance data sheet shall contain information including, but not limited to:

(a) The name, address, and telephone number of the seller.

(b) The name, brand, or trademark under which the unit is sold, and its model number.

(c) Performance and test data including, but not limited, to the list of contaminants certified to be reduced by the water treatment system; the test influent concentration level of each contaminant or surrogate for that contaminant; the percentage reduction or effluent concentration of each contaminant or surrogate; where applicable, the maximum contaminant level (MCL) specified in the national primary drinking water regulations; where applicable, the approximate capacity in gallons; where applicable, the period of time during which the unit is effective in reducing contaminants based upon the contaminant or surrogate influent concentrations used for the performance tests; where applicable, the flow rate, pressure, and operational temperature of the water during the performance tests.

(d) Installation instructions.

(e) The recommended operational procedures and requirements necessary for the proper operation of the unit including, but not limited to, electrical requirements; maximum and minimum pressure; flow rate; temperature limitations; maintenance requirements; and where applicable, replacement frequencies.

(f) The seller's limited warranty.

(4) Is accompanied by the consumer information pamphlet compiled by the Iowa department of public health.

The consumer information pamphlet provided to the buyer of a water treatment system shall be compiled by the Iowa department of public health, reviewed annually, and updated as necessary. The consumer information pamphlet shall be distributed to persons selling water treatment systems and the costs of the consumer information pamphlet shall be borne by persons selling water treatment systems. The Iowa department of public health shall adopt rules pursuant to chapter 17A and charge all fees necessary to administer this section.

NEW LETTERED PARAGRAPH. i. It is an unlawful practice for a person to sell, lease, rent, or advertise the sale, lease, or rental of a water treatment system in this state for which false or deceptive claims or representations of removing health-related contaminants are made.

NEW LETTERED PARAGRAPH. j. It is an unlawful practice for a person to make any representation or claim that the seller's water treatment system has been approved or endorsed by any agency of the state.

Sec. 3. This Act takes effect July 1, 1988, except that the labeling requirements contained in section 714.16, subsection 2, paragraph "h" do not take effect until July 1, 1989.

However, currently available water treatment systems without testing protocols shall comply within one year after the establishment of the appropriate testing protocols but no later than July 1, 1990.

Approved March 29, 1988

CHAPTER 1017

FORECLOSURE MORATORIUM

S.F. 2061

AN ACT relating to the extension of the foreclosure moratorium as provided in the governor's declaration of economic emergency made on October 1, 1985, and providing for the retroactive applicability of the Act and an effective date.

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

Section 1. **FORECLOSURE MORATORIUM EXTENDED.** Notwithstanding section 654.15, subsection 2, the declaration of economic emergency made by the governor on October 1, 1985, is in effect until March 30, 1989. Any person eligible to file an application under section 654.15, subsection 2, must file for the continuance by March 30, 1989. Notwithstanding the provisions of the declaration of economic emergency made by the governor on October 1, 1985, real estate used for small business is eligible for a moratorium continuance.

Sec. 2. **REPEALS.**

1. 1986 Iowa Acts, chapter 1216, sections 11 and 12 are repealed.
2. 1987 Iowa Acts, chapter 81, section 1, is repealed.

Sec. 3. **APPLICABILITY AND EFFECTIVE DATE.**

1. If this Act is enacted on or after March 30, 1988, the Act is retroactive to March 30, 1988, and is applicable on and after that date.
2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 29, 1988

CHAPTER 1018

HUMAN GROWTH AND DEVELOPMENT INSTRUCTION

S.F. 2094

AN ACT relating to instructional requirements for human growth and development in grades kindergarten through twelve and providing an effective date.

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

Section 1. Section 256.11, subsections 2, 3, and 4, Code Supplement 1987, are amended to read as follows:

2. The kindergarten program shall include experiences designed to develop healthy emotional and social habits and growth in the language arts and communication skills, as well as a capacity for the completion of individual tasks, and protection and development of physical well-being with attention given to experiences relating to the development of life skills and human growth and development. A kindergarten teacher shall hold a certificate providing that the holder is qualified to teach in kindergarten. An accredited nonpublic school must meet the requirements of this subsection only if the nonpublic school offers a kindergarten program.

3. The following areas shall be taught in the grades one through six: English-language arts, including reading, handwriting, spelling, oral and written English, and literature; social studies, including geography, history of the United States and Iowa, cultures of other peoples and nations, and American citizenship, including the study of national, state, and local government in the United States; mathematics; science, including environmental awareness and conservation of natural resources; health and physical education, including the effects of alcohol, tobacco, drugs, and poisons on the human body, human sexuality, self-esteem, stress management, and interpersonal relationships; the characteristics of communicable diseases, including acquired immune deficiency syndrome; traffic safety, including pedestrian and bicycle safety procedures; music; and art.

4. The following shall be taught in grades seven and eight as a minimum program: science, including environmental awareness and conservation of natural resources; mathematics; social studies; cultures of other peoples and nations, and American citizenship; English-language arts which shall include reading, spelling, grammar, oral and written composition, and may include other communication subjects; health and physical education, including the effects of alcohol, tobacco, drugs, and poisons on the human body, the characteristics of communicable diseases, including venereal sexually transmitted diseases and acquired immune deficiency syndrome, current crucial health issues, human sexuality, self-esteem, stress management, and interpersonal relationships; music; and art.

Sec. 2. Section 256.11, subsection 6, paragraph j, Code Supplement 1987, is amended to read as follows:

j. Health education, including an awareness of physical and mental health needs, the effects of alcohol, tobacco, drugs, and poisons on the human body, the characteristics of communicable diseases, including venereal sexually transmitted diseases and acquired immune deficiency syndrome, and current crucial health issues, human sexuality, self-esteem, stress management, and interpersonal relationships.

Sec. 3. NEW SECTION. 279.50 HUMAN GROWTH AND DEVELOPMENT INSTRUCTION.

1. Each board of directors of a public school district shall appoint a resource committee composed of representatives of the following groups: parents, teachers, school administrators,

pupils, health care professionals, members of the clergy, members of the business community, and other residents of the school district deemed appropriate. The resource committee shall study the provision of instruction to pupils in grades kindergarten through twelve appropriate to the pupils' grade level, age, and level of maturity, in topics related to human growth and development in order to promote accurate and comprehensive knowledge in this area, to foster responsible decision making, based on cause and effect, and to support and enhance the efforts of parents to provide moral guidance to their children. The resource committee shall address and make recommendations to the board concerning the school district's curriculum on each of the following topics of instruction:

- a. Self-esteem, responsible decision making, and personal responsibility and goal setting.
- b. Interpersonal relationships.
- c. Discouragement of premarital adolescent sexual activity.
- d. Family life and parenting skills.
- e. Human sexuality, reproduction, contraception and family planning, prenatal development including awareness of mental retardation and its prevention, childbirth, adoption, available prenatal and postnatal support, and male and female responsibility.
- f. Sex stereotypes.
- g. Behaviors to prevent sexual abuse or sexual harassment.
- h. Sexually transmitted diseases, including acquired immune deficiency syndrome, and their causes and prevention.
- i. Substance abuse treatment and prevention.
- j. Suicide prevention.
- k. Stress management.

2. The resource committee shall make its recommendations regarding the implementation of human growth and development instruction for the school district, including the instructional topics specified in subsection 1, paragraphs "a" through "k", to the school board at least every three years and shall provide written notification to the state department of education.

3. The school board may designate the advisory committee appointed pursuant to section 280.12, subsection 2, as the resource committee to perform the duties required by this section, provided the advisory committee appointed under section 280.12, subsection 2 meets the resource committee composition requirements in subsection 1 of this section.

4. Each school board shall provide instruction in kindergarten which gives attention to experiences relating to life skills and human growth and development as required in section 256.11.

Each school board shall provide instruction in human growth and development including instruction regarding human sexuality, self-esteem, stress management, interpersonal relationships, and acquired immune deficiency syndrome as required in section 256.11, in grades one through twelve. Each school board shall annually provide to a parent or guardian of any pupil enrolled in the school district, information about the human growth and development curriculum used in the pupil's grade level and the procedure for inspecting the instructional materials prior to their use in the classroom. A pupil shall not be required to take instruction in human growth and development if the pupil's parent or guardian files with the appropriate principal a written request that the pupil be excused from the instruction. Notification that the written request may be made shall be included in the information provided by the school district.

Each school board or merged area school which offers general adult education classes or courses shall periodically offer an instructional program in parenting skills and in human growth

and development for parents, guardians, prospective biological and adoptive parents, and foster parents.

5. The state department of education shall make available model human growth and development curricula for grades kindergarten through twelve which shall include the instructional topics specified in subsection 1, paragraphs "a" through "k". The department of education shall distribute the model curricula to each school board, to the authorities in charge of each accredited nonpublic school, and to each resource committee appointed pursuant to subsection 1, and shall provide technical assistance to school boards and resource committees in the use or adaptation of the curricula.

6. Each area education agency shall periodically offer a staff development program for teachers who provide instruction in human growth and development.

7. The department of education shall identify and disseminate information about early intervention programs for students who are at the greatest risk of suffering from the problems of dropping out of school, substance abuse, adolescent pregnancy, or suicide.

Sec. 4. HUMAN GROWTH AND DEVELOPMENT. Rules adopted by the state board under section 256.17 which prescribe standards for accredited schools shall include human sexuality, self-esteem, stress management, interpersonal relationships, the characteristics of acquired immune deficiency syndrome, and give attention to experiences relating to the development of life skills and human growth and development.

Sec. 5. Section 279.50, subsections 1 through 3 and 5, as enacted in this Act, are amended by striking the subsections.

Sec. 6. Section 5 of this Act takes effect July 1, 1992.

Approved March 29, 1988

CHAPTER 1019

GAS TAX, HIGHWAYS, TRANSPORTATION FUNDING

S.F. 2196

AN ACT relating to transportation funding by providing for a network of commercial and industrial highways, increasing the excise taxes on motor fuel and special fuel, increasing the standing appropriation for public transit assistance, authorizing the transfer of RISE funds to the primary road fund, providing for a study of highway financing, making appropriations from the road use tax fund, and providing effective dates.

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

Section 1. Section 307A.2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commission shall identify, within the primary road system, a network of commercial and industrial highways. The improvement of this network shall be considered in the development of the long-range program and plan of improvements under this section.

Sec. 2. Section 312.1, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 453.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the road use tax fund and the

funds to which moneys from the road use tax fund are credited shall be credited to the respective funds which generated the interest or earnings.

Sec. 3. Section 312.2, subsection 17, Code Supplement 1987, is amended to read as follows:

17. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the public transit assistance fund, created under section 601J.6, an amount equal to ~~one-fortieth~~ one-twentieth of the revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b".

Sec. 4. Section 312.2, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 20. The treasurer of state, before making the allotments provided for in this section, shall credit annually from the revenue to be credited to the road use tax fund under section 423.24, subsection 1, paragraph "b", the sum of one million dollars to the state department of transportation for the purpose of acquiring, constructing, and improving recreational trails within the state. Unobligated portions of this allotment shall remain available to the state department of transportation for the purposes for which the funds are originally allocated. The state department of transportation shall adopt rules under chapter 17A to establish procedures for the expenditure of the funds allotted under this subsection.

Sec. 5. Section 312.2, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 21. The treasurer of state shall credit for the fiscal period beginning July 1, 1988, and ending March 31, 1990, the moneys received under section 314.20 to the living roadway trust fund, which is created in the office of the treasurer of state. The moneys in this fund shall be used exclusively for the development of alternative roadside vegetation for living windbreaks, wildlife habitat, roadside erosion control, and aesthetic purposes. The moneys shall only be expended adjacent to streets and highways. The state department of transportation and the department of natural resources shall jointly establish standards relating to the type of projects available for assistance. Of the moneys in the fund, fifty-six percent shall be expended for state department of transportation projects. Thirty percent shall be expended on county projects and fourteen percent shall be expended for city projects. Any city or county which has a project which qualifies for the use of these funds shall submit a request for the funds to the state department of transportation. The state department of transportation and the department of natural resources shall determine which projects qualify for the funds and which projects shall be funded if the requests for the funds exceed the availability of the funds. Funds allocated under this subsection shall be in addition to expenditures currently made for the purposes specified in this subsection. Beginning April 1, 1990, the moneys in the fund shall be allocated between the state, counties, and cities in the same proportion that the road use tax funds are allocated under section 312.2, subsections 1, 2, 3, and 4.

Sec. 6. Section 313.4, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. During the fiscal year beginning July 1, 1990, and ending June 30, 1991, and each subsequent fiscal year, the department shall spend from the primary road fund an amount of not less than thirty million dollars for the network of commercial and industrial highways.

Sec. 7. Section 313.8, Code 1987, is amended to read as follows:

313.8 IMPROVEMENT OF PRIMARY SYSTEM.

The department shall proceed to the improvement of the primary road system as rapidly as funds become available therefor until the entire mileage of the primary road system is built to established grade, bridged and surfaced with pavement or other surface suited to the traffic on such road. Improvements shall be made and carried out in such manner as to equalize the

condition of the primary roads and accessibility for commercial and industrial economic development purposes, as nearly as possible, in all sections of the state.

Sec. 8. NEW SECTION. 314.15 ENVIRONMENTAL PROTECTION.

Highway construction and reconstruction shall not cause unnecessary destruction of the natural or historic heritage of the state. Accordingly, the following features shall be protected in the design, construction, and reconstruction of highways:

1. **WOODLANDS.** All natural woodland removed shall be replaced by plantings of the same species mix on the same number of acres as the woodland removed on similar terrain as close as possible to the construction site, or by purchase of an equal number of acres of natural woodland in the general vicinity for public ownership and preservation.

2. **WETLANDS.** All natural wetlands removed shall be replaced by purchase of natural wetlands in the same general vicinity for public ownership and preservation.

3. **PUBLIC PARKS.** Highways constructed through publicly owned parks, preserves, and recreation areas shall be designed to blend aesthetically with the areas and to minimize noise as requested by the public entity owning the land. Highways crossing rivers, streams, or wetlands and their associated riparian vegetation within publicly owned areas shall be built on structures to minimize damage to aesthetic and natural values. Any land taken from publicly owned parks, preserves, or recreation areas for highway construction shall be replaced by purchase of an equal or greater number of acres for public use, to be chosen in cooperation with the public entity owning the land.

4. **PRIME AGRICULTURAL LAND.** Topsoil shall be removed and stockpiled and shall be made available at no cost to the former landowner or other landowners whose land was purchased for the highway construction. Excess topsoil shall be utilized for landscaping.

Sec. 9. NEW SECTION. 314.20 UTILITY EASEMENTS ON HIGHWAY RIGHT-OF-WAY.

The department shall develop an accommodation plan for the longitudinal utility use of free-way right-of-way, in consultation with the utilities board. The plan shall be consistent with the rules of the federal highway administration of the United States department of transportation and shall be submitted to the federal highway administration for its approval by January 1, 1989. In developing the plan, the department shall provide for extended payment and lease agreements to provide continuous funding for the living roadway trust fund. The plan shall provide for charges for the use of the right-of-way and all moneys collected shall be credited to the living roadway trust fund established in section 312.2, subsection 21, and shall be used by the department for the planting and maintenance of alternative roadside vegetation on interstate highways.

Sec. 10. Section 315.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The state transportation commission may authorize the temporary transfer of funds between the department's share of the RISE fund under section 315.4 and the primary road fund in an amount not to exceed forty million dollars at one time. Transferred funds shall be repaid not later than July 1, 1993. The commission shall manage the RISE fund to ensure that funds will be available to meet contract obligations on approved RISE projects.

Sec. 11. Section 321.122, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. For a combined gross weight of three tons or less ~~forty-five~~ sixty-five dollars and a vehicle which is more than ten model years old ~~thirty-five~~ fifty-five dollars and a vehicle which is more than thirteen model years old forty-five dollars and a vehicle which is more than fifteen years old thirty-five dollars.

Sec. 12. Section 321.122, subsection 1, paragraph b, Code 1987, is amended to read as follows:
 b. For a combined gross weight exceeding three tons, the annual registration fee shall be as set forth in the following schedule:

For a combined gross weight exceeding:	And not exceeding:	The annual registration fee shall be:
3 Tons	4 Tons	\$ 60
		80
4 Tons	5 Tons	\$ 70
		90
5 Tons	6 Tons	\$ 85
		105
6 Tons	7 Tons	\$ 110
		130
7 Tons	8 Tons	\$ 145
		165
8 Tons	9 Tons	\$ 180
		200
9 Tons	10 Tons	\$ 215
		235
10 Tons	11 Tons	\$ 250
		270
11 Tons	12 Tons	\$ 285
		305
12 Tons	13 Tons	\$ 320
		340
13 Tons	14 Tons	\$ 355
		375
14 Tons	15 Tons	\$ 445
15 Tons	16 Tons	\$ 485
16 Tons	17 Tons	\$ 525
17 Tons	18 Tons	\$ 565
18 Tons	19 Tons	\$ 610
19 Tons	20 Tons	\$ 675
20 Tons	21 Tons	\$ 715
21 Tons	22 Tons	\$ 755
22 Tons	23 Tons	\$ 795
23 Tons	24 Tons	\$ 835
24 Tons	25 Tons	\$ 965
25 Tons	26 Tons	\$1,010
26 Tons	27 Tons	\$1,060
27 Tons	28 Tons	\$1,105
28 Tons	29 Tons	\$1,150
29 Tons	30 Tons	\$1,200
30 Tons	31 Tons	\$1,245
31 Tons	32 Tons	\$1,295
32 Tons	33 Tons	\$1,340
33 Tons	34 Tons	\$1,415
34 Tons	35 Tons	\$1,465
35 Tons	36 Tons	\$1,510
36 Tons	37 Tons	\$1,555

37 Tons	38 Tons	\$1,605
38 Tons	39 Tons	\$1,650
39 Tons	40 Tons	\$1,695

Sec. 13. Section 324.3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of fifteen cents per gallon for the period beginning July 1, 1985 and ending December 31, 1985, and sixteen cents per gallon for the period beginning January 1, 1986, and ending March 31, 1988, and eighteen cents per gallon for the period beginning April 1, 1988, and ending December 31, 1988, and twenty cents per gallon beginning January 1, 1989, is imposed upon the use of all motor fuel used for any purpose except motor fuel containing at least ten percent alcohol distilled from cereal grains grown in the United States for the period beginning July 1, 1978 and ending June 30, 1992 and except as otherwise provided in this division.

Sec. 14. Section 324.3, unnumbered paragraph 4, Code 1987, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of fourteen cents per gallon beginning July 1, 1985 and ending December 31, 1985, and fifteen cents per gallon for the period beginning January 1, 1986, and ending March 31, 1988, and seventeen cents per gallon for the period beginning April 1, 1988, and ending December 31, 1988, and nineteen cents per gallon beginning January 1, 1989, and ending June 30, 1992, is imposed upon the use of gasohol used for any purpose except as otherwise provided in this division.

Sec. 15. Section 324.34, unnumbered paragraph 1, Code 1987, is amended to read as follows:

For the privilege of operating motor vehicles in this state, there is imposed an excise tax on the use, as defined in section 324.33, of special fuel in a motor vehicle. The tax rate on special fuel for diesel engines is sixteen and one-half cents per gallon for the period beginning July 1, 1985 and ending December 31, 1985, is seventeen and one-half cents per gallon for the period beginning January 1, 1986 and ending December 31, 1986, and is eighteen and one-half cents per gallon for the period beginning January 1, 1987, and ending March 31, 1988, and is twenty and one-half cents per gallon for the period beginning April 1, 1988, and ending December 31, 1988, and twenty-two and one-half cents per gallon beginning January 1, 1989. On all other special fuel the per gallon rate is the same as the motor fuel tax.

Sec. 16. Section 324.34, unnumbered paragraph 9, Code 1987, is amended to read as follows:

For natural gas used as a special fuel the rate of tax that is equivalent to the motor fuel tax shall be ~~thirteen~~ sixteen cents per hundred cubic feet adjusted to a base temperature of sixty degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. The tax on natural gas shall attach at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle and shall be paid over to the department by the person operating the compressing equipment under the applicable provisions for users or dealers. Natural gas used as a special fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship.

Sec. 17. There is appropriated from the road use tax fund to the legislative service bureau the sum of three hundred thousand (300,000) dollars, or so much thereof as may be necessary, for the purpose of carrying out a study of the needs for the total road network and the mechanisms for the distribution of the revenues derived from fuel taxes, vehicle registration fees, license fees, the use tax on vehicles, and other sources of the road use tax fund. The study shall be independently conducted but administered by a steering committee composed of two members appointed by the state transportation commission, two members appointed by the

Iowa state association of counties, and two members appointed by the league of Iowa municipalities. The steering committee shall report the findings of the study to the governor, the chief clerk of the house of representatives, and the secretary of the senate not later than January 31, 1989.

Sec. 18. There is appropriated from the public transit assistance fund to the legislative service bureau the sum of seventy-five thousand (75,000) dollars, or so much thereof as may be necessary, for the purpose of carrying out a study of the mechanisms for the distribution of the public transit assistance fund. All sources of funding for public transit shall be considered for purposes of this study. The study shall be independently conducted but administered by a steering committee composed of two members appointed by the state transportation commission, two members appointed by the regional transit systems, two members appointed by the large urban transit systems, and two members appointed by the small urban transit systems. The steering committee shall report the findings of the study to the governor, the chief clerk of the house of representatives, and the secretary of the senate not later than January 31, 1989.

Sec. 19. There is appropriated from the road use tax fund to the legislative service bureau the sum of fifty thousand (50,000) dollars, or so much thereof as is necessary, for the purpose of conducting a study to develop an immediate long-range policy for the planting and maintenance of alternative roadside vegetation adjacent to the streets and highways in the state. The study shall be independently conducted by a consultant employed by a steering committee composed of two members appointed by the state transportation commission, two members appointed by the Iowa state association of counties, and two members appointed by the league of Iowa municipalities. The steering committee shall report the findings of the study to the governor, the chief clerk of the house of representatives, and the secretary of the senate not later than January 31, 1989.

Sec. 20. There is appropriated from the road use tax fund for the fiscal year beginning July 1, 1988, and ending June 30, 1989, for the purpose of replacing lost federal highway funds, to the primary road fund the sum of twelve million seven hundred eighty-eight thousand one hundred forty-four (12,788,144) dollars, to the farm-to-market road fund the sum of three million fifty-four thousand six hundred eighty-eight (3,054,688) dollars, to the secondary road fund of the counties the sum of nine hundred forty-one thousand four hundred fifty-five (941,455) dollars, and to the street construction fund of the cities the sum of seven hundred eleven thousand one hundred thirty-one (711,131) dollars.

Sec. 21. There is appropriated from the road use tax fund for the fiscal year beginning July 1, 1989, and ending June 30, 1990, for the purpose of replacing lost federal highway funds, to the primary road fund the sum of twenty million nine hundred thirty-two thousand (20,932,000) dollars, to the farm-to-market road fund the sum of five million (5,000,000) dollars, to the secondary road fund of the counties the sum of one million five hundred forty-one thousand (1,541,000) dollars, and to the street construction fund of the cities the sum of one million one hundred sixty-four thousand (1,164,000) dollars.

Sec. 22. There is appropriated from the road use tax fund for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the primary road fund for the commercial and industrial network of highways the sum of eleven million nine hundred seventy-four thousand three hundred seventy-five (11,974,375) dollars, to the secondary road fund of the counties the sum of nine million nine hundred fifty-eight thousand two hundred eighty-one (9,958,281) dollars, and to the street construction fund of the cities the sum of five million nine hundred eighty-seven thousand one hundred eighty-eight (5,987,188) dollars.

Sec. 23. There is appropriated from the road use tax fund for the fiscal period beginning July 1, 1989, and ending March 31, 1990, to the primary road fund for the commercial and industrial network of highways the sum of ten million four hundred thousand (10,400,000) dollars, to the secondary road fund of the counties the sum of eight million seven hundred thousand (8,700,000) dollars, and to the street construction fund of the cities the sum of five million two hundred thousand (5,200,000) dollars.

Sec. 24. Beginning April 1, 1990, the treasurer of state shall, each month before distributing funds allotted from the road use tax fund under section 312.2, credit to a separate fund held by the treasurer of state the following amounts:

1. From the moneys allotted to the primary road fund, one-twelfth of twenty-eight million three hundred thousand dollars.

2. From the moneys allotted to the secondary road fund of the counties, one-twelfth of eleven million three hundred thousand dollars.

3. From the moneys allotted to the farm-to-market road fund, one-twelfth of three million six hundred thousand dollars.

4. From the moneys allotted to the street construction fund of the cities, one-twelfth of six million eight hundred thousand dollars.

The moneys in this separate fund, together with interest or earnings on investments or time deposits of the moneys, shall be restored to the road use tax fund upon completion of the study required by section 17 of this Act and action by the general assembly on the formula for allocating road use tax funds between jurisdictions.

Sec. 25. Sections 2, 3, and 4 of this Act take effect July 1 following enactment.

Sec. 26. Sections 11 and 12 of this Act take effect July 1 following enactment for vehicle registrations subject to renewal and new vehicle registrations on or after that date for vehicles registered for a combined gross weight of five tons or less.

Sec. 27. Section 12 of this Act takes effect December 1 following enactment for vehicle registrations subject to renewal and new vehicle registrations on or after that date for vehicles registered for a combined gross weight exceeding five tons.

Sec. 28. Section 16 of this Act takes effect April 1 following enactment.

Sec. 29. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved March 29, 1988

CHAPTER 1020**SECURITIES REGISTRATION EXEMPTION***H.F. 433*

AN ACT relating to an exemption from securities registration for securities traded or approved for trade on the national association of securities dealers automated quotations — national market system (NASDAQ/NMS).

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

Section 1. Section 502.202, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 17. On or after January 1, 1989, a security designated or approved for designation upon notice of issuance on the national association of securities dealers automated quotations — national market system (NASDAQ/NMS); any other security of the same issuer which is of senior or substantially equal rank; a security called for by subscription rights or warrants designated or approved for designation upon notice of issuance on the NASDAQ/NMS; or a warrant or right to purchase or subscribe to any of the foregoing categories in this subsection.

Approved March 31, 1988

CHAPTER 1021**COMMUNITY-BASED CORRECTIONS PLAN REPORT***H.F. 2264*

AN ACT repealing a requirement that the department of corrections prepare a biennial report relating to the management of the community-based corrections programs.

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

Section 1. Section 905.11, Code 1987, is repealed.

Approved March 31, 1988

CHAPTER 1022**COAL MINING***H.F. 2306*

AN ACT relating to regulation of the extraction of coal for commercial purposes from a site of one-half acre or less, and making penalties applicable.

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

Section 1. Section 83.26, subsection 2, Code 1987, is amended by striking the subsection.

Approved March 31, 1988

CHAPTER 1023**DEBT DOCUMENTS***H.F. 2318*

AN ACT providing for the acknowledgment of delivery of certain debt documents.

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

Section 1. Section 535.16, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A lender or other secured party shall provide to a debtor, at the time a document relating to a debt is signed, a copy of the document signed by the debtor. Receipt of a copy required by this section may be acknowledged anywhere on the face of the document or on a separate acknowledgement of receipt.

Approved March 31, 1988

CHAPTER 1024**CONTROLLED SUBSTANCES***H.F. 2322*

AN ACT relating to schedule I and schedule III controlled substances.

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

Section 1. Section 204.204, subsection 9, Code Supplement 1987, is amended by adding the following new paragraphs:

NEW PARAGRAPH. n. 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, and MDEA.

NEW PARAGRAPH. o. N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy) phenethylamine, and N-hydroxy MDA.

NEW PARAGRAPH. p. 4-methylaminorex, also known as 2-amino-4-methyl-5-phenyl-2-oxazoline.

Sec. 2. Section 204.208, subsection 3, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. Tiletamine and zolaxepam* or any salt thereof, including the following:

- (1) Some trade or other names for a tiletamine-zolaxepam* combination product: Telazol.
- (2) Some trade or other names for tiletamine: 2-[ethylamino]-2-[2-thienyl]-cyclohexanone.
- (3) Some trade or other names for zolazepam: 4-[2-fluorophenyl]-6, 8-dihydro-1,3,8-trimethylpyraxolo-[3,4-e] [1,4]-diazepin-7[1H]-one flupyrzapon.

Approved March 31, 1988

*zolazepam probably intended

CHAPTER 1025**EMPLOYMENT APPEAL BOARD***H.F. 2337*

AN ACT relating to the jurisdiction of the employment appeal board.

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

Section 1. Section 10A.601, subsection 1, Code 1987, is amended to read as follows:

1. A full-time employment appeal board is created within the department of inspections and appeals to hear and decide contested cases under chapters 19A, 80, 88, 89A, 96, and 97B, ~~and 104~~.

Sec. 2. Section 88.8, subsection 2, Code 1987, is amended to read as follows:

2. **NONCOMPLIANCE NOTICE.** If the commissioner has reason to believe that an employer has failed to correct the violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the appeal board in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties), the commissioner shall notify the employer by certified mail of ~~such~~ the failure and of the penalty proposed to be assessed under section 88.14 by reason of ~~such~~ the failure, and that the employer has fifteen working days within which to notify the commissioner that the employer wishes to contest the commissioner's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the commissioner, the employer fails to notify the commissioner that the employer intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed the final order of the ~~commission~~ appeal board and not subject to review by any court or agency.

Sec. 3. Section 89A.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 19. "Appeal board" means the employment appeal board created under section 10A.601.

Approved March 31, 1988

CHAPTER 1026**COOPERATIVE ASSOCIATIONS***H.F. 2355*

AN ACT relating to cooperative associations by providing for their purposes and powers.

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

Section 1. Section 499.2, unnumbered paragraphs 1 and 4, Code 1987, are amended to read as follows:

A "co-operative association" is one which, ~~in serving some purpose enumerated in section 499.6~~, deals with or functions for its members at least to the extent required by section 499.3; and which distributes its net earnings among its members in proportion to their dealings with it, except for limited dividends or other items permitted in this chapter; and in which each voting member has one vote and no more.

"Agricultural associations" are those formed for a purpose specified in subsection 2, section 499.6 to produce, grade, blend, preserve, process, store, warehouse, market, sell, or handle an agricultural product, or a by-product of an agriculture product; to purchase, produce, sell, or supply machinery, petroleum products, equipment, fertilizer, supplies, business services, or educational service to or for those engaged as bona fide producers of agricultural products; to finance any such activities; or to engage in any cooperative activity connected with or for any number of these purposes.

Sec. 2. Section 499.6, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

499.6 OBJECTS.

A cooperative association may be organized under this chapter for any lawful purpose or purposes.

Sec. 3. Section 499.7, unnumbered paragraph 1, and subsection 1, Code 1987, are amended to read as follows:

Except as expressly limited in its articles, each association shall have power to do anything permitted anywhere in this chapter, and also has the following powers:

1. To conduct any business enumerated in section 499.6 which its articles specify; and to conduct such business either as principal or as agent for its members To conduct business, carry on operations, establish and operate offices, and exercise all powers granted by this chapter in or outside this state.

Approved March 31, 1988

CHAPTER 1027

INVESTMENT OF PUBLIC MONEYS

S.F. 2168

AN ACT relating to the authority of the treasurer of state to invest in United States government obligations.

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

Section 1. Section 452.10, Code Supplement 1987, is amended by adding the following new unnumbered paragraph after the first unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Evidences of indebtedness which are obligations of or guaranteed by the United States of America or any of its agencies include investments, which are authorized by the treasurer of state under this section, in an unincorporated investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to such United States government obligations and to repurchase agreements fully collateralized by the United States government obligations if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

Approved March 31, 1988

CHAPTER 1028**TAXATION OF INCOME, INHERITANCES, AND ESTATES***S.F. 2074*

AN ACT relating to the extension of the applicability of House File 689, enacted during the Second Extraordinary Session of the Seventy-second General Assembly during 1987, updating references to the Internal Revenue Code, providing for retroactive applicability, taxing unrelated business income of certain nonprofit organizations, striking obsolete provisions, and providing an effective date.

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

Section 1. Section 422.3, subsection 5, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

5. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 1988, whichever is applicable.

Sec. 2. Section 422.4, subsections 1, 4, 10, 11, 14, 17, and 18, Code Supplement 1987, are amended to read as follows:

1. The words "taxable income" mean the net income as defined in section 422.7 minus the deductions allowed by section 422.9, in the case of individuals; in the case of estates or trusts, the words "taxable income" mean the taxable income (without a deduction for personal exemption) as computed for federal income tax purposes under the Internal Revenue Code of 1954, but with the adjustments specified in section 422.7 plus the Iowa income tax deducted in computing ~~said the federal~~ taxable income and minus federal income taxes as provided in section 422.9.

4. The words "tax year" mean the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this division.

a. If a taxpayer has made the election provided by section 441, subsection "f", of the Internal Revenue Code of 1954, "tax year" means the annual period so elected, varying from fifty-two to fifty-three weeks.

b. If the effective date or the applicability of a provision of this division is expressed in terms of a tax year beginning, including, or ending with reference to a specified date which is the first or last day of a month, a tax year described in paragraph "a" of this subsection shall be treated as beginning with the first day of the calendar month beginning nearest to the first day of the tax year or as ending with the last day of the calendar month ending nearest to the last day of the tax year.

c. This subsection is effective for tax years ending on or after December 14, 1975.

10. The word "individual" means a natural person; and ~~where if~~ an individual is permitted to file as a corporation, under ~~the provisions of~~ the Internal Revenue Code of 1954, ~~such that~~ fictional status ~~shall is~~ not be recognized for purposes of this chapter, and ~~such the~~ individual's taxable income shall be computed as required under ~~the provisions of~~ the Internal Revenue Code of 1954 relating to individuals not filing as a corporation, with the adjustments allowed by this chapter.

11. ~~The term words~~ "head of household" ~~shall have~~ has the same meaning as provided by the Internal Revenue Code of 1954.

14. ~~The term word~~ "wages" ~~shall have~~ has the same meaning as provided by the Internal Revenue Code of 1954.

17. a. "Annual inflation factor" means an index, expressed as a percentage, determined by the department each year to reflect the purchasing power of the dollar as a result of inflation during the preceding calendar year. For the 1981 and subsequent calendar years, "annual inflation factor" means an index, expressed as a percentage, determined by the department by October 15 of the calendar year preceding the calendar year for which the factor is determined, to reflect which reflects the purchasing power of the dollar as a result of inflation during the fiscal year ending in the calendar year preceding the calendar year for which the factor is determined. In determining the annual inflation factor, the department shall use the annual percent change, but not less than zero percent, in the implicit price deflator for the gross national product computed for the whole calendar year or for the second quarter of the calendar year, in the case of the annual inflation factor for the 1981 and subsequent calendar years, by the bureau of economic analysis of the United States department of commerce and shall add two-fourths for the 1980 and subsequent calendar years one-half of that percent change to one hundred percent. The annual inflation factor for the 1979 calendar year is one hundred two point three percent. The annual inflation factor and the cumulative inflation factor shall each be expressed as a percentage rounded to the nearest one-tenth of one percent. The annual inflation factor shall not be less than one hundred percent.

b. "Cumulative inflation factor" means the product of the annual inflation factor for the 1978 1988 calendar year and all annual inflation factors for subsequent calendar years as determined pursuant to this subsection. The cumulative inflation factor applies to all tax years beginning on or after January 1 of the calendar year for which the latest annual inflation factor has been determined.

c. The annual inflation factor for the 1978 1988 calendar year is one hundred percent. Notwithstanding the computation of the annual inflation factor under paragraph "a", the annual inflation factor for the 1987 calendar year is one hundred percent.

d. Notwithstanding the computation of the annual inflation factor under paragraph "a" of this subsection, the annual inflation factor is one hundred percent for any calendar year in which the unobligated state general fund balance on June 30 as certified by the director of revenue and finance by September 10 of the fiscal year beginning in that calendar year is less than sixty million dollars. However, for the 1981 and subsequent calendar years, the annual inflation factor is one hundred percent for any calendar year if the unobligated state general fund balance on June 30 of the calendar year preceding the calendar year for which the factor is determined, as certified by the director of revenue and finance by October 10, is less than sixty million dollars.

18. For purposes of section 422.3, subsection 5, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

Sec. 3. Section 422.4, subsections 19 and 20, Code Supplement 1987, are amended to read as follows:

19. The definition of the Internal Revenue Code of 1954 in section 422.3, subsection 5, shall be interpreted to include provisions of the Tax Reform Act of 1986, Pub. L. No. 99-514 which amended the Internal Revenue Code of 1954, and the Revenue Act of 1987, Pub. L. No. 100-203, unless the context otherwise requires.

20. "Internal Revenue Code of 1986" means the Internal Revenue Code of 1954 as amended by the Tax Reform Act of 1986, Pub. L. No. 99-514 and the Revenue Act of 1987, Pub. L. No. 100-203.

Sec. 4. Section 422.4, subsections 19 and 20, Code Supplement 1987, are amended by striking the subsections.

Sec. 5. Section 422.5, subsection 1, Code Supplement 1987, is amended by striking the subsection.

Sec. 6. Section 422.5, subsection 1A, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

In lieu of subsection 1, a tax is imposed upon every resident and nonresident of the state which tax shall be levied, collected, and paid annually upon and with respect to the entire taxable income as defined in this division at rates as follows:

Sec. 7. Section 422.5, subsection 1A, paragraph k, subparagraph (1), Code Supplement 1987, is amended to read as follows:

(1) Add items of tax preference included in federal alternative minimum taxable income under section 57, except subsections (a)(1), (a)(2), and (a)(5), of the Internal Revenue Code of 1986, make the adjustments included in federal alternative minimum taxable income under section 56, except subsections (a)(4), (b)(1)(C)(iii), and (d), of the Internal Revenue Code of 1986, and add losses as required by section 58 of the Internal Revenue Code of 1986. In the case of an estate or trust, the items of tax preference, adjustments, and losses shall be apportioned between the estate or trust and the beneficiaries in accordance with rules prescribed by the director.

Sec. 8. Section 422.5, subsection 2, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

However, for married persons filing jointly or filing separately on a combined return, unmarried heads of household, and surviving spouses, references in this subsection and subsections 6 and 10 to five thousand dollars shall be interpreted to mean seven thousand five hundred dollars. In addition, if the married persons', filing jointly or filing separately on a combined return, unmarried head of household's, or surviving spouse's net income exceeds seven thousand five hundred dollars, the regular tax imposed under this division shall be the lesser of the maximum state individual income tax rate times the portion of the net income in excess of seven thousand five hundred dollars or the regular tax liability computed without regard to this sentence. Taxpayers electing to file separately shall compute the alternate tax described in this paragraph using the total net income of the husband and wife. However, the alternate tax described in this paragraph does not apply if one spouse elects to carry back or carry forward the loss as provided in section 422.9, subsection 3.

Sec. 9. Section 422.5, subsection 2, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:

2. However, the tax shall not be imposed on a resident or nonresident whose net income, as defined in section 422.7, is seven thousand five hundred dollars or less in the case of married persons filing jointly or filing separately on a combined return, unmarried heads of household, and surviving spouses or five thousand dollars or less in the case of all other persons; but in the event that the payment of tax under this division would reduce the net income to less than seven thousand five hundred dollars or five thousand dollars as applicable, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of seven thousand five hundred dollars or five thousand dollars as applicable. The preceding sentence does not apply to estates or trusts. For the purpose of this subsection, the entire net income, including any part of the net income not allocated to Iowa, shall be taken into account. For purposes of this subsection, net income includes all amounts of pensions or other retirement income received from any source which is not taxable under this division as a result of any other state law. If the combined net income of a husband and wife exceeds seven thousand five hundred dollars, neither of them shall receive the benefit of this subsection, and it is immaterial whether they file a joint return or separate returns. However, if a husband and wife file separate returns and have a combined net income of seven thousand

five hundred dollars or less, neither spouse shall receive the benefit of this paragraph, if one spouse has a net operating loss and elects to carry back or carry forward the loss as provided in section 422.9, subsection 3. A person who is claimed as a dependent by another person as defined in section 422.12 shall not receive the benefit of this subsection if the person claiming the dependent has net income exceeding seven thousand five hundred dollars or five thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding seven thousand five hundred dollars or five thousand dollars as applicable.

In addition, if the married persons', filing jointly or filing separately on a combined return, unmarried head of household's, or surviving spouse's net income exceeds seven thousand five hundred dollars, the regular tax imposed under this division shall be the lesser of the maximum state individual income tax rate times the portion of the net income in excess of seven thousand five hundred dollars or the regular tax liability computed without regard to this sentence. Taxpayers electing to file separately shall compute the alternate tax described in this paragraph using the total net income of the husband and wife. The alternate tax described in this paragraph does not apply if one spouse elects to carry back or carry forward the loss as provided in section 422.9, subsection 3.

Sec. 10. Section 422.5, subsection 6, Code Supplement 1987, is amended to read as follows:

6. A person who is disabled, is sixty-two years of age or older or is the surviving spouse of an individual or survivor having an insurable interest in an individual who would have qualified for the exemption under this paragraph for this tax year and receives one or more annuities from the United States civil service retirement and disability trust fund, and whose net income, as defined in section 422.7, is sufficient to require that the tax be imposed upon it under this section, may determine final taxable income for purposes of imposition of the tax by excluding the amount of annuities received from the United States civil service retirement and disability trust fund, which are not already excluded in determining net income, as defined in section 422.7, up to a maximum each tax year of five thousand ~~five hundred~~ six hundred twenty-seven dollars for a person who files a separate state income tax return and ~~eight thousand one hundred eighty-four~~ eight thousand one hundred eighty-four dollars total for a husband and wife who file a joint state income tax return. However, a surviving spouse who is not disabled or sixty-two years of age or older can only exclude the amount of annuities received as a result of the death of the other spouse. The amount of the exemption shall be reduced by the amount of any social security benefits received. For the purpose of this section, the amount of annuities received from the United States civil service retirement and disability trust fund taxable under the Internal Revenue Code of 1954 shall be included in net income for purposes of determining eligibility under the five thousand dollar or less exclusion.

Sec. 11. Section 422.5, subsections 6, 7, 8, and 10, Code Supplement 1987, are amended to read as follows:

6. A person who is disabled, is sixty-two years of age or older or is the surviving spouse of an individual or survivor having an insurable interest in an individual who would have qualified for the exemption under this paragraph for this tax year and receives one or more annuities from the United States civil service retirement and disability trust fund, and whose net income, as defined in section 422.7, is sufficient to require that the tax be imposed upon it under this section, may determine final taxable income for purposes of imposition of the tax by excluding the amount of annuities received from the United States civil service retirement and disability trust fund, which are not already excluded in determining net income, as defined in section 422.7, up to a maximum each tax year of five thousand ~~five hundred~~ six hundred twenty-seven dollars for a person who files a separate state income tax return and ~~eight thousand one hundred eighty-four~~ eight thousand one hundred eighty-four dollars total for a husband and wife who file a joint state income

tax return. However, a surviving spouse who is not disabled or sixty-two years of age or older can only exclude the amount of annuities received as a result of the death of the other spouse. The amount of the exemption shall be reduced by the amount of any social security benefits received. For the purpose of this section, the amount of annuities received from the United States civil service retirement and disability trust fund taxable under the Internal Revenue Code of 1954 shall be included in net income for purposes of determining eligibility under the seven thousand five hundred dollar or less or five thousand dollar or less exclusion, as applicable.

7. Upon determination of the latest cumulative inflation factor, the director shall multiply each dollar amount set forth in subsection 1, paragraphs "a" through "m" and "i" of this section, and each dollar amount specified in this section as the maximum amount of annuities received which may be excluded in determining final taxable income, by this cumulative inflation factor, shall round off the resulting product to the nearest one dollar, and shall incorporate the result into the income tax forms and instructions for each tax year.

8. ~~Income of an individual which is excluded from gross income under the Internal Revenue Code of 1954 as a result of the provisions of the Hostage Relief Act of 1980, 94 stat. 1967, shall not be included as income in computing the tax imposed by this section.~~

10. In addition to the other taxes imposed by this section, a tax is imposed on the amount of a lump sum distribution for which the taxpayer has elected under section 402(e) of the Internal Revenue Code of 1954 to be separately taxed for federal income tax purposes for the tax year. The rate of tax is equal to twenty-five percent of the separate federal tax imposed on the amount of the lump sum distribution. A nonresident is liable for this tax only on that portion of the lump sum distribution allocable to Iowa. The total amount of the lump sum distribution subject to separate federal tax shall be included in net income for purposes of determining eligibility under the seven thousand five hundred dollar or less or five thousand dollar or less exclusion, as applicable.

Sec. 12. Section 422.6, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The beneficiary of a trust who receives an accumulation distribution shall be allowed credit without interest for the Iowa income taxes paid by the trust attributable to such ~~the~~ accumulation distribution in a manner corresponding to the provisions for credit under the federal income tax relating to accumulation distributions as contained in the Internal Revenue Code of 1954. The trust ~~shall~~ is not be entitled to a refund of taxes paid on the distributions. The trust shall maintain detailed records to verify the computation of the tax.

Sec. 13. Section 422.7, unnumbered paragraph 1 and subsections 2, 6, 7, 8, 9, 11, 16A, 19, 21, 23, 24, and 27, Code Supplement 1987, are amended to read as follows:

The term "net income" means the adjusted gross income as properly computed for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

2. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax under the Internal Revenue Code of 1954.

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 disability income exclusion and shall compute the amount of 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.

7. Add to the taxable income of trusts, that portion of trust income excluded from federal taxable income under section 641(c) of the Internal Revenue Code of 1954.

8. Married taxpayers who file a joint federal income tax return and who elect to file separate returns or separate filing on a combined return for Iowa income tax purposes, may avail themselves of the expensing of business assets and capital loss provisions of sections 179(a) and 1211(b) respectively of the Internal Revenue Code of 1954 and shall compute the amount of expensing of business assets and capital loss subject to the limitations for joint federal income tax return filers provided by sections 179(b) and 1211(b) respectively of the Internal Revenue Code of 1954.

9. Subtract the amount of the jobs tax credit allowable for the tax year under section 51 of the Internal Revenue Code of 1954 to the extent that the credit increased federal adjusted gross income.

11. Subtract the amount of the alcohol fuel credit allowable for the tax year under section 40 of the Internal Revenue Code of 1954 to the extent that the credit increased federal adjusted gross income.

16A. ~~Notwithstanding any other provision, add~~ Add the amounts deducted and subtract the amounts included as income as a result of the treatment provided sale-leaseback agreements under section 168(f)(8) of the Internal Revenue Code of 1954 for property placed in service by the transferee prior to January 1, 1986, to the extent that the amounts deducted and the amounts included in income are not otherwise deductible or included in income under the Internal Revenue Code of 1954 as amended to and including December 31, 1985. Entitlement to depreciation on any property included in a sale-leaseback agreement which is placed in service by the transferee prior to January 1, 1986, shall be determined under the Internal Revenue Code of 1954 as amended to and including December 31, 1985, excluding section 168(f)(8) in making the determination.

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.

21. Add the four percent of the basic salary of a judge, who is a member of the judicial retirement system established in chapter 602, article 9, which is exempt from federal income tax under the Internal Revenue Code of 1954.

23. Add the amount of intangible drilling and development costs optionally deducted in the year paid or incurred as described in section 57(a)(2) of the Internal Revenue Code of 1954. This amount may be recovered through cost depletion or depreciation, as appropriate under rules prescribed by the director.

24. Add the percentage depletion amount determined with respect to an oil, gas, or geothermal well as described in section 57(a)(1) of the Internal Revenue Code of 1954.

27. Add interest and dividends from regulated investment companies exempt from federal income tax under the Internal Revenue Code of 1986 and subtract the loss on the sale or exchange of a share of a regulated investment company held for six months or less to the extent the loss was disallowed under section 852(b)(4)(B) of the Internal Revenue Code of 1986.

Sec. 14. Section 422.7, subsection 15, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:

15. Notwithstanding the method for computing the amount of travel expenses that may be deducted under section 162(h) of the Internal Revenue Code, for tax years beginning on or after January 1, 1987, a member of the general assembly whose place of residence within the

legislative district is greater than fifty miles from the capitol building of the state may deduct the total amount per day determined under section 162(h)(1)(B) of the Internal Revenue Code and a member of the general assembly whose place of residence within the legislative district is fifty or fewer miles from the capitol building of the state may deduct fifty dollars per day. This subsection does not apply to a member of the general assembly who elects to itemize for state tax purposes the member's travel expenses.

Sec. 15. Section 422.7, subsections 5, 10, 12, 13, 14, 16, 17, 20, 22, and 26, Code Supplement 1987, are amended by striking the subsections.

Sec. 16. Section 422.8, subsections 2 and 4, Code 1987, are amended to read as follows:

2. Nonresident's net income allocated to Iowa is the net income, or portion thereof, which is derived from a business, trade, profession, or occupation carried on within this state or income from any property, trust, estate, or other source within Iowa. If ~~any a~~ business, trade, profession, or occupation is carried on partly within and partly without the state, only the portion of the net income which is fairly and equitably attributable to that part of the business, trade, profession, or occupation carried on within the state is allocated to Iowa for purposes of section 422.5, subsection 1, paragraph "~~n~~" "j" and section 422.13 and income from any property, trust, estate, or other source partly within and partly without the state is allocated to Iowa in the same manner, except that annuities, interest on bank deposits and interest-bearing obligations, and dividends are allocated to Iowa only to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state. However, income received by an individual who is a resident of another state is not allocated to Iowa if the income is subject to an income tax imposed by the state where the individual resides, and if the state of residence allows a similar exclusion for income received in that state by residents of Iowa. In order to implement the exclusions, the director shall designate by rule the states which allow a similar exclusion for income received by residents of Iowa, and may enter into agreements with other states to provide that similar exclusions will be allowed, and to provide suitable withholding requirements in each state.

4. The amount of minimum tax paid to another state or foreign country by a resident taxpayer of this state from preference items derived from sources outside of Iowa shall be allowed as a credit against the tax computed under this division except that the credit shall not exceed what the amount of state alternative minimum tax would have been on the same preference items which were taxed by the other state or foreign country. The limitation on this credit shall be computed according to the following formula: The total of preference items earned outside of Iowa and taxed by another state or foreign country shall be divided by the total of preference items of the resident taxpayer of Iowa. In computing this quotient, those items excludable under section 422.5, subsection 1, paragraph "~~o~~" "k", subparagraph (1) shall not be used in computing the preference items. This quotient multiplied times the net state alternative minimum tax as determined in section 422.5, subsection 1, paragraph "~~o~~" "k" on the total of preference items as if entirely earned in Iowa shall be the maximum tax credit against the Iowa alternative minimum tax. However, the maximum tax credit will not be allowed to the extent that the minimum tax imposed by the other state or foreign country is less than the maximum tax credit computed above.

Sec. 17. Section 422.9, subsection 1, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:

1. An optional standard deduction, after deduction of federal income tax, equal to one thousand two hundred thirty dollars for a married person who files separately or a single person or equal to three thousand thirty dollars for a husband and wife who file a joint return, a

surviving spouse, or an unmarried head of household. The optional standard deduction shall not exceed the amount remaining after deduction of the federal income tax.

Sec. 18. Section 422.9, subsection 2, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The total of contributions, interest, taxes, medical expense, nonbusiness losses, and miscellaneous expenses; and moving expenses; deductible for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

Sec. 19. Section 422.9, subsection 2, paragraph e, Code Supplement 1987, is amended by striking the paragraph.

Sec. 20. Section 422.9, subsection 3, unnumbered paragraph 1 and paragraph c, Code Supplement 1987, are amended to read as follows:

If, after applying all of the adjustments provided for in section 422.7, the allocation provisions of section 422.8, and the deductions allowable in this section subject to the modifications provided in section 172(d) of the Internal Revenue Code of 1954, the taxable income results in a net operating loss, the net operating loss shall be deducted as follows:

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

Sec. 21. Section 422.10, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit shall equal equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred by a partnership, subchapter S corporation, and estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 30 41 of the Internal Revenue Code of 1954, in effect on January 1, 1985, or which would be allowable under section 41 of the Internal Revenue Code of 1986.

Sec. 22. Section 422.12, subsection 1, paragraph c, Code Supplement 1987, is amended to read as follows:

c. For each dependent, an additional ten dollars. As used in this section, the term "dependent" shall have has the same meaning as provided by the Internal Revenue Code of 1954.

Sec. 23. Section 422.12, subsection 2, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A child and dependent care credit equal to forty-five percent of the federal child and dependent care credit provided in section 21 of the Internal Revenue Code of 1954.

Sec. 24. Section 422.13, subsection 1, paragraph a, Code Supplement 1987, is amended to read as follows:

a. The individual is required to file a federal income tax return under the Internal Revenue Code of 1954.

Sec. 25. Section 422.16, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

Every withholding agent and every employer as defined in this chapter and further defined in the Internal Revenue Code of 1954, with respect to income tax collected at source, making payment of wages to a nonresident employee working in Iowa, or to a resident employee, shall deduct and withhold from the wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on the wages, to be prescribed by the department. Every employee or other person shall declare to the employer or withholding agent the number of the employee's or other person's personal exemptions and dependency exemptions or credits to be used in applying the tables and schedules or percentage rates. However, no greater number of personal or dependency exemptions or credits may be declared by the employee or other person than the number to which the employee or other person is entitled except as allowed under section 3402(m)(1) of the Internal Revenue Code of 1954. The claiming of exemptions or credits in excess of entitlement is a serious misdemeanor.

Sec. 26. Section 422.16, subsection 11, paragraphs a and d, Code Supplement 1987, are amended to read as follows:

a. Every person or married couple filing a return shall make estimated tax payments if the person's or couple's Iowa income tax attributable to income other than wages subject to withholding can reasonably be expected to amount to fifty dollars or more for the taxable year, except that, in the cases of farmers and ~~fishers~~ fishermen, the exceptions provided in the Internal Revenue Code of 1954 with respect to making estimated payments apply. The estimated tax shall be paid in quarterly installments. The first installment shall be paid on or before the last day of the fourth month of the taxpayer's tax year for which the estimated payments apply. The other installments shall be paid on or before June 30, September 30, and January 31. However, at the election of the person or married couple, any installment of the estimated tax may be paid prior to the date prescribed for its payment. If a person or married couple filing a return has reason to believe that the person's or couple's Iowa income tax may increase or decrease, either for purposes of meeting the requirement to make estimated tax payments or for the purpose of increasing or decreasing estimated tax payments, the person or married couple shall increase or decrease any subsequent estimated tax payments accordingly.

d. Any amount of estimated tax paid is a credit against the amount of tax found payable on a final, completed return, as provided in subsection 9, relating to the credit for the tax withheld against the tax found payable on a return properly and correctly prepared under sections 422.5 through 422.25, and any overpayment of one dollar or more shall be refunded to the taxpayer and the return constitutes a claim for refund for this purpose. Amounts less than one dollar shall not be refunded. The method provided by the Internal Revenue Code of 1954 for determining what is applicable to the addition to tax for underpayment of the tax payable applies to persons required to make payments of estimated tax under this section except the amount to be added to the tax for underpayment of estimated tax is an amount determined at the rate in effect under section 421.7. This addition to tax specified for underpayment of the tax payable is not subject to waiver provisions relating to reasonable cause, except as provided in the Internal Revenue Code of 1954. Underpayment of estimated tax shall be determined in the same manner as provided under the Internal Revenue Code of 1954 and the exceptions in the Internal Revenue Code of 1954 also apply.

Sec. 27. Section 422.20, subsection 2, Code Supplement 1987, is amended to read as follows:

2. It ~~shall be~~ is unlawful for ~~any an~~ officer, employee, or agent, or former officer, employee, or agent of the state to disclose to any person, except as authorized in subsection 1 of this

section, any federal tax return or return information as defined in section 6103(b) of the Internal Revenue Code of 1954. It shall further be is unlawful for any a person to whom any federal tax return or return information, as defined in section 6103(b) of the Internal Revenue Code of 1954, is disclosed in a manner unauthorized by subsection 1 of this section to thereafter print or publish in any manner not provided by law any such return or return information. Any A person committing an offense against the foregoing violating this provision shall be is guilty of a serious misdemeanor.

Sec. 28. Section 422.21, unnumbered paragraphs 4, 5, and 6, Code Supplement 1987, are amended to read as follows:

The director shall determine for the ~~1979~~ 1989 and each subsequent calendar years year the annual and cumulative inflation factors for ~~those each~~ each calendar years year to be applied to tax years beginning on or after January 1 of that calendar year. The director shall compute the new dollar amounts as specified ~~therein~~ to be adjusted in section 422.5 by the latest cumulative inflation factor and round off the result to the nearest one dollar. The annual and cumulative inflation factors determined by the director are not rules as defined in section 17A.2, subsection 7.

The department shall provide on income tax forms or in the instruction booklets in a manner that will be noticeable to the taxpayers a statement ~~to the extent that~~, even though the taxpayer may not have any federal or state income tax liability, the taxpayer may be eligible for the federal earned income tax credit. The statement shall also contain notice of where the taxpayer may check on the taxpayer's eligibility for this credit.

~~The department shall prepare and make available a special return for filing a tax refund claim resulting from the net capital gain deduction authorized in section 422.9, subsection 6. The special returns shall be designed so that the department will be able to compile data that identifies the source and type of the capital gains and losses and the geographical location of the transactions involving the capital gains and losses. By January 15, 1989, the department shall make available to the general assembly the data compiled from the special returns filed during the previous calendar year.~~

Sec. 29. Section 422.25, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Within three years after the return is filed or within three years after the return became due, including any extensions of time for filing, whichever time is the later, the department shall examine it and determine the correct amount of tax, and the amount determined by the department is the tax. However, if the taxpayer omits from income an amount which will, under the Internal Revenue Code of 1954, extend the statute of limitations for assessment of federal tax to six years under the federal law, the period for examination and determination is six years. In addition to the applicable period of limitation for examination and determination, the department may make an examination and determination at any time within six months from the date of receipt by the department of written notice from the taxpayer of the final disposition of any matter between the taxpayer and the internal revenue service with respect to the particular tax year. In order to begin the running of the ~~six months'~~ six-month period, the notice shall be in writing in any form sufficient to inform the department of the final disposition with respect to that year, and a copy of the federal document showing the final disposition or final federal adjustments shall be attached to the notice.

Sec. 30. Section 422.32, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The word "corporation" includes joint stock companies, and associations organized for pecuniary profit, ~~except limited partnerships organized under chapter 545 and publicly traded partnerships taxed as corporations under the Internal Revenue Code.~~

Sec. 31. Section 422.32, subsection 11, Code Supplement 1987, is amended to read as follows:
11. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 1987 1988, whichever is applicable.

Sec. 32. Section 422.32, subsection 11, Code Supplement 1987, is amended by striking the subsection.

Sec. 33. Section 422.33, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. There is imposed upon each corporation exempt from the general business tax on corporations by section 422.34, subsections 2 through 6, a tax at the rates in subsection 1 upon the state's apportioned share computed in accordance with subsections 2 and 3 of the unrelated business income computed in accordance with the Internal Revenue Code and with the adjustments set forth in section 422.35.

Sec. 34. Section 422.72, subsection 2, Code Supplement 1987, is amended to read as follows:
2. Federal tax returns, copies of returns, and return information as defined in section 6103(b) of the Internal Revenue Code ~~of 1954~~, which are required to be filed with the department for the enforcement of the income tax laws of this state, shall be ~~deemed and~~ held as confidential by the department and subject to the disclosure limitations in subsection 1 ~~of this section~~.

Sec. 35. Section 450.1, unnumbered paragraph 2, Code 1987, is amended to read as follows:
For purposes of this chapter, unless the context otherwise requires, "personal representative" means an executor, administrator, or trustee as each is defined in section 633.3 and "Internal Revenue Code" means the same as defined in section 422.3.

Sec. 36. Section 450.3, subsections 2 and 7, Code 1987, are amended to read as follows:
2. By deed, grant, sale, gift or transfer made within three years of the death of the grantor or donor, 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 b and e of the Internal Revenue Code of 1954 as defined in section 422.3. If both spouses consent, a gift made by one spouse to a person who is not the other spouse is considered, for the purposes of this subsection, as made one half by each spouse under the same terms and conditions provided for in section 2513 of the Internal Revenue Code of 1954 as defined in section 422.3.

7. Which qualifies as a qualified terminable interest property as defined in section 2056(b)(7)(B) of the Internal Revenue Code of 1954 as defined in section 422.3, shall, if an election is made, be treated and considered as passing in fee, or its equivalent, to the surviving spouse in the estate of the donor-grantor. Property on which the election is made shall be included in the gross estate of the surviving spouse and shall be deemed to have passed in fee from the surviving spouse to the persons succeeding to the remainder interest, unless the property was sold, distributed, or otherwise disposed of prior to the death of the surviving spouse. A sale, disposition, or disposal of the property prior to the death of the surviving spouse shall void the election, and shall subject the property disposed of, less amounts received or retained by the surviving spouse, to tax in the donor-grantor's estate in the same manner as if the tax had been deferred under sections 450.44 through 450.49.

Sec. 37. Section 450.37, subsection 1, paragraph b, Code 1987, 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 422.3. 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 5, Code Supplement 1987, is amended to read as follows:

5. "Internal Revenue Code" means the same as the term is defined in section ~~422.3~~ 422.32.

Sec. 39. Section 450B.1, Code 1987, is amended to read as follows:

450B.1 DEFINITIONS.

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

1. "Internal Revenue Code of 1954" means the same as defined in section 422.3.
2. "Taxpayer" means a qualified heir liable for the inheritance tax imposed under chapter 450 on qualified real property.
3. "Qualified real property", "qualified use", "cessation of qualified use", and "qualified heir" mean the same as defined in section 2032A of the Internal Revenue Code of 1954.
4. For purposes of subsection 1, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

Sec. 40. Section 450B.2, Code 1987, is amended to read as follows:

450B.2 ALTERNATE ELECTION OF VALUE FOR QUALIFIED USE.

Notwithstanding section 450.37, the value of qualified real property for the purpose of the tax imposed under chapter 450 may, at the election of the taxpayer, be its value for the use under which it qualifies as prescribed by section 2032A of the Internal Revenue Code of 1954. A taxpayer may make an election under this section only if all of the following conditions are met:

1. An election for federal estate tax purposes was made with regard to the qualified real property under section 2032A of the Internal Revenue Code of 1954.
2. All persons who signed the agreement referred to in section 2032A(d)(2) of the Internal Revenue Code of 1954 make the election under this section and sign an agreement with the department of revenue and finance consenting to the application of section 450B.3 with respect to the qualified real property.
3. The total decrease in the value of the qualified real property as a result of the election under this section does not exceed the dollar limitation specified in section 2032A(a)(2) of the Internal Revenue Code of 1954.

The election under this section shall be made by the taxpayer in the manner as the director of revenue and finance may prescribe by rule. The value for the qualified use under this section shall be the value as determined and accepted for federal estate tax purposes.

The definitions and special rules specified in section 2032A(e) of the Internal Revenue Code of 1954 shall apply with respect to qualified real property for which an election was made under this section except that rules shall be prescribed by the director of revenue and finance in lieu of the regulations promulgated by the secretary of treasury.

The director shall prescribe regulations setting forth the application of this chapter in the case of an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business within the meaning of section 6166(b)(1) of the Internal Revenue Code of 1954. Such regulations shall conform as nearly as possible with the regulations promulgated by the United States secretary of treasury in respect to such interests.

Sec. 41. Section 450B.3, Code 1987, is amended to read as follows:

450B.3 ADDITIONAL INHERITANCE TAX APPLICABLE.

There is imposed upon the qualified heir an additional inheritance tax if, within ten years after the decedent's death and before the death of the qualified heir, the qualified heir disposes of, other than to a member of the family, any interest in qualified real property for which an election under section 450B.2 was made or ceases to use for the qualified use the qualified real property for which an election under section 450B.2 was made as prescribed in section 2032A(c)

of the Internal Revenue Code of 1954. The additional inheritance tax shall be the amount computed under section 450B.5 and shall be due six months after the date of the disposition or cessation of qualified use referred to in this section. The amount of the additional inheritance tax shall accrue interest at the rate of ten percent per year from nine months after the decedent's death to the due date of the tax. The tax shall be paid to the department of revenue and finance and shall be deposited into the general fund of the state. Taxes not paid within the time prescribed in this section shall draw interest at the rate of ten percent per annum until paid. There shall not be an additional inheritance tax if the disposition or cessation occurs ten years or more after the decedent's death.

Sec. 42. Section 451.1, subsection 8, Code 1987, is amended to read as follows:

8. "Internal Revenue Code of 1954" means the same as defined in section 422.3.

Sec. 43. Section 451.2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

An amount equal to the federal estate tax credit for state death taxes as allowed in the Internal Revenue Code of 1954 is hereby imposed upon every transfer of the net estate of every decedent, being a resident of, or owning property in this state, as herein provided.

Sec. 44. Section 451.3, Code 1987, is amended to read as follows:

451.3 GROSS AND NET ESTATE.

The gross estate shall be the same as finally determined for federal estate tax and the net estate shall be the gross estate less deductions as permitted by federal law, in arriving at the net taxable federal estate, all determined as provided in the Internal Revenue Code of 1954.

Sec. 45. 1987 Iowa Acts, Second Extraordinary Session, chapter 1, section 13, is amended to read as follows:

SEC. 13. Section 422.4, subsection 17, section 422.5, subsection 7, section 422.7, subsections 10, 12, 14, 15, 22, and 26, section 422.9, subsection 2, paragraph "e", and section 422.21, unnumbered paragraph 4, do not apply.

Sec. 46. 1987 Iowa Acts, Second Extraordinary Session, chapter 1, section 16, is amended to read as follows:

SEC. 16. Sections 1 through 10, 13, and 14 of this Act are retroactive to January 1, 1987 for tax years beginning in the 1987 calendar year only on or after that date.

Sec. 47. 1987 Iowa Acts, Second Extraordinary Session, chapter 1, sections 13 and 14, are repealed.

Sec. 48. For purposes of tax years beginning in the 1988 calendar year, references in section 422.9, subsection 6, unnumbered paragraph 4 and section 422.21, unnumbered paragraph 6, to the year 1987, 1988, or 1989, shall mean the year 1988, 1989, or 1990, respectively.

Sec. 49. The Code editor shall renumber section 422.5, subsection 1A, as section 422.5, subsection 1. References in the Iowa Code to section 422.5, subsection 1, shall mean section 422.5, subsection 1A, as renumbered. The Code editor may renumber other subsections as a result of this Act.

Sec. 50. Sections 3, 8, 10, 14, 30, 31, 45, and 46 of this Act are retroactive to January 1, 1987, for tax years beginning on or after that date.

Sec. 51. Sections 1, 2, 4, 5, 6, 7, 9, 11, 12, 13, 15 through 20, 21 through 27, 29, 32, 33, 34, 47, and 49 of this Act are retroactive to January 1, 1988, for tax years beginning on or after that date.

Sec. 52. Section 28 of this Act is effective January 1, 1989, for tax years beginning on or after that date.

Sec. 53. Sections 35, 36, 37, and 39 through 44 of this Act are effective January 1, 1988, for estates of persons dying on or after that date.

Sec. 54. Section 38 of this Act is retroactive to October 22, 1986, for generation skipping transfers which are eligible for the credit for state taxes under section 2604 of the Internal Revenue Code and are made after October 22, 1986, subject to the special rules of section 1433(b) of Pub. L. No. 99-514.

Sec. 55. Sections 3, 8, 31, 38, and 45 of this Act are repealed January 1, 1988, for tax years beginning on or after that date or for estates of persons dying on or after that date.

Sec. 56. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 4, 1988

CHAPTER 1029

EVIDENCE FROM CRIMINALISTICS LABORATORY

S.F. 2256

AN ACT relating to the admission of a report or findings of the criminalistics laboratory as evidence in a civil proceeding.

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

Section 1. Section 691.2, Code 1987, is amended to read as follows:

691.2 PRESUMPTION OF QUALIFICATION — ACCEPTANCE IN EVIDENCE.

It shall be presumed that any employee or technician of the criminalistics laboratory is qualified or possesses the required expertise to accomplish any analysis, comparison, or identification done by the employee in the course of the employee's employment in the criminalistics laboratory. Any report, or copy thereof of a report, or the findings of the criminalistics laboratory shall be received in evidence, if determined to be relevant, in any court, preliminary hearing, grand jury proceeding, civil proceeding, administrative hearing, and forfeiture proceeding in the same manner and with the same force and effect as if the employee or technician of the criminalistics laboratory who accomplished the requested analysis, comparison, or identification had testified in person.

PARAGRAPH DIVIDED. A party or the party's attorney may request that an employee or technician testify in person at a criminal trial, administrative hearing, or forfeiture proceeding on behalf of the state or the adverse agency of the state, by notifying the proper county attorney, or in the case of an administrative proceeding the adverse agency, at least ten days before the date of the criminal trial, administrative hearing, or forfeiture proceeding. A party or the party's attorney in any other civil proceeding may require an employee or technician to testify in person pursuant to a subpoena.

Approved April 4, 1988

CHAPTER 1030**DESTRUCTION OF COURT RECORDS***S.F. 2258*

AN ACT relating to the destruction and retention of court reporters' notes and certified transcripts in civil and criminal proceedings.

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

Section 1. Section 602.8103, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. Records including, but not limited to, ~~doekets~~, journals, scrapbooks, and files ~~including court reporters' notes~~, forty years after final disposition of the case. However, judgments, decrees, stipulations, records in criminal proceedings, probate records, and orders of court shall not be destroyed unless they have been reproduced as provided in subsection 2.

Sec. 2. Section 602.8103, subsection 4, Code 1987, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. Court reporters' notes and certified transcripts of those notes in civil cases, ten years after final disposition of the case. For purposes of this section, "final disposition" means one year after dismissal of the case, after judgment or decree without appeal, or after procedendo or dismissal of appeal is filed in cases where appeal is taken.

NEW PARAGRAPH. h. Court reporters' notes and certified transcripts of those notes in criminal cases, ten years after dismissal of all charges, or ten years after the expiration of all sentences imposed or the date probation is granted, whichever later occurs. For purposes of this subsection "sentences imposed" include all sentencing options pursuant to section 901.5.

NEW PARAGRAPH. i. Court files, as provided by rules prescribed by the supreme court, ten years after final disposition in civil cases, or ten years after expiration of all sentences in criminal cases. For purposes of this paragraph, "purging" means the removal and destruction of documents in the court file which have no legal, administrative, or historical value. Purging shall be done without reproduction of the removed documents. For purposes of this paragraph, "civil cases" does not include divorce, dissolution of marriage, child support, or paternity cases, or juvenile, mental health, probate, or adoption proceedings.

Approved April 4, 1988

CHAPTER 1031**SUSPENSION OF PROPERTY TAXES***S.F. 2270*

AN ACT relating to the suspension of the collection of taxes, special assessments, and other assessments by the county board of supervisors.

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

Section 1. Section 427.8, Code 1987, is amended to read as follows:

427.8 PETITION FOR EXEMPTION.

If a person, by reason of age or infirmity, is unable to contribute to the public revenue, the person may file a petition, duly sworn to, with the board of supervisors, stating that fact and

giving a statement of property, real and personal, owned or possessed by the petitioner, and other information as the board may require. The board of supervisors may order the county treasurer to suspend the collection of the taxes, special assessments under sections 384.37 through 384.79, and rates or assessments imposed under section 384.84 or chapter 317 or 364 which are assessed against the petitioner or the petitioner's estate, or both, for the current year and those unpaid for prior years, or the board may cancel and remit the taxes, special assessments, and other assessments or rates. However, the petition must first be 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 the property is located.

Sec. 2. Section 427.9, Code 1987, is amended to read as follows:

427.9 SUSPENSION OF TAXES.

Whenever a person is a recipient of federal supplementary security income or state supplementary assistance, as defined in section 249.1, or is a resident of a health care facility, as defined by section 135C.1, which is receiving payment from the department of human services for the person's care, the person shall be deemed to be unable to contribute to the public revenue. The commissioner of human services shall notify the board of supervisors, of the county in which the assisted person owns property, of the fact, giving a statement of property, owned, possessed, or upon which the person is paying taxes as a purchaser under contract. The board of supervisors so notified, without the filing of a petition and statement as specified in section 427.8, shall order the county treasurer to suspend the collection of all the taxes, special assessments, and rates assessed against the property and remaining unpaid by the person or contractually payable by the person, for such time as the person remains the owner or contractually prospective owner of the property, and during the period the person receives assistance as described in this section. The commissioner of human services shall advise the person that the person may apply for an additional property tax credit pursuant to sections 425.16 to 425.39 which shall be credited against the amount of the property taxes suspended.

Approved April 4, 1988

CHAPTER 1032

REMEDIES AFTER BOND WAIVER ON PUBLIC IMPROVEMENT CONTRACTS

S.F. 2271

AN ACT relating to claims against public corporations for nonpayment of moneys due on public improvements.

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

Section 1. Section 573.2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the requirement for a bond is waived pursuant to section 12.44, a person, firm, or corporation, having a contract with the targeted small business or with subcontractors of the targeted small business, for labor performed or materials furnished, in the performance of the contract on account of which the bond was waived, is entitled to any remedy provided under this chapter. When a bond has been waived pursuant to section 12.44, the remedies provided for under this paragraph are available in an action against the public corporation.

Approved April 4, 1988

CHAPTER 1033

APPEARANCE BOND DEPOSIT

S.F. 2020

AN ACT relating to the return of cash or other qualified security deposited with the clerk of the district court as bail.

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

Section 1. Section 811.2, subsection 1, paragraph c, Code 1987, is amended to read as follows:
c. Require the execution of an appearance bond in a specified amount and the deposit with the clerk of the district court or a public officer designated under section 602.1211, subsection 4, in cash or other qualified security of a sum not to exceed ten percent of the amount of the bond, the deposit to be returned to the defendant person who deposited the specified amount with the clerk upon the performance of the appearances as required in section 811.6.

Approved April 4, 1988

CHAPTER 1034

AGENT FOR SURETY IN CRIMINAL CASES

S.F. 2064

AN ACT relating to the residency of an agent for an authorized company engaged in the business of becoming surety upon bonds in criminal cases.

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

Section 1. Section 682.11, Code 1987, is amended to read as follows:
682.11 CERTIFICATE OF AUTHORITY AUTHORITY TO ACT AS SURETY — AGENT QUALIFICATIONS.

1. Any company engaged in the business of becoming surety upon bonds shall file, with the clerk of the district court of any county in which it shall the company will do business, a certificate from the commissioner of insurance that it the company has complied with the law and is authorized to do business in this state.

2. An agent for a company authorized to engage in the business of becoming surety upon bonds pursuant to subsection 1 must be a resident of this state for the purpose of acting on behalf of the surety company with respect to any bond or bail in criminal cases.

Approved April 4, 1988

CHAPTER 1035

DRAINAGE DISTRICT HEARING NOTICE

S.F. 2183

AN ACT relating to the publication of notice of a drainage district hearing.

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

Section 1. Section 455.21, Code Supplement 1987, is amended to read as follows:

455.21 SERVICE BY PUBLICATION — COPY MAILED — PROOF.

The notice provided in section 455.20 shall be served by publication as provided in section 331.305 before the hearing except that the notice shall be published at least twenty days before the hearing date. Proof of the service shall be made by affidavit of the publisher. Copy of the notice shall also be sent by ordinary mail to each person and to the clerk or recorder of each city named in the notice at that person's 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 no mailing address is known and that diligent inquiry has been made to ascertain it. The copy of notice shall be mailed not less than twenty days before the day set for hearing and proof of the service shall be by affidavit of the auditor. Proofs of service required by this section shall be on file at the time the hearing begins.

Approved April 4, 1988

CHAPTER 1036

MEAT AND POULTRY REGULATION

S.F. 2011

AN ACT relating to meat and poultry regulation and inspection, providing penalties, and providing for injunctive relief.

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

Section 1. Section 189A.10, subsections 1 and 2, Code 1987, are amended to read as follows:

1. ~~No A person shall, with respect to any livestock or poultry or any livestock products or poultry products, do commits a fraudulent practice as defined in section 714.8 if the person does any of the following:~~

a. ~~Slaughter any such animals Slaughters livestock or poultry or prepare any such articles which are prepares an article produced from livestock or poultry which is capable of use as human food, at any establishment preparing such articles the article solely for intrastate commerce, except in compliance with the requirements of this chapter.~~

b. ~~Sell, transport, offer Sells, transports, offers for sale or transportation, or receive receives for transportation in intrastate commerce, any such articles article produced from livestock or poultry which are is both of the following:~~

(1) Capable of use as human food.

(2) Adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or ~~any articles~~ required to be inspected under this chapter unless they have been so inspected and the article has passed inspection.

c. ~~With respect to any such articles which are capable of use as human food, Commits any act while they are being transported in intrastate commeree or held for sale after such transportation, which is intended to cause or has the effect of causing such articles an article produced from livestock or poultry to be adulterated or misbranded, if the article is capable of use as human food and is being transported or held for sale after being transported in intrastate commerce.~~

2. ~~No A person shall sell, transport, offer commits a fraudulent practice as defined in section 714.8, if the person sells, transports, offers for sale or transportation, or receive receives for transportation in intrastate commerce, or receives from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the secretary except as may be authorized by such regulations.~~

Sec. 2. Section 189A.14, subsection 2, Code 1987, is amended to read as follows:

2. The district court is hereby vested with jurisdiction to enforce this chapter, to prevent and restrain violations herein. The district court in the county where the violation occurs may enjoin a person from violating this chapter or a regulation promulgated by the secretary pursuant to this chapter. The department may apply to the district court for the injunction. In order to obtain injunctive relief the department shall not be required to post a bond or prove the absence of an adequate remedy at law, unless the court for good cause otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity, including but not limited to issuing a temporary or permanent restraining order.

Approved April 7, 1988

CHAPTER 1037

HOSPICE SERVICES UNDER MEDICARE

S.F. 2159

AN ACT relating to the provision of hospice care within health care facilities by medicare certified hospice programs.

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

Section 1. NEW SECTION. 135C.32 HOSPICE SERVICES COVERED BY MEDICARE.

The requirement that the care of a resident of a health care facility must be provided under the immediate direction of either the facility or the resident's personal physician does not apply if all of the following conditions are met:

1. The resident is terminally ill.
2. The resident has elected to receive hospice services under the federal Medicare program from a Medicare certified hospice program.
3. The health care facility and the Medicare certified hospice program have entered into a written agreement under which the hospice program takes full responsibility for the professional management of the resident's hospice care and the facility agrees to provide room and board to the resident.

Approved April 7, 1988

CHAPTER 1038

SCHOOL BOARD MEMBERS AND OFFICERS QUALIFICATION

S.F. 2236

AN ACT relating to the qualification for office by elected school board members and school officers.

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

Section 1. Section 275.25, subsection 3, Code 1987, is amended to read as follows:

3. The directors who are elected and qualify to serve shall serve until their successors are elected and qualify. At the special election, the newly elected director receiving the most votes shall be elected to serve until the director's successor qualifies after the fourth regular school

election date occurring after the effective date of the reorganization; the two newly elected directors receiving the next largest number of votes shall be elected to serve until the directors' successors qualify after the third regular school election date occurring after the effective date of the reorganization; and the two newly elected directors receiving the next largest number of votes shall be elected to serve until the directors' successors qualify after the second regular school election date occurring after the effective date of the reorganization. However, in districts that include all or a part of a city of fifteen thousand or more population and in districts in which the proposition to establish a new corporation provides for the election of seven directors, the three newly elected directors receiving the most votes shall be elected to serve until the directors' successors qualify after the fourth regular school election date occurring after the effective date of the reorganization.

Sec. 2. Section 277.27, Code Supplement 1987, is amended to read as follows:
277.27 QUALIFICATION.

A school officer or member of the board shall, at the time of election or appointment, be an eligible elector of the corporation or subdistrict. Notwithstanding any contrary provision of the Code, a member of the board of directors of a school district shall not receive compensation directly from the school board.

Sec. 3. Section 277.28, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Each director elected at a regular district or director district election, ~~as the case may be,~~ shall qualify by taking the oath of office on or before the time set for the organization meeting of the board ~~the third Monday in September,~~ and the election and qualification entered of record by the secretary. The oath may be administered by any qualified member of the board or the secretary of the board and may be taken in substantially the following form:

Approved April 7, 1988

CHAPTER 1039

DRAINAGE ASSESSMENTS

S.F. 2129

AN ACT relating to the issuance of warrants for drainage improvements.

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

Section 1. Section 455.63, Code 1987, is amended to read as follows:

455.63 PAYMENT OF ASSESSMENTS.

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, are payable at the office of the county treasurer. A person may, ~~within thirty days after the levy of assessments,~~ pay the person's assessment in full without interest within thirty days after the levy of assessments, and before any ~~warrants against assessments,~~ improvement certificates or drainage bonds are issued for the assessment, and may pay a certificate at any time after issue, with accrued interest.

Approved April 11, 1988

CHAPTER 1040
FORECLOSURE FILING FEE
S.F. 2142

AN ACT relating to recording, without fee, an acknowledgment of a mortgage foreclosure decree.

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

Section 1. Section 655.4, Code 1987, is amended to read as follows:
655.4 ENTRY OF FORECLOSURE.

When a judgment of foreclosure is entered in any court, the clerk shall file with the recorder an instrument in writing referring to the mortgage and duly acknowledging that the same mortgage was foreclosed and giving the date of the decree. The instrument shall be filed without fee.

Approved April 11, 1988

CHAPTER 1041
TIP-UP FISHING DEVICES
S.F. 2167

AN ACT relating to definition and regulation of tip-up fishing devices, and providing a penalty.

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

Section 1. NEW SECTION. 109.68 TIP-UP FISHING DEVICE.

1. As used in this section, "tip-up fishing device" means an ice fishing mechanism with an attached flag or signal to indicate fishing action, used to hold a fishing rod or pole with line and hook.

2. A person shall not use more than three tip-up fishing devices for fishing in the waters of the Mississippi river and its connected backwater. A person may use two or three hooks on the same line, but the total number of hooks used by each person shall not exceed three. Each tip-up fishing device used in fishing shall have attached a tag plainly labeled with the owner's name and address. A person shall not use a tip-up fishing device for fishing within three hundred feet of a dam or spillway or in a part of the river which is closed or posted against use of the device. Three tip-up fishing devices may be used in addition to the two lines with no more than two hooks per line, as specified in section 109.72.

3. An untagged tip-up fishing device found in use shall be confiscated by any officer appointed pursuant to section 107.13 or 107.14.

Approved April 11, 1988

CHAPTER 1042**SAFETY LAWS***S.F. 2174*

AN ACT making changes in the state's labor laws relating to occupational safety and health, safety inspection of amusement rides, and elevator safety, and providing injunctive relief under certain of those laws.

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

Section 1. Section 88.5, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. Before adopting, modifying, or revoking any standard by rule pursuant to this section, the commissioner shall hold a public hearing on the subject matter of the proposed adoption, modification, or revocation. An interested person may appear and be heard at the hearing, in person or by agent or counsel. ~~The commissioner shall cause to be published a notice of each hearing in one or more newspapers in the state having a statewide circulation.~~ The provisions of this section are in addition to the requirements of chapter 17A.

Sec. 2. Section 88A.3, unnumbered paragraph 3, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 3. NEW SECTION. 88A.14 INJUNCTION.

In addition to any and all other remedies, if an owner, operator, or person in charge of any amusement device or ride, concession booth, or related electrical equipment covered by this chapter, continues to operate any amusement device or ride, concession booth, or related electrical equipment covered by this chapter, after receiving a notice of defect as provided by this chapter, without first correcting the defects or making replacements, the commissioner may petition the district court in equity, in an action brought in the name of the state, for a writ of injunction to restrain the use of the alleged defective amusement device or ride, concession booth, or related electrical equipment.

Sec. 4. Section 89A.3, subsection 2, Code 1987, is amended to read as follows:

2. Insofar as applicable, rules adopted for facilities installed after January 1, 1975, shall be based on the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, and supplements thereto to the Code, A.17.1. The commissioner shall adopt rules for facilities installed prior to January 1, 1975, according to the applicable provisions of such American National Standard Safety Code as the commissioner deems necessary. In adopting rules the commissioner may adopt the American National Standard Safety Code, or any part thereof of the Code, by reference. ~~Before adopting, amending, or repealing any rule, the commissioner shall hold a public hearing on the proposed rule, amendment or repeal. The commissioner shall notify in writing each permit holder and any other person requesting notification of each hearing at least thirty days in advance of the hearing date. Any interested person may appear and be heard at the hearing in person or by agent or counsel. The commissioner shall give the news media notice of each hearing at least thirty days in advance of the hearing date and shall make available a copy of the proposed rule or amendment to a rule to any person requesting same.~~

Sec. 5. Section 89A.13, Code 1987, is amended to read as follows:

89A.13 FEES.

The commissioner, pursuant to chapter 17A, shall adopt rules to charge and collect fees for inspection, permits, and licenses. Fees may be set by rule not more than once each year, and shall be effective from the first day of January next following the date of adoption of the

rule. Fees established by the commissioner shall be based upon the costs of administering the provisions of this chapter, and shall give due regard to the time spent by personnel of the division of labor services in performing duties, and to any travel expenses incurred. Before adopting any rule to establish or increase any fees for inspection, permits or licenses, the commissioner shall hold a public hearing on the proposed rule or amendment. The commissioner shall notify in writing each permit holder and any other person requesting notification of each hearing at least thirty days in advance of the hearing date. Any interested person may appear and be heard at the hearing in person or by agent or counsel.

Sec. 6. Section 89B.8, subsections 3, 4, and 5, Code 1987, are amended to read as follows:

3. The federal occupational safety and health administration's hazard communication regulation, 29 C.F.R. § 1910.1200 et seq., as promulgated on November 25, 1983 in effect on January 1, 1988, is adopted as the basis for the division's regulatory responsibility under this division of this chapter. Except as specifically modified by this division of this chapter, 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 the federal hazard communication standard, 29 C.F.R. § 1910.1200(d), the labor commissioner may adopt by rule additional hazardous chemical information to be regulated.

5. This chapter does not apply to hazardous chemicals which are consumer products as defined in and regulated by the federal Consumer Product Safety Act, 15 U.S.C. §§ 2051 et seq., in the possession of a person who is not regulated by the federal occupational safety and health administration's hazard communication regulation 29 C.F.R. §§ 1910.1200 et seq. as promulgated on November 25, 1983.

Sec. 7. Section 89B.9, Code 1987, is amended to read as follows:

89B.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 labor commissioner 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 section 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 section and order appropriate relief including rehiring or reinstatement of the employee to the former position with back pay. Notwithstanding section 89B.4, this This section applies to an employee of a person otherwise exempt from this chapter.

Sec. 8. REPEALS.

1. Section 89B.4, Code Supplement 1987, is repealed.
2. Sections 89B.5, 89B.7, 89B.10, and 89B.11, Code 1987, are repealed.

Approved April 11, 1988

CHAPTER 1043

ASSESSOR EXAMINING AND REVIEW BOARDS

H.F. 2061

AN ACT to require members of examining boards and board of review to be residents of the assessor jurisdiction.

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

Section 1. Section 441.3, Code 1987, is amended to read as follows:
441.3 EXAMINING BOARD.

At a regular meeting of the conference board each voting unit of the conference board shall appoint one qualified person who is a resident of the assessor jurisdiction to serve as a member of an examining board to hold an examination for the positions of assessor or deputy assessor. This examining board shall organize as soon as possible after its appointment with a chairperson and secretary. All its necessary expenditures shall be paid as hereinafter provided. Members of the board shall serve without compensation. The terms of each shall be for six years.

Sec. 2. Section 441.31, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The chairperson of the conference board shall call a meeting by written notice to all of the members ~~thereof of the board~~ for the purpose of appointing a board of review for all assessments made by the assessor. ~~Such~~ The board of review may consist of either three members or five members. As nearly as possible this board shall include one licensed real estate broker and one registered architect or person experienced in the building and construction field. In the case of a county, at least one member of the board shall be a farmer. Not more than two members of the board of review shall be of the same profession or occupation and ~~no two~~ members of the board of review shall be citizens of the same city or township ~~except in the case of cities having their own assessor in which case the members shall be selected so as to give each of the townships included within the city the highest possible numerical representation residents of the assessor jurisdiction.~~ The terms of the members of the board of review shall be for six years, beginning with January 1 of the year following their selection. In boards of review having three members the term of one member of the first board to be appointed shall be for two years, one member for four years and one member for six years. In the case of boards of review having five members, the term of one member of the first board to be appointed shall be for one year, one member for two years, one member for three years, one member for four years and one member for six years.

Approved April 11, 1988

CHAPTER 1044

TRUCK AND TRACTOR BRAKES

H.F. 2129

AN ACT relating to brake requirements for certain trucks and truck tractors.

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

Section 1. Section 321.430, subsection 4, paragraph c, Code 1987, is amended to read as follows:

c. Trucks and truck tractors having equipped with three or more axles and manufactured before July 25, 1980, need not have brakes on the front wheels, except that such vehicles equipped with two or more front axles shall be equipped with brakes on at least one of ~~such~~

the axles; provided that however, the service brakes of such the vehicle shall comply with the performance requirements of section 321.431.

Approved April 11, 1988

CHAPTER 1045

DISCLAIMER BY BENEFICIARY — FIDUCIARY

H.F. 2166

AN ACT relating to a disclaimer of interest by a beneficiary also acting as a fiduciary.

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

Section 1. Section 633.704, subsection 4, Code 1987, is amended to read as follows:

4. **WAIVER AND BAR.** An assignment, conveyance, encumbrance, pledge, or transfer of any property, interest, or right, or a contract therefor, or a written waiver of the right to disclaim, or an acceptance of any property, interest, or right, by an heir, devisee, donee, transferee, joint owner, person succeeding to a disclaimed interest, annuitant, beneficiary under a life insurance policy, or person designated to take pursuant to a power of appointment exercised by testamentary instrument, or a sale of property by execution, made before the expiration of the period in which a person may disclaim as provided in this section, bars the right to disclaim that property, interest, or right. An election by a surviving spouse under sections 633.236 to 633.246 is not a waiver or bar of the right to disclaim. The right to disclaim exists irrespective of any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction. A disclaimer, when received, as provided in this section, or a written waiver of the right to disclaim, is binding upon the disclaimant or person waiving and all parties claiming by, through, and under the disclaimant or person waiving. If a beneficiary who disclaims any property, interest, or right is also a fiduciary, actions taken by the person in the exercise of fiduciary powers to preserve or maintain the property, interest, or right shall not be treated as an acceptance of the property, interest, or right. A fiduciary, however, does not retain discretionary power to direct the enjoyment of the disclaimed property, interest, or right. A fiduciary power to distribute any property, interest, or right to designated beneficiaries, if subject to an ascertainable standard, does not bar the right to disclaim by a beneficiary who is also a fiduciary.

Approved April 11, 1988

CHAPTER 1046

RECORDED INSTRUMENTS

H.F. 2168

AN ACT relating to the recording of instruments by a county recorder.

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

Section 1. Section 331.602, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

Record all instruments presented to the recorder's office for recordation upon payment of the proper fees and compliance with other recording requirements as provided by law. The instruments presented for filing or recordation shall be legible and reproducible, and shall have

typed or legibly printed on them the names of all signatories including the names of acknowledging officers and witnesses beneath the original signatures. The instruments shall be no larger than eight and one-half inches by fourteen inches except as otherwise provided in section 409.31, subsection 2, or except as otherwise authorized by the recorder.

Approved April 11, 1988

CHAPTER 1047

MOTOR VEHICLE REBUILDERS

H.F. 2259

AN ACT to permit persons who rebuild motor vehicles into emergency vehicles to be licensed as wholesalers.

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

Section 1. Section 321.1, Code Supplement 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 87. "Rescue vehicle" means a motor vehicle which is equipped with rescue, fire, or life support equipment used to assist and rescue persons in emergencies or support emergency personnel in the performance of their duties.

NEW SUBSECTION. 88. "Fire vehicle" means a motor vehicle which is equipped with pumps, tanks, hoses, nozzles, ladders, generators, or other fire apparatus used to transport fire personnel, fight fires, and respond to emergencies.

Sec. 2. Section 322.29, Code 1987, is amended by adding after unnumbered paragraph 3 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who rebuilds new completed motor vehicles by fabricating, altering, adding, or replacing essential parts, components, or equipment for the purpose of building an ambulance, rescue vehicle, or fire vehicle as defined in chapter 321 may be issued a license as a wholesaler of new motor vehicles of the make and model rebuilt.

Approved April 11, 1988

CHAPTER 1048

IOWA STATE INDUSTRIES REVOLVING FUND

H.F. 2263

AN ACT relating to the use of the Iowa state industries revolving fund.

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

Section 1. Section 246.813, subsection 2, Code 1987, is amended to read as follows:

2. The Iowa state industries revolving fund shall be used only for the following purposes:

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

b. Payment of all costs incurred by the industries board, including but not limited to per diem and expenses of its members, and of salaries, allowances, support, and maintenance of Iowa state industries. Payments from the revolving fund authorized by this subsection shall be made in the same manner as payments from appropriations for salaries, allowances, support and maintenance of the institutions under the jurisdiction of the state director.

c. Direct purchases from vendors of raw materials and capital items used for the manufacturing processes of Iowa state industries, in accordance with rules which meet state bidding requirements. The rules shall be adopted by the state director in consultation with the industries board.

Payments from the revolving fund, other than salary payments, shall be made directly to the vendors.

Approved April 11, 1988

CHAPTER 1049

CORRECTIONAL INSTITUTIONS

H.F. 2265

AN ACT relating to reports to be submitted by superintendents of correctional institutions to the director of the department of corrections.

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

Section 1. Section 246.307, Code 1987, is amended to read as follows:

246.307 ANNUAL REPORTS.

The superintendent of each institution shall make an annual report to the director. ~~The report shall include a detailed and accurate inventory of the stock and supplies on hand, and their amount and value.~~

Sec. 2. Section 246.311, Code 1987, is amended to read as follows:

246.311 CONTINGENT FUND.

The director may permit the superintendent of each institution to retain a stated amount of funds in possession as a contingent fund for the payment of freight, postage, commodities purchased on authority of the director on a cash basis, salaries, inmate allowances, and bills granting discount for cash. If necessary, the director shall make proper requisition upon the director of revenue and finance for a warrant on the treasurer of state to secure the contingent fund for each institution. ~~A monthly report of the status of the contingent fund shall be submitted by the superintendent of the institution to the director, according to rules prescribed by the director.~~

Approved April 11, 1988

CHAPTER 1050

PROPERTY TAX CREDIT FOR ELDERLY OR DISABLED

H.F. 2287

AN ACT relating to the filing date of the elderly or disabled property tax credit, providing for the recovery of erroneous payments, and providing an effective date.

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

Section 1. Section 425.20, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A claim for credit for property taxes due shall not be paid or allowed unless the claim is actually filed with the county treasurer between January 1 and July June 1, both dates inclusive, immediately preceding the fiscal year during which the property taxes are due and, with the exception of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate, contains an affidavit of the claimant's intent to occupy the homestead for six months or more during the fiscal year beginning in the calendar year in which the claim is filed. The county treasurer shall submit the claim to the director of revenue and finance on or before August 1 of each year.

Sec. 2. Section 425.27, Code 1987, is amended to read as follows:

425.27 AUDIT OF CLAIM.

If on the audit of 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 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 director 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, if the property on which the credit was granted is still owned by the claimant, and repay the amount to the director upon collection. If the property on which the credit was granted is not owned by the claimant, the amount may be recovered from the claimant by assessment in the same manner that income taxes are assessed under sections 422.26 and 422.30. The recalculation of the claim shall be final unless appealed as provided in section 425.31. Section 422.70 is applicable with respect to this division.

Sec. 3. Section 1 of this Act applies to claims filed on or after January 1, 1989.

Sec. 4. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 11, 1988

CHAPTER 1051

PARASITIC INFESTATIONS OF BEES

H.F. 2363

AN ACT relating to the control of certain parasitic infestations common to bees by the state apiarist.

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

Section 1. Section 160.2, Code 1987, is amended to read as follows:

160.2 DUTIES.

~~It shall be the duty of the said~~ The apiarist ~~to~~ shall give lectures and demonstrations in the state on the production of honey, the care of the apiary, the marketing of honey, and upon other kindred subjects relative to the care of bees and the profitable production of honey; ~~to~~ shall examine the bees, combs, and beekeeping appliances in any locality which the apiarist may suspect of being affected with a parasite or foulbrood or any other contagious or infectious disease common to bees; and ~~to~~ shall inspect bees before removal from the state.

Sec. 2. Section 160.5, unnumbered paragraph 1, Code 1987, is amended to read as follows:

If upon examination the said apiarist finds said bees to be diseased or infested with parasites, the apiarist shall furnish the owner or person in charge of said the apiary with full

written instructions as to the nature of the disease or infestation and the best methods of ~~treat-~~
~~ing same~~ treatment, which information shall be furnished without cost to the owner.

Sec. 3. Section 160.9, Code 1987, is amended to read as follows:

160.9 RULES AUTHORIZED.

The state apiarist shall issue rules prohibiting the transportation without a permit of any bees, combs, or used beekeeping appliances, into any area in which clean-up work is being conducted or which has been declared free of any diseases or parasitic infestations of bees.

Sec. 4. Section 160.10, Code 1987, is amended to read as follows:

160.10 PROHIBITORY ORDERS.

When any area is found to be infected with diseases or parasites of bees, the state apiarist shall issue an order prohibiting the movement of bees and used beekeeping appliances out of such area, but shall except from the order bees shipped without honey or feed containing honey and honey sold in tight containers for commercial purposes other than with bees or as food for bees.

Sec. 5. Section 160.14, subsection 1, Code 1987, is amended to read as follows:

1. A person who knowingly sells, barter, gives away, or moves or allows to be moved, a diseased or parasite infested colony or colonies of bees without the consent of the state apiarist, or exposes infected honey or infected appliances to the bees, or who willfully fails or neglects to give proper treatment to diseased or parasite infested colonies, or who interferes with the state apiarist or the apiarist's assistants in the performance of their official duties or who refuses to permit the examination of bees or their destruction as provided in this chapter or violates another provision of this chapter, except as provided in subsection 2, is guilty of a simple misdemeanor.

Sec. 6. Section 160.15, Code 1987, is amended to read as follows:

160.15 APPROPRIATION BY COUNTY.

All expenses, except salaries, incurred by the state apiarist or the apiarist's assistants in the performance of their duties within a county shall be paid not to exceed two hundred dollars per annum for the purpose of eradication of diseases and parasites among bees. Such work of eradication shall be done in such county under the supervision of the state apiarist.

Approved April 11, 1988

CHAPTER 1052

CITY SPECIAL ELECTION PETITION

H.F. 2388

AN ACT relating to the petition signatures required to call an election to fill a vacancy in an elective city office.

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

Section 1. Section 372.13, subsection 2, paragraph a, Code Supplement 1987, is amended to read as follows:

a. By appointment by the remaining members of the council, except that if the remaining members do not constitute a quorum of the full membership, paragraph "b" shall be followed. The appointment shall be for the period until the next pending election as defined in section 69.12, and shall be made within forty days after the vacancy occurs. If the council chooses to proceed under this paragraph, it shall publish notice in the manner prescribed by section 362.3, stating that the council intends to fill the vacancy by appointment but that the electors

of the city or ward, as the case may be, have the right to file a petition requiring that the vacancy be filled by a special election. The council may publish notice in advance if an elected official submits a resignation to take effect at a future date. The council may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, whichever is later, there is filed with the city clerk a petition which requests a special election to fill the vacancy and which is signed by eligible electors who are, or would be if registered, entitled to vote to fill the office in question, equal in number to two percent of those who voted for candidates for the office at the last preceding regular election at which the office was on the ballot, but not less than ten persons, an appointment to fill the vacancy is temporary and the council shall call a special election to fill the vacancy permanently, under paragraph "b". The number of signatures of eligible electors of a city for a valid petition shall be determined as follows:

(1) For a city with a population of ten thousand or less, at least two hundred signatures or at least the number of signatures equal to fifteen percent of the voters who voted for candidates for the office at the preceding regular election at which the office was on the ballot, whichever number is fewer.

(2) For a city with a population of more than ten thousand but not more than fifty thousand, at least one thousand signatures or at least the number of signatures equal to fifteen percent of the voters who voted for candidates for the office at the preceding regular election at which the office was on the ballot, whichever number is fewer.

(3) For a city with a population of more than fifty thousand, at least two thousand signatures or at least the number of signatures equal to ten percent of the voters who voted for candidates for the office at the preceding regular election at which the office was on the ballot, whichever number is fewer.

(4) The minimum number of signatures for a valid petition pursuant to subparagraphs (1) through (3) shall not be fewer than ten.

Approved April 11, 1988

CHAPTER 1053

HEALTH-RELATED REGULATION

H.F. 2427

AN ACT to repeal certain health-related regulation responsibilities of the department of agriculture and land stewardship.

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

Section 1. Section 159.6, subsections 7, 11, and 12, Code 1987, are amended by striking the subsections.

Approved April 11, 1988

CHAPTER 1054**LIABILITY FOR CERTAIN JOB-RELATED REPORTS***H.F. 2247*

AN ACT relating to an action for slander or libel for a report or statement made to the division of job service of the department of employment services.

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

Section 1. Section 96.11, subsection 7, paragraph b, subparagraph (2), Code Supplement 1987, is amended to read as follows:

(2) A report or statement, whether written or verbal, made by a person to the division or to a person administering this law is a privileged communication. A person is not liable for slander or libel on account of such a the report or statement unless the report or statement is made with malice.

Approved April 11, 1988

CHAPTER 1055**STATE FAIR SECURITY***S.F. 2216*

AN ACT providing that the state fair board may make an agreement with the department of public safety to provide security during the annual fair and exposition and interim events.

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

Section 1. Section 173.14, subsection 10, Code Supplement 1987, is amended to read as follows:

10. Make an agreement with the Iowa highway department of public safety patrol to provide for security during the annual fair and exposition and interim events.

Approved April 11, 1988

CHAPTER 1056**RECIPROCITY FOR PRIVATE INVESTIGATORS AND SECURITY OFFICERS***S.F. 2202*

AN ACT relating to the licensing of private investigators and private security officers, providing for the issuance of temporary permits to certain persons pursuant to reciprocal agreement, making penalties applicable, and providing other properly related matters.

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

Section 1. **NEW SECTION. 80A.18 RECIPROCITY.**

A person who holds a valid license to act as a private investigator or as a private security officer issued by a proper authority of another state, based on requirements and qualifications similar to the requirements of this chapter, may be issued a temporary permit to so act in this state, if the person's licensing jurisdiction extends by reciprocity similar privileges to a

person licensed to act as a private investigator or private security officer licensed by this state. Any reciprocal agreement approved by the director shall provide that any misconduct in the state issuing the temporary permit will be dealt with in the licensing jurisdiction as though the violation occurred in that jurisdiction.

The director shall adopt by rule a fee for the issuance of a temporary permit under this section. The fee shall be based on the cost of administering this section but shall not exceed one hundred dollars per year.

Approved April 11, 1988

CHAPTER 1057

JOINT LAW ENFORCEMENT SERVICES

S.F. 2090

AN ACT authorizing the provision of law enforcement administrative services by agreement between a county and a city and providing an effective date.

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

Section 1. **NEW SECTION. 28E.20 AGREEMENT FOR LAW ENFORCEMENT ADMINISTRATIVE SERVICES.**

A county and a city within the county may enter into an agreement to provide administrative services through the county sheriff to the city for its police department. In addition to other provisions required by this chapter, the agreement shall specify the administrative services to be provided by the sheriff and the administrative or supervisory relationship between the sheriff and the mayor and city council. The agreement is subject to the approval of the county sheriff. The sheriff may accept compensation for the administrative services provided to the city, which compensation is in addition to the sheriff's compensation authorized under section 331.907. The additional compensation shall not be included in computing the total annual compensation of the sheriff pursuant to section 331.904, subsection 2.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 11, 1988

CHAPTER 1058

CIVIL SERVICE

H.F. 2179

AN ACT extending civil service status to certain job classes funded by public grants or other temporary funds.

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

Section 1. Section 400.6, subsection 7, Code 1987, is amended to read as follows:

7. Employees whose positions are funded by state or federal grants or other temporary revenues. However, a city may use state or federal grants or other temporary revenue to fund

a position under civil service if the position is a permanent position which will be maintained for at least one year after expiration of the grants or temporary revenues.

Approved April 12, 1988

CHAPTER 1059

CHECK CASHING PRACTICES

H.F. 2127

AN ACT relating to the acceptance of checks and share drafts by prohibiting certain forms of identification as a condition of acceptance of a check or share draft, and providing penalties.

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

Section 1. **NEW SECTION. 537.8101 PROVISION OF CREDIT CARD NUMBER AS CONDITION OF CHECK CASHING OR ACCEPTANCE PROHIBITED.**

1. **PROVISION OF CREDIT CARD NUMBER OR EXPIRATION DATE NOT REQUIRED.** A person shall not require as a condition of acceptance of a check or share draft, or as a means of identification, that the person presenting the check provide a credit card number or expiration date, or both.

2. **RECORDING OF CREDIT CARD NUMBER OR EXPIRATION DATE, SIMPLE MISDEMEANOR.** Recording a credit card number or expiration date, or both, in connection with a sale of goods or services in which the purchaser pays by check or share draft, or in connection with the acceptance of a check or share draft, is a simple misdemeanor.

3. **DISPLAY WITHOUT RECORDATION PERMISSIBLE CONDITION.** This section does not prohibit a person from requesting a purchaser to display a credit card as indicia of credit worthiness and financial responsibility or as additional identification, but the only information concerning a credit card which may be recorded is the type of credit card so displayed and the issuer of the credit card. This section does not require acceptance of a check or share draft whether or not a credit card is presented.

4. **PROVISION OF CREDIT CARD NUMBER OR EXPIRATION DATE IN LIEU OF DEPOSIT.** This section does not prohibit a person from requesting or receiving a credit card number or expiration date and recording the number or date, or both in lieu of a deposit to secure payment in event of default, loss, damage, or other occurrence.

Sec. 2. Sections 537.8101 through 537.8149 are established as a new article 8 of chapter 537 entitled "CHECK CASHING PRACTICES".

Approved April 12, 1988

CHAPTER 1060**BED AND BREAKFAST HOMES***H.F. 2063*

AN ACT relating to bed and breakfast homes, by requiring smoke detectors and fire extinguishers, by providing for the testing of drinking water, by providing an effective date, and by subjecting violators to a penalty.

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

Section 1. Section 170B.20, Code 1987, is amended to read as follows:

170B.20 EXEMPTION.

This chapter does not apply to bed and breakfast homes as defined in section 170A.2. However, a bed and breakfast home shall have a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor. A bed and breakfast home which does not receive its drinking water from a public water supply, shall have its drinking water tested at least annually by the state hygienic laboratory or the local board of health. A violation of this section is punishable as provided in section 170B.16.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 12, 1988

CHAPTER 1061**AREA SCHOOL EXPENSES***H.F. 470*

AN ACT relating to the payment of expenses of merged area schools by the board secretary.

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

Section 1. Section 280A.42, Code 1987, is amended to read as follows:

280A.42 PAYMENT OF EXPENSES.

The board of directors of a merged area shall audit and allow all just claims against the area school and an order shall not be drawn upon the treasury until the claim has been audited and allowed. However, the board of directors, by resolution, may authorize the secretary of the board, when the board is not in session, to issue payments for salaries pursuant to the terms of a written contract and to issue payments upon the receipt of verification filed with the secretary for expenses for freight; drayage; express; postage; printing; utilities including electricity, water, waste collection, heating, air conditioning, telephone, and telegraph charges all other general fund and plant fund expenses within limits established by resolution of the board; expenses involving auxiliary, agency, and scholarship and loan accounts; and refunds to students for tuition and fees. The secretary shall either deliver in person or mail the payments to the payees. A payment shall be made payable only to the person performing the service or furnishing the supplies for which the payment is issued. Payments issued prior to audit and allowance by the board shall be allowed by the board at the first meeting held after the issuance and shall be entered in the minutes of the meeting.

Approved April 12, 1988

CHAPTER 1062

NOTICE OF LEVY OF EXECUTION

H.F. 2384

AN ACT relating to the notice to be given to a judgment debtor when the debtor's property is levied upon.

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

Section 1. Section 626.50, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The officer making the levy shall promptly serve written notice of the levy on the defendant. The notice shall be served in the same manner as provided for original notice.

Approved April 12, 1988

CHAPTER 1063

AIRCRAFT REGISTRATION

H.F. 2156

AN ACT relating to the registration of aircraft, and making penalties applicable.

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

Section 1. Section 328.1, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 23. "Owner" means a person owning or renting an aircraft, or having the exclusive use of an aircraft, for a period of more than thirty days.

Sec. 2. Section 328.20, Code 1987, is amended to read as follows:

328.20 REGISTRATION OF AIRCRAFT.

Every A civil aircraft owned either wholly or in part by persons residing in this state, or operated, or otherwise controlled within the boundaries of the state for a period of more than thirty days, unless specifically excepted under the provisions of this chapter, shall be registered annually with the department, by the owner thereof.

The registration year begins on the first day of the calendar month in which the civil aircraft is registered for the first time in the state and ends on the last day of the twelfth month of the registration year.

For aircraft registered in this state before July 1, 1988, the registration year begins on the first day of the calendar month assigned by the department and ends on the last day of the twelfth month of the registration year.

Sec. 3. Section 328.21, subsections 2 and 6, Code 1987, are amended to read as follows:

2. After said aircraft has been registered once the The second year's registration fee shall be is seventy-five percent of the rate as fixed for the first registration; after two times the third year's fee is fifty percent; and after three times the fourth and subsequent year's fee is twenty-five percent; provided, however, that no an aircraft shall not be registered for a registration fee of less than fifteen thirty-five dollars.

6. Any An aircraft thirty years old, or older, which is used exclusively for noncommercial purposes, shall be registered as an antique aircraft for a registration fee of fifteen thirty-five dollars.

Sec. 4. Section 328.21, subsection 3, Code 1987, is amended by striking the subsection.

Sec. 5. Section 328.21, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 7. A lighter than air aircraft that is not engine driven shall be registered for a fee of thirty-five dollars. However, a lighter than air aircraft, not owned wholly or in part by a person residing in this state, which is located within the boundaries of this state in excess of thirty days for purposes of display or competition, is exempt from registration under this chapter.

NEW SUBSECTION. 8. An aircraft, unless exempt under section 328.35, which is damaged, is not airworthy, and is not in flying condition is not subject to registration fees if the owner of the aircraft submits information required by the department. Upon receipt of that information, the department shall issue a certificate which states that the registration fee has not been paid and that the aircraft shall not use the airports or the air space overlying the state until the fee has been paid.

NEW SUBSECTION. 9. The registration fee for a helicopter used exclusively as an air ambulance is one thousand dollars.

Sec. 6. Section 328.24, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The registration fee for the unexpired portion of the year shall be refunded pro rata to the nearest full calendar month, except that a refund shall not be allowed if the unused portion of the fee is less than thirty-five dollars per aircraft.

Sec. 7. Section 328.27, Code 1987, is amended to read as follows:

328.27 ISSUANCE OF CERTIFICATES.

The department shall ~~forthwith~~ issue, upon receipt of proper application and fee for registration, a certificate of registration which shall be numbered and recorded by the department, shall state the name and address of the person to whom it is issued, shall be ~~entitled~~ titled with the designation of the class of registrant covered ~~thereby~~ and shall contain ~~such~~ other information as the department may prescribe including, in the case of aircraft, a description ~~thereof~~ of the aircraft. ~~Every~~ A certificate of registration or special certificate ~~issued hereunder shall expire~~ expires at midnight on the ~~thirtieth day of June of each last day of the twelfth month of the registration year.~~

Sec. 8. Section 328.32, Code 1987, is amended to read as follows:

328.32 EXPIRATION OF SPECIAL CERTIFICATE.

~~Every~~ A special certificate ~~issued hereunder shall expire~~ expires at midnight on the ~~thirtieth day of June of each last day of the registration year,~~ and a new special certificate for the ensuing year may be obtained by the person to whom ~~any such~~ the expired special certificate was issued, upon application to the department, and payment of the fee provided by law.

Sec. 9. Section 328.37, Code 1987, is amended to read as follows:

328.37 OPERATIONS UNLAWFUL WITHOUT CERTIFICATE.

Except as provided in section 328.35, it ~~shall be~~ is unlawful for ~~any~~ a person to operate, or cause or authorize to be operated, ~~any~~ a civil aircraft, airport, ~~or~~ landing area, ~~or~~ other air navigation facility, ~~or~~ air school, ~~or~~ to engage in aeronautics as an ~~airperson~~ or aeronautics ~~instructor~~ in this state, unless there has been issued ~~therefor~~ for the aircraft or thereto to the airport or landing area an appropriate certificate of registration or special certificate by the department and ~~such~~ the certificate is in force and effect.

Sec. 10. Section 328.48, Code 1987, is amended to read as follows:

328.48 ATTACHMENT OF LIEN.

The lien of the original registration fee ~~shall attach~~ attaches at the time ~~the same~~ it is first payable as provided by law and the lien of all renewals of registration ~~shall attach on July 1, the first day of each registration year thereafter.~~

Sec. 11. Section 328.50, Code 1987, is amended to read as follows:

328.50 PENALTY ON DELINQUENT REGISTRATION.

~~On August 1 of each year the first day of the second month following the end of an aircraft registration period, a penalty of five percent of the annual registration fee shall be added to all fees a fee not paid by that date, and five percent of the annual registration fee shall be added to such fees the fee on the first day of each following month thereafter, that the same fee remains unpaid until paid, provided that said; however, the penalty in no case shall not be less than one dollar.~~

Sec. 12. NEW SECTION. 328.56A STAGGERED REGISTRATION – IMPLEMENTATION.

To implement the change from fiscal year registration to the registration system provided for in this chapter, aircraft registered after July 1, 1988, shall be registered as follows:

1. Aircraft shall be registered for the registration year as defined in this chapter. If the registration period is for a period of less than twelve months, the registration fee shall be prorated for the remaining unexpired months, except as provided in subsection 2.

2. The owner of an aircraft for which the registration year begins on August 1 may elect to register the aircraft for a period of one month or thirteen months. The owner of an aircraft for which the registration year begins on September 1 may elect to register the aircraft for a period of two months or fourteen months. The owner of an aircraft for which the registration year begins on October 1 may elect to register the aircraft for a period of three months or fifteen months.

Sec. 13. Section 328.23, Code 1987, is repealed.

Approved April 12, 1988

CHAPTER 1064**INHERITANCE LAWS***H.F. 2123*

AN ACT relating to the inheritance laws by providing for the power of a surviving spouse's conservator to elect to take or refuse to take under a will or to elect to occupy the homestead, eliminating the time requirement when the share of a surviving spouse may be set off by referees when the spouse elects to take against the will, and providing for a share of an estate of a child born or adopted after execution of a testator's last will.

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

Section 1. Section 633.236, Code 1987, is amended to read as follows:

633.236 RIGHT OF SURVIVING SPOUSE TO ELECT TO TAKE AGAINST WILL.

When a married person dies testate as to any part of the person's estate, the surviving spouse shall have the right to elect to take against the will under the provisions of sections 633.237 to 633.246. If the surviving spouse has a conservator, the court may authorize or direct the conservator to elect to take under or against the will as the court deems appropriate under the circumstances.

Sec. 2. Section 633.237, unnumbered paragraph 1, Code 1987, is amended to read as follows:

If a voluntary election to take or refuse to take under a will has not been filed by a surviving spouse or the spouse's conservator, if any, 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 the will, the executor shall cause to be served a written notice upon the surviving spouse and the spouse's conservator, if any, in the manner directed by the court, advising the surviving spouse and the spouse's conservator that the will of 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 the spouse and the spouse's conservator that unless within four months after service of the notice, the spouse or the spouse's conservator files an election in writing with the clerk of that court refusing to take under the will, the spouse shall take under the will. If the surviving spouse or the spouse's conservator files an election to take under the will at any time the requirements of this section for serving notice are waived. If within the period of four months an affidavit is filed setting forth that the surviving spouse is incapable to make the election and does not have a conservator, the court shall determine whether there shall be an election to take under or against the will in accordance with section 633.238 as the court deems appropriate under the circumstances. The court on application may, prior to the expiration of the period of four months, for cause shown, enter an order extending the time for making the election.

Sec. 3. Section 633.240, Code 1987, is amended to read as follows:

633.240 ELECTION TO OCCUPY HOMESTEAD.

In intestate estates, or where the surviving spouse elects to take against the will, the surviving spouse or the spouse's conservator, if any, may, in lieu of the spouse's share in the real property possessed by the decedent at any time during their marriage which has not been sold on execution or other judicial sale, and to which the surviving spouse has made no relinquishment of right, elect to occupy the homestead. Such election shall be made and entered of record as provided in section 633.245. In making such election, the surviving spouse shall have all the rights as to personal property provided in subsections 2 and 3 of section 633.238. In case of failure to make such election, the right to occupy the homestead shall be waived.

Sec. 4. Section 633.244, Code 1987, is amended to read as follows:

633.244 INCOMPETENT SPOUSE – ELECTION BY COURT.

In case an affidavit is filed that the surviving spouse is incapable of making an election to take against the will, or to elect to occupy the homestead, and does not have a conservator, the court shall fix a time and place of hearing on the matter, and cause a notice thereof to be served upon said the surviving spouse in such manner and for such time as the court may direct. At the hearing, a guardian ad litem shall be appointed to represent such the spouse, and the court shall enter such orders as it may deem to be for the best interests of such person deems appropriate under the circumstances.

Sec. 5. Section 633.247, Code 1987, 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 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 633.267, Code 1987, is amended to read as follows:

633.267 CHILDREN BORN OR ADOPTED AFTER EXECUTION OF WILL.

When a testator fails to provide in the testator's will for any of the testator's children born to or adopted by the testator after the making of the testator's last will, such child, whether born before or after the testator's death, shall receive a share in the estate of the testator equal in value to that which the child would have received under section 633.211, 633.212, or 633.219, whichever section or sections are applicable, if the testator had died intestate, unless it appears from the will that such omission was intentional.

Sec. 7. Section 633.647, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. To make an election for the ward who is a surviving spouse as provided in sections 633.236 and 633.240.

Approved April 12, 1988

***CHAPTER 1065**

ENFORCEMENT OF ORDERS IN MARRIAGE DISSOLUTIONS

H.F. 209

AN ACT relating to the enforcement of protective orders and orders to vacate the homestead in dissolution cases, and providing for the application of penalties.

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

*Section 1. Section 236.8, Code 1987, is amended to read as follows:

236.8 CONTEMPT.

The court may hold a party in contempt for a violation of an order issued pursuant to this chapter, ~~or~~ for violation of a court-approved consent agreement, or for violation of a temporary or permanent protective order or order to vacate the homestead issued pursuant to chapter 598. If held in contempt, the defendant shall serve a jail sentence which may be on weekends.

*Sec. 2. Section 236.11, Code 1987, is amended to read as follows:

236.11 DUTY OF PEACE OFFICER.

A peace officer shall use every reasonable means to enforce ~~any~~ a civil or criminal order or approved consent agreement issued pursuant to this chapter ~~or a temporary or permanent protective order or order to vacate the homestead issued pursuant to chapter 598~~. If a peace officer has probable cause to believe that a person has violated ~~any~~ a civil or criminal order or approved consent agreement issued pursuant to this chapter or chapter 598, the peace officer shall take the person into custody and take the person before the court which issued the order or approved the agreement, at which time the court shall determine whether the person has committed contempt pursuant to section 236.8. A peace officer shall not be held civilly or criminally liable for acting pursuant to this section provided that the peace officer acts in good faith, on probable cause, and ~~such the officer's acts~~ do not constitute a willful and wanton disregard for the rights or safety of another.

Approved April 12, 1988

CHAPTER 1066
ACTING COUNTY ATTORNEY
S.F. 2062

AN ACT relating to the appointment and compensation of acting county attorneys.

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

Section 1. Section 331.754, Code 1987, is amended to read as follows:

331.754 ABSENCE OF COUNTY ATTORNEY AND ASSISTANTS.

1. In case of absence, sickness, or disability of the county attorney and the assistant county attorneys, the court before which it is the duty of the county attorney or the assistant county attorneys to appear and in which there is official business requiring the attention of the county attorney or an assistant county attorney, may appoint an attorney to act as county attorney by an order of the court. The board may appoint an acting county attorney to provide legal assistance related to the official business of any county officer or employee during the absence, sickness, or disability of the county attorney and the assistant county attorneys. The acting county attorney has the same authority and is subject to the same responsibilities as a county attorney.

2. The acting county attorney shall receive a reasonable compensation as determined by the board for services rendered in proceedings before a judicial magistrate or rendered on behalf of a county officer or employee. If the proceedings are held before a district associate judge or a district judge, the judge shall determine a reasonable compensation for the acting county attorney. If the proceedings are held before a juvenile court referee or a judicial hospitalization referee, the acting county attorney shall be compensated at a rate approved by the judge who appointed the referee. The compensation shall be paid from funds to be appropriated to the office of county attorney by the board.

Approved April 12, 1988

CHAPTER 1067
DOGS TRAINED TO ASSIST PERSONS
S.F. 456

AN ACT relating to support or service dogs for disabled or handicapped persons.

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

Section 1. **NEW SECTION. 601D.11 SERVICE DOGS.**

1. For purposes of this section "service dog" means a dog specially trained at a recognized training facility to assist a disabled or handicapped person, whether described as a service dog, a support dog, an independence dog, or otherwise.

2. A disabled or handicapped person has the right to be accompanied by a service dog, under control, in any of the places listed in sections 601D.3 and 601D.4 without being required to make additional payment for the service dog. A landlord shall waive lease restrictions on the keeping of dogs for the service dog of a disabled or handicapped person. The person is liable for damage done to any premises or facility by a service dog.

3. A person who knowingly denies or interferes with the right of a person under this section is, upon conviction, guilty of a simple misdemeanor.

Approved April 12, 1988

CHAPTER 1068**LIABILITY OF CARE REVIEW COMMITTEE MEMBERS AND STATE***S.F. 156*

AN ACT relating to the exemption from liability of care review committee members and the state concerning actions undertaken by care review committee members in the performance of their duties.

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

Section 1. Section 25A.14, Code 1987, is amended by adding the following new subsection: NEW SUBSECTION. 12. Any claim based upon the actions of a care review committee member in the performance of duty if the action is undertaken and carried out in good faith.

Sec. 2. Section 135C.25, Code 1987, is amended by adding the following new subsection: NEW SUBSECTION. 3. Neither the state nor any care review committee member is liable for an action by a care review committee member in the performance of duty, if the action is undertaken and carried out in good faith.

Sec. 3. Section 249D.44, Code 1987, is amended by adding the following new subsection: NEW SUBSECTION. 3. Neither the state nor any care review committee member is liable for an action undertaken by a care review committee member in the performance of duty, if the action is undertaken and carried out in good faith.

Approved April 12, 1988

CHAPTER 1069**DRAINAGE SUBDISTRICTS***S.F. 2269*

AN ACT relating to the establishment of a drainage subdistrict.

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

Section 1. Section 455.70, Code 1987, is amended to read as follows:

455.70 ~~SUBDRAINAGE DISTRICT~~ **DRAINAGE SUBDISTRICT.**

After the establishment of a drainage district, any a person owning land within the district which has been assessed for benefits, but which is separated from the main ditch, drain, or watercourse for which it has been so assessed, by the land of others, who desires a ditch or drain constructed from the person's land across the land of ~~such~~ the others in order to connect with the main ditch, drain, or watercourse, and is unable to agree with the intervening owners on the terms and conditions on which the person may enter upon their lands and cause to be constructed ~~such~~ the connecting drain or ditch, may file a petition for the establishment of a subdistrict and shall give notice of the filing of the petition to each person whose land may be included in the subdistrict or may be assessed in the subdistrict in the manner provided by sections 455.20 through 455.24 for the notice of the hearing and have proofs on file before the appointment of the engineer, if one is appointed. Thereafter, the proceedings shall be the same as provided for the establishment of an original district.

Approved April 12, 1988

CHAPTER 1070

DRAINAGE SPECIAL ASSESSMENTS

S.F. 2182

AN ACT to provide for the payment of costs of improvements in drainage districts by special assessment.

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

Section 1. Section 455.4, unnumbered paragraph 5, Code 1987, is amended to read as follows:

The term "cost of improvements" means the costs of any improvement which is subject to special assessment, including but not limited to, the costs of engineering, preliminary reports, property valuations, estimates, plans, specifications, notices, acquisition of land, easements, rights of way, construction, repair, supervision, inspection, testing, notices and publication, interest during construction and for a reasonable period following the completion of construction, and may include the default fund which shall amount to not more than ten percent of the total cost of an improvement assessed against benefited property.

Approved April 12, 1988

CHAPTER 1071

APPEAL OF STATE PURCHASING DECISIONS

S.F. 2172

AN ACT relating to an appeal regarding the purchase of Iowa state industry products.

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

Section 1. Section 246.808, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. When the state director releases, in writing, the obligation of the department or agency to purchase the product from Iowa state industries, after determining that Iowa state industries is unable to meet the performance characteristics of the purchase request for the product, and a copy of the release is attached to the request to the director of revenue and finance for payment for a similar product, or when Iowa state industries is unable to furnish needed products, comparable in both quality and price to those available from alternative sources, within a reasonable length of time. Any disputes arising between a purchasing department or agency and Iowa state industries regarding similarity of products, or comparability of quality or price, or the availability of the product shall be referred to the director of the department of general services, whose decision shall be subject to appeal as provided in section 18.7. However, if the purchasing department is the department of general services, any matter which would be referred to the director under this paragraph shall be referred to the executive council in the same manner as if the matter were to be heard by the director of the department of general services. The decision of the executive council is final.

Approved April 12, 1988

CHAPTER 1072**REST AREAS***S.F. 2273*

AN ACT relating to the establishment and construction of rest areas and rest area buildings.

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

Section 1. 1970 Iowa Acts, chapter 1004, section 2, is repealed.

Sec. 2. The state department of transportation may resume construction of the uncompleted rest areas and rest area buildings on the interstate highway system. The state department of transportation shall designate by January 1, 1992 those uncompleted rest areas and rest area buildings which it elects to complete, and report those designations to the state transportation commission. If the state department of transportation elects not to complete the construction of an uncompleted rest area or rest area building, the department may sell the land acquired by the department for the rest area back to the adjacent landowners.

Approved April 12, 1988

CHAPTER 1073**ELDERS' ELIGIBILITY***S.F. 2180*

AN ACT relating to the eligibility policies established by the commission of elder affairs.

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

Section 1. Section 249D.14, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 10. Adopt policies by which eligibility for federal, state, and local funding is established at age sixty, with preference in service delivery given to elders age seventy-five or older.

Approved April 12, 1988

CHAPTER 1074**INTERSTATE NATURAL GAS PIPELINES***S.F. 2205*

AN ACT relating to interstate natural gas pipelines by establishing a new chapter to define jurisdiction over interstate natural gas pipelines, removing references to interstate natural gas pipelines from the current chapter relating to pipelines and natural gas storage, and adjusting fees.

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

Section 1. NEW SECTION. 479A.1 PURPOSE.

It is the purpose of the general assembly in enacting this law to confer upon the utilities board the power and authority to implement certain controls over the transportation of natural

gas to protect landowners and tenants from environmental or economic damages which may result from the construction, operation, or maintenance of a pipeline within the state. It is also the purpose of the general assembly in enacting this law to provide for the board to act as an agent for the federal government in determining pipeline company compliance with the standards of the federal government for pipelines within the boundaries of the state.

Sec. 2. NEW SECTION. 479A.2 DEFINITIONS.

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

1. "Board" means the utilities board within the utilities division of the department of commerce.
2. "Pipeline" means an interstate pipe, pipes, or pipelines used for the transportation or transmission of natural gas within or through this state.
3. "Pipeline company" means a person engaged in or organized for the purpose of owning, operating, or controlling pipelines.
4. "Underground storage" means the storage of natural gas in a subsurface stratum or formation of the earth by a pipeline company.

Sec. 3. NEW SECTION. 479A.3 CONDITIONS ATTENDING OPERATION.

A pipeline company shall not construct, maintain, or operate pipeline under, along, over, or across any public or private highways, grounds, waters, or streams of any kind in this state except in accordance with this chapter.

Sec. 4. NEW SECTION. 479A.4 CONSTRUCTION INSPECTION.

The board shall supervise pipelines, pipeline companies, and underground storage, and shall inspect the construction, maintenance, and condition of pipelines and underground storage facilities in accordance with section 479A.18. When inspecting for safety standard compliance, the board shall apply only United States department of transportation safety standards.

Sec. 5. NEW SECTION. 479A.5 NOTICE PRIOR TO CONSTRUCTION.

Before beginning construction in this state, a pipeline company shall provide an adequate opportunity for state inspection, by giving written notice to the chairperson of the board stating the time, date, location, and nature of the construction. The notice shall be filed with the chairperson of the board not less than five business days before commencement of the construction.

Sec. 6. NEW SECTION. 479A.6 COST OF CONSTRUCTION INSPECTION.

A pipeline company shall pay actual unrecovered costs directly attributable to construction inspections conducted by the board or the board's designee.

Sec. 7. NEW SECTION. 479A.7 ANNUAL INSPECTION FEE.

A pipeline company shall pay an annual inspection fee of fifty cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in this state. The annual inspection fee shall be paid for the calendar year in advance between January 1 and February 1 of each year.

Sec. 8. NEW SECTION. 479A.8 FAILURE TO PAY — PENALTIES.

The board shall collect the inspection fees, and failure to pay an inspection fee within thirty days after the time the fee becomes due is cause for the assessment of civil penalties in accordance with section 479A.16.

Sec. 9. NEW SECTION. 479A.9 DEPOSIT OF FUNDS.

Except as otherwise provided in section 479A.14, subsection 8, moneys received under this chapter shall be credited to the utilities trust fund established in section 476.10.

Sec. 10. NEW SECTION. 479A.10 RULES.

The board shall adopt rules, pursuant to chapter 17A for the enforcement of this chapter.

Sec. 11. NEW SECTION. 479A.11 DAMAGES.

Pipeline companies operating pipelines or underground storage shall be given reasonable access to the pipelines and storage areas for the purpose of constructing, reconstructing, enlarging, repairing, or locating their pipes, pumps, pressure apparatus, or other stations, wells, devices, or equipment used in or upon a pipeline or storage area, but shall pay the owner of the lands for the right of entry and the owner of crops on the land all damages caused by entering, using, or occupying the lands for these purposes; and shall pay to the owner of the lands, after the completion of construction of the pipeline or storage, all damages caused by settling of the soil along and above the pipeline, and wash or erosion of the soil along the pipeline due to the construction of the pipeline. However, this section does not prevent the execution of an agreement with other terms between the pipeline company and the owner of the land or crops with reference to their use.

Sec. 12. NEW SECTION. 479A.12 FINANCIAL CONDITION OF COMPANY – BOND OR OTHER SECURITY.

Before construction is begun by a pipeline company, the company shall satisfy the board that the company has property subject to execution within this state other than pipelines, of a value in excess of two hundred fifty thousand dollars, or the company must file and maintain with the board a surety bond in the penal sum of two hundred fifty thousand dollars with surety approved by the board, conditioned that the company will pay any and all damages legally recovered against it growing out of the construction or operation of its pipeline and underground storage facilities in this state, or the company shall deposit with the board security satisfactory to the board as a guaranty for the payment of that amount of damages, or furnish to the board satisfactory proofs of its solvency and financial ability to pay that amount of damages.

Sec. 13. NEW SECTION. 479A.13 VENUE – SERVICE OF ORIGINAL NOTICE.

In all cases arising under this chapter, the district court of any county in which property of a pipeline company is located, has jurisdiction of a case involving that company, and service of original notice on the pipeline company may be made by serving the chairperson of the board.

Sec. 14. NEW SECTION. 479A.14 LAND RESTORATION – STANDARDS – INSPECTION.

1. The board shall adopt rules establishing standards to protect underground improvements during the construction of pipelines, to protect soil conservation and drainage structures from being permanently damaged by pipeline construction, and for the restoration of agricultural lands after pipeline construction. To ensure that all interested persons are informed of this rulemaking procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rulemaking and, in addition to the requirements of section 17A.4, shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. A county board of supervisors may, under chapter 17A and subsequent to the rulemaking proceedings, petition for additional rulemaking to establish standards to protect soil conservation practices, structures, and drainage structures within that county. Upon the request of the petitioning county, the board shall schedule a hearing to consider the merits of the petition. Rules adopted under this section do not apply within the boundaries of a city.

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under this section to be performed at any pipeline construction project in the county. A professional engineer familiar with the standards adopted under this section

and registered under chapter 114 shall be placed in charge of the inspection. The reasonable costs of the inspection shall be borne by the pipeline company.

3. If the inspector determines that there has been a violation of the standards adopted under this section, the inspector shall give oral notice, followed by written notice, to the pipeline company and the contractor operating for the pipeline company, and order corrective action to be taken in compliance with the standards. The costs of the corrective action shall be borne by the contractor operating for the pipeline company.

4. As a part of the inspection process, the inspector shall ascertain that the trench excavation has been filled in a manner to provide that the topsoil has been replaced on top and rocks and debris have been removed from the topsoil of the easement area. An existing topsoil layer extending at least one foot in width on either side of the pipeline excavation at a maximum depth of one foot shall be removed separately and shall be stockpiled and preserved separately during subsequent construction operations, unless other means for separating the topsoil are provided in the easement. The topsoil shall be replaced so the upper portion of the pipeline excavation and the crowned surface contain only the topsoil originally removed.

5. Adequate inspection of underground improvements altered during construction of a pipeline shall be conducted at the time of the replacement or repair of the underground improvements. An inspector shall be present on the site at all times at each phase and separate activity of the opening of the trench, the restoration of underground improvements, and backfilling. The pipeline company and its contractor shall keep all county inspectors continually informed of the work schedule and any schedule changes.

6. If the pipeline company or its contractor does not comply with the orders of the inspector for compliance with the standards, the county board of supervisors may direct the county attorney to petition the district court for an order requiring corrective action to be taken in compliance with the standards adopted under this section.

7. The pipeline company shall allow landowners and inspectors to view the proposed center line of the pipeline before commencing trenching operations to ensure that construction takes place in the proper location.

8. An inspector may temporarily halt the construction if the construction is not in compliance with this chapter and the standards adopted under it, or the terms of the agreement with the pipeline company regarding topsoil removal and replacement, drainage structures, soil moisture conditions, or the location of construction, until the inspector consults with the supervisory personnel of the pipeline company. If the construction is continued over the inspector's objection and is found not to be in compliance with this chapter, the standards, or the agreement, and is found to cause damage, a civil penalty recovered under section 479A.16 as a result of that violation shall be paid to the landowner.

9. The board shall instruct inspectors appointed by the county board of supervisors regarding the content of this chapter and the standards and the inspectors' responsibility to require construction conforming with them.

10. An underground drain tile damaged, cut, or removed shall be temporarily repaired and maintained as necessary to allow for its proper function during construction of the pipeline. If temporary repair is determined not to be necessary, the exposed line shall be screened or otherwise protected to prevent the entry of foreign material or small animals into the tile line system.

11. This section does not preclude the application of provisions for protecting or restoring property contained in agreements independently executed by the pipeline company and the landowner if the provisions are not inconsistent with state law or with rules adopted by the board.

Sec. 15. NEW SECTION. 479A.15 ENTRY FOR LAND SURVEYS.

A pipeline company may enter upon private land for the purpose of making land surveys to determine direction or depth of pipelines by giving ten days' written notice by restricted certified mail to the landowner and to any person residing on or in possession of the land. For purposes of this section only, "landowner" means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property. The entry for land surveys authorized in this section is not a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry and survey.

Sec. 16. NEW SECTION. 479A.16 CIVIL PENALTY.

A person who violates a provision of this chapter or a rule or standards issued pursuant to this chapter is subject to a civil penalty not to exceed one thousand dollars for each violation. Each day that the violation continues constitutes a separate offense. However, the civil penalty shall not exceed two hundred thousand dollars for any related series of violations.

A civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the state to the person charged, or may be recovered in a civil action.

Sec. 17. NEW SECTION. 479A.17 REHEARING — JUDICIAL REVIEW.

Rehearing procedure for a person aggrieved by the action of the board in assessing or failing to assess civil penalties under this chapter shall be as provided in section 476.12. Judicial review may be sought in accordance with chapter 17A.

Sec. 18. NEW SECTION. 479A.18 FEDERAL INSPECTION.

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with the applicable standards of pipeline safety as provided by Pub. L. No. 90-481, the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. § 1671-1684.

Sec. 19. NEW SECTION. 479A.19 RIGHT TO CANCEL AGREEMENT.

1. A person seeking to acquire an easement or other property interest for the construction, maintenance, or operation of a pipeline shall allow the landowner or a person serving in a fiduciary capacity in the landowner's behalf to cancel an agreement granting an easement or other interest by certified mail with return requested to the company's principal place of business if received by the company within seven days, excluding Saturday and Sunday, of the date of the contract; shall inform the landowner or fiduciary in writing of the right to cancel prior to the signing of the agreement by the landowner or fiduciary; and shall provide the landowner or fiduciary with a form in duplicate for the notice of cancellation.

2. A person seeking to acquire an easement or other property interest for the construction, maintenance, or operation of a pipeline shall not record an agreement until after the period for cancellation has expired, and shall not include in an agreement a waiver of the right to cancel in accordance with this section.

3. The landowner or a person serving in a fiduciary capacity in the landowner's behalf may exercise the right of cancellation only once for each pipeline project.

Sec. 20. NEW SECTION. 479A.20 ARBITRATION AGREEMENTS.

Notwithstanding conflicting provisions of chapter 679A, if an easement or other written agreement between a landowner and a pipeline company provides for the determination through

arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline, and if either person has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other person has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a magistrate in the county where the real property is located for the appointment of an arbitrator to serve in place of the arbitrator who would have been appointed or agreed to by the other person. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the magistrate by restricted certified mail to the other person and file proof of mailing with the petition. If, after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other person under the agreement.

For purposes of this section only, "landowner" means the persons who signed the easement or other written agreement, their heirs, successors, and assigns.

Sec. 21. NEW SECTION. 479A.21 SUBSEQUENT PIPELINES.

A pipeline company shall not install a subsequent pipeline upon its existing easement when a damage claim from the installation of its previous pipeline has not been determined by negotiation, arbitration, or action of the courts. However, this section does not apply if the damage claim is under litigation or arbitration.

Sec. 22. NEW SECTION. 479A.22 DAMAGE STATEMENT.

A pipeline company shall not install a pipeline unless there is a written statement on file with the board as to how damages resulting from the construction of the pipeline shall be determined and paid, except in cases of eminent domain. The company shall provide a copy of the statement to the landowner.

Sec. 23. NEW SECTION. 479A.23 NEGOTIATED ANNUAL FEE.

In lieu of a one-time lump sum payment for an easement or other property interest allowing a pipeline to cross property, a landowner and the pipeline company may negotiate an annual fee, to be paid over a fixed number of years. Unless the easement provides otherwise, the annual fee shall run with the land and shall be payable to the owner of record.

Sec. 24. NEW SECTION. 479A.24 PARTICULAR DAMAGE CLAIMS.

1. The loss of gain by, or the death or injury of livestock caused by the interruption or relocation of normal feeding of the livestock due to the construction or repair of a pipeline is a compensable loss and shall be so recognized by a pipeline company.

2. A claim for damage for future crop deficiency within the easement strip shall not be precluded from renegotiation under section 472.52 on the grounds that it was apparent at the time of settlement unless the settlement expressly releases the pipeline company from claims for damage to the productivity of the soil. The landowner shall notify the company thirty days prior to harvest in each year to assess crop deficiency.

3. With the exception of claims for damage to drain tile and future crop deficiency, landowners and tenants must submit in writing their claims for damages caused by installation of the pipeline within one year of completion of installation of a pipeline as determined by the county board of supervisors.

Sec. 25. NEW SECTION. 479A.25 DETERMINATION OF INSTALLATION DAMAGES.

1. The county board of supervisors shall determine when installation of a pipeline has been completed in that county for the purposes of this section. Within one year of the completion

of installation, a landowner whose land was affected by the installation of the pipeline may file with the board of supervisors a petition asking that a compensation commission determine the damages arising from the installation of the pipeline.

2. If the board of supervisors by resolution approves the petition, the landowner shall commence the proceeding by filing an application with the chief judge of the judicial district of the county for the appointment of a compensation commission as provided in section 472.4.

The application shall contain all of the following:

a. The name and address of the petitioning landowner and a description of the land on which the damage is claimed to have occurred.

b. A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.

c. The name and address of the pipeline company claimed to have caused the damage.

3. After the commissioners have been appointed, the landowner shall serve notice on the pipeline company stating all of the following:

a. That a compensation commission has been appointed to determine the damages caused by the installation of the pipeline.

b. The name and address of the landowner and a description of the land on which the damage is claimed to have occurred.

c. The place, date, and time when the commissioners will view the premises and proceed to appraise the damages.

d. That the pipeline company may appear before the commissioners.

Sections 472.10 to 472.13 apply to this notice. If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

4. The commissioners shall view the land at the time provided in the notice and assess the damages sustained by the landowner by reason of the installation of the pipeline. The commissioners shall file their report with the sheriff. The appraisal of damages returned by the commissioners is final unless appealed. After the appraisal of damages has been delivered to the sheriff by the compensation commission, the sheriff shall give written notice by ordinary mail to the pipeline company and the landowner of the date the appraisal of damages was made, the amount of the appraisal, and that any interested party may appeal to the district court within thirty days of the date of mailing. The sheriff shall endorse the date of mailing of notice on the original appraisal of damages. At the time of appeal, the appealing party shall give written notice to the adverse party or the party's attorney and the sheriff.

5. Chapter 472 applies to this section to the extent it is applicable and consistent with this section.

6. The pipeline company shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the landowner as determined by the commissioners, if the award of the commissioners exceeds one hundred ten percent of the final offer of the pipeline company prior to the determination of damages. If the award does not exceed one hundred ten percent, the landowners shall pay the fees and costs incurred by the pipeline company. The pipeline company shall file with the sheriff an affidavit setting forth the most recent offer made to the landowner. Commissioners shall receive a per diem of fifty dollars and actual and necessary expenses incurred in the performance of their official duties. The pipeline company shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial of the appeal the same or a lesser

amount of damages is awarded than was allowed by the commission from which the appeal was taken.

7. As used in this section, "damages" means compensation for damages to the land, crops, and other personal property caused by the construction activity of installing a pipeline and its attendant structures but does not include compensation for a property interest, and "landowner" includes a tenant.

8. This section does not apply if the easement provides for any other means of negotiation or arbitration.

Sec. 26. NEW SECTION. 479A.26 SUBSEQUENT TILING.

Additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. The additional costs shall be paid by the pipeline company upon presentation of an invoice, verified by the county engineer or soil conservation district conservationist and specifically showing the added costs caused by the presence of the pipeline. A copy of the county engineer's or district conservationist's verification of additional costs shall accompany the invoice to the pipeline company.

Before performing earthwork, tiling, or excavation within three hundred feet of an existing pipeline, a landowner, tenant, contractor, or the representative of any one of them shall notify the pipeline company or its representative by calling the pipeline company telephone number listed on the roadside right-of-way marker. The pipeline company shall mark the location of the existing pipeline within forty-eight hours of notification with appropriate marker flags or stakes on the land surface directly above the pipeline for a distance of one hundred fifty feet either side of the proposed work site. Markers shall be placed at twenty-five foot intervals, where physically possible, along with the pipeline route indicating the diameter of the pipeline. The pipeline company shall not charge the landowner, tenant, or contractor for the placement of the markers. Excavation, earthwork, or tiling shall not be commenced in that area until the markers are in place and the pipeline company representative is present and has notified the contractor of the depth of the pipeline at the site of crossing. The pipeline company representative shall be present during all the excavation, earthwork, or tiling within the marked area when that area is any one of the following:

1. Land located outside the corporate limits of a city.
2. Agricultural land within the corporate limits of a city.
3. Nonagricultural land within the corporate limits of a city when the pipeline facility is operated at a pressure in excess of one hundred fifty pounds per square inch.

As used in this section, "agricultural land" means land of one or more acres suitable for cultivation for the production of crops, fruit, or other horticultural purposes or for the grazing or production of livestock.

Sec. 27. Section 479.1, Code 1987, is amended to read as follows:

479.1 PURPOSE AND POLICY.

~~It is hereby declared to be the purpose and policy of the legislature in enacting this law to confer upon the utilities board the power and authority to supervise the transportation or transmission of any solid, liquid, or gaseous substance, except water, within or through this state by pipeline, whether specifically mentioned herein in this chapter or not, and the power and authority to supervise the underground storage of gas, so as to protect the safety and welfare of the public in its use of any public or private highways, grounds, waters, and streams of any kind in this state. However, this chapter does not apply to interstate natural gas pipelines, pipeline companies, and underground storage, as these terms are defined in chapter 479A.~~

Sec. 28. Section 479.2, unnumbered paragraphs 1 and 2, Code 1987, are amended to read as follows:

The term "pipeline" insofar "Pipeline" as used in this chapter is concerned shall include and mean any means a pipe, pipes, or pipelines used for the transportation or transmission of any a solid, liquid, or gaseous substance, except water, within or through this state. However, the term does not include interstate pipe, pipes, or pipelines used for the transportation or transmission of natural gas.

The term "pipeline "Pipeline company"; insofar as used in this chapter is concerned shall include and mean any means a person, firm, copartnership, association, corporation or syndicate engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any solid, liquid, or gaseous substance, except water, within or through this state. However, the term does not include a person owning, operating, or controlling interstate pipelines for the transportation or transmission of natural gas.

Sec. 29. Section 479.5, unnumbered paragraph 5, Code 1987, is amended to read as follows:

The person, ~~company, or corporation~~ seeking the permit shall give notice of the informational meeting to each person, ~~company, or corporation~~ determined to be the a landowner affected by the proposed project and any each person, ~~company or corporation~~ in possession of or residing on the property. For the purposes of this section the informational meeting, "landowner" means a person, ~~company, or corporation~~ listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and "pipeline" means any a line transporting any a solid, liquid, or gaseous substance, except water, under pressure in excess of one hundred fifty pounds per square inch and extending a distance of not less than five miles or having a future anticipated extension of an overall distance of five miles.

Sec. 30. Section 479.12, Code 1987, is amended to read as follows:

479.12 FINAL ORDER — CONDITION.

It ~~The board~~ may grant such a permit in whole or in part upon such terms, conditions, and restrictions as to safety requirements and as to location and route as may be determined by it to be just and proper. ~~Provided, however, that before any~~ Before a permit shall be is granted to any a pipeline company proposing to engage in intrastate commerce, the board shall, after a public hearing as provided in this chapter, shall determine whether the services proposed to be rendered will promote the public convenience and necessity, and an affirmative finding to such that effect shall be is a condition precedent to the granting of such a permit.

Sec. 31. Section 479.13, Code 1987, is amended to read as follows:

479.13 COSTS AND FEES.

~~Applicant~~ The applicant shall pay all costs and expenses of the informational meetings, hearing, and necessary preliminary investigation in connection therewith including the cost of publishing notice of hearing, and shall pay a construction inspection fee in the sum of fifty cents per mile of pipeline or fraction thereof for each inch of diameter of such pipeline located in the state the actual unrecovered costs directly attributable to construction inspections conducted by the board or the board's designee.

Sec. 32. Section 479.14, Code 1987, is amended to read as follows:

479.14 INSPECTION FEE.

Every A pipeline company shall pay an annual inspection fee in the sum of twenty-five fifty cents per mile of pipeline or fraction thereof for each inch of diameter of such the pipeline located in the state, and said the inspection fee to be paid to the board for the calendar year in advance between January 1 and February 1 of each year to the board.

Sec. 33. Section 479.33, Code 1987, is amended to read as follows:

479.33 AUTHORIZED FEDERAL AID.

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with applicable standards of pipeline safety, and for enforcement of the applicable standards of pipeline safety as provided by Public Law 90-481, the Natural Gas Pipeline Safety Act of 1968 (49 United States Code 1671-1684).

Approved April 12, 1988

CHAPTER 1075**BANK INVESTMENTS IN SHARES***S.F. 2302*

AN ACT relating to the investment powers of state banks.

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

Section 1. Section 524.901, subsection 3, Code Supplement 1987, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. k. Shares in the federal agricultural mortgage corporation.

NEW LETTERED PARAGRAPH. l. When approved by the superintendent, shares of a corporation certified by the federal agricultural mortgage corporation which is engaged solely in pooling agricultural loans for federal agricultural mortgage corporation guarantees, not to exceed twenty percent of the capital and surplus of the state bank.

Approved April 14, 1988

CHAPTER 1076**GARNISHMENT NOTICE***S.F. 2281*

AN ACT relating to service of notice on a judgment debtor in garnishment proceedings.

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

Section 1. Section 642.14, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Judgment against the garnishee shall not be entered until the principal defendant ~~shall have~~ has had ten days' notice of the garnishment proceedings, to be served in the same manner as original notices. However, if the garnishment is to earnings owed the defendant by the garnishee, judgment may be entered if notice to the defendant is served with the notice of garnishment to the garnishee who shall deliver the notice to the defendant with the remainder of or in lieu of the defendant's earnings. The garnishee shall state in answer to the service of notice of garnishment whether or not service of notice was delivered to the defendant.

Approved April 14, 1988

CHAPTER 1077**NONPROFIT CORPORATION REPORTS***S.F. 2280*

AN ACT relating to the time of filing a nonprofit corporation's annual report.

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

Section 1. Section 504A.6, subsection 4, unnumbered paragraph 4, Code 1987, is amended to read as follows:

At the time annual license fees are payable under this chapter, a corporation which has elected to adopt an assumed name shall pay to the secretary of state an annual fee of five dollars for the assumed name. However, if the assumed name was filed and became effective in ~~December~~ April of any year, the first annual fee of five dollars shall be paid at the time of filing of the annual report in the second year following the ~~December~~ April in which the assumed name was filed.

Sec. 2. Section 504A.54, Code 1987, is amended to read as follows:

504A.54 NOTIFICATION TO ATTORNEY GENERAL.

The secretary of state, on or before the first day of ~~July~~ November of each year, shall certify to the attorney general the names of all corporations which have failed to file their annual reports in accordance with the ~~provisions~~ of this chapter. The secretary of state shall also certify, from time to time, the names of all corporations which have given other cause for dissolution as provided in this chapter, together with the facts pertinent thereto. ~~Whenever~~ When the secretary of state ~~shall certify~~ certifies the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that ~~such~~ the certification has been made. Upon the receipt of ~~such~~ the certification, the attorney general shall file an action in the name of the state against ~~such~~ the corporation for its dissolution. ~~Every such~~ A certificate from the secretary of state to the attorney general pertaining to the failure of a corporation to file an annual report shall be taken and received in all courts as ~~prima-facie~~ prima facie evidence of the facts therein stated.

PARAGRAPH DIVIDED. If, before action is filed, the corporation shall ~~file~~ files its annual report, or ~~shall appoint~~ appoints or ~~maintain~~ maintains a registered agent as provided in this chapter, or ~~shall file~~ files with the secretary of state the required statement of change of registered agent, ~~such~~ that fact shall be forthwith certified by the secretary of state to the attorney general and the attorney general shall not file an action against ~~such~~ the corporation for such cause. If, after action is filed, the corporation ~~shall file~~ files its annual report, or ~~shall appoint~~ appoints or ~~maintain~~ maintains a registered agent as provided in this chapter, or ~~shall file~~ files with the secretary of state the required statement of change of registered agent, and ~~shall pay~~ pays the costs of ~~such~~ the action, the action for such cause shall abate.

Sec. 3. Section 504A.67, subsection 2, unnumbered paragraph 6, Code 1987, is amended to read as follows:

At the time annual license fees are payable under this chapter, a foreign corporation which has elected to adopt an assumed name shall pay to the secretary of state an annual fee of five dollars for the assumed name. However, if the assumed name was filed and became effective in ~~December~~ April of any year, the first annual fee of five dollars shall be paid at the time of filing of the annual report in the second year following the ~~December~~ April in which the assumed name was filed.

Sec. 4. Section 504A.84, Code 1987, is amended to read as follows:

504A.84 FILING OF ANNUAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS.

~~Such~~ The annual report of a domestic or foreign corporation shall be delivered to the secretary of state for filing in the secretary of state's office between the first day of ~~January~~ May and the thirty-first day of ~~March~~ July of each year, except that the first annual report of a domestic or foreign corporation shall be filed between the first day of ~~January~~ May and the thirty-first day of ~~March~~ July of the year succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state, and except that if the existence of ~~such~~ the domestic corporation or the authority of ~~such~~ the foreign corporation to conduct affairs in this state began in ~~December~~ April of any year, its first annual report shall be filed between the first day of ~~January~~ May and the thirty-first day of ~~March~~ July of the second year succeeding the calendar year in which ~~such~~ the corporate existence or authority to conduct affairs began.

PARAGRAPH DIVIDED. ~~Such~~ The report shall be deemed filed within the required time if deposited in the United States mail with postage prepaid in a sealed envelope, properly addressed and postmarked on or prior to the thirty-first day of ~~March~~ July. If the secretary of state finds that ~~such~~ the report conforms to the requirements of this chapter, the secretary shall file the ~~same~~ report. If the secretary of state finds that it does not so conform, the secretary shall promptly return the ~~same~~ report to the corporation for any necessary corrections, in which event the penalties ~~hereinafter~~ prescribed for failure to file ~~such~~ the report within the time ~~hereinabove~~ provided shall not apply, if ~~such~~ the report is corrected to conform to the requirements of this chapter, and is resubmitted to the secretary of state within thirty days from the date on which it was mailed to the corporation by the secretary of state.

Sec. 5. Section 504A.87, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The secretary of state may cancel the certificate of incorporation of ~~any a~~ corporation that fails or refuses to file its annual report for any year prior to the first day of ~~June~~ October of the year in which it is due by issuing a certificate of ~~such~~ the cancellation at any time after the expiration of thirty days following the mailing to the corporation of notice of the certification to the attorney general of the failure of the corporation to file ~~such~~ the annual report as required by section 504A.54, provided the corporation has not filed ~~such~~ the annual report prior to the issuance of the certificate of cancellation. Upon the issuance of the certificate of cancellation, the secretary of state shall send the certificate to the corporation at its registered office and shall retain a copy ~~thereof~~ of the certificate in the permanent records of the secretary of state's office.

Sec. 6. Section 504A.100, subsection 9, Code 1987, is amended to read as follows:

9. The first annual report required to be filed by a domestic or foreign corporation under ~~the provisions~~ of this chapter shall be filed between ~~January~~ May 1 and ~~March~~ July 1 of the year next succeeding the calendar year in which it becomes subject to the chapter.

Sec. 7. The provisions of this Act shall apply to reports to be filed in 1989 for the 1988 calendar year.

Approved April 14, 1988

CHAPTER 1078**WOMEN AND MINORITIES EMPLOYMENT IN SCHOOLS***S.F. 2190*

AN ACT to create an advancement and recruitment program to encourage administrative advancement of women and minorities and recruitment of minorities by school corporations.

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

Section 1. **NEW SECTION. 256.23 ADMINISTRATIVE ADVANCEMENT AND RECRUITMENT PROGRAM.**

The department shall establish a recruitment and advancement program to provide for the allocation of grants to school corporations. A school corporation may submit plans and a budget to the department for approval of a pilot project that will encourage the advancement of women and minorities to administrative positions within that school corporation or will encourage the recruitment and employment of minorities to positions within that school corporation. The state board shall adopt rules under chapter 17A establishing criteria for approval of the pilot projects and payment of the grants. The criteria for a pilot project encouraging the advancement of women and minorities shall include the use of staff development for assisting employees of the school corporation to meet the requirements for advancement to administrative positions. School corporations approved for the establishment of pilot projects under this section shall submit reports of the results of the pilot projects to the department of education by October 1 of the fiscal year following the fiscal year in which the grants are received.

Approved April 14, 1988

CHAPTER 1079**RAILROAD SAFETY***S.F. 450*

AN ACT relating to the regulation of the operation of trains and to the safety of transportation of railroad company workers and equipment and providing a penalty and effective date.

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

Section 1. **NEW SECTION. 327F.31 POLITICAL SUBDIVISION ORDINANCES.**

An ordinance or resolution adopted by a political subdivision of this state which relates to the speed of a train in an area within the jurisdiction of the political subdivision is subject to approval by the state department of transportation. Any speed ordinance or resolution adopted by a political subdivision of the state prior to July 1, 1988, which has not been approved by the department shall be referred to the department by the political subdivision and shall be in full force and effect upon approval of the ordinance or resolution by the department. This subsection does not abrogate, modify, or alter any historical or contractual agreement between a political subdivision of the state and a railroad corporation in existence on July 1, 1975.

Sec. 2. **NEW SECTION. 327F.39 TRANSPORTATION OF RAILROAD EMPLOYEES AND EQUIPMENT.**

1. **DEFINITIONS.** As used in this section, unless the context otherwise requires:

- a. "Department" means the state department of transportation.
- b. "Director" means the director of transportation.
- c. "Administrator" means the department's administrator for rail and water, or the administrator's designee.
- d. "Motor vehicle" means a vehicle which is self-propelled and designed primarily for highway use, and which may or may not be equipped with retractably flanged wheels for operation on railroad tracks.
- e. "Owner" means a person having the lawful use or control of a motor vehicle as holder of the legal title of the motor vehicle or under contract or lease or otherwise.
- f. "Place of employment" means that location where one or more workers are actually performing the labor incident to their employment.
- g. "Worker" means an individual employed for any period in work for which the individual is compensated, whether full-time or part-time.

2. **COMPLIANCE WITH REGULATIONS.** Motor vehicles, as defined in section 321.1, which are subject to registration and which are provided by a railroad company and used to transport railroad workers to and from their places of employment or during the course of their employment shall:

- a. Meet all state and federal regulations pertaining to safe construction and maintenance of motor vehicles, including their coupling devices, lighting devices and reflectors, motor exhaust systems, rear-vision mirrors, service and parking brakes, steering mechanisms, tires, warning and signaling devices, and windshield wipers.
- b. Meet all state and federal requirements for safety devices, first-aid kits, and sidewalls, canopies, tailgates, or other means of retaining freight safely.
- c. Be operated in compliance with all state and federal regulations pertaining to driving, loading, carrying freight and employees, road warning devices, and the transportation of flammable and inflammable material.

3. **MOTOR VEHICLE MAINTAINED IN SAFE MANNER.** A motor vehicle provided by a railroad company and used to transport one or more workers to and from their places of employment or during the course of their employment shall be maintained in a safe manner at all times, whether or not used upon a public highway.

4. The director shall adopt rules requiring a motor vehicle, as defined in section 321.1, which is subject to registration and which is provided by a railroad company and used to transport railroad workers to and from their places of employment or during the course of their employment to be provided with a safe heating system to maintain a reasonable comfort level in those spaces of the vehicle where the workers are required to ride.

5. **RULE VIOLATIONS.** When the administrator finds that a motor vehicle used to transport workers to and from their places of employment or during the course of their employment violates a rule adopted under this section, the administrator shall make, enter, and serve upon the owner of the motor vehicle an order as necessary to protect the safety of workers transported in the motor vehicle. The administrator may direct in the order, as a condition to the continued use of the motor vehicle for transporting workers to and from their places of employment or during the course of their employment, that additions, repairs, improvements, or changes be made and that safety devices and safeguards be furnished and used as required to satisfy the rules in the manner and within the time specified in the order. The order may also require that any driver of the motor vehicle satisfy the minimum standards for a driver under the rules.

6. **PENALTY.** Violation by the owner of a motor vehicle of this section, a rule adopted under this section, or an order issued under subsection 5, or willful failure to comply with such an

order is, upon conviction, subject to a schedule "one" penalty as provided under section 327C.5.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 14, 1988

CHAPTER 1080

WATER AND HAZARDOUS WASTE REGULATION

S.F. 2246

AN ACT relating to the penalties for water pollution and hazardous waste disposal.

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

Section 1. Section 455B.191, subsection 1, Code 1987, is amended to read as follows:

1. Any person who violates any provision of part 1 of division III of this chapter or any permit, rule, standard, or order issued under part 1 of division III of this chapter shall be subject to a civil penalty not to exceed five thousand dollars for each day of such violation. ~~The civil penalty shall be an alternative to any criminal penalty provided under part 1 of division III of this chapter.~~

Sec. 2. Section 455B.191, subsection 2, Code 1987, is amended by striking the subsection and inserting the following:

2. Any person who negligently or knowingly violates section 455B.183 or section 455B.186 or any condition or limitation included in any permit issued under section 455B.183, or who negligently or knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which the person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal and state requirements or permits, negligently or knowingly causes a treatment works to violate any water quality standard, effluent standard, pretreatment standard or condition of a permit issued to the treatment works pursuant to section 455B.183 is guilty of a serious misdemeanor for a negligent violation and is guilty of an aggravated misdemeanor for a knowing violation. A conviction for a negligent violation is punishable by a fine of not more than twenty-five thousand dollars for each day of violation or by imprisonment for not more than one year, or both; however, if the conviction is for a second or subsequent violation committed by a person under this subsection, the conviction is punishable by a fine of not more than fifty thousand dollars for each day of violation or by imprisonment for not more than two years, or both. A conviction for a knowing violation is punishable by a fine of not more than fifty thousand dollars for each day of violation or by imprisonment for not more than two years, or both; however, if the conviction is for a second or subsequent violation committed by a person under this subsection, the conviction is punishable by a fine of not more than one hundred thousand dollars for each day of violation or by imprisonment for not more than five years, or both. As used in this section, "hazardous substance" means hazardous substance as defined in section 455B.381 or section 455B.411.

Sec. 3. **NEW SECTION. 716B.1 DEFINITIONS.**

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

1. "Person" means an agency of the state or federal government, a municipality, governmental subdivisions, interstate body, public or private corporation, individual, partnership, or other entity, and includes an officer, or governing or managing body of a municipality, governmental subdivision, interstate body, or public or private corporation.

2. "Department" means the department of natural resources.
3. "Disposal" or "dispose" means disposal as defined in section 455B.411, subsection 2.
4. "Hazardous waste" means a hazardous waste as defined in section 455B.411, subsection 4, or a hazardous substance as defined in 42 U.S.C. § 9601, or a hazardous substance as designated by regulations adopted by the administrator of the United States environmental protection agency pursuant to 42 U.S.C. § 9602.
5. "Storage" or "store" means storage as defined in section 455B.411, subsection 9.
6. "Treatment" or "treat" means treatment as defined in section 455B.411, subsection 10.

Sec. 4. NEW SECTION. 716B.2 UNLAWFUL DISPOSAL OF HAZARDOUS WASTE — PENALTIES.

A person who knowingly or with reason to know, disposes of hazardous waste or arranges for or allows the disposal of hazardous waste at any location other than one authorized by the department or the United States environmental protection agency, or in violation of any material term or condition of a hazardous waste facility permit, is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 5. NEW SECTION. 716B.3 UNLAWFUL TRANSPORTATION OF HAZARDOUS WASTE — PENALTIES.

A person who knowingly or with reason to know, transports or causes to be transported any hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted pursuant to 42 U.S.C. § 9601-9675 is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 6. NEW SECTION. 716B.4 UNLAWFUL STORAGE OR TREATMENT OF HAZARDOUS WASTE — PENALTIES.

A person who knowingly or with reason to know, treats or stores hazardous waste without a permit issued pursuant to 42 U.S.C. § 6925 or § 6926 is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 7. NEW SECTION. 716B.5 ENFORCEMENT.

The attorney general or the county attorney for the county in which a violation occurs is responsible for enforcement of this chapter.

Approved April 14, 1988

CHAPTER 1081
ECONOMIC DEVELOPMENT BOARD
S.F. 2164

AN ACT relating to the composition of the Iowa economic development board.

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

Section 1. Section 15.103, unnumbered paragraphs 1 and 3, Code 1987, are amended to read as follows:

The Iowa economic development board is created, consisting of ~~nine~~ eleven voting members appointed by the governor and seven ex officio nonvoting members. The ex officio nonvoting members are four legislative members ~~and the presidents, or their designees, one president, or the president's designee, of the university of northern~~ University of Northern Iowa, the state university University of Iowa, and the or Iowa state university State University of science and technology designated by the state board of regents on a rotating basis, and one president, or the president's designee, of a private college or university appointed by the Iowa association of independent colleges and universities, and one superintendent, or the superintendent's designee, of a merged area school, appointed by the Iowa association of community college presidents. The legislative members are two state senators, one appointed by the majority leader and one appointed by the minority ~~leaders~~ leader 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. Not more than ~~five~~ six of the voting members shall be from the same political party. The secretary of agriculture shall be one of the voting members. The governor shall appoint the remaining ~~eight~~ ten voting members of the board for a term of four years beginning and ending as provided by section 69.19, subject to confirmation by the senate, and the governor's appointments shall include persons knowledgeable of the various elements of the department's responsibilities.

The board shall meet in May of each year for the purpose of electing one of its voting members as chairperson ~~and one of its voting members as vice chairperson.~~ However, the chairperson and the vice chairperson shall not be from the same political party. The board shall meet at the call of the chairperson or when any ~~five~~ six members of the board file a written request with the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

Sec. 2. The initial term for the tenth position of voting member of the Iowa economic development board as created by this Act shall expire on April 30, 1990. The initial term for the eleventh position of voting member of the Iowa economic development board as created by this Act shall expire on April 30, 1991.

Approved April 14, 1988

CHAPTER 1082
VETERANS' ELIGIBILITY
S.F. 2088

AN ACT relating to the eligibility date of certain military veterans for membership on a county commission of veterans affairs and certain military veteran benefits.

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

Section 1. Section 250.3, Code 1987, is amended to read as follows:

250.3 COUNTY COMMISSION OF VETERAN AFFAIRS.

The county commission of veteran affairs shall consist of three persons, all of whom shall be honorably discharged persons who served in the military or naval forces of the United States in any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive, World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and the Vietnam Conflict at any time between ~~August 5, 1964~~ December 22, 1961, and May 7, 1975, both dates inclusive. If possible each member of the commission shall be a veteran of a different war or conflict, so as to divide membership among the persons who served in World War I, World War II, the Korean Conflict and Vietnam Conflict, however, this qualification does not preclude membership to a veteran who served in more than one of the wars or conflicts.

Sec. 2. Section 250.13, Code 1987, is amended to read as follows:

250.13 BURIAL — EXPENSES.

The commission is responsible for the interment in a suitable cemetery of the bodies of any honorably discharged person who served in the military or naval forces of the United States during any war, including World War I at any time between April 6, 1917 and November 11, 1918, both dates inclusive, World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and the Vietnam Conflict at any time between ~~August 5, 1964~~ December 22, 1961, and May 7, 1975, both dates inclusive, or the spouse, surviving spouse, or child of the person, if the person has died without leaving sufficient means to defray the funeral expenses. The commission may pay ~~such~~ the expenses in a sum not exceeding an amount established by the board of supervisors.

Sec. 3. Section 250.14, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The board of supervisors of each county may appropriate moneys for the benefit of, and to pay the funeral expenses of honorably discharged, indigent persons who served in the military or naval forces of the United States in any war including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive, World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and the Vietnam Conflict at any time between ~~August 5, 1964~~ December 22, 1961, and May 7, 1975, both dates inclusive, and their indigent spouses, surviving spouses, and minor children not over eighteen years of age, having a legal residence in the county.

Sec. 4. Section 250.16, Code 1987, is amended to read as follows:

250.16 MARKERS FOR GRAVES.

The county commission of veteran affairs may furnish a suitable and appropriate metal marker, at a cost not exceeding fifteen dollars each, for the grave of each honorably discharged

person, who served in the military or naval forces of the United States during any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive, World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and the Vietnam Conflict at any time between ~~August 5, 1964~~ December 22, 1961, and May 7, 1975, both dates inclusive, and who is buried within the limits of the county, to be placed at the individual's grave to permanently mark and designate the grave for memorial purposes. The expenses shall be paid from any funds raised as provided in this chapter.

Approved April 14, 1988

CHAPTER 1083

VEHICLE DEFINITIONS AND SAFETY RULES

S.F. 2070

AN ACT relating to the application of certain transportation safety regulations.

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

Section 1. Section 321.1, subsection 16, Code Supplement 1987, is amended by adding the following new lettered paragraph immediately following paragraph d:

NEW LETTERED PARAGRAPH. e. (1) Portable tanks, nurse tanks, trailers, and bulk spreaders which are not self-propelled and which have gross weights of not more than twelve tons and are used for the transportation of fertilizer and chemicals used for farm crop production.

(2) Other types of equipment than those listed in subparagraph (1) which are used primarily for the application of fertilizers and chemicals in farm fields or for farm storage.

Sec. 2. Section 321.1, subsection 17, Code Supplement 1987, is amended to read as follows:

17. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, ~~including trailers and bulk spreaders which are not self-propelled having a gross weight of not more than twelve tons used for the transportation of fertilizers and chemicals used for farm crop production, and other equipment used primarily for the application of fertilizers and chemicals in farm fields or for farm storage, but not including trucks mounted with applicators of such products, road construction or maintenance machinery and ditch-digging apparatus. The foregoing enumeration shall be deemed partial and shall This description does not operate to exclude other such vehicles which are within the general terms of this subsection; provided that nothing contained in. However, this section shall be construed to does not include portable mills or cornshellers mounted upon a motor vehicle or semitrailer.~~

Sec. 3. Section 321.449, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

Rules adopted under this section concerning driver qualifications, hours of service, and record-keeping requirements do not apply to the operators of public utility trucks, trucks hauling gravel, construction trucks and equipment, trucks moving implements of husbandry, and special trucks, other than a truck tractor, operating intrastate. ~~However, construction trucks shall not be construed to include gravel hauling trucks. Gravel hauling trucks and trucks Trucks~~ for hire on construction projects are not exempt from this section.

Sec. 4. Section 321.449, Code Supplement 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this section, rules adopted under this section concerning physical and medical qualifications for drivers of commercial vehicles engaged in intrastate commerce shall not be construed as disqualifying any individual who was employed as a driver of commercial vehicles engaged in intrastate commerce prior to January 1, 1988.

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this section, rules adopted under this section shall not impose any requirements which impose any restrictions upon a person operating an implement of husbandry or pickup to transport fertilizers and pesticides in that person's agricultural operations.

Sec. 5. Section 321.449, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this section, rules adopted under this section concerning physical and medical qualifications for a driver shall not apply to a farmer or a farmer's hired help when operating a vehicle owned by the farmer while it is being used in connection with the intrastate transportation of fertilizers and chemicals used in the farmer's crop production.

Sec. 6. Section 321.449, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this section, rules adopted under this section concerning physical and medical qualifications for a driver shall not apply to a farmer or a farmer's hired help when operating a vehicle owned by the farmer while it is being used in connection with the intrastate transportation of agricultural commodities or feed.

Sec. 7. Section 321.449, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this section, rules adopted under this section for a driver of a commercial vehicle shall not apply to a truck driver engaged exclusively in intrastate commerce when the driver's truck is not operated more than one hundred miles from the truck driver's place of business.

Sec. 8. Section 321.450, Code Supplement 1987, is amended to read as follows:
321.450 HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS.

A person shall not transport or have transported or shipped within this state any hazardous material except in compliance with rules adopted by the department under chapter 17A. The rules shall be consistent with the federal hazardous materials regulations promulgated under United States Code, Title 49, and found in 49 C.F.R. §§ 107, 171 to 173, 177, and 178. However, rules adopted under this section concerning tank specifications shall not apply to cargo tank motor vehicles with a capacity of four thousand gallons or less used to transport gasoline in intrastate commerce, which were manufactured between 1950 and 1979 and are in compliance with the American society of mechanical engineers specifications in effect at the time of manufacture.

Approved April 14, 1988

CHAPTER 1084

JOINT INVESTMENTS

H.F. 2371

AN ACT authorizing the joint investment of funds by counties, cities, city utilities, and judicial district departments of correctional services, and providing an effective date.

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

Section 1. Section 331.555, subsection 6, Code Supplement 1987, is amended to read as follows:

6. The treasurer shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more counties, judicial district departments of correctional services, cities, or city utilities pursuant to a joint investment agreement.

Sec. 2. Section 384.21, Code Supplement 1987, is amended to read as follows:

384.21 JOINT INVESTMENT OF FUNDS.

A city or a city utility board shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more cities, utility boards, judicial district departments of correctional services, or counties pursuant to a joint investment agreement.

Sec. 3. Section 905.6, subsection 4, Code 1987, is amended to read as follows:

4. Prepare all budgets and fiscal documents, and certify for payment all expenses and payrolls lawfully incurred by the district department. The director may invest funds which are not needed for current expenses, jointly with one or more cities, city utilities, or counties pursuant to a joint investment agreement.

Sec. 4. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 14, 1988

CHAPTER 1085

CIVIL SERVICE VACANCIES

H.F. 2228

AN ACT relating to vacancies in civil service promotional grades and providing an effective date.

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

Section 1. Section 400.9, subsection 3, Code 1987, is amended to read as follows:

3. Vacancies in civil service promotional grades shall be filled by lateral transfer, voluntary demotion, or promotion of employees of the city to the extent that the city employees qualify for the positions. When laterally transferred, voluntarily demoted, or promoted, an employee shall hold full civil service rights in the position. If an employee of the city does not pass one of two successive promotional examinations and otherwise qualify for a vacated position, or if an employee of the city does not apply for a vacated position, an entrance examination may be used to fill the vacancy.

Sec. 2. Section 400.9, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 4. If there is a certified list of qualified candidates for a promotional appointment, the following procedures shall be followed:

a. A publication stating that interviews are being scheduled to make a new certified list to fill a vacancy in a civil service promotional grade classification shall be posted for at least five working days before the closing date for the interviews in the same locations where examination notices are posted.

b. An employee who wishes to voluntarily demote or to laterally transfer into a vacancy and has previously been or is currently in the classification where the vacancy exists, shall notify the civil service commission of the employee's interest in the vacant position. The employee shall be added to the list of candidates to be interviewed and considered for the vacancy.

NEW SUBSECTION. 5. If there is no certified list of qualified candidates for a promotional appointment, the following procedures shall be followed:

a. When an examination announcement is posted to make a certified list of qualified candidates, the announcement shall also state that an employee who has been or is currently employed in the classification where the vacancy exists, may notify the civil service commission of the employee's interest in the vacant position. Upon notification, the employee shall be added to the list of candidates for an interview and consideration for the vacant position.

b. All civil service employees of a city who meet the minimum qualifications for a classification, shall have the right to compete in the civil service examination process to establish a certified list of qualified candidates.

Sec. 3. This Act, being deemed of immediate importance takes effect upon enactment.

Approved April 14, 1988

CHAPTER 1086

RETIREMENT INCENTIVES

H.F. 2415

AN ACT relating to incentives to encourage certain state and local government employees to retire from employment by providing for monetary or insurance payment incentives, and providing an effective date.

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

Section 1. NEW SECTION. 275.59 EARLY RETIREMENT FOLLOWING SCHOOL REORGANIZATION OR DISSOLUTION.

A certificated employee of a school district which reorganizes or dissolves under this chapter during the period beginning July 1, 1990, and ending June 30, 1992, is eligible to receive a retirement incentive as provided in this section. The retirement incentive is in addition to any retirement incentive provided by the board of directors of a school district under section 279.46. The certificated employee shall be between fifty-nine and sixty-five years of age at the time the reorganization or dissolution occurs. If the certificated employee is less than sixty-five years of age when the certificated employee terminates employment, the certificated employee is eligible to receive a retirement bonus which is a lump sum payment equal to ten percent of the final annual salary of the employee, not to exceed five thousand dollars. The board of directors of the school district shall notify the department of management of the names of employees eligible for payments under this section and shall submit other verification of employment required by the department of management. For the purposes of this section, "certificated employee" means an administrator or teacher who possesses a certificate issued under chapter 260 and at the time of retirement is employed on a full-time basis by one or

more school districts. The governor shall authorize payment from the salary adjustment fund for the retirement bonuses paid under this section. Section 8.39 does not apply to payments made from the salary adjustment fund under this section.

Sec. 2. STATE EMPLOYEE RETIREMENT INCENTIVES. A state employee who will be at least sixty-two years of age on or before June 30, 1989, and has at least five years of continuous state employment, and sends written notification to the department of personnel at any time from March 31, 1988, through May 15, 1988, of intent to terminate from state employment not later than June 30, 1988, and to retire under the applicable pension program is eligible to receive retirement incentives. The department of personnel shall coordinate and administer the program established in this section.

If the state employee is less than sixty-five years of age when the state employee terminates employment, the state employee is eligible to receive one of the following:

1. A retirement bonus which is a lump sum payment equal to ten percent of the final annual salary of the employee, not to exceed five thousand dollars. The retirement bonus shall be paid from funds appropriated to the employee's department, agency, or commission for salaries, support, maintenance, and miscellaneous purposes. However, at the written request of the director of a department, agency, or commission that the director believes that the appropriations to the department, agency, or commission are insufficient to pay the retirement bonus, the governor may authorize payment from the salary adjustment fund. Section 8.39 does not apply to payments made from the salary adjustment fund under this subsection.

2. Enrollment in the retiring employee insurance incentive payment program until the employee reaches sixty-five years of age. The program includes all of the following:

a. Continuation of participation in the life insurance program to which the state makes contributions under the program in which the employee participated on the effective date of this Act with continuation of state payments at the rate paid for full-time state employees plus the addition of state payments to replace the contributions which would otherwise have been made by the employee if the employee had remained in the program and had not retired.

b. Continuation of participation in the health or medical insurance program to which the state makes contributions and the dental insurance program to which the state makes contributions under the programs in which the employee participated on the effective date of this Act with continuation of state payments at the rate paid for full-time state employees plus the addition of state payments to replace the contributions which would otherwise have been made by the employee if the employee had remained in the program and had not retired.

The cost of payments under this subsection shall be made from funds appropriated to the salary adjustment fund. The employee's department, agency, or commission shall reimburse the salary adjustment fund annually from the appropriate departmental, revolving, trust, or special fund or from federal funds unless the governor exempts an employee's department, agency, or commission from the reimbursement requirements. Section 8.39 does not apply to reimbursements made to the salary adjustment fund under this subsection.

If a state employee is sixty-five years of age or older when the state employee retires, the state employee is eligible to receive the retirement bonus under subsection 1. Notwithstanding the minimum age requirements specified in this section, if a state employee is fifty-nine years of age or older when the state employee retires under chapter 97A within the time limitations specified in this section, the state employee is eligible to receive the retirement bonus under subsection 1.

The incentives provided in this section are in addition to other benefits to which the employee is already entitled.

3. For the purpose of this section, "state employee" includes all full-time state employees of the executive, legislative, and judicial branches, except all of the following:

- a. Employees of the state board of regents.
- b. Elected members of the general assembly.
- c. State elected officials.
- d. Judicial officers subject to the judicial retirement system in chapter 602.

A full-time state employee is an employee who at the date of termination of employment receives full insurance benefits under the state's programs and is not an employee who is receiving disability payments under the state employees disability insurance program. A state employee who receives retirement incentives as provided in this section, and who subsequently applies for and qualifies for disability payments under the disability insurance program is not eligible to receive further early retirement incentives, and shall have disability payments reduced by any amount of retirement incentives received.

For purposes of determining the length of a full-time state employee's most recent continuous state service, the department of personnel shall include the state employee's most recent continuous period of service in full-time county employment as full-time state employment for individuals who become full-time state employees under 1983 Iowa Acts, chapter 186.

Sec. 3. PARTICIPATION IN PROGRAM.

1. The administrative head or supervisory employee of a department, board, or commission shall not require a state employee to participate in the state employee retirement incentive program established in section 2 of this Act.

2. A state employee who participates in the state employee retirement incentive program is not eligible to accept further employment in which the state or a political subdivision of the state is the employer.

Sec. 4. STATE BOARD OF REGENTS. The state board of regents shall establish for its employees incentives for early retirement that do not affect existing programs. The benefits provided by the state board of regents for its merit system employees shall be comparable to the benefits provided in section 2 of this Act.

Sec. 5. JUDICIAL DISTRICT DEPARTMENTS OF CORRECTIONAL SERVICES. The board of directors of each judicial district department of correctional services established in chapter 905 shall establish for its employees retirement incentives identical to those established in section 2 of this Act. If moneys of a judicial district department of correctional services are insufficient to pay the retirement bonus under section 2, subsection 1, of this Act, the Iowa department of corrections may request that the governor authorize payment from the salary adjustment fund. The cost of payments under section 2, subsection 2, of this Act shall be made from moneys appropriated to the salary adjustment fund, and the Iowa department of corrections shall reimburse the salary adjustment fund annually from state moneys appropriated for the establishment, operation, support, and evaluation of community-based correctional programs and services unless the governor exempts the department from the reimbursement requirements.

Sec. 6. A state department shall not be required to delete more than its proportionate share of all general fund positions vacated through early retirement. If a position vacated through early retirement is not to be deleted, the department of management shall approve, within five working days from the receipt of the request, a request to fill a position.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 14, 1988

CHAPTER 1087**SCHOOL STARTING DATE AND CALENDAR***S.F. 2234*

AN ACT relating to the starting date and the calendar for schools and providing a penalty.

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

Section 1. Section 279.10, subsections 1 and 4, Code 1987, are amended to read as follows:

1. The school year shall begin on the first day of July and each regularly established elementary and secondary school shall begin no sooner than a day during the calendar week in which the first day of September falls and shall continue for at least one hundred eighty days, except as provided in subsection 3, and may be maintained during the entire calendar year. A school corporation may begin employment of personnel for in-service training and development purposes before the date to begin elementary and secondary school.

4. The director of the department of education may grant a request made by a board of directors of a school district stating its desire to commence classes for regularly established elementary and secondary schools before the first day of September prior to the starting date specified in subsection 1. A request shall be based upon the determination that a starting date on or after the first day of September starting date specified in subsection 1 would have a significant negative educational impact.

Sec. 2. Section 299.1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A person having control of a child over seven and under sixteen years of age, in proper physical and mental condition to attend school, shall cause the child to attend some public school for at least one hundred twenty days in each school year, commencing no sooner than a day during the calendar week in which the first day of September falls, unless the board of school directors establishes a later date, which date shall not be later than the first Monday in December.

Sec. 3. STANDARDIZED SCHOOL CALENDAR STUDY. It is the intent of the general assembly to have regional standardized school calendars in effect by the 1991-1992 school year. The districts shall furnish information relating to their current calendars and projected calendar requirements to the department of education. The department of education shall organize a committee to study the issues involved in regional, standardized school calendars and in moving to statewide school calendars. The committee shall report to the department of education and the department shall make recommendations to the general assembly by January 1, 1990. The committee shall include, but is not limited to, representatives from the following organizations:

1. The public television and telecommunication commission.
2. The merged area schools.
3. The area education agency media directors.
4. The area education agency superintendents.
5. The school district superintendents.
6. The school boards.
7. Teacher organizations.
8. The southwest Iowa project.
9. The board of regents.

The committee recommendations shall be based at least in part on the eventual widespread use of telecommunications and technology for the dissemination of school curricula.

Sec. 4. NEW SECTION. 442.26A AID REDUCTION FOR EARLY SCHOOL STARTS.

State aid payments made pursuant to section 442.26 for a fiscal year shall be reduced by one one-hundred-eightieth for each day of that fiscal year for which the school district begins school before the earliest starting date specified in section 279.10, subsection 1. However, this section does not apply to a school district that has received approval from the director of the department of education under section 279.10, subsection 4, to commence classes for regularly established elementary and secondary schools in advance of the starting date established in section 279.10, subsection 1.

Approved April 14, 1988

CHAPTER 1088

BONDS FOR LIQUOR CONTROL LICENSES AND WINE AND BEER PERMITS

S.F. 2201

AN ACT to remove the bond required for class "A", "B", "C", and "D" liquor control licenses and retail wine and beer permits.

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

Section 1. Section 123.3, subsection 12, paragraph a, Code 1987, is amended to read as follows:

a. The person has such financial standing and good reputation as will satisfy the administrator that the person will comply with this chapter and all laws, ordinances, and regulations applicable to the person's operations under this chapter. However, the administrator shall not require the person to post a bond to meet the requirements of this paragraph.

Sec. 2. Section 123.30, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended by striking the paragraph.

Sec. 3. Section 123.30, subsection 1, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

A liquor control license may be issued to any person who, or whose officers in the case of a club or corporation, or whose partners in the case of a partnership, are of good moral character as defined by this chapter. As a further condition for issuance of a liquor control license, the applicant must give consent to members of the fire, police, and health departments and the building inspector of cities; the county sheriff, deputy sheriff, and state agents, and any official county health officer to enter upon the premises without a warrant to inspect for violations of the provisions of this chapter or ordinances and regulations that cities and boards of supervisors may adopt. As a further condition for the issuance of a class "E" liquor control license, the applicant shall post a bond in a sum of not less than five thousand nor more than fifteen thousand dollars as determined on a sliding scale established by the division; however, a bond shall not be required if all purchases of alcoholic liquor from the division by the licensee are made by cash payment or by means that ensure that the division will receive full payment in advance of delivery of the alcoholic liquor.

Sec. 4. Section 123.32, subsections 1, 2, and 3, Code 1987, are amended to read as follows:

1. **FILING OF APPLICATION.** An application for a class "A", class "B", class "C", or class "E" liquor control license, for a retail beer permit as provided in sections 123.128 and 123.129, or for a class "B" retail wine permit as provided in section 123.176, accompanied by the required necessary fee and bond, if required, shall be filed with the appropriate city council if the premises for which the license or permit is sought are located within the corporate limits of a city, or

with the board of supervisors if the premises for which the license or permit is sought are located outside the corporate limits of a city. An application for a class "D" liquor control license and for a class "A" beer or class "A" wine permit, accompanied by the required necessary fee and bond, if required, shall be filed with the division, which shall proceed in the same manner as in the case of an application approved by local authorities.

2. ACTION BY LOCAL AUTHORITIES. The local authority shall either approve or disapprove the issuance of a liquor control license, retail wine permit, or retail beer permit, shall endorse its approval or disapproval on the application and shall forward the application along with the required necessary fee and bond, if required, to the division. Upon the initial application for a liquor control license, retail wine permit, or retail beer permit, the fact that the local authority determines that no liquor control license, retail wine permit, or retail beer permit shall be issued shall not be held to be arbitrary, capricious, or without reasonable cause. There is no limit upon the number of liquor control licenses, retail wine permits, or retail beer permits which may be approved for issuance by local authorities.

3. ACTION BY ADMINISTRATOR AND DEPARTMENT OF INSPECTIONS AND APPEALS. Upon receipt of an application having been disapproved by the local authority, the administrator shall disapprove the application, so notify the applicant by registered mail, and return the fee and any bond to the applicant. Upon receipt of an application having been approved by the local authority, the department of inspections and appeals shall make such investigation as the administrator deems necessary and may require the applicant to appear before the department of inspections and appeals and be examined under oath regarding any matters pertinent to the application, in which case a record shall be made of all testimony or evidence and the same shall become a part of the application. If the application is approved by the administrator, the license or permit applied for shall be issued. If the application is disapproved by the administrator, the applicant and the appropriate local authority shall be so notified by restricted certified mail, and the fee and any bond returned to the applicant.

Sec. 5. Section 123.35, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Such application, accompanied by the required necessary fee and bond, if required, shall be filed in the same manner as is provided for filing the initial application.

Sec. 6. Section 123.50, subsection 2, Code 1987, is amended to read as follows:

2. The conviction of any liquor control licensee, wine permittee, or beer permittee for a violation of any of the provisions of section 123.49, subject to subsection 3 of this section, is grounds for the suspension or revocation of the license or permit by the division or the local authority. However, if any liquor control licensee is convicted of any violation of subsection 2, paragraphs "a", "d" or "e", of that section, or any wine or beer permittee is convicted of a violation of paragraph "a" or "e" of that section, the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the division.

Sec. 7. Section 123.122, Code 1987, is amended to read as follows:

123.122 PERMIT OR LICENSE REQUIRED.

~~No~~ A person shall not manufacture for sale or sell beer at wholesale or retail unless a permit is first obtained as provided in this division or, a liquor control license authorizing the retail sale of beer is first obtained as provided in division I of this chapter. ~~No~~ A liquor control license holder shall be is not required to hold a separate class "B" beer permit ~~or to post a separate bond.~~

Sec. 8. Section 123.128, subsection 3, Code 1987, is amended by striking the subsection.

Sec. 9. Section 123.129, subsection 3, Code 1987, is amended by striking the subsection.

Sec. 10. Section 123.176, subsection 3, Code 1987, is amended by striking the subsection.

Approved April 15, 1988

CHAPTER 1089

MOTOR VEHICLE FRAUD AND THEFT, AND WRECKED, SALVAGED, JUNKED, AND REBUILT VEHICLES

S.F. 2285

AN ACT relating to the enforcement of laws concerning motor vehicle fraud, salvage, and theft, certificates of title, and transfer of ownership of foreign, wrecked, and salvage vehicles and making penalties applicable and providing effective dates.

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

Section 1. Section 307.37, Code 1987, is amended to read as follows:

307.37 MOTOR VEHICLE FRAUD AND ODOMETER LAW ENFORCEMENT.

The department shall investigate and prosecute violators of the laws concerning motor vehicle fraud including, but not limited to, the state and federal odometer law. The department shall refer available evidence concerning a possible violation of the laws concerning motor vehicle fraud including, but not limited to, 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 of justice for this purpose and law enforcement agencies may be reimbursed for expenses incurred in the enforcement of the state and federal odometer those laws, rules, or orders with the approval of the attorney general and concurrence by the department.

Sec. 2. Section 312.2, subsection 15, Code Supplement 1987, is amended to read as follows:

15. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the state department of ~~transportation~~ justice from the road use tax fund an amount equal to twenty-five cents on each title issuance for motor vehicle fraud law enforcement and prosecution purposes including, but not limited to, the enforcement of state and federal odometer law enforcement purposes laws. This subsection is effective for the fiscal period beginning July 1, 1984 and ending June 30, 1989.

Sec. 3. Section 321.24, unnumbered paragraph 3, Code Supplement 1987, is amended to read as follows:

The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the amount of tax paid pursuant to section 423.7, the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle described, including the nature of the security interest, date of notation, and name and address of the secured party. If the prior certificate of title was a salvage, rebuilt, or junking certificate of title in any other state, or if the prior certificate of title in any other state indicates that the vehicle was salvaged, rebuilt, or junked, the new certificate of title shall contain the same information together with the name of the state

issuing the prior salvage, rebuilt, or junking certificate of title and a salvage, rebuilt, or junking designation together with the name of the state issuing the prior salvage, rebuilt, or junking certificate of title shall be retained on all subsequent Iowa certificates of title for the vehicle, except as provided in section 321.52. In the event a vehicle which previously had a salvage certificate of title from another state is repaired and a regular certificate of title is to be issued for it pursuant to section 321.52 without the designation rebuilt, the regular certificate of title shall indicate the state which had issued the prior salvage certificate of title in the same location in which Iowa certificates of title show the designation salvage or rebuilt, in addition to the name and address of the previous owner, in lieu of the salvage designation. The name of the state which had issued the prior salvage certificate of title shall remain in that location on every Iowa certificate of title issued thereafter for the vehicle. The department shall adopt rules to determine how other states' designations are to be indicated on Iowa titles. The certificate shall bear the seal of the county treasurer or of the department, and the signature of the county treasurer, the deputy county treasurer, or the department director or deputy designee. The certificate shall provide space for the signature of the owner. The owner shall sign the certificate of title in the space provided with pen and ink upon its receipt. The certificate of title shall contain upon the reverse side a form for assignment of title or interest and warranty by the owner, for reassignments by a licensed dealer, and for application for a new certificate of title by the transferee as provided in this chapter. However, titles for mobile homes shall not be reassigned by licensed dealers. All certificates of title shall be typewritten or printed by other mechanical means.

Sec. 4. Section 321.52, subsection 4, unnumbered paragraph 1, Code 1987, is amended to read as follows:

a. 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 or printed 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~~ 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. However, a vehicle that has major damage to four or more component parts as defined in paragraph "b" shall receive a junking certificate of title and shall not thereafter be granted a regular certificate of title.

Sec. 5. Section 321.52, subsection 4, unnumbered paragraph 2, Code 1987, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following lettered paragraphs, and lettering the existing paragraphs of the subsection:

b. When a wrecked or salvaged vehicle has been repaired, the owner may apply for a regular certificate of title by paying the appropriate fees and surrendering the salvage certificate of title and a properly executed salvage theft examination certificate. The county treasurer shall issue a regular certificate of title which, commencing September 1, 1988, if the wrecked or salvaged vehicle is five model years old or less, shall bear the word "REBUILT" stamped

or printed on the face of the title. The rebuilt designation shall be included on every Iowa certificate of title issued thereafter for the vehicle. However, if ownership of a stolen vehicle has been transferred to an insurer organized under the laws of this state or admitted to do business in this state, or if the transfer was the result of a settlement with the owner of the vehicle arising from damage to or the unrecovered theft of the vehicle, and if the insurer certifies to the county treasurer on a form approved by the department that the cost of repairs to all damage to the vehicle is less than three thousand dollars, the county treasurer shall issue the regular certificate of title without the rebuilt designation. The county treasurer shall issue a regular certificate of title without the "REBUILT" designation if, before repairs are made, a component parts review has been conducted by a peace officer authorized to do so by the state department of transportation showing that the vehicle does not have component part damage. The component parts review shall be conducted in accordance with rules adopted by the department. For the purpose of this section, a wrecked or salvaged vehicle shall be considered to have component part damage if there is major damage requiring repairs or replacement of more than two of the vehicle's component parts. A "component part" means the rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front end assembly, front clip, or such other parts which are critical to the safety of the vehicle as determined by rules adopted by the department. The owner shall pay a fee of thirty-five dollars upon the completion of the prerepair component parts review. The peace officer conducting the review shall maintain a record of the review and shall forward a copy of the review to the department. The department shall maintain a record of all reviews. If a vehicle does not have component damage as determined in this subsection, the officer conducting the review shall issue a certificate to the owner to that effect. The certificate shall be surrendered to the county treasurer at the time of application for a regular certificate of title and the treasurer shall forward the certificate to the department.

c. A salvage theft examination shall be made by a peace officer who has been specially certified and recertified when required by the Iowa law enforcement academy to do salvage theft examinations. The Iowa law enforcement academy shall determine standards for training and certification, conduct training, and may approve alternative training programs which satisfy the academy's standards for training and certification. The owner of the salvage vehicle shall make the vehicle available for examination at a time and location designated by the peace officer doing the examination. The owner may obtain a permit to drive the vehicle to and from the examination location by submitting a repair affidavit to the agency performing the examination stating that the vehicle is reasonably safe for operation and listing the repairs which have been made to the vehicle. The owner must be present for the examination and have available for inspection the salvage title, bills of sale for all essential parts changed, and the repair affidavit. The examination shall be for the purposes of determining whether the vehicle or repair components have been stolen. The examination is not a safety inspection and a signed salvage theft examination certificate shall not be construed by any court of law to be a certification that the vehicle is safe to be operated. There shall be no cause of action against the peace officer or the agency conducting the examination or the county treasurer for failure to discover or note safety defects. If the vehicle passes the theft examination, the peace officer shall indicate that the vehicle passed examination on the salvage theft examination certificate and, with regard to a vehicle which is required to bear the word "REBUILT" stamped or printed on the face of the title, shall permanently identify the vehicle as "rebuilt" on the driver's door jamb or other area on the vehicle as designated by the department. A removal or alteration of this rebuilt identification is a violation of section 321.92. The repair affidavit, permit, and salvage theft examination certificate shall be on controlled forms prescribed and furnished by the department. The owner shall pay a fee of thirty dollars upon completion of the examination. The agency performing the examinations shall retain twenty dollars of the fee and shall pay five dollars of the fee to the department and five dollars of the fee to the Iowa law

enforcement academy to provide for the special training, certification, and recertification of officers as required by this subsection.

The provision of this subsection requiring a salvage theft examination by a peace officer specially certified or recertified by the Iowa law enforcement academy to do salvage theft examinations shall become effective July 1, 1989. Salvage theft examinations conducted before July 1, 1989, shall be made by peace officers authorized to do so by the state department of transportation or the department of public safety who are qualified, as determined by those agencies, to conduct salvage theft examinations. The state department of transportation shall adopt rules in accordance with chapter 17A to carry out this section, including transition rules allowing for salvage theft examinations prior to July 1, 1989.

Sec. 6. Section 321.52, subsection 4, unnumbered paragraph 3, Code 1987, is amended to read as follows:

d. For purposes of this subsection a "wrecked or salvage vehicle" means a damaged vehicle subject to registration and having a gross vehicle weight rating of less than thirty thousand pounds, for which the cost of repair exceeds fifty percent of the fair market value of the vehicle, as determined in accordance with rules adopted by the department, before it became damaged.

Sec. 7. Section 321.92, Code 1987, is amended to read as follows:
321.92 ALTERING OR CHANGING NUMBERS.

1. FRAUDULENT INTENT. No person shall with fraudulent intent, deface, destroy, or alter the vehicle identification number or component part number or other distinguishing number or identification mark of a vehicle or component part, including a rebuilt identification, nor shall any a person place or stamp any a serial, engine, or other number or mark upon a vehicle or component part, except one assigned thereto by the department. Any A violation of this provision is a felony punishable as provided in section 321.483.

This subsection ~~shall~~ does not prohibit the restoration of an original vehicle identification number, component part number, or other number or mark when ~~such~~ the restoration is made by the department, nor prevent any a manufacturer from placing, in the ordinary course of business, numbers or marks upon vehicles or component parts.

2. VEHICLES WITHOUT IDENTIFICATION NUMBERS. Any A person who knowingly buys, receives, disposes of, sells, offers for sale, or has in the person's possession any a vehicle, or any a component part of a vehicle, from which the vehicle identification number, rebuilt identification, or component part number has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle or component part is guilty of a simple misdemeanor.

Sec. 8. Section 321H.3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Except for educational institutions, people licensed as new ~~or used~~ vehicle dealers under chapter 322, people engaged in a hobby not for profit, people engaged in the business of purchasing bodies, parts of bodies, frames or component parts of vehicles only for sale as scrap metal or a person licensed under the provisions of this chapter as an authorized vehicle recycler, a person in this state shall not engage in the business of:

Sec. 9. The state department of transportation shall adopt rules which allow authorized vehicle recyclers, as defined in chapter 321H, to meet the definition of transporter, as defined in chapter 321, so that transporter plates may be issued for authorized vehicle recyclers.

Approved April 15, 1988

CHAPTER 1090**SECURITY FOR DEPOSIT OF PUBLIC FUNDS***H.F. 2323*

AN ACT relating to the pledge of United States government obligations or their functional equivalents as security for the deposit of public funds.

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

Section 1. Section 453.16, subsection 1, paragraph b, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America, which may be used to secure the deposit of public funds under subparagraph (1), include investments in an investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States government obligations described in subparagraph (1) and to repurchase agreements fully collateralized by the United States government obligations described in subparagraph (1), if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

Sec. 2. Section 453.22, subsection 3, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America, which may be used to secure public deposits under paragraph "a", include investments in an investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States government obligations described in paragraph "a" and to repurchase agreements fully collateralized by the United States government obligations described in paragraph "a", if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

Approved April 26, 1988

CHAPTER 1091**PAROLE AND WORK RELEASE***H.F. 2369*

AN ACT relating to the duties and authority of the board of parole.

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

Section 1. Section 246.909, Code 1987, is amended to read as follows:

246.909 WORK RELEASE VIOLATORS — REIMBURSEMENT TO THE DEPARTMENT OF CORRECTIONS FOR TRANSPORTATION COSTS.

A The department of corrections shall arrange for the return of a work release client who escapes or participates in an act of absconding from the facility to which the client is assigned to the client shall reimburse the department of corrections for the cost of transportation incurred because of the escape or act of absconding. The amount of reimbursement shall be the actual cost incurred by the department and shall be credited to the support account from which the

billing occurred. The director of the department of corrections shall recommend rules pursuant to chapter 17A, subject to approval by the board of corrections pursuant to section 246.105, subsection 7, to implement this section.

Sec. 2. NEW SECTION. 902.11 MINIMUM SENTENCE -- ELIGIBILITY OF PRIOR FORCIBLE FELON FOR PAROLE OR WORK RELEASE.

A person serving a sentence for conviction of a felony who has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, shall be denied parole or work release unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section does not apply if either of the following apply:

1. The sentence being served is for a felony other than a forcible felony and the sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

2. The sentence being served is on a conviction for operating a motor vehicle while under the influence of alcohol or a drug under chapter 321J.

Sec. 3. Section 904A.4, Code 1987, is amended to read as follows:

904A.4 DUTIES.

1. The board of parole shall interview and consider inmates for parole or work release and a majority vote of the members is required to grant a parole or work release.

~~A member of the board of parole shall conduct parole or work release revocation hearings and may revoke a parole or work release, unless prior to the hearing the offender requests that the revocation hearing be conducted by a three-person panel of the board of parole, in which case a three-member panel of the board of parole shall conduct the revocation hearing and a majority vote of the panel is required to revoke the parole or work release.~~

2. A member of the board of parole shall adjudicate parole revocation appeals and reviews, unless the offender requests that the revocation appeal or review be conducted by a three-member panel of the board of parole, in which case a three-member panel of the board of parole shall adjudicate the revocation appeal or review and a majority of the panel is required to modify the parole revocation officer's decision.

3. A member of the board of parole shall conduct a final work release case review, including a review of work release disciplinary proceedings conducted by the department of corrections and the judicial district, and may revoke work release.

2 4. Immediately following an offender's diagnostic review, as provided by section 246.202, the board shall arrange an interview between a liaison officer of the board and the offender to inform the offender of the earliest eligibility for parole, the maximum permissible length of the sentence, the rules and procedures regarding the issuance of parole, the availability of parole interview waivers, and other information deemed pertinent by the board or the liaison officer.

3 5. The board shall gather and review information regarding new parole and work release programs being instituted or considered nationwide and determine which programs may be useful for this state. This information and the resulting recommendations shall be forwarded to the director of the Iowa department of corrections on a quarterly basis.

4 6. The board shall maintain records regarding those individuals granted parole, work release, furlough, or a similar release status, and the records shall reflect the relationship of the success of the inmates on release status to the programs completed by the inmates while in the institution. The information shall be forwarded to the office of the governor and to the chairpersons of the house standing committee on judiciary and law enforcement and the senate standing committee on judiciary annually.

5 7. The board shall conduct an annual review of parole and work release programs and

procedures used in this state. To assist in this review, the board shall solicit written input and comment from interested parties, including the general public and inmates of the various institutions. The board shall also conduct public hearings.

6 8. The board shall review the present system for gathering and storing information on inmates to determine whether increased utilization of data processing and computerization techniques would assist in the orderly conduct of the parole or work release system.

7 9. The board shall adopt and implement administrative rules pursuant to chapter 17A to carry out the provisions of this chapter.

Sec. 4. Section 906.5, Code Supplement 1987, is amended to read as follows:

906.5 RECORD REVIEWED — ELIGIBILITY OF PRIOR FORCIBLE FELON FOR PAROLE OR WORK RELEASE — RULES.

Within one year after the commitment of a person other than a class "A" felon to the custody of the director of the Iowa department of corrections, a member of the board shall interview the person. Thereafter, at regular intervals, not to exceed one year, the board shall interview the person and consider the person's prospects for parole or work release. At the time of an interview, the board shall consider all pertinent information regarding the person, including the circumstances of the person's offense, any presentence report which is available, the previous social history and criminal record of the person, the person's conduct, work, and attitude in prison, and the reports of physical and mental examinations that have been made.

If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section does not apply if:

1. The sentence being served is for a felony other than a forcible felony and the sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

2. The sentence being served is on a conviction for operating a motor vehicle while under the influence of alcohol or a drug under chapter 321J.

A person while on parole or work release is under the supervision of the district department of correctional services of the district designated by the board of parole. The department of corrections shall prescribe rules for governing persons on parole or work release. The board may adopt other rules not inconsistent with the rules of the department of corrections as the board deems proper or necessary for the performance of its functions.

Sec. 5. Section 906.16, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The time when a prisoner is on parole or work release from the institution shall be held to apply upon to the sentence against the parolee or work releasee even if unless the parole or work release is subsequently revoked; except that the time when the parolee or work releasee is in violation of the terms of the parole or work release agreement shall not apply upon the sentence. If the parole or work release is revoked, the board of parole shall determine the amount of time on parole or work release that shall apply to the sentence against the parolee or work releasee, except that the time the parolee or work releasee was in compliance with the terms of the parole or work release prior to the violation shall apply upon the sentence.

Sec. 6. Section 908.1, Code 1987, is amended to read as follows:

908.1 ARREST OF ALLEGED PAROLE VIOLATOR — NEWLY DISCOVERED EVIDENCE.

A parole officer having probable cause to believe that any person released on parole has violated the parole plan or the conditions of parole may arrest such person, or the parole officer

may make a complaint before a magistrate, charging such violation, and if it appears from such complaint, or from affidavits filed with it, that there is probable cause to believe that such person has violated the parole plan or the terms of parole, the magistrate shall issue a warrant for the arrest of such person. If a parole officer has newly discovered evidence which indicates that a person released on parole should not have been granted parole originally, the parole officer shall present the evidence to the board of parole and the board may issue an order to rescind the parole.

Sec. 7. Section 908.2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

An officer making an arrest of an alleged parole violator shall take the arrested person before a magistrate without unnecessary delay for an initial appearance. At that time the alleged parole violator shall be furnished with a written notice of the claimed violation, shall be advised of the right to appointed counsel under rule 26 of the rules of criminal procedure, and shall be given notice that a parole revocation hearing will take place and that its purpose is to determine whether there is probable cause to believe that the alleged parole violator has committed a parole violation occurred and whether the alleged violator's parole should be revoked.

Sec. 8. Section 908.3, Code 1987, is amended to read as follows:

908.3 PLACE OF PROBABLE CAUSE PAROLE REVOCATION HEARING.

The probable cause parole revocation hearing shall be held in the same any county as in the same judicial district in which the alleged parole violator had the initial appearance or in the county from which the warrant for the arrest of the alleged parole violator was issued.

Sec. 9. Section 908.4, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.4 PAROLE REVOCATION HEARING.

The parole revocation hearing shall be conducted by a parole revocation officer who is an attorney appointed pursuant to section 904A.5. The revocation hearing shall determine the following:

1. Whether the alleged parole violation occurred.
2. Whether the violator's parole should be revoked.

The parole revocation officer shall make a verbatim record of the proceedings. The alleged violator shall be informed of the evidence against the violator, shall be given an opportunity to be heard, shall have the right to present witnesses and other evidence, and shall have the right to cross-examine adverse witnesses, except if the revocation officer finds that a witness would be subjected to risk or harm if the witness' identity were disclosed. The revocation hearing may be conducted electronically.

Sec. 10. Section 908.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.5 DISPOSITION.

If the parole revocation officer determines that the parole should not be revoked, the parole revocation officer shall issue an order reinstating the parole upon terms and conditions the parole revocation officer shall determine, including the transfer of the parolee to work release if appropriate. If the parole revocation officer determines that the parole should be revoked, the parole revocation officer shall issue an order revoking the parole. The order of the parole revocation officer shall contain findings of fact, conclusions of law, and a disposition of the matter.

Sec. 11. Section 908.6, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.6 APPEAL OR REVIEW.

The order of the parole revocation officer shall become the final decision of the board of parole unless, within the time provided by rule, the parole violator appeals the decision or a panel of the board reviews the decision on its own motion. On appeal or review of the parole revocation officer's decision, the board panel has all the power which it would have in initially making the revocation hearing decision. The appeal or review shall be conducted pursuant to rules adopted by the board of parole. The record on appeal or review shall be the record made at the parole revocation hearing conducted by the parole revocation officer.

Sec. 12. Section 908.7, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.7 WAIVER OF PAROLE REVOCATION HEARING.

The alleged parole violator may waive the parole revocation hearing, in which event the parole revocation officer shall proceed to determine the disposition of the matter. The parole revocation officer shall dispose of the case as provided in section 908.4. The parole revocation officer shall make a verbatim record of the proceedings. The waiver proceeding may be conducted electronically.

Sec. 13. Section 908.9, Code 1987, is amended to read as follows:

908.9 DISPOSITION OF VIOLATOR.

If the parole of a parole violator is revoked, the violator shall remain in the custody of the Iowa department of corrections under the terms of the parolee's original commitment. If the parole of a parole violator is not revoked, the board parole revocation officer or board panel shall order the person's release subject to the terms of the person's parole with any modifications that the board parole revocation officer or board panel determines proper.

Sec. 14. Section 908.10, Code 1987, is amended to read as follows:

908.10 CONVICTION OF OTHER OFFENSE AS VIOLATION.

When the alleged violation consists of a conviction of a public offense in this or any other state, ~~such~~ the conviction shall be proved by a certified copy of the judgment of conviction, together with evidence that the alleged violator is the person against whom the judgment was rendered. Neither the ~~liaison officer, court,~~ parole revocation officer nor board of parole ~~the board panel~~ shall retry the facts underlying such conviction.

Sec. 15. Section 908.8, Code 1987, is repealed.

Approved April 26, 1988

CHAPTER 1092**JURISDICTION OF MAGISTRATES***S.F. 2063*

AN ACT relating to the jurisdiction of magistrates, and providing an effective date.

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

Section 1. Section 602.6405, subsection 1, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, 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 over violations of section 123.47 and section 123.49, subsection 2, paragraph "h".

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 26, 1988

CHAPTER 1093
DISORDERLY CONDUCT
S.F. 2091

AN ACT relating to the offense of disorderly conduct and making a penalty applicable.

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

Section 1. Section 723.4, subsection 2, Code 1987, is amended to read as follows:

2. Makes loud and raucous noise in the vicinity of any residence or ~~hospital~~ public building which causes unreasonable distress to the occupants thereof.

Approved April 26, 1988

CHAPTER 1094
JUDICIAL NOMINATING COMMISSION EXPENSES
S.F. 2257

AN ACT relating to expenses for the state judicial nominating commission.

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

Section 1. NEW SECTION. 46.26 JUDICIAL NOMINATING COMMISSION EXPENSES AND COMPENSATION.

Members of the state judicial nominating commission and the district judicial nominating commissions are entitled to be reimbursed for actual and necessary expenses incurred in the performance of their duties as commissioners for each day spent attending commission meetings or training sessions called by the chairperson. Expenses shall be paid from funds appropriated to the judicial department for this purpose.

Approved April 26, 1988

CHAPTER 1095

REVIEW OF JUVENILE COURT REFEREE'S ACTIONS

S.F. 2306

AN ACT relating to the review by a juvenile court judge of a juvenile court referee's decision by providing that review is on the record only and striking language providing that the juvenile judge may allow a rehearing at any time.

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

Section 1. Section 602.7103, subsection 3, Code 1987, is amended to read as follows:

3. The parties to a proceeding heard by the referee are entitled to a review by the judge of the juvenile court of the referee's order, finding, or decision, if the review is requested within ten days after the entry of the referee's order, finding, or decision. A request for review does not automatically stay the referee's order, finding, or decision. The review is on the record only, unless the judge, upon request or upon the judge's own motion, orders otherwise. In the interests of justice, the judge may allow a rehearing at any time.

Approved April 26, 1988

CHAPTER 1096

BUDGET ENROLLMENT OF REORGANIZED SCHOOL DISTRICT

H.F. 2226

AN ACT relating to the calculation of budget enrollment of a reorganized school district.

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

Section 1. Section 442.4, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding the procedure prescribed for the calculation of budget enrollment under subsections 3 and 5, if during the first budget year following the effective date of a school district reorganization, a reorganized school district's budget enrollment is less than the combined total of the budget enrollments of the districts involved in the reorganization calculated as if the school districts had not reorganized for that budget year, the budget enrollment of the reorganized district shall be calculated under this subsection for that budget year. The budget enrollment is the total of the budget enrollments of the districts involved in the reorganization calculated as if those districts had not reorganized minus the number of pupils residing in territory not included in the reorganized school district. For the purpose of this section, a reorganized school district is one in which the reorganization was approved in an election pursuant to sections 275.18 and 275.20 and will take effect on or after July 1, 1988.

Sec. 2. If the effective date of a school district reorganization is July 1, 1988, and the reorganized school district's budget enrollment is not calculated pursuant to section 1 of this Act for the budget year beginning July 1, 1988, then the budget enrollment shall be calculated pursuant to section 1 of this Act for the budget year beginning July 1, 1989.

Approved April 26, 1988

CHAPTER 1097**CHILD DAY CARE FOR SICK CHILDREN***H.F. 2313*

AN ACT relating to child day care for sick children.

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

Section 1. Section 237A.1, subsection 7, Code Supplement 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A child care center for sick children operated as part of a pediatrics unit in a hospital licensed by the department of inspections and appeals pursuant to chapter 135B.

Approved April 26, 1988

CHAPTER 1098**CASE MANAGEMENT ASSISTANCE FOR SMALL BUSINESS VENTURES***H.F. 2416*

AN ACT relating to establishing a case management assistance program to assist low-income persons in starting up or expanding small businesses.

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

Section 1. Section 15.108, Code Supplement 1987, is amended by adding the following new subsection and renumbering subsequent subsections as necessary:

NEW SUBSECTION. 8. CASE MANAGEMENT. To provide case management assistance to low-income persons for the purpose of establishing or expanding small business ventures as provided in section 15.259.

Sec. 2. NEW SECTION. 15.259 CASE MANAGEMENT PROGRAM.

The department shall establish and administer a case management program, contingent upon the availability of funds authorized for the program, and conducted in coordination with the job training partnership program, the self-employment loan program, and other state or federal programs providing financial or technical assistance administered by the department. The case management program shall assist in furnishing information about available assistance to clients seeking to establish or expand small business ventures, furnishing information about available financial or technical assistance, evaluating small business venture proposals, completing viable business start-up or expansion plans, and completing applications for financial or technical assistance under the programs administered by the department. As used in this section, "client" means a low-income person eligible for assistance under the self-employment loan program established in section 15.241.

In administering the program, the department may contract with service providers to deliver case management assistance under this section. A service provider may be any entity which the department determines is qualified to deliver case management assistance, including a state agency, a private for-profit or not-for-profit corporation, or other association or organization. The department shall establish rules necessary to carry out this section, including schedules for providing contract payments to service providers, based on the number of hours of case management assistance provided to a client.

Approved April 26, 1988

CHAPTER 1099

ALTERNATIVE MINIMUM TAX FOR CORPORATIONS

H.F. 2451

AN ACT relating to the treatment of interest and dividends from state and other political subdivisions and from regulated investment companies in determining the alternative minimum tax for corporations and providing for retroactive applicability and effective dates.

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

Section 1. Section 422.33, subsection 4, paragraph a, Code Supplement 1987, is amended to read as follows:

a. Add items of tax preference included in federal alternative minimum taxable income under section 57, except subsections (a)(1) and (a)(5), of the Internal Revenue Code, make the adjustments included in federal alternative minimum taxable income under section 56, except subsections (a)(4) and (d), of the Internal Revenue Code, and add losses as required by section 58 of the Internal Revenue Code. In making the adjustment under section 56(c)(1) of the Internal Revenue Code, interest and dividends from federal securities and interest and dividends from state and other political subdivisions and from regulated investment companies exempt from federal income tax under the Internal Revenue Code, net of amortization of any discount or premium, shall be subtracted.

Sec. 2. This Act is retroactive to January 1, 1988, for tax years beginning on or after that date.

Sec. 3. This Act, being deemed of immediate importance, is effective upon enactment.

Approved April 26, 1988

CHAPTER 1100

REHEARINGS BEFORE UTILITIES BOARD

H.F. 2153

AN ACT expanding the time in which the utilities board may grant or refuse an application for rehearing in a contested case.

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

Section 1. Section 17A.16, subsection 2, Code 1987, is amended to read as follows:

2. ~~Any~~ Except as expressly provided otherwise by another statute referring to this chapter by name, any party may file an application for rehearing, stating the specific grounds ~~therefor for the rehearing~~ and the relief sought, within twenty days after the date of the issuance of any final decision by the agency in a contested case. A copy of ~~such~~ the application for rehearing shall be timely mailed by the presiding agency to all parties of record ~~not joining therein in the application~~. ~~Such an~~ An application for rehearing shall be deemed to have been denied unless the agency grants the application within twenty days after its filing.

Sec. 2. Section 476.12, Code 1987, is amended to read as follows:

476.12 REHEARINGS BEFORE BOARD.

Any Notwithstanding the Iowa administrative procedure Act, any party, as defined in the rules and regulations promulgated by the board as provided in section 476.2 hereof, to a proceeding contested case before the board may within twenty days after the entry of the order

issuance of the final decision apply for a rehearing. The board shall either grant or refuse an application for rehearing within ~~twenty~~ thirty days after the filing of the application, or may after giving the interested parties notice and opportunity to be heard and after consideration of all the facts, including those arising since the making of the order, abrogate or modify its order. A failure by the board to act upon ~~such~~ the application for rehearing within the above period shall be deemed a refusal ~~thereof~~ of the application. Neither the filing of an application for rehearing nor the granting ~~thereof~~ of the application shall stay the effectiveness of an order unless the board so directs.

Approved April 28, 1988

CHAPTER 1101

SUM CERTAIN NEGOTIABLE INSTRUMENTS

H.F. 2315

AN ACT relating to commercial paper by modifying the definition of "sum certain".

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

Section 1. Section 554.3106, subsection 1, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. With a renegotiable rate of interest or with a variable rate of interest, even though determinable with reference to source other than the instrument.

Approved April 26, 1988

CHAPTER 1102

BANKING DAYS

H.F. 2319

AN ACT to exclude Saturday as a banking day.

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

Section 1. Section 554.4104, subsection 1, paragraph c, Code 1987, is amended to read as follows:

c. "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions; but for the purposes of determining a bank's midnight deadline, shall not include Saturday.

Approved April 26, 1988

CHAPTER 1103
CREDIT UNION POWERS
H.F. 2320

AN ACT relating to credit unions by amending the power to sell, participate in, or discount, or purchase the obligations of certain credit union members; by amending the authorization to appoint credit and auditing committees; and by permitting the superintendent to prescribe by rule the period of preservation of records or files for credit unions.

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

Section 1. Section 533.4, subsection 16, Code Supplement 1987, is amended to read as follows:

16. Sell, participate in, or discount the obligations of its members with or without recourse. Purchase the obligations of Iowa credit union members, provided the obligations meet the requirements of this chapter.

Sec. 2. Section 533.9, Code Supplement 1987, is amended to read as follows:

533.9 DIRECTORS AND OFFICERS.

Within five days following the organization meeting and each annual meeting the directors shall elect from their own number a chairperson of the board, a vice chairperson, a secretary, and a chief financial officer whose title shall be designated by the board of directors. The board shall appoint a credit committee of not less than three members, and an auditing committee of not less than three members, and may also elect appoint alternate members of the credit committee. Only a member of the board of directors or a member of the credit union may be appointed to the credit committee or to the auditing committee. The board may appoint an executive committee to act on its behalf when designated for that purpose. The directors have general management of the affairs of the credit union including, but not limited to, the power to fix the amount of the surety bond which shall be required of all officers and employees handling money.

Sec. 3. Section 533.26, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

533.26 PRESERVATION OF RECORDS.

The superintendent shall prescribe by rule the period of preservation of records or files for credit unions.

Approved April 26, 1988

CHAPTER 1104
CITY SPECIAL ASSESSMENTS
H.F. 2347

AN ACT relating to the calculation of special assessment installments, interest on unpaid installments, and interest penalties.

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

Section 1. Section 384.65, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Each installment of a special assessment shall be calculated to the nearest whole dollar. Interest on unpaid installments and interest penalties added for delinquencies shall also be calculated to the nearest whole dollar. The minimum interest or interest penalty amount is one dollar.

Approved April 26, 1988

CHAPTER 1105**WORK RELEASE FOR JAILED PRISONERS***H.F. 2088*

AN ACT relating to work release for prisoners in county jails by providing for intermittent sentencing.

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

Section 1. Section 356.26, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The district court may grant by appropriate order to any person sentenced to a county jail the privilege of a sentence to accommodate the work schedule of the person or the privilege of leaving the jail at necessary and reasonable hours for any of the following purposes:

Sec. 2. Section 356.30, Code 1987, is amended to read as follows:

356.30 PRISONER TO PAY FOR BOARD – LIMITATIONS.

Every prisoner ~~gainfully employed and released pursuant to~~ a county jail under a sentence to accommodate the person's work schedule in accordance with section 356.26 is liable for the cost of the prisoner's board in the jail as fixed by the county board of supervisors. The sheriff shall charge the prisoner's account for the board and any meals provided in section 356.31. If the prisoner is gainfully self-employed the prisoner shall pay the sheriff for the board, in default of which the prisoner's privilege under this chapter is automatically forfeited. If necessarily absent from jail at a meal time, the prisoner shall at 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 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, including deductions to satisfy any court-ordered child support obligations, earned during the period of time for which the charges are made.

Approved April 26, 1988

CHAPTER 1106**CONFIDENTIALITY OF CLIENT ADVOCACY RECORDS***H.F. 2255*

AN ACT relating to the confidentiality of records of clients of advocacy services offered by the department of human rights.

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

Section 1. NEW SECTION. 601K.6 CONFIDENTIALITY OF INDIVIDUAL CLIENT ADVOCACY RECORDS.

1. For purposes of this section, unless the context otherwise requires:

a. "Advocacy services" means services in which a department staff member writes or speaks in support of a client or a client's cause or refers a person to another service to help alleviate or solve a problem.

b. "Individual client advocacy records" means those files or records which pertain to problems divulged by a client to the department or any related papers or records which are released to the department about a client for the purpose of assisting the client.

2. Information pertaining to clients receiving advocacy services shall be held confidential, including but not limited to the following:

a. Names and addresses of clients receiving advocacy services.

b. Information about a client reported on the initial advocacy intake form and all documents, information, or other material relating to the advocacy issues or to the client which could identify the client, or divulge information about the client.

c. Information concerning the social or economic conditions or circumstances of particular clients who are receiving or have received advocacy services.

d. Department or division evaluations of information about a person seeking or receiving advocacy services.

e. Medical or psychiatric data, including diagnoses and past histories of disease or disability, concerning a person seeking or receiving advocacy services.

f. Legal data, including records which represent or constitute the work product of an attorney, which are related to a person seeking or receiving advocacy services.

3. Information described in subsection 2 shall not be disclosed or used by any person or agency except for purposes of administration of advocacy services, and shall not be disclosed to or used by a person or agency outside the department except upon consent of the client as evidenced by a signed release.

4. This section does not restrict the disclosure or use of information regarding the cost, purpose, number of clients served or assisted, and results of an advocacy program administered by the department, and other general and statistical information, so long as the information does not identify particular clients or persons provided with advocacy services.

Approved April 26, 1988

CHAPTER 1107

EMPLOYER SANCTIONS REGARDING UNSAFE WORKING CONDITIONS

H.F. 2260

AN ACT to prohibit employer sanctions against employees who refuse to work in unsafe conditions.

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

Section 1. Section 88.9, subsection 3, Code 1987, is amended to read as follows:

3. **DISCRIMINATION AND DISCHARGE.** No A person shall not discharge or in any manner discriminate against any an employee because such the employee has filed any a complaint or instituted or caused to be instituted any a proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by such the employee on behalf of the employee or others of any a right afforded by this chapter. A person shall not discharge or in any manner discriminate against an employee because the employee, who with no reasonable alternative, refuses in good faith to expose the employee's self to a dangerous condition of a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury, provided the employee, where possible, has first sought through resort to regular statutory enforcement channels, unless there has been insufficient time due to the urgency of the

situation, or the employee has sought and been unable to obtain from the person, a correction of the dangerous condition.

PARAGRAPH DIVIDED. ~~Any~~ An employee who believes that the employee has been discharged or otherwise discriminated against by ~~any~~ a person in violation of this subsection may, within thirty days after ~~such~~ the violation occurs, file a complaint with the commissioner alleging ~~such~~ discrimination. Upon receipt of ~~such~~ the complaint, the commissioner shall ~~cause such~~ conduct an investigation to be made as the commissioner deems appropriate. If, upon ~~such~~ investigation, the commissioner determines that the provisions of this subsection have been violated, the commissioner shall bring an action in the appropriate district court against ~~such~~ the person. In any such action, ~~that the~~ district court ~~shall have~~ has jurisdiction, ~~for cause shown~~ to restrain violations of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to the employee's former position with back pay. Within ninety days of the receipt of a complaint filed under this subsection, the commissioner shall notify the complainant of the commissioner's determination under this subsection.

Approved April 26, 1988

CHAPTER 1108

SURETIES FOR PUBLIC OFFICERS AND EMPLOYEES

H.F. 2423

AN ACT relating to sureties and surety bonds for public officers and employees.

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

Section 1. Section 64.8, Code 1987, is amended to read as follows:

64.8 BONDS OF COUNTY OFFICERS.

The bonds of members of the boards of supervisors, county attorneys, recorders, auditors, sheriffs, and assessors shall each be in a penal sum of not less than ~~ten~~ twenty thousand dollars ~~per annum~~. The amount of each bond shall be determined by the board of supervisors.

Sec. 2. Section 64.10, Code 1987, is amended to read as follows:

64.10 BOND OF COUNTY TREASURER.

The bond of the county treasurer shall be in the sum of ~~twenty-five~~ not less than fifty thousand dollars ~~per annum~~. The amount of the treasurer's bond shall be determined by the board of supervisors.

Sec. 3. Section 64.24, unnumbered paragraph 2, Code 1987, is amended to read as follows:

~~Said~~ The records shall have an index which, under the title of each office, shall show the name of each principal, ~~the principal's~~ sureties, and the date of the filing of the bond.

Sec. 4. Sections 64.3, 64.16, 64.17, and 331.556, Code 1987, are repealed.

Approved April 26, 1988

CHAPTER 1109**ADMINISTRATIVE LAW JUDGES***H.F. 2430*

AN ACT to designate hearing officers as administrative law judges.

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

Section 1. Section 10A.101, subsection 3, Code 1987, is amended to read as follows:

3. "Administrators" means the chief hearing officer administrative law judge, chief inspector, chief investigator, and chief auditor.

Sec. 2. Section 10A.201, subsection 1, Code 1987, is amended to read as follows:

1. "Administrator" means the chief hearing officer administrative law judge, who shall coordinate the administration of this division.

Sec. 3. Section 10A.601, subsection 4, Code 1987, is amended to read as follows:

4. The appeal board may on its own motion affirm, modify, or set aside a decision of a hearing officer an administrative law judge on the basis of the evidence previously submitted in the contested case, or direct the taking of additional evidence, or may permit any of the parties to the decision to initiate further appeals before the appeal board. The appeal board shall permit further appeal by any of the parties interested in a decision of a hearing officer an administrative law judge and by the representative whose decision has been overruled or modified by the hearing officer administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

Sec. 4. Section 17A.11, Code 1987, is amended to read as follows:

17A.11 PRESIDING OFFICER — ADMINISTRATIVE HEARING OFFICERS LAW JUDGES.

1. The presiding officer in evidentiary hearings required to be conducted by an agency according to the provisions of this chapter governing contested cases shall be the agency, one or more members of a multimember agency, or an administrative hearing officer law judge appointed according to the terms of this section. Each agency needing the services of one or more permanent full-time or part-time administrative hearing officers law judges shall appoint as many of them to its staff as are necessary for this purpose. Agencies shall assign administrative hearing officers law judges to cases in rotation unless it is not feasible. Administrative hearing officers law judges shall not perform duties inconsistent with their duties and responsibilities as hearing officers administrative law judges.

2. Administrative hearing officers shall be law judges are covered by the merit system of personnel administration, chapter 19A. The department of personnel or other appropriate agency specified in section 19A.3 shall, insofar as practicable, provide for different classes of administrative hearing officers law judges with different salary scales.

3. An agency whose work load is such that the appointment of a permanent full-time or part-time administrative hearing officer law judge is unwarranted, or an agency whose work load is such that one or more additional administrative hearing officers law judges are temporarily required, may use administrative hearing officers law judges selected by the department of personnel from other agencies having hearing officers administrative law judges that are temporarily available and that are qualified to preside at the hearings held by the agency requesting the temporary use of a hearing officer an administrative law judge. In cases where an agency borrows one or more administrative hearing officers law judges from other agencies, the salaries

and expenses of those administrative ~~hearing officers~~ law judges shall be apportioned and charged to the several agencies according to their use.

Sec. 5. Section 20.6, subsection 4, Code 1987, is amended to read as follows:

4. Hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such power to a member of the board, or persons appointed or employed by the board, including ~~hearing officers~~ administrative law judges for the performance of its functions. The board may petition the district court at the seat of government or of the county ~~wherein any~~ where a hearing is held to enforce a board order compelling the attendance of witnesses and production of records.

Sec. 6. Section 20.11, subsection 2, Code 1987, is amended to read as follows:

2. The board may designate a ~~hearing officer~~ administrative law judge to conduct the hearing. ~~The hearing officer shall have such~~ administrative law judge has the powers as may be exercised by the board for conducting the hearing and shall follow the procedures adopted by the board for conducting the hearing. The decision of the ~~hearing officer~~ administrative law judge may be appealed to the board and the board may hear the case de novo or upon the record as submitted before the ~~hearing officer~~ administrative law judge, utilizing procedures governing appeals to the district court in this section so far as applicable.

Sec. 7. Section 89A.10, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

If the owner does not make the changes necessary for compliance as required in subsection 1 within the period specified by the commissioner, the commissioner, upon notice, may suspend or revoke the operating permit, or may refuse to issue the operating permit for the facility. The commissioner shall notify the owner of any action to suspend, revoke, or refuse to issue an operating permit and the reason for the action by certified mail. An owner may appeal the commissioner's initial decision. The appeal shall be heard by a ~~hearing officer~~ administrative law judge of the department of inspections and appeals. An owner who, after a hearing before a ~~hearing officer~~ administrative law judge, is aggrieved by a suspension, revocation, or refusal to issue an operating permit may appeal to the employment appeal board created under section 10A.601. Notice of appeal shall be filed with the appeal board within thirty calendar days from receipt of the notice of the commissioner's action.

Sec. 8. Section 89A.10, subsection 2, unnumbered paragraph 3, Code 1987, is amended to read as follows:

No proceedings before the commissioner or the commissioner's agents, a ~~hearing officer~~ administrative law judge, the appeal board, or any district court of this state shall be deemed to deny ~~any~~ an owner an operating permit until there is a final adjudication of the matter. ~~No~~ An objection which has not been urged before the appeal board shall not be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the appeal board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, are conclusive. The appeal board's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the appeal board's orders. Upon the filing of the record with it, the jurisdiction of the court is exclusive and its judgment and decree is final, except that it is subject to review by the Iowa supreme court.

Sec. 9. Section 96.6, subsections 2 and 3, Code 1987, are amended to read as follows:

2. INITIAL DETERMINATION. A representative designated by the commissioner shall promptly notify all interested parties to the claim of its filing, and the parties have ten days

from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, 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 the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, 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 notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with it. If a ~~hearing officer~~ an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the ~~hearing officer~~ administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid.

3. APPEALS. Unless ~~such the~~ the appeal is withdrawn, a ~~hearing officer~~ an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. A telephone or in-person hearing shall not be scheduled before the seventh calendar day after the parties receive notice of the hearing. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the ~~hearing officer's~~ administrative law judge's decision, together with the ~~hearing officer's~~ administrative law judge's reasons ~~therefor~~ for the decision, which shall be deemed to be ~~is~~ the final decision of the division, unless within fifteen days after the date of notification or mailing of ~~such the~~ the decision, further appeal is initiated pursuant to this section.

Appeals from the initial determination shall be heard by a ~~hearing officer~~ an administrative law judge employed by the division of job service. A ~~hearing officer's~~ An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

Sec. 10. Section 96.7, subsection 3,* paragraph a, subparagraph (6), Code Supplement 1987, is amended to read as follows:

**~~(6)~~ As soon as practicable after the close of each calendar quarter, and in any event within forty days after the close of ~~such each~~ each quarter, the division shall notify each employer of the amount that has been charged to the employer's account for benefits paid during ~~such that~~ that quarter. This statement to the employer shall show the name of each claimant to whom ~~such the~~ the benefit payments were made, the claimant's social security number, and the amount of benefits paid to ~~such the~~ the claimant. ~~Any~~ An employer who has not been notified as provided

*Subsection 2 in Code Supplement 1987

**Text given is from Code 1987; does not reflect 1987 amendments in Code Supplement 1987

in section 96.6, subsection 2, of the allowance of benefits to such claimants may within thirty days after the receipt of ~~such~~ the statement appeal to the commissioner for a hearing to determine the eligibility of the claimant to receive such benefits. The commissioner shall refer the same to a ~~hearing officer~~ an administrative law judge for hearing and both the employer and the claimant shall receive notice of the time and place of ~~such~~ the hearing.

Sec. 11. Section 96.7, subsection 4, paragraph d,* unnumbered paragraph 3, Code Supplement 1987, is amended to read as follows:

****A hearing on an appeal shall be conducted according to the regulations and rules promulgated adopted by the division. A copy of the decision of the ~~hearing officer~~ administrative law judge shall be sent by regular mail to the last address, according to the records of the division, of each affected employing unit or employer.**

Sec. 12. Section 96.11, subsection 7, paragraph f, Code Supplement 1987, is amended to read as follows:

f. An employee of the division, a ~~hearing officer~~ an administrative law judge, or a member of the appeal board who violates this section is guilty of a serious misdemeanor.

Sec. 13. Section 97B.25, Code 1987, is amended to read as follows:

97B.25 APPLICATIONS FOR BENEFITS.

A representative designated by the administrator and referred to in this chapter as a benefits deputy, shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid and if valid, the month with respect to which benefits shall commence, the monthly benefit amount payable, and the maximum duration. The deputy shall promptly notify the applicant and any other interested party of the decision and the reasons. Unless the applicant or other interested party, within thirty calendar days after the notification was mailed to the applicant's or party's last known address, files an appeal to a ~~hearing officer~~ an administrative law judge in the department of inspections and appeals, the decision is final and benefits shall be paid or denied in accord with the decision.

Sec. 14. Section 97B.26, Code 1987, is amended to read as follows:

97B.26 ~~HEARING OFFICER~~ ADMINISTRATIVE LAW JUDGE.

If an appeal is filed and is not withdrawn, a ~~hearing officer~~ an administrative law judge in the department of inspections and appeals, after affording the parties reasonable opportunity for fair hearing, shall affirm, modify, or reverse the findings of fact and decision of the benefits deputy. The hearing shall be recorded by mechanical means and a transcript of the hearing shall be made. The transcript shall then be made available for use by the employment appeal board and by the courts at subsequent judicial review proceedings under the Iowa administrative procedure Act, if any. The parties shall be duly notified of the ~~hearing officer's~~ administrative law judge's decision, together with the ~~hearing officer's~~ administrative law judge's reasons. The decision is final unless, within thirty days after the date of notification or mailing of the decision, review by the employment appeal board is initiated pursuant to section 97B.27.

Sec. 15. Section 97B.27, Code 1987, is amended to read as follows:

97B.27 REVIEW OF DECISION.

Anyone aggrieved by the decision of the ~~hearing officer~~ administrative law judge may, at any time before the ~~hearing officer's~~ administrative law judge's decision becomes final, petition the department of inspections and appeals for review by the employment appeal board

*Section 96.7(4d) in Code 1987 renumbered to §96.7(4) in Code Supplement 1987

**Text given is from Code 1987; does not reflect 1987 amendments in Code Supplement 1987

established in section 10A.601. The appeal board shall review the record made before the ~~hearing officer~~ administrative law judge, but no additional evidence shall be heard. On the basis of the record the appeal board shall affirm, modify, or reverse the decision of the ~~hearing officer~~ administrative law judge and shall determine the rights of the appellant. It shall promptly notify the appellant and any other interested party by written decision.

Sec. 16. Section 148.7, subsections 3 and 5, Code 1987, are amended to read as follows:

3. The hearing shall be before a member or members designated by the board or before ~~a hearing officer~~ an administrative law judge appointed by the board. The presiding board member or ~~hearing officer~~ administrative law judge may issue subpoenas, administer oaths and take or cause depositions to be taken in connection with the hearing. The presiding board member or ~~hearing officer~~ administrative law judge shall issue subpoenas at the request and on behalf of the licensee. The hearing shall be open to the public.

The compensation of the ~~hearing officer~~ administrative law judge shall be fixed by the medical examiners. The ~~hearing officer~~ administrative law judge shall be an attorney vested with full authority of the board to schedule and conduct hearings. The ~~hearing officer~~ administrative law judge shall prepare and file with the medical examiners the ~~hearing officer's~~ administrative law judge's findings of fact and conclusions of law, together with a complete written transcript of all testimony and evidence introduced at the hearing and all exhibits, pleas, motions, objections and rulings of the ~~hearing officer~~ administrative law judge.

5. If a person refuses to obey a subpoena issued by the presiding member or ~~hearing officer~~ administrative law judge or to answer a proper question during the hearing, the presiding member or ~~hearing officer~~ administrative law judge may invoke the aid of a court of competent jurisdiction or judge of this court in requiring the attendance and testimony of ~~such~~ the person and the production of papers. A failure to obey ~~such~~ the order of the court may be punished by the court as a civil contempt may be punished.

Sec. 17. Section 169.5, subsection 9, paragraph e, Code 1987, is amended to read as follows:

e. Hold hearings on all matters properly brought before the board and administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may require by subpoena the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and commission depositions. An ~~administrative hearing officer~~ administrative law judge may be appointed pursuant to section 17A.11, subsection 3 to perform those functions which properly repose in an ~~administrative hearing officer~~ administrative law judge.

Sec. 18. Section 169.14, subsections 3 and 5, Code 1987, are amended to read as follows:

3. The hearing shall be before a member or members designated by the board or before ~~a hearing officer~~ an administrative law judge appointed by the board. The presiding board member or ~~hearing officer~~ administrative law judge may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The member or officer shall issue subpoenas at the request and on behalf of the licensee.

5. If a person refuses to obey a subpoena issued by the presiding member or ~~hearing officer~~ administrative law judge or to answer a proper question put to that person during the hearing, the presiding member or ~~hearing officer~~ administrative law judge may invoke the aid of a court of competent jurisdiction in requiring the attendance and testimony of that person and the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt may be punished.

Sec. 19. Section 191A.7, Code 1987, is amended to read as follows:

191A.7 DISCIPLINARY ACTION.

A license issued under this chapter may be revoked by the regulatory authority for

violation by the licensee of a provision of this chapter or an applicable rule of the department. In lieu of license revocation, the regulatory authority may require the immediate discontinuance of operation of a vending machine or commissary if it finds unsanitary conditions or other conditions which constitute a substantial hazard to the public health. The order shall apply only to the vending machines, commissary, or product involved. A person whose license is revoked, or who is ordered to discontinue the operation of a vending machine or commissary, may appeal that decision to the director. The director or the chief hearing officer administrative law judge of the department shall schedule and hold a hearing upon the appeal not later than thirty days from the time of revocation or the order of discontinuance. The director or the chief hearing officer administrative law judge shall issue a decision immediately following the hearing. Judicial review may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 20. Section 272A.8, Code 1987, is amended to read as follows:

272A.8 APPOINTMENT OF HEARING OFFICERS ADMINISTRATIVE LAW JUDGES.

The commission shall maintain a list of qualified persons to serve as hearing officers administrative law judges who are experienced in the educational system of this state when a hearing is requested under the provisions of section 279.24. When requested under the provisions of section 279.24, the commission shall submit a list of five qualified hearing officers administrative law judges to the parties. The hearing shall be held pursuant to the provisions of chapter 17A relating to contested cases. The full costs of the hearing shall be shared equally by the parties. A person who is employed as a teacher or administrator by a school district shall not be eligible to serve as a hearing officer an administrative law judge.

Sec. 21. Section 279.24, unnumbered paragraphs 7, 8, 9, and 10, Code Supplement 1987, are amended to read as follows:

Within five days after receipt of the written notice that the board has voted to consider termination of the contract, the administrator may request in writing to the secretary of the board that the notification be forwarded to the professional teaching practices commission along with a request that the professional teaching practices commission submit a list of five qualified hearing officers administrative law judges to the parties. Within three days from receipt of the list the parties shall select a hearing officer an administrative law judge by alternately removing a name from the list until only one name remains. The person whose name remains shall be the hearing officer administrative law judge. The parties shall determine by lot which party shall remove the first name from the list. The hearing shall be held no sooner than ten days and not later than thirty days following the administrator's request unless the parties otherwise agree. If the administrator does not request a hearing, the board, not later than April 15, may determine the continuance or discontinuance of the contract. Board action shall be by majority roll call vote entered on the minutes of the meeting. Notice of board action shall be personally delivered or mailed to the administrator.

The hearing officer administrative law judge selected shall notify the secretary of the board and the administrator in writing concerning the date, time, and location of the hearing. The board may be represented by a legal representative, if any, and the administrator shall appear and may be represented by counsel or by representative, if any. A transcript or recording shall be made of the proceedings at the hearing. No A school board member or administrator shall be is not liable for any damage to any an administrator or board member if any a statement made at the hearing is determined to be erroneous as long as the statement was made in good faith.

The hearing officer administrative law judge shall, within ten days following the date of the hearing, make a proposed decision as to whether or not the administrator should be dismissed, and shall give a copy of the proposed decision to the administrator and the school

board. Findings of fact shall be prepared by the hearing officer administrative law judge. The proposed decision of the hearing officer administrative law judge shall become the final decision of the board unless within ten days after the filing of the decision the administrator files a written notice of appeal with the board, or the board on its own motion determines to review the decision.

If the administrator appeals to the board, or if the board determines on its own motion to review the proposed decision of the hearing officer administrative law judge, a private hearing shall be held before the board within five days after the petition for review, or motion for review, has been made or at such other time as the parties may agree. The private hearing shall is not be subject to the provisions of chapter 21. The board may hear the case de novo upon the record as submitted before the hearing officer administrative law judge. In cases where there is an appeal from a proposed decision or where a proposed decision is reviewed on motion of the board, an opportunity shall be afforded to each party to file exceptions, present briefs and present oral arguments to the board which is to render the final decision. The secretary of the board shall give the administrator written notice of the time, place, and date of the hearing. The board shall meet within five days after the hearing to determine the question of continuance or discontinuance of the contract. The board shall make findings of fact which shall be based solely on the evidence in the record and on matters officially noticed in the record.

Sec. 22. Section 281.6, unnumbered paragraph 3, Code 1987, is amended to read as follows:

Notwithstanding section 17A.11, the state board of education shall adopt rules for the appointment of an impartial administrative hearing officer law judge for special education appeals. The rules shall comply with federal statutes and regulations.

Sec. 23. Section 321J.13, subsection 3, Code Supplement 1987, is amended to read as follows:

3. After the hearing the department shall order that the revocation be either rescinded or sustained. ~~In the event that~~ If the revocation is sustained, the administrative hearing officer law judge who conducted the hearing has authority to may issue a temporary restricted license to the person whose motor vehicle license or operating privilege was revoked. Upon receipt of the decision of the department to sustain a revocation, the person contesting the revocation ~~shall have~~ has ten days to file a request for review of the decision by the director. The director or the director's designee shall review the decision within fifteen days and shall either rescind or sustain the revocation or order a new hearing. If the director orders a new hearing, the department shall grant the person a new hearing within thirty days of the director's order.

Sec. 24. Section 421.8A, Code 1987, is amended to read as follows:

421.8A DISPUTED ASSESSMENTS.

For any a contested case, as defined in section 17A.2, commenced on or after January 1, 1987, the person disputing the assessment must pay all tax, interest and penalty pertaining to the disputed assessment prior to the commencement of the contested case. Upon a showing of good cause, the hearing officer administrative law judge shall allow the person to post a bond in an amount established by the hearing officer administrative law judge, but not in excess of all tax, interest, and penalty, in lieu of paying all tax, interest and penalty.

The director shall adopt rules establishing procedures for payment of taxes under protest. If it is finally determined that the tax is not due in whole or in part, the department shall refund the part of the tax payment which is determined not to be due together with interest on the amount of the refund at the rate as determined under section 421.7.

Sec. 25. Section 421.17, subsection 21, paragraph e, Code Supplement 1987, is amended to read as follows:

e. Upon notice of entitlement to a refund or rebate the child support recovery unit, the foster care recovery unit, or the office of investigations shall send written notification to the debtor, and a copy of the notice to the department of revenue and finance, of the unit's or office's assertion of its rights or the rights of an individual not eligible as a public assistance recipient to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, the debtor's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing will result in a waiver of the opportunity to contest the claim, causing final setoff by default. Upon application filed with the department within fifteen days from the mailing of the notice of entitlement to a refund or rebate, the child support recovery unit, the foster care recovery unit, or the office of investigations shall grant a hearing pursuant to chapter 17A. An appeal taken from the decision of a hearing officer an administrative law judge and subsequent appeals shall be taken pursuant to chapter 17A.

Sec. 26. Section 421.17, subsection 23, paragraph e, Code Supplement 1987, is amended to read as follows:

e. Upon notice of entitlement to a refund or rebate, the college aid commission shall send written notification to the defaulter, and a copy of the notice to the department of revenue and finance, of the commission's assertion of its rights to all or a portion of the defaulter's refund or rebate and the entitlement to recover the amount of the default through the setoff procedure, the basis of the assertion, the defaulter's opportunity to request that a joint income tax refund or rebate be divided between spouses, the defaulter's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing before a specified date will result in a waiver of the opportunity to contest the claim, causing final setoff by default. Upon application, the commission shall grant a hearing pursuant to chapter 17A. An appeal taken from the decision of a hearing officer an administrative law judge and any subsequent appeals shall be taken pursuant to chapter 17A.

Sec. 27. Section 601A.15, subsection 3, paragraphs a, b, and c, Code 1987, are amended to read as follows:

a. After the filing of a verified complaint, a true copy shall be served within twenty days by certified mail on the person against whom the complaint is filed. An authorized member of the commission staff shall make a prompt investigation and shall issue a recommendation to a hearing officer an administrative law judge under the jurisdiction of the commission, who shall then issue a determination of probable cause or no probable cause.

b. For purposes of this chapter, a hearing officer an administrative law judge issuing a determination of probable cause or no probable cause under this section shall be is exempt from the provisions of section 17A.17.

c. If the hearing officer administrative law judge concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the hearing officer administrative law judge finds that no probable cause exists, the hearing officer administrative law judge shall issue a final order dismissing the complaint and shall promptly mail a copy to the complainant and to the respondent by certified mail. A finding of probable cause shall not be introduced into evidence in an action brought under section 601A.16.

Sec. 28. Section 601A.15, subsection 5, Code 1987, is amended to read as follows:

5. When the director is satisfied that further endeavor to settle a complaint by conference, conciliation, and persuasion is unworkable and should be bypassed, and the thirty-day period

provided for in subsection 3 has expired without agreement, the director with the approval of a commissioner, shall issue and cause to be served a written notice specifying the charges in the complaint as they may have been amended and the reasons for bypassing conciliation, if the conciliation is bypassed, and requiring the respondent to answer the charges of the complaint at a hearing before the commission, a commissioner, or a person designated by the commission to conduct the hearing, hereafter referred to as the hearing officer administrative law judge, and at a time and place to be specified in the notice.

Sec. 29. Section 601A.16, subsection 2, Code 1987, is amended to read as follows:

2. Upon a request by the complainant, and after the expiration of one hundred twenty days from the timely filing of a complaint with the commission, the commission shall issue to the complainant a release stating that the complainant has a right to commence an action in the district court. A release under this subsection shall not be issued if a finding of no probable cause has been made on the complaint by the hearing officer administrative law judge charged with that duty under section 601A.15, subsection 3, or a conciliation agreement has been executed under section 601A.15, or the commission has served notice of hearing upon the respondent pursuant to section 601A.15, subsection 5.

Sec. 30. Section 602.9206, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A senior judge also shall be available to serve in the capacity of administrative hearing officer law judge under chapter 17A upon the request of an agency, and the supreme court may assign a senior judge for temporary duties as a hearing officer an administrative law judge. A senior judge shall not be required to serve a period of time as a hearing officer an administrative law judge which, when added to the period of time being served by the person as a judge, if any, would exceed the maximum period of time the person agreed to serve pursuant to section 602.9203, subsection 2.

Sec. 31. Section 903A.1, Code 1987, is amended to read as follows:

903A.1 CONDUCT REVIEW.

The director of the Iowa department of corrections shall appoint independent hearing officers administrative law judges whose duties shall include but are not be limited to review, as provided in section 903A.3, of the conduct of inmates in institutions under the department.

Sec. 32. Section 903A.3, subsections 1 and 2, Code 1987, are amended to read as follows:

1. Upon finding that an inmate has violated an institutional rule, the independent hearing officer administrative law judge may order forfeiture of any or all good conduct time earned and not forfeited up to the date of the violation by the inmate. The independent hearing officer administrative law judge has discretion within the guidelines established pursuant to section 903A.4, to determine the amount of time that should be forfeited based upon the severity of the violation. Prior violations by the inmate may be considered by the hearing officer administrative law judge in the decision.

2. The orders of the hearing officer administrative law judge 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, 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.

Approved April 26, 1988

CHAPTER 1110**COSMETOLOGISTS AND BARBERS***H.F. 431*

AN ACT relating to the education, practice, and supervision of cosmetologists and barbers.

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

Section 1. Section 157.10, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The A barber licensed under chapter 158 who enrolls in a school of cosmetology shall be granted five hundred twenty-five one thousand fifty hours credit toward the two thousand one hundred hour requirement, and the ten-month period shall does not apply. A person who has been a student in a barber school licensed under chapter 158 may enroll in a school of cosmetology and, at the option of the school of cosmetology, be granted a credit of one hour for every two hours the student attended at the barber school, up to a maximum credit of one thousand fifty hours.

Sec. 2. Section 157.12, Code 1987, is amended to read as follows:

157.12 SUPERVISORS OF COSMETOLOGISTS.

Persons A person who directly supervise supervises the work of cosmetologists shall be licensed cosmetologists either a cosmetologist licensed under this chapter or a barber licensed under section 158.3.

Sec. 3. Section 157.13, subsection 1, Code 1987, is amended to read as follows:

1. It is unlawful for ~~any~~ a person to employ an individual to practice cosmetology unless that individual is a licensed cosmetologist or has obtained a temporary permit. It is unlawful for a licensed cosmetologist to practice cosmetology with or without compensation in any place other than a licensed beauty salon ~~or~~, a licensed school of cosmetology, or a licensed barber-shop as defined in section 158.1 which has also been licensed as a beauty salon, except that a licensed cosmetologist may practice cosmetology at a location which is not a licensed beauty salon or school of cosmetology under extenuating circumstances arising from physical or mental disability or death of a customer. It is unlawful for a licensed cosmetologist to claim to be a licensed barber, but it is lawful for a licensed cosmetologist to work in a licensed barber-shop if the same premises are also licensed as a beauty salon.

Sec. 4. Section 158.8, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A cosmetologist licensed under section 157.3 who enrolls in a barber school shall be granted five hundred twenty-five one thousand fifty hours credit toward the two thousand one hundred hour requirement, and the ten-month period shall does not apply. A person who has been a student in a school of cosmetology licensed under chapter 157 may enroll in a barber school and, at the option of the barber school, be granted a credit of one hour for every two hours the student attended at the school of cosmetology, up to a maximum credit of one thousand fifty hours.

Sec. 5. Section 158.10, Code 1987, is amended to read as follows:

158.10 SUPERVISORS OF BARBERS.

Persons A person who directly supervise supervises the work of barbers shall be licensed barbers either a barber licensed under this chapter or a cosmetologist licensed under section 157.3.

Sec. 6. Section 158.13, subsection 1, Code 1987, is amended to read as follows:

1. It is unlawful for ~~any~~ a person to employ an individual to practice barbering unless that individual is a licensed barber or has obtained a temporary permit. It is unlawful for a licensed barber to practice barbering with or without compensation in any place other than a licensed

barbershop or, a barber school, or a licensed beauty salon as defined in section 157.1 which has also been licensed as a barbershop, except that a licensed barber may practice barbering at a location which is not a licensed barbershop or barber school under extenuating circumstances arising from physical or mental disability or death of a customer. It is unlawful for a licensed barber to claim to be a licensed cosmetologist, but it is lawful for a licensed barber to work in a licensed beauty salon if the same premises are also licensed as a barbershop.

Approved April 26, 1988

CHAPTER 1111

NONTRADITIONAL INSURANCE ARRANGEMENT REGULATION

H.F. 2303

AN ACT relating to nontraditional insurance arrangements by prohibiting the incorporation or reincorporation of a benevolent association, providing for the regulation of risk retention groups and purchasing groups, increasing surplus requirements for reciprocal insurers and repealing an exemption to the applicability of state law to certain reciprocal insurance contracts, and providing penalties.

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

Section 1. NEW SECTION. 512A.9 INCORPORATION OF BENEVOLENT ASSOCIATIONS PROHIBITED.

Notwithstanding any provision of this chapter to the contrary, a benevolent association shall not be incorporated or reincorporated in this state on or after July 1, 1988. A benevolent association incorporated before July 1, 1988, continues to be subject to the provisions of this chapter.

Sec. 2. NEW SECTION. 515E.1 PURPOSE.

The purpose of this chapter is to regulate the formation and operation in this state of risk retention groups formed pursuant to the Product Liability Risk Retention Act of 1981, 15 U.S.C. § 3901 et seq., or the Risk Retention Amendments of 1986, Pub. L. No. 99-563. As used in this chapter, "federal Act" means the Product Liability Risk Retention Act of 1981 as amended.

Sec. 3. NEW SECTION. 515E.2 DEFINITIONS.

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

1. "Commissioner" means the commissioner of insurance or the commissioner, director, superintendent of insurance, or similar public official, in any other state.

2. "Completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by either of the following:

a. A person who performs that work.

b. A person who hires an independent contractor to perform that work.

However, liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability is included.

3. "Domicile", for purposes of determining the state in which a purchasing group is domiciled, means either of the following:

a. For a corporation, the state in which the purchasing group is incorporated.

b. For an unincorporated entity, the state of its principal place of business.

4. "Hazardous financial condition" means a risk retention group not yet financially impaired or insolvent, which, based on its present or reasonably anticipated financial condition, is unlikely to be able to do one of the following:

a. Meet obligations to policyholders with respect to known claims and reasonably anticipated claims.

b. Pay other obligations in the normal course of business.

5. "Insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of this state.

6. "Liability" means legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses, because of injuries to other persons, damage to their property, or other damage or loss to other persons resulting from or arising out of either of the following:

a. A business, whether profit or nonprofit, trade, product, services, including professional services, premises, or operations.

b. An activity of a state or local government, or an agency or political subdivision of state or local government.

"Liability" does not include personal risk liability and an employer's liability with respect to its employees other than an employer's legal liability under the federal Employers' Liability Act, 45 U.S.C. § 51 et seq.

7. "Personal risk liability" means liability for damages because of injury to a person, damage to property, or other loss or damage resulting from personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in subsection 6, paragraphs "a" and "b".

8. "Plan of operation or a feasibility study" means an analysis which presents the expected activities and results of a risk retention group including, at a minimum, all of the following:

a. Information sufficient to verify that its members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations.

b. For each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer.

c. Historical and expected loss experience of the proposed members and national experience of similar exposures.

d. Pro forma financial statements and projections.

e. Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition.

f. Identification of management, underwriting and claim procedures, marketing methods, managerial oversight methods, investment policies, and reinsurance agreements.

g. Identification of each state in which the risk retention group has obtained, or sought to obtain, a charter and license, and a description of its status in each such state.

h. Other matters prescribed by the commissioner for liability insurance companies of the state in which the risk retention group is chartered or authorized by its insurance laws.

9. "Product liability" means liability for damages because of personal injury, death, emotional harm, consequential economic damage, or property damage, including damages resulting from the loss of use of property, arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability of a person for those damages if the product involved was in the possession of the person when the incident giving rise to the claim occurred.

10. "Purchasing group" means a group to which all of the following apply:

a. It has as one of its purposes the purchase of liability insurance on a group basis.

b. It purchases such insurance only for its group members and only to cover their similar or related liability exposure, as described in paragraph "c".

c. It is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations.

d. It is domiciled in any state.

11. "Risk retention group" means a corporation or other limited liability association formed under the laws of any state, Bermuda, or the Cayman Islands and to which all of the following apply:

a. Its primary activity consists of assuming and spreading all, or any portion, of the liability exposure of its group members.

b. It is organized for the primary purpose of conducting the activity described under paragraph "a".

c. One of the following applies:

(1) It is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state.

(2) Before January 1, 1985, it was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before that date, had certified to the commissioner of at least one state that it satisfied the capitalization requirements of that state, except that any such group is a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability, as those terms were defined in the Product Liability Risk Retention Act of 1981, 15 U.S.C. § 3901, before the date of the enactment of the Risk Retention Amendments of 1986, Pub. L. No. 99-563.

d. It does not exclude any person from membership in the group solely to provide for members of the group a competitive advantage over such a person.

e. One of the following applies:

(1) It has as its members only persons who have an ownership interest in the group, and as its owners only persons who are members and are provided insurance by the risk retention group.

(2) It has as its sole member and sole owner an organization which is owned by persons who are provided insurance by the risk retention group.

(3) It has as its sole owner an organization which has as its members only persons who comprise the membership of the risk retention group, and the organization members are the only persons who comprise the membership of the risk retention group and who are provided insurance by the group.

f. Its members are engaged in businesses or activities similar or related with respect to the liability to which the members are exposed by virtue of a related, similar, or common business trade, product, services, premises, or operations.

g. Its activities do not include the provision of insurance other than the following:

(1) Liability insurance for assuming and spreading all or any portion of the liability of its group members.

(2) Reinsurance with respect to the liability of any other risk retention group, or any members of another such group, which is engaged in businesses or activities so that the group or member meets the requirement described in paragraph "f" from membership in the risk retention group which provides the reinsurance.

h. Its name includes the phrase "risk retention group".

12. "State" means a state of the United States or the District of Columbia.

Sec. 4. NEW SECTION. 515E.3 RISK RETENTION GROUPS ORGANIZED IN THIS STATE.

To be organized as a risk retention group in this state, the group must be organized and licensed as a liability insurance company authorized by the insurance laws of this state. Except as provided elsewhere in this chapter, a risk retention group organized in this state must comply with all of the laws, rules, and requirements applicable to liability insurers organized in this state. Additionally, a risk retention group organized in this state must comply with section 515E.4. These requirements do not exempt risk retention groups from a duty imposed by any other law or rule of the state. Before it may offer insurance in any state, each risk retention group shall also submit for approval to the commissioner of insurance of this state a plan of operation or a feasibility study, and revisions of the plan or study within ten days of any change. The name under which a risk retention group may be chartered and licensed shall be a brief description of its membership followed by the phrase "risk retention group" and, unless its membership consists solely of insurers, shall not include the terms "insurance", "mutual", "reciprocal", or any similar term.

Sec. 5. NEW SECTION. 515E.4 RISK RETENTION GROUPS NOT ORGANIZED IN THIS STATE.

Risk retention groups chartered in other states and seeking to do business as a risk retention group in this state must observe and abide by the laws of this state as provided in this section.

However, a risk retention group failing to qualify under the definitional requirement of the federal Act, will not benefit from this exemption from state law. The commissioner, therefore, may apply any of the laws that otherwise may be preempted by the federal Act because the nonexempt group will not qualify for the preemption.

1. NOTICE OF OPERATIONS AND DESIGNATION OF COMMISSIONER AS AGENT. Before offering insurance in this state, a risk retention group shall submit to the commissioner all of the following:

a. A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and other information, including information on its membership, as the commissioner of this state requires to verify that the risk retention group is qualified under section 515E.2, subsection 11.

b. A copy of its plan of operations or a feasibility study and revisions of the plan or study submitted to its state of domicile. However, the provision relating to the submission of a plan of operation or a feasibility study does not apply with respect to a line or classification of liability insurance which was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and was offered before that date by a risk retention group which had been organized and operating for not less than three years before that date.

c. A statement of registration which designates the commissioner as its agent for the purpose of receiving service of legal documents or process for which a filing fee set by the commissioner shall be paid.

d. The risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required by section 515E.3 at the same time that such revision is submitted to the commissioner of its chartering state.

2. FINANCIAL CONDITION. A risk retention group doing business in this state shall submit to the commissioner all of the following:

a. A copy of the group's financial statement submitted to its state of domicile, which shall be certified by an independent public accountant and contain a statement of opinion on loss

and loss adjustment expense reserves made by a member of the American academy of actuaries or a qualified loss reserve specialist under criteria established by the national association of insurance commissioners.

b. A copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination.

c. Upon request by the commissioner, a copy of any audit performed with respect to the risk retention group.

d. Information required to verify its continuing qualification as a risk retention group under section 515E.2, subsection 11.

3. TAXATION.

a. Premiums paid for coverages within this state to risk retention groups are subject to taxation as provided in section 432.5.

b. To the extent agents or brokers are used, they shall report and pay the taxes for the premiums for risks which they have placed with or on behalf of a risk retention group not chartered in this state.

c. To the extent agents or brokers are not used or fail to pay the tax, each risk retention group shall pay the tax for risks insured within the state. Each risk retention group shall report all premiums paid to it for risks insured within the state.

4. COMPLIANCE WITH UNFAIR CLAIMS SETTLEMENT PRACTICES LAW. A risk retention group, its agents, and representatives, shall comply with the unfair claims settlement practices law in section 507B.4, subsection 9.

5. DECEPTIVE, FALSE, OR FRAUDULENT PRACTICES. A risk retention group shall comply with sections 507B.3 and 507B.4 regarding deceptive, false, or fraudulent acts or practices. However, if the commissioner seeks an injunction regarding such conduct, the injunction must be obtained from a court of competent jurisdiction.

6. EXAMINATION REGARDING FINANCIAL CONDITION. A risk retention group shall submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered has not initiated an examination or does not initiate an examination within sixty days after a request by the commissioner of this state. Any such examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the national association of insurance commissioners' examiner handbook.

7. NOTICE TO PURCHASERS. Every application form for insurance from a risk retention agency and every policy issued by a risk retention group shall contain in ten-point type on the front page and the declaration page, the following notice:

NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group.

8. PROHIBITED ACTS REGARDING SOLICITATION OR SALE. The following acts by a risk retention group are prohibited:

a. The solicitation or sale of insurance by a risk retention group to a person who is not eligible for membership in the group.

b. The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired.

9. PROHIBITION AGAINST OWNERSHIP BY AN INSURANCE COMPANY. A risk retention group shall not be allowed to do business in this state if an insurance company is directly or indirectly a member or owner of the risk retention group, other than in the case of a risk retention group all of whose members are insurance companies.

10. **PROHIBITED COVERAGE.** A risk retention group shall not offer insurance policy coverage prohibited by law or declared unlawful by the highest court of this state.

11. **DELINQUENCY PROCEEDINGS.** A risk retention group not chartered in this state and doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state insurance commissioner if there has been a finding of financial impairment after an examination under subsection 6.

Sec. 6. **NEW SECTION. 515E.5 COMPULSORY ASSOCIATIONS.**

A risk retention group shall not join or contribute financially to an insurance insolvency guaranty fund, or similar mechanism, in this state, nor shall a risk retention group, or its insureds, receive any benefit from an insurance insolvency guaranty fund, or similar mechanism, in this state, for claims arising out of the operations of the risk retention group.

Sec. 7. **NEW SECTION. 515E.6 COUNTERSIGNATURES NOT REQUIRED.**

A policy of insurance issued to a risk retention group or a member of that group is not required to be countersigned as otherwise provided in sections 515.22 and 515.52.

Sec. 8. **NEW SECTION. 515E.7 PURCHASING GROUPS EXEMPTIONS.**

A purchasing group which meets the criteria established under the federal Act is exempt from any law of this state relating to the creation of groups for the purchase of insurance, the prohibition of group purchasing, the countersignature requirement as provided in sections 515.22 and 515.52, or any law that would discriminate against a purchasing group or its members. An insurer is exempt from any law of this state which prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters. A purchasing group is subject to all other applicable laws.

Sec. 9. **NEW SECTION. 515E.8 PURCHASING GROUPS — REQUIREMENTS.**

1. A purchasing group which intends to do business in this state shall, prior to doing business, furnish notice to the commissioner which notice shall include all of the following:

- a. The state in which the group is domiciled and all states in which the group does or intends to do business.
- b. The lines and classifications of liability insurance which the purchasing group intends to purchase.
- c. The insurance company from which the group intends to purchase its insurance and the domicile of that company.
- d. The principal place of business of the group.
- e. The method by which, and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in this state.
- f. Other information as required by the commissioner to verify that the purchasing group is qualified under section 515E.2, subsection 10.

2. A purchasing group, within ten days of any changes in any of the items set forth in subsection 1, shall notify the commissioner of the changes.

3. The purchasing group shall register with and designate the commissioner as its agent solely for the purpose of receiving service of legal documents or process, for which a filing fee determined by the commissioner shall be paid, except that the requirements do not apply in the case of a purchasing group to which all of the following apply:

- a. It was domiciled before April 2, 1986 and is domiciled on and after October 27, 1986, in any state of the United States.
- b. Before and since October 27, 1986, it purchased insurance from an insurance carrier licensed in any state.

c. It was a purchasing group under the requirements of the Product Liability* Retention Act of 1981 before October 27, 1986.

d. It does not purchase insurance that was not authorized for purposes of an exemption under that Act, as in effect before October 27, 1986.

Sec. 10. NEW SECTION. 515E.9 PURCHASING GROUP RESTRICTIONS.

A purchasing group shall not purchase insurance from a risk retention group or from an insurer unless one or more of the following conditions apply:

1. The risk retention group is licensed or organized in a state in which the purchasing group is located.

2. The insurer is admitted in the state in which the purchasing group is located.

3. The purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and rules of the state in which the purchasing group is located, regardless of whether the insurer is admitted in that state or the risk retention group is licensed or organized in that state.

4. A purchasing group which obtains liability insurance from an insurer not admitted in this state or a risk retention group shall inform each of the members of the group, which have a risk resident or located in this state, that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state. A purchasing group shall not purchase insurance providing for a deductible or self-insured retention, unless the deductible or self-insured retention is applicable to individual members of the purchasing group.

Sec. 11. NEW SECTION. 515E.10 COMMISSIONER'S ADMINISTRATIVE AND PROCEDURAL AUTHORITY.

The commissioner may make use of any of the powers established under the laws of this state to enforce the laws of this state so long as those powers are not specifically preempted by the federal Act, including but not limited to, the commissioner's authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, impose penalties, and seek injunctive relief. With regard to an investigation, administrative proceeding, or litigation, the commissioner may rely on the procedural law and rules of the state.

Sec. 12. NEW SECTION. 515E.11 PENALTIES.

A risk retention group which violates a provision of this chapter is subject to fines and penalties applicable to licensed insurers generally, including revocation of the group's license and of the right to do business in this state.

Sec. 13. NEW SECTION. 515E.12 LICENSE REQUIRED FOR AGENTS AND BROKERS.

A person acting, or offering to act, as an agent or broker for a risk retention group or purchasing group, which solicits members, sells or procures insurance coverage, purchases coverage for its members located within the state, or otherwise does business in this state shall, before commencing any such activity, obtain a license from the commissioner.

Sec. 14. NEW SECTION. 515E.13 EFFECT OF FEDERAL DISTRICT COURT ORDERS.

An order issued by a district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating, in any state, or in all states, or in any territory or possession of the United States, upon a finding that such a group is in a hazardous or impaired financial condition, is enforceable in the courts of this state.

Sec. 15. NEW SECTION. 515E.14 RULES.

The commissioner may establish and from time to time amend rules relating to risk retention groups as necessary or desirable to carry out the provisions of this chapter.

*"Risk" Retention Act probably intended.

Sec. 16. Section 520.9, Code 1987, is amended to read as follows:
520.9 STANDARD OF SOLVENCY.

There shall at all times be maintained as assets a sum in cash, or in securities of the kind designated by the laws of the state where the principal office is located for the investment of funds of insurance companies, equal to one hundred percent of the net unearned premiums or deposits collected and credited to the account of subscribers, or assets equal to fifty percent of the net annual deposits collected and credited to the account of subscribers on policies having one year or less to run and pro rata on those for longer periods; in addition to which there shall be maintained in cash, or in such securities, assets sufficient to discharge all liabilities on all outstanding losses arising under policies issued, the same to be calculated in accordance with the laws of the state relating to similar reserves for companies insuring similar risks; provided that where the assets on hand available for the payment of losses other than determined losses, ~~shall do not equal three hundred thousand two million~~ dollars, all liability for each determined loss or claim deferred for more than one year, shall be provided for by a special deposit in a trust company or bank having fiduciary powers of the state in which the principal office is located, to be used in payment of compensation benefits for disability; such deposit to be a trust fund and applicable only to the purposes stated, or such liability may be reinsured in authorized companies with a surplus of at least ~~three hundred thousand two million~~ dollars. For the purpose of ~~said such~~ reserves, net deposits shall be construed to mean the advance payments of subscribers after deducting ~~therefrom~~ the amount specifically provided in the subscribers' agreements for expenses. If at any time the assets so held in cash or such securities shall be less than required above, or less than ~~three hundred thousand two million~~ dollars, the subscribers or their attorney for them shall make up the deficiency within ~~thirty~~ days after notice from the commissioner of insurance ~~so to do so~~. In computing the assets required by this section, the amount specified in ~~subsection 7, section 520.4, subsection 7,~~ shall be included.

Sec. 17. NEW SECTION. 520.9A SOLVENCY STANDARD — TRANSITION.

Notwithstanding section 520.9, a reciprocal or interinsurance insurer authorized to transact business in this state prior to July 1, 1988, may continue in operation provided that the insurer contributes an additional ten percent of the previous year ending capital and surplus to capital and surplus each year. If an insurer fails to contribute the additional ten percent, the commissioner of insurance may revoke the insurer's authorization to do business in this state. The insurance commissioner may waive this requirement for just cause shown.

Sec. 18. Section 520.22, Code 1987, is repealed.

Approved April 26, 1988

CHAPTER 1112

INSURANCE INDUSTRY REGULATION

H.F. 2307

AN ACT relating to the regulation of the state's insurance industry and the administration of the insurance division of the department of commerce.

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

DIVISION I

Section 101. Section 505.12, Code 1987, is amended to read as follows:

505.12 LIFE INSURANCE — ANNUAL REPORT.

Before the first day of ~~August~~ September the commissioner of insurance shall make an annual report to the governor of the general conduct and condition of the life insurance companies doing business in the state, and include therein an aggregate of the estimated value of all outstanding policies in each of the companies; and in connection therewith prepare a separate abstract thereof as to each company, and of all the returns and statements made to the commissioner by them.

Sec. 102. Section 505.13, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The commissioner shall annually cause the preparation and printing of a report to be delivered to the governor. The report shall contain information from the statements required of insurance companies, other than life insurance companies, organized or doing business in the state. The reports shall be delivered on or before the first day of ~~August~~ September each year.

Sec. 103. Section 508.13, Code 1987, is amended to read as follows:

508.13 ANNUAL CERTIFICATE OF AUTHORITY.

On receipt of the deposit provided in section 511.8, subsection 16, and the statement, and the statement and evidence of investment of foreign companies, all of which shall be renewed annually, by the first day of March, the commissioner of insurance shall issue a certificate setting forth the corporate name of the company, its home office, that it has fully complied with the laws of the state and is authorized to transact the business of life insurance for the ensuing year, which certificate shall expire on the first day of ~~May~~ June of the ensuing year, or sooner upon thirty days' notice given by the commissioner, of the next annual valuation of its policies. Such certificate shall be renewed annually, upon the renewal of the deposit and statement by a domestic company, or of the statement and evidence of investment by a foreign company, and compliance with the conditions above required, and be subject to revocation as the original certificate.

Sec. 104. **NEW SECTION.** 509A.15 CERTIFICATION OF SELF-INSURANCE PLANS.

1. Within thirty days following the end of a self-insurance plan's fiscal year, the governing body shall file with the commissioner of insurance a certificate of compliance. The certificate of compliance shall be accompanied by a filing fee of one hundred dollars. The certificate shall be signed and dated by the appropriate public official representing the governing body, and shall certify the following:

a. That the plan meets the requirements of this chapter and the applicable provisions of the Iowa administrative code.

b. That an actuarial opinion has been attached to the certificate which attests to the adequacy of reserves, rates, and financial condition of the plan. The actuarial opinion shall be issued by a fellow of the society of actuaries.

c. That a written complaint procedure has been implemented. The certificate shall also list the number of complaints filed by participants under the written complaint procedure, and

the percentage of participants filing written complaints, in the prior fiscal year.

d. That the governing body has contracted or otherwise arranged with a third party for plan administration.

2. The commissioner shall by rule require the maintenance of confidentiality of information held by the plan administrator.

3. The failure of the governing body to provide the certificate of compliance required by subsection 1, or the failure of the governing body or plan administrator to abide by a requirement of the plan, this chapter, or applicable rule, is grounds for action against the plan, including cause for disapproval or discontinuance of the plan.

Sec. 105. Section 512.29, Code 1987, is amended to read as follows:

512.29 CERTIFICATE OF AUTHORITY — FEES.

If the commissioner shall approve the articles and also the bylaws or rules, the commissioner shall issue to the society, order, or association a certificate of authority, authorizing it to transact business within this state for a period of one year from the first day of ~~May~~ June of the year of its issue, for which certificate and all proceedings in connection therewith, there shall be paid to the commissioner a fee of ~~twenty-five~~ one hundred dollars, and for each annual renewal thereof a like fee shall be paid.

Sec. 106. Section 512A.3, Code 1987, is amended to read as follows:

512A.3 INCORPORATION MANDATORY.

Before a benevolent association shall operate in this state it shall first incorporate in accordance with the laws of this state, and the articles of incorporation and bylaws shall be submitted to the commissioner. If the commissioner finds they conform to the requirements of the law and all rules and regulations promulgated under this chapter, the commissioner shall approve the articles of incorporation and file them with the secretary of state. Every benevolent association at the time of its incorporation shall submit its general plan of operation to the commissioner and if the commissioner finds it conforms to the requirements of the law and all reasonable rules and regulations promulgated under this chapter, the commissioner shall issue a license to expire on the first day of ~~May~~ June after issuance. ~~Said~~ The license shall be renewed from year to year upon application of the association, if the commissioner finds from examination that it has conformed to the requirements of all laws and regulations applicable thereto.

Sec. 107. Section 515.42, Code 1987, is amended to read as follows:

515.42 TENURE OF CERTIFICATE — RENEWAL — EVIDENCE.

Such certificate of authority shall expire on the first day of ~~May~~ June next succeeding its issue, and shall be renewed annually so long as such company shall transact business in accordance with the requirements of law; a copy of which certificate, when certified to by the commissioner of insurance, shall be admissible in evidence for or against a company with the same effect as the original.

Sec. 108. Section 518.15, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Such associations shall pay the same expenses of any examination made or ordered to be made by the commissioner of insurance and the same fees for the annual reports and annual certificates of authority as are required to be paid by domestic companies organized and doing business under chapter 515, which certificates shall expire ~~May~~ June 1 of the year following the date of issue.

Sec. 109. Section 519.9, Code 1987, is amended to read as follows:

519.9 FEES.

Such a mutual insurance corporation shall pay the same fees for admission into the state, for annual reports, and for annual certificates of authority as are required to be paid by domestic mutual companies organized and doing business under chapter 515; such certificate shall expire ~~May~~ June 1 of the year following the date of its issue.

Sec. 110. Section 520.12, Code 1987, is amended to read as follows:

520.12 CERTIFICATE OF AUTHORITY.

Upon compliance with the requirements of this chapter, the commissioner of insurance shall issue a certificate of authority or a license to the attorney, authorizing the attorney to make such contracts of insurance, which license shall specify the kind or kinds of insurance and shall contain the name of the attorney, the location of the principal office and the name or designation under which such contracts of insurance are issued. ~~Such license shall be renewed annually upon a showing that the standard of solvency required herein has been maintained, and that all fees and taxes required have been paid~~ The certificate of authority shall expire on the first day of June next succeeding its issue, and shall be renewed annually as long as the company transacts business in accordance with the requirements of law.

DIVISION II

Sec. 201. Section 87.4, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A self-insurance association formed under this section and an association comprised of cities or counties, or both, which enters have entered into an agreement under chapter 28E for the purpose of establishing a self-insured group plan program for the payment of workers' compensation and benefits are exempt from taxation under section 432.1.

Sec. 202. Section 87.4, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A self-insured program for the payment of workers' compensation benefits established by an association comprised of cities and counties, or both, which have entered into an agreement under chapter 28E, is not insurance, and is not subject to regulation under chapters 505 through 523C. Membership in such an association together with payment of premiums due relieves the member from obtaining insurance as required in section 87.1. Such an association is not required to submit its plan or program to the commissioner of insurance for review and approval prior to its implementation and is not subject to rules or rates adopted by the commissioner relating to workers' compensation group self-insurance programs. Such a program is deemed to be in compliance with this chapter.

Sec. 203. Section 508C.11, subsection 1, paragraph c, Code Supplement 1987, is amended to read as follows:

c. In a liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. ~~If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the commissioner shall be appointed conservator.~~

Sec. 204. Section 508C.12, subsection 1, paragraph b, Code Supplement 1987, is amended to read as follows:

b. Report to the board of directors when the commissioner has taken any of the actions set forth in paragraph "a" or has received a report from any other commissioner indicating that any such action has been taken in another state a member insurer is impaired or insolvent. Reports to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.

Sec. 205. Section 511.8, subsection 10, paragraph a, Code Supplement 1987, is amended to read as follows:

a. Real estate in this state 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 buildings for such purposes, there may be added rooms for rent. Before the company or association invests any of its funds in accordance with this paragraph it shall first obtain the consent of the ~~executive council of this state~~ commissioner. The maximum amount which a company or association shall be permitted to invest in accordance with these provisions shall not exceed ten percent of the legal reserve. However, a stock company may invest such portion of its paid-up capital, in addition to ten percent of the legal reserve, as is not held to constitute a part of its legal reserve, under section 508.36, and the total legal reserve of the company shall be equal to or exceed the amount of its paid-up capital stock.

Sec. 206. Section 511.24, subsection 6, Code 1987, is amended by striking the subsection.

Sec. 207.

1. Chapter 510, Code 1987, is repealed.
2. Sections 507.5 and 515.43, Code 1987, are repealed.

DIVISION III

Sec. 301. Section 507.1, Code 1987, is amended to read as follows:

507.1 "COMPANY" DEFINED.

The word "company" as As used in this chapter, shall mean "company" means all companies or associations organized under the provisions of chapters 508, 511, 512, 512A, 514, 514B, 515, 515C, 518A, associations subject to the provisions of chapters 518 and 520, and all companies or associations admitted or seeking to be admitted to this state under the provisions of any of the chapters herein referred to.

Sec. 302. Section 507.8, Code 1987, is amended to read as follows:

507.8 PAYMENT BY COMPANY.

The commissioner shall upon the completion of an examination, or at such regular intervals prior to completion as the commissioner determines, prepare an account of the costs incurred in performing and preparing the report of such examinations which shall be charged to and paid by the companies examined, and upon failure or refusal of any company examined to pay such bill or bills, the same may be recovered in an action brought in the name of the state under the direction of the executive council, and the commissioner may also revoke the certificate of authority of such company to transact business within this state.

Sec. 303. Section 511.24, subsection 5, Code 1987, is amended to read as follows:

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

Sec. 304. Section 515.128, subsection 5, Code 1987, is amended to read as follows:

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

Sec. 305. Section 520.19, Code 1987, is amended to read as follows:

520.19 ANNUAL TAX — FEES.

In lieu of all other taxes, licenses, charges, and fees whatsoever, such attorney shall pay annually to the director of the department of revenue and finance, or a depository designated by the director of the department of revenue and finance, on account of the transaction of such business in this state, pay to the commissioner the same fees as are paid by mutual companies

transacting the same kind of business, and an annual tax of two percent, if a domestic reciprocal organization, and two percent, if a foreign reciprocal organization, calculated upon the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, after deducting therefrom returns, or cancellations, and all amounts returned to subscribers or credited to their accounts as savings, and the amount returned upon canceled policies and rejected applications covering property situated or on business done within this state.

DIVISION IV

Sec. 401. Section 515.11, Code 1987, is amended to read as follows:

515.11 PROHIBITED LOANS.

No part of the capital referred to shall be directly or indirectly loaned to any officer, ~~or director~~, stockholder, or employee of the company or to a relative of any officer or director of the company.

Sec. 402. Section 515.35, subsection 4, paragraph n, subparagraph (1), Code 1987, is amended to read as follows:

(1) A company organized under this chapter may invest up to ~~one~~ two percent of its admitted assets in securities or property of any kind, without restrictions or limitations except those imposed on business corporations in general.

Sec. 403. Section 515.49, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

515.49 LIMITATION ON RISKS.

A company shall not expose itself to loss on any one risk or hazard to an amount exceeding ten percent of its surplus to policyholders unless one of the following applies:

1. The excess is reinsured in some other good and reliable company licensed to sell insurance in this state.
2. The excess is reinsured by a group of individual unincorporated insurers who are authorized to sell insurance in at least one state of the United States and who possess assets which are held in trust for the benefit of the American policyholders in the sum of not less than fifty million dollars, and a certificate of such reinsurance shall be furnished to the insured.
3. The excess is reinsured with a company which has, with respect to the ceding insurer, created a trust fund, made a deposit, or obtained letters of credit, on terms satisfactory to the commissioner.

Sec. 404. Section 515.80, Code Supplement 1987, is amended by striking the section and inserting in lieu thereof the following:

515.80 FORFEITURE OF POLICIES — NOTICE.

No policy or contract of insurance, unless otherwise provided in section 515.81A or 515.81B, provided for in this chapter shall be forfeited, suspended, or canceled for nonpayment of any premium, assessment, or installment provided for in the policy, or in any note or contract for the payment thereof, unless within thirty days prior to, or on or after the maturity thereof, the company serves notice in writing upon the insured that the premium, assessment, or installment is due or to become due, stating the amount, and the amount necessary to pay the customary short rates, up to the time fixed in the notice when the insurance will be suspended, forfeited, or canceled, which shall not be less than thirty days after service of the notice, which may be made in person, or by sending by certified mail a letter addressed to the insured at the insured's post office as given in or upon the policy, anything in the policy, application, or a separate agreement to the contrary notwithstanding. A post office department receipt of certified mailing shall be proof of receipt of the registered mailing. However, notice of cancellation of a workers' compensation policy due to nonpayment of the premium may be made in person, or by mail, as otherwise provided, but need not be served by certified mail.

Sec. 405. Section 515.81, Code Supplement 1987, is amended by striking the section and inserting in lieu thereof the following:

515.81 CANCELLATION OF POLICY — NOTICE TO INSURED OR MORTGAGEE.

Unless otherwise provided in section 515.81A or 515.81B, at any time after the maturity of a premium, assessment, or installment provided for in the policy, or any note or contract for the payment thereof, or after the suspension, forfeiture, or cancellation of any policy or contract of insurance, the insured may pay to the company the customary short rates and costs of action, if one has been commenced or judgment rendered thereon, and may, if the insured so elects, have the policy and all contracts or obligations connected therewith, whether in judgment or otherwise, canceled, and all such policy and contracts shall be void; and in case of suspension, forfeiture, or cancellation of any policy or contract of insurance, the insured shall not be liable for any greater amount than the short rates earned at the date of such suspension, forfeiture, or cancellation and the costs of action provided for in this section. The policy may be canceled by the insurance company by service of notice in writing upon the insured which notice shall fix the date of cancellation which shall be not less than ten days after service of the notice. The service of notice may be made in person, or by mailing the notice to the insured at the insured's post office address as given in or upon the policy, or to another address given to the company in writing by the insured. A post office department receipt of certified or registered mailing shall be deemed proof of receipt of the notice. If the policy is canceled by the insurance company, the insurer may retain only the pro rata premium, and if the initial cash premium, or any part thereof, has not been paid, the policy may be canceled by the insurance company by giving notice to the insured and ten days' notice to the mortgagee, or other person to whom the policy is made payable, if any, without tendering any part or portion of the premium, anything to the contrary in the policy notwithstanding.

Sec. 406. NEW SECTION. 515.81A CANCELLATION OF COMMERCIAL LINES POLICIES OR CONTRACTS.

1. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, which has not been previously renewed may be canceled by the insurer if it has been in effect for less than sixty days at the time notice of cancellation is mailed or delivered.

2. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, which has been renewed or which has been in effect for more than sixty days shall not be canceled unless at least one of the following conditions occurs:

- a. Nonpayment of premium.
- b. Misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or contract, when renewing the policy or contract, or in presenting a claim under the policy or contract.
- c. Actions by the insured which substantially change or increase the risk insured.
- d. Determination by the commissioner that the continuation of the policy will jeopardize the insurer's solvency or will constitute a violation of the law of this or any other state.
- e. The insured has acted in a manner which the insured knew or should have known was in violation or breach of a policy or contract term or condition.

3. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, may be canceled at any time if the insurer loses reinsurance coverage which provides coverage to the insurer for a significant portion of the underlying risk insured and if the commissioner determines that cancellation because of loss of reinsurance coverage is justified. In determining whether a cancellation because of loss of reinsurance coverage is justified, the commissioner shall consider all of the following factors:

- a. The volatility of the premiums charged for reinsurance in the market.

- b. The number of reinsurers in the market.
- c. The variance in the premiums for reinsurance offered by the reinsurers in the market.
- d. The attempt by the insurer to obtain alternate reinsurance.
- e. Any other factors deemed necessary by the commissioner.

4. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, shall not be canceled except by notice to the insured as provided in this subsection. A notice of cancellation shall include the reason for cancellation of the policy or contract. A notice of cancellation is not effective unless mailed or delivered to the named insured and a loss payee at least ten days prior to the effective date of cancellation, or if the cancellation is because of loss of reinsurance, at least thirty days prior to the effective date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing; however, such a certificate of mailing is not required if cancellation is for nonpayment of premium.

Sec. 407. NEW SECTION. 515.81B NONRENEWAL OF COMMERCIAL LINES POLICIES OR CONTRACTS.

An insurer shall not fail to renew a commercial line policy or contract of insurance except by notice to the insured as provided in this section. Nonrenewal of a commercial line policy or contract includes a decision by the insurer not to renew the policy or contract, an increase in the premium of twenty-five percent or more, an increase in the deductible of twenty-five percent or more, or a material reduction in the limits or coverage of the policy or contract. However, a premium charge which is assessed after the beginning date of the policy period for which the premium is due shall not be deemed a premium increase for the purpose of this section.

A notice of nonrenewal is not effective unless mailed or delivered by the insurer to the named insured and any loss payee at least forty-five days prior to the expiration date of the policy. If the insurer fails to meet the notice requirements of this section, the insured has the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing.

This section applies to all forms of commercial property and casualty insurance written pursuant to this chapter. It does not apply if the insurer has offered to renew or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal.

DIVISION V

Sec. 501. Section 506.2, Code 1987, is amended to read as follows:

506.2 SALE OF SECURITIES RESTRICTED.

Neither the securities in an a domestic insurance company, nor securities in a holding company, one of the purposes of which is to organize, purchase, or otherwise acquire control of an a domestic insurance company, nor membership in an association in process of organization shall be sold or solicited until such company or association, and the promoters thereof, shall have first complied with all of the statutory provisions regulating the organization of such companies and associations, and also have secured from the commissioner of insurance a certificate indicating full compliance with the provisions of this chapter.

Sec. 502. Section 507C.20, Code Supplement 1987, is amended to read as follows:

507C.20 DISSOLUTION OR SALE 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. Notwithstanding the above, upon application by the commissioner and following notice as prescribed by the court and a hearing, the court may sell the corporation as an entity, together with any of its licenses to do business, despite the entry of an order of liquidation. The sale may be made on terms and conditions the court deems appropriate including, but not limited to, the placing of the proceeds of the sale of the corporate entity and licenses into a trust for the benefit of policyholders and creditors with proceeds to be distributed in the manner set forth in section 507C.42. However, the order approving the sale shall provide that the proceeds of the sale shall become part of the assets of the liquidation estate, to be distributed in the manner set forth in section 507C.42, and that the corporate entity and its licenses shall thereafter be free and clear from the claims or interests of all claimants, creditors, policyholders, and stockholders of the corporation under liquidation.

Sec. 503. Section 508.12, Code 1987, is amended to read as follows:

508.12 FOREIGN COMPANIES MAY BECOME DOMESTIC REDOMESTICATION OF INSURERS.

Any company An insurer which is organized under the laws of any other state or country, and which has been is admitted to do business in this state for the purpose of writing insurance authorized by this chapter; upon may become a domestic insurer by complying with section 491.33 and with all of the requirements of law relative to the organization and licensing of a domestic insurance companies and to the execution, filing, recording and publishing of notice of incorporation and payment of corporation fees by like domestic corporations, insurer of the same type and by designating its principal place of business at a place in this state, and; upon payment to the commissioner of insurance of a transfer tax in a sum equal to twenty-five percent of the premium tax paid pursuant to the provisions of chapter 432 for the last calendar year immediately preceding its becoming a domestic corporation or the sum of ten thousand dollars, whichever is the lesser but not less than one thousand dollars; may become a domestic corporation and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof.

The certificates of authority, agent's appointments and licenses, rates, and other items which are in existence at the time any insurer transfers its corporate domicile to this state, pursuant to this section, shall continue in full force and effect upon such transfer. For purposes of existing authorizations and all other corporate purposes, the insurer is deemed the same entity as it was prior to the transfer of its domicile. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to any new name of the company or its new location unless so ordered by the commissioner of insurance.

Sec. 504. Section 515B.1, Code 1987, is amended to read as follows:

515B.1 SCOPE.

This chapter shall apply to all kinds of direct insurance authorized to be written by an insurer licensed to operate in this state under chapter 515 or chapter 520, except life, title, surety, fidelity, disability including accident and health, credit, mortgage guaranty, ocean marine insurance, financial guaranty or other forms of insurance offering protection against investment risk, automobile warranty coverage, or insurance written pursuant to 15 U.S.C. § 3901 et seq., or any transaction which, although denominated as insurance, does not result in the transfer of an insurance risk.

Sec. 505. Section 515B.2, subsection 3, paragraph b, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The claim is one by an insured for damage to property permanently located in this state.

Sec. 506. Section 515B.2, subsection 3, unnumbered paragraph 2, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

"Covered claim" does not include an amount due any reinsurer, insurer, insurance pool, underwriting association, or other group assuming insurance risks, as subrogation, contribution, or indemnity recoveries or otherwise; a portion of a claim that is within an insured's deductible or self-insured retention; a claim for unearned premium calculated on a retrospective basis, experience-rated plan, or premium subject to adjustment after termination of the policy; an amount due an attorney, adjuster, or witness as fees for services rendered to the insolvent insurer; a fine, penalty, interest, or punitive or exemplary damages; or a claim under a policy issued by an insolvent insurer with a deductible or self-insured retention of two hundred thousand dollars or more. A claim under a liability policy shall be considered to be a covered claim if as of the deadline set for the filing of claims against the insolvent insurer or its liquidator, the insured is a debtor in a liquidation bankruptcy under 11 U.S.C. § 701 et seq. This paragraph does not prevent a person from presenting a noncovered claim to the insolvent insurer or its liquidator, but the noncovered claim shall not be asserted against any other person, including the person to whom benefits were paid or the insured of the insolvent insurer, except to the extent that it is outside the coverage of the policy issued by the insolvent insurer.

Sec. 507. Section 515B.5, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty days after the determination of insolvency, or before the policy expiration date if less than thirty days after the determination, or before the insured replaces the policy or on request effects cancellation if the insured does so within thirty days of the determination. This obligation includes only the amount of a covered claim which is in excess of one hundred dollars and less than three hundred thousand dollars for all damages arising out of any one accident, occurrence, or incident regardless of the number of persons making claims. If the policy of the insolvent insurer contained an aggregate limit, the association shall not be obligated for more than three hundred thousand dollars on an aggregate basis. However, the association shall pay the full amount of a covered claim arising out of a workers' compensation policy. In addition, the association is not liable for an amount in excess of the specified limits of a policy lesser of three hundred thousand dollars or the policy limits, regardless of the theory under which or the type of damages for which the association is alleged to be liable.

Sec. 508. Section 515B.9, subsection 2, Code 1987, is amended to read as follows:

2. A person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured. However, if the claim is a first party claim for damage to property with a permanent location, recovery shall be first sought from the association of the location of the property. If the claim is a workers' compensation claim, recovery shall be first sought from the association of the residence of the claimant. ~~A person shall not recover any amount of the person's claim against the insured in excess of the amount recovered or recoverable from the association except to the extent the claim exceeds the policy limits of the insolvent insurer.~~ Any sums recovered from any other guaranty association or equivalent organization shall be subtracted from the maximum liability of the association under section 515B.5, subsection 1, paragraph "a".

Sec. 509. NEW SECTION. 515B.18 PROHIBITED ADVERTISING.

A person shall not advertise or publish, in connection with the sale of an insurance policy, that claims under the insurance policy are subject to this chapter or will be paid by the Iowa insurance guaranty association.

Sec. 510. Section 518A.1, subsection 1, paragraph d, Code 1987, is amended to read as follows:

d. Any automobile or aircraft or other vehicle, including loss, expense, or liability resulting from the ownership, maintenance, or use thereof, but shall not include, ~~by county mutuals,~~ insurance against bodily injury to the person.

DIVISION VI

Sec. 601. Section 515D.5, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Notwithstanding the provisions of ~~section 515.81~~ ~~no sections 515.80 through 515.81A~~, a notice of cancellation of a policy shall not be effective unless mailed or delivered by the insurer to the named insured at least twenty days prior to the effective date of cancellation, or, where the cancellation is for nonpayment of premium notwithstanding the provisions of ~~section sections 515.80 and 515.81A~~ at least ten days prior to the date of cancellation. A post-office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of cancellation, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than fifteen days prior to the date of cancellation, the insurer will state the reason for cancellation, together with notification of the right to a hearing before the commissioner within fifteen days as provided ~~herein~~ in this chapter.

Sec. 602. Section 515D.7, unnumbered paragraph 1, Code 1987, is amended to read as follows:

~~No~~ Notwithstanding the provisions of sections 515.80 through 515.81B, an insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew shall not be effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. A post-office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of intent not to renew, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than twenty days prior to the expiration date of the policy, the insurer will state the reason for nonrenewal.

Sec. 603. NEW SECTION. 508.39 DIVIDENDS.

The directors or managers of a stock company, incorporated under the laws of this state, shall make no dividends except from the earned profits arising from their business, which shall not include contributed capital or contributed surplus.

Sec. 604. NEW SECTION. 514F.3 PREFERRED PROVIDERS.

The commissioner of insurance shall adopt rules for preferred provider contracts and organizations, both those that limit choice of specific provider and those that do not. The rules adopted shall include, but not be limited to, the following subjects: preferred provider arrangements and participation requirements, health benefit plans, and civil penalties.

DIVISION VII

Sec. 701. Section 294.16, Code 1987, is amended to read as follows:

294.16 ANNUITY CONTRACTS.

At the request of an employee through contractual agreement a school district may purchase group or individual annuity contracts for employees, from an insurance organization or mutual fund the employee chooses that is authorized to do business in this state and through

an Iowa-licensed insurance agent or from a securities dealer, salesperson, or mutual fund registered in this state that the employee selects, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits under section 403(b) of the Internal Revenue Code of 1954, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. ~~If an existing tax sheltered annuity contract is to be replaced by a new contract the agent or representative of the company shall submit a letter of intent by registered mail to the company being replaced, to the insurance commissioner of the state of Iowa, and to the agent's or representative's own company at least thirty days prior to any action. This letter of intent shall contain the policy number and description of the contract being replaced and a description of the replacement contract.~~

Sec. 702. Section 521.5, Code 1987, is amended to read as follows:

521.5 COMMISSION TO HEAR PETITION.

For the purpose of hearing and determining such petition, a commission consisting of the ~~governor, commissioner of insurance, and attorney general~~ is hereby created. ~~In the inability of the governor to act, the secretary of state may act in the governor's stead.~~

Sec. 703. Section 523C.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 5. "Reserve account agreement" means an agreement entered into between a licensed service company and a depository under section 523C.11.

NEW SUBSECTION. 6. "Depository" means an institution designated by the commissioner as an authorized custodian for purposes of sections 523C.5 and 523C.11.

NEW SUBSECTION. 7. "Custodian" means an institution meeting the requirements established by the commissioner which institution has entered into a custodial agreement or reserve account agreement with a licensed service company.

NEW SUBSECTION. 8. "Custodial agreement" means an agreement entered into between a licensed service company and a custodian under section 523C.5.

NEW SUBSECTION. 9. "Custodial account" means an account established by agreement between a licensed service company and a custodian under section 523C.5.

Sec. 704. Section 523C.3, subsection 2, paragraph b, Code 1987, is amended to read as follows:

b. A surety bond or a copy of custodial agreement as provided in section 523C.5.

Sec. 705. Section 523C.5, Code 1987, is amended to read as follows:

523C.5 REQUIRED BOND.

To assure the faithful performance of obligations under residential service contracts issued and outstanding in this state, a service company shall, prior to the issuance or renewal of a license, file with the commissioner a surety bond in the amount of one hundred thousand dollars, which has been issued by an authorized surety company and approved by the commissioner as to issuer, form, and contents or establish a custodial account in the amount of one hundred thousand dollars at an authorized depository. The bond or custodial account shall not be canceled or be subject to cancellation unless thirty days' advance notice in writing is filed with the commissioner. Notwithstanding the ~~provisions of chapter 17A, if a bond or custodial account is canceled for any reason and a new bond or notice that a new custodial account has been established in the required amount is not received by the commissioner on or before the effective date of cancellation,~~ the license of the service company is automatically revoked as of the date the bond or custodial account ceases to be in effect. A service company whose license is revoked under this section may file an application for a new license pursuant to section 523C.3.

The bond or custodial account posted by a service company pursuant to this section shall be for the benefit of, and subject to recovery thereon by any residential service contract holder sustaining actionable injury due to the failure of the service company to faithfully perform its obligations under a residential service contract because of insolvency of the service company.

If a service company ceases to do business in this state and furnishes to the commissioner satisfactory proof that it has discharged all obligations to contract holders, the surety bond or custodial account shall be released.

The commissioner may by rule designate institutions authorized to act as a depository under this section and establish requirements for custodians, custodial agreements, custodial accounts, or the method of valuing noncash assets held in a custodial account which the commissioner believes necessary to protect the holders of residential service contracts issued and outstanding in this state.

Sec. 706. Section 523C.6, unnumbered paragraph 2, Code 1987, is amended to read as follows:

For purposes of this chapter, "net worth" means the excess of all assets over all liabilities including required reserves, but excluding assets held in a custodial account under section 523C.5, computed in accordance with generally accepted accounting principles. At least twenty thousand dollars of net worth shall consist of paid-in capital.

Sec. 707. Section 523C.11, subsection 1, Code 1987, is amended to read as follows:

1. A service company shall maintain in an independent depository a reserve account containing cash or marketable securities in an amount equal to fifty percent of aggregate annual fees collected on residential service contracts issued in this state, if any, and for less actual expenditures for services rendered under those contracts.

Sec. 708. Section 523C.11, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The commissioner may by rule designate institutions authorized to act as a depository under this section and may establish requirements for reserve accounts, reserve account agreements, or the method of valuing marketable securities which the commissioner believes necessary to protect the holders of residential service contracts issued and outstanding in this state.

Approved April 26, 1988

CHAPTER 1113

OPEN ENROLLMENT IN CONTIGUOUS SCHOOL DISTRICTS

S.F. 323

AN ACT to provide a procedure for parents or guardians to enroll their children in the public schools of contiguous school districts and providing for the implementation of administrative rules and an effective date.

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

Section 1. NEW SECTION. 282.18 OPEN ENROLLMENT.

It is the intent of the general assembly to allow a pupil with special and exceptional needs to enroll in a district contiguous to the pupil's resident district if the contiguous district offers coursework or programs, not already available to the pupil, that would meet the needs of the pupil.

1. Except as provided in subsection 2, for the school year commencing July 1, 1990, and each succeeding school year, a parent or guardian residing in a school district may be allowed to

enroll the parent's or guardian's child or ward in a public school in a contiguous school district as provided in this section.

Not later than November 1, 1989, or not later than November 1 of the preceding school year, the parent or guardian shall notify the district of residence and the department of education that the parent or guardian intends to enroll the parent's or guardian's child or ward in a contiguous school district. Notice shall be made in the form and manner prescribed by the department of education and shall contain a description of the substantial educational opportunities necessary and available for the child in the receiving district that are not available in the district of residence and a statement that the child intends to take advantage of the opportunity before graduation. The state board of education shall adopt rules under chapter 17A by January 1, 1989, that define substantial educational opportunity. The definition shall include, but not be limited to, whether the contiguous district offers coursework or programs not available in the district of residence. A request under this section is for a period of not less than four years, unless the pupil will graduate within the four-year period.

The board of directors of the district of residence shall approve or disapprove the request within thirty days of receipt of the parent's and guardian's notice. The parent or guardian may appeal the decision of the board under chapter 290. If the parent or guardian appeals to the state board of education, the parent or guardian must prove by substantial evidence to the state board that the conditions listed in the request exist and the denial of the request of the parent or guardian was an abuse of discretion by the board of the district of residence.

Following approval of the transfer, the board of the district of residence shall transmit a copy of the form to the contiguous school district. The board of the contiguous school district shall enroll the pupil in a school in the contiguous district for the following school year, unless the contiguous school district does not have classroom space for the pupil or enrolling the pupil in the contiguous district will adversely affect the minority enrollment in the resident or contiguous school district because of voluntary or court ordered desegregation. The child shall, however, be included in the basic enrollment of the district of residence for purposes of section 442.4.

The board of directors of the district of residence shall pay to the receiving school district an amount which is equal to the lesser of the state aid portion of the resident district's cost per pupil or the state aid of the receiving district's cost per pupil. For the purpose of this section, "state aid portion of a district's cost per pupil" is the state foundation aid for the budget year received by the district under section 442.26 for regular program costs divided by the district's basic enrollment for the budget year. In addition, the state aid amount shall include moneys received under sections 294A.9 and 294A.14. If the amount paid to the receiving school district is not equal to that district's cost per pupil, the receiving district has the option of either accepting the amount paid by the district of residence, or billing the parent or guardian for the difference between the district cost per pupil and the amount received from the district of residence. The district of residence may reimburse the parent for any difference paid to the receiving district. Quarterly payment shall be made to the receiving district. Notwithstanding section 285.1 relating to transportation of nonresident pupils, the parent or guardian is responsible for transporting the pupil without reimbursement to and from a point on a regular school bus route of the receiving district. A parent or guardian who chooses to reenroll the child in the district of residence, or to enroll the child in another school district, during the four-year period covered by the request, shall pay the maximum tuition fee to the enrolling district pursuant to section 282.24. However, the tuition fee requirement does not apply if a child is enrolled in another school district, during the four-year period covered by the request, because of a change in the child's place of residence.

A student who attends school in a contiguous school district is not eligible to participate in interscholastic athletic contests and athletic competitions during the first year of enrollment under this section except for an interscholastic sport in which the district of residence and the contiguous school district jointly participate.

2. This section does not apply if the contiguous district, in which the parent or guardian wishes to enroll their child, is a party to a sharing agreement, which covers the request, with the district of residence under sections 282.7 through 282.12. If a resident or receiving district is participating in a reorganization study under chapter 275, subsection 1 shall not be available to a parent or guardian until the study is completed.

Sec. 2. Section 280.16, Code Supplement 1987, is repealed effective July 1, 1990.

Sec. 3. By January 1, 1989, the department of education shall adopt rules to implement chapter 261C including, but not limited to, defining the term "academic". For purposes of this section, "academic" shall be defined narrowly to provide opportunities for an enriched curriculum extending beyond ordinary high school offerings.

Approved April 27, 1988

CHAPTER 1114

EDUCATIONAL PROGRAMS FOR AT-RISK CHILDREN

S.F. 2295

AN ACT relating to the development of programs for the identification, educational methods, and staff qualifications for at-risk children.

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

Section 1. Section 256.9, Code Supplement 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 31. Develop criteria and procedures to assist in the identification of at-risk children and their developmental needs.

NEW SUBSECTION. 32. Develop, in conjunction with the child development coordinating council or other similar agency, child-to-staff ratio recommendations and standards for at-risk programs based on national literature and test results and Iowa longitudinal test results.

NEW SUBSECTION. 33. Develop programs in conjunction with the center for early development education to be made available to the school districts to assist them in identification of at-risk children and their developmental needs. For a period of one year, beginning July 1, 1988, and ending June 30, 1989, direct the educational services division of the area education agencies to develop program plans to assist the districts in educating at-risk children. The area education agencies may enter into contracts with other groups or agencies to provide all or part of the program. The programs shall include but are not limited to:

- a. Administrator and staff in-service education.
- b. Area education agency and district staff utilization plans.
- c. Qualifications required of personnel administering the program.
- d. Child-to-staff ratio specifications.
- e. Longitudinal testing of the children.
- f. Referrals to outside agencies.
- g. An emphasis on integrating the identified children with the balance of the class.
- h. Proposed curriculum content and materials.
- i. Cost projections for provision of the programs.

Sec. 2. **NEW SECTION. 260.34 ELEMENTARY ENDORSEMENTS.**

The board of educational examiners in conjunction with the child development coordinating council, or other similar agency, shall develop appropriate endorsements for teachers in the early elementary grades, taking into consideration recommendations from the child development coordinating council or other similar agency, the center for early development education, and teacher education personnel.

Sec. 3. **NEW SECTION. 262.71 CENTER FOR EARLY DEVELOPMENT EDUCATION.**

The board of regents shall develop a center for early development education at one of the regents' institutions specified in section 262.7, subsections 1 through 3. The center's programs shall be conducted in a laboratory school setting to serve as a model for early childhood education. The programs shall include, but not be limited to, programs designed to accommodate the needs of at-risk children. The teacher education programs at all three state universities shall cooperate in developing the center and its programs. The center's programs shall take a holistic approach and the center shall, in developing its programs, consult with representatives from each of the following agencies, institutions, or groups:

1. The University of Northern Iowa.
2. Iowa State University.
3. The University of Iowa.
4. The division of children, youth, and families of the department of human rights.
5. The department of public health.
6. The department of human services.
7. An early childhood development specialist from an area education agency.
8. A parent of a child in a head start program.
9. The department of education.
10. The child development coordinating council.

Sec. 4. **NEW SECTION. 280.19 AT-RISK STUDENT PLANS.**

The board of directors of each public school district shall incorporate, into the kindergarten admissions program, criteria and procedures for identification and integration of at-risk children and their developmental needs.

Approved April 27, 1988

CHAPTER 1115

HAZARDOUS WASTE FEES

S.F. 2313

AN ACT imposing additional hazardous waste fees with civil penalties applicable.

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

Section 1. Section 455B.424, Code 1987, is amended by adding the following new subsection immediately following subsection 4 and renumbering the subsequent subsections:

NEW SUBSECTION. 5. In addition to other fees imposed by this section, a person that is required to obtain a United States environmental protection agency identification number shall pay the following fees:

- a. If the person generates more than one thousand kilograms of hazardous waste per month, a fee of two hundred fifty dollars.
- b. If the person generates hazardous waste but does not generate more than one thousand kilograms of hazardous waste per month, a fee of twenty-five dollars.
- c. If the person is a transporter of hazardous waste, a fee of twenty-five dollars.

d. If the person operates a hazardous waste treatment, storage, or disposal facility, a fee of twenty-five dollars.

Approved April 27, 1988

CHAPTER 1116

VALUATION OF AGRICULTURAL PROPERTY

S.F. 2335

AN ACT relating to the formula used in valuing agricultural property.

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

Section 1. Section 441.21, subsection 1, paragraph f, Code 1987, is amended to read as follows:

f. In counties or townships in which field work on a modern soil survey has been completed since January 1, 1949, the assessor ~~and the department of revenue and finance~~ shall place emphasis upon the results of such the survey in determining the productive and earning capacity in spreading the valuation among individual parcels of such agricultural property.

Approved April 27, 1988

CHAPTER 1117

MUSEUM PROPERTY ACT

S.F. 370

AN ACT relating to museums, providing for the disposition of loaned or undocumented property in the possession of a museum, notice, reclamation of loaned or undocumented property and statutes of limitations for actions against museums; prescribing museum obligations; prescribing lender and claimant obligations to museums; and providing for the retroactive applicability of certain sections of the act.

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

Section 1. NEW SECTION. 305B.1 SHORT TITLE.

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

Sec. 2. NEW SECTION. 305B.2 DEFINITIONS.

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

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

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

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

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

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

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

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

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

Sec. 3. NEW SECTION. 305B.3 BASIC NOTICE REQUIREMENTS.

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

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

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

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

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

Sec. 4. NEW SECTION. 305B.4 CONSERVATION OR DISPOSAL OF LOANED PROPERTY.

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

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

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

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

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

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

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

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

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

Sec. 5. NEW SECTION. 305B.5 NOTICE OF INJURY OR LOSS.

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

Sec. 6. NEW SECTION. 305B.6 NOTICE OF INTENT TO TERMINATE LOAN — ACQUIRING TITLE TO LOANED PROPERTY.

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

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

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

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

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

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

Sec. 7. NEW SECTION. 305B.7 ACQUIRING TITLE TO UNDOCUMENTED PROPERTY.

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

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

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

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

Sec. 8. NEW SECTION. 305B.8 NOTICE OF INTENT TO PRESERVE AN INTEREST IN PROPERTY — REQUIREMENTS — FORM — DISCLOSURE.

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

- a. A description of the property adequate to enable the museum to identify the property.
- b. Documentation sufficient to establish the claimant as owner of the property.
- c. A statement attesting to the truth, to the best of the signer's knowledge, of all information included in or with the notice.
- d. The signature, under penalty of perjury, of the claimant or a person authorized to act on behalf of the claimant.

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

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

Sec. 9. NEW SECTION. 305B.9 LIMITATIONS ON ACTIONS AGAINST MUSEUMS.

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

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

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

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

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

6. Notwithstanding subsections 3 and 4, a lender or claimant who was not given notice as provided in this chapter that the museum intended to terminate a loan, as provided in section 305B.6, and who proves that the museum received an adequate notice of intent to preserve an interest in loaned property, which satisfies all of the requirements of section 305B.8, within the seven years immediately preceding the filing of an action to recover the property, may recover the property or, if the property has been disposed of, the reasonable value of the property at the time it was disposed of plus interest at the legal rate.

7. A museum is not liable at any time, in the absence of a court order, for returning property to the original lender, even if a claimant other than the lender has filed a notice of intent to preserve an interest in property. If persons claim competing interests in property in the

possession of a museum, the burden is upon the claimants to prove their interest in an action in equity initiated by a claimant. A museum is not liable at any time for returning property to an uncontested claimant who produced reasonable proof of ownership pursuant to section 305B.8.

Sec. 10. NEW SECTION. 305B.10 MUSEUM OBLIGATIONS.

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

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

Sec. 11. NEW SECTION. 305B.11 REQUIRED MUSEUM RECORDKEEPING.

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

1. A notice of intent to preserve an interest in property.
2. The loan agreement, if any, and a receipt or ledger for property on loan.
3. A receipt or ledger for property delivered to an owner or claimant.
4. Records containing the following information, as available, for property in the museum's possession:
 - a. Lender's name, address, and phone number.
 - b. Claimant's name, address, and phone number.
 - c. Donor's name, address, and phone number.
 - d. Seller's name, address, and phone number.
 - e. The nature and terms of the transaction (loan for specified term, loan for unspecified term, donation, purchase, etc.).
 - f. The beginning date of the loan period or transaction date.

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

Sec. 12. NEW SECTION. 305B.12 LENDER OBLIGATIONS TO MUSEUM.

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

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

Sec. 13. NEW SECTION. 305B.13 RETROACTIVE APPLICABILITY.

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

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

Approved April 27, 1988

CHAPTER 1118

CHLORDANE SALE AND USE PROHIBITIONS

S.F. 2106

AN ACT relating to the prohibition of the sale, offering for sale, purchase, application, or use of chlordane in this state, and making a penalty applicable.

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

Section 1. **NEW SECTION. 206.32 CHLORDANE — PROHIBITION.**

1. A person shall not offer for sale, sell, purchase, apply, or use chlordane in this state, on or after January 1, 1989.

2. The department, working in conjunction with the department of natural resources, shall identify existing stocks of chlordane, shall formulate recommendations for the safe disposal of existing stocks of chlordane, and shall make those recommendations available to the owners of existing stocks of chlordane.

Sec. 2. Section 206.19, subsection 2, paragraph b, Code Supplement 1987, is amended by striking the paragraph.

Sec. 3. Section 206.20, unnumbered paragraph 2, Code Supplement 1987, is amended by striking the unnumbered paragraph.

Sec. 4. Section 206.31, subsection 5, unnumbered paragraphs 1 and 3, Code Supplement 1987, are amended by striking the unnumbered paragraphs.

Approved April 27, 1988

CHAPTER 1119**ELECTIONS AND ELECTION PROCEDURES***S.F. 2232*

AN ACT relating to elections and election procedures and providing an effective date.

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

Section 1. Section 39.22, subsection 1, Code Supplement 1987, is amended to read as follows:

1. BY APPOINTMENT. The county board of supervisors may pass a resolution in favor of filling the offices of trustee and clerk within a township by appointment by the board, and may direct the county commissioner of elections to submit the question to the eligible voters qualified electors of the township at the next general election. In a township which does not include a city, eligible voters shall consist of the voters of the entire township are eligible to vote on the question. In a township which includes a city, eligible voters are only those voters who reside outside the corporate limits of a city are eligible to vote on the question. The resolution shall apply to all townships which have not approved a proposition to fill township offices by appointment. If the proposition to fill the township offices by appointment is approved by a majority of the eligible voters those voting on the question, the board shall fill the offices by appointment as the terms of office of the incumbent township officers expire. The election of the trustees and clerk of a township may be restored after approval of the appointment process under this subsection by a resolution of the board of supervisors submitting the question to the eligible voters qualified electors who are eligible to vote for township officers of the township at the next general election. If the proposition to restore the election process is approved by a majority of the eligible voters those voting on the question, the election of the township officers shall commence with the next primary and general elections. A resolution submitting the question of restoring the election of township officers at the next general election shall be adopted by the board of supervisors upon petition of at least ten percent of the eligible voters qualified electors of a township. The initial terms of the trustees shall be determined by lot, one for two years, one for three years, and one two for four years. However, if a proposition to change the method of selecting township officers is adopted by the electorate, a resolution to change the method shall not be submitted to the electorate for four years.

Sec. 2. Section 43.11, subsection 1, Code 1987, is amended to read as follows:

1. For an elective county office, in the office of the county commissioner not earlier than seventy-eight days nor later than five o'clock p.m. on the fifty-fifth day prior to the day fixed for holding the primary election.

Sec. 3. Section 43.20, subsection 1, Code 1987, is amended to read as follows:

1. If for a state office governor, or United States senator, by at least one percent of the voters of the candidate's party, in each of at least ten counties of the state, and in the aggregate not less than one-half of one percent of the total vote of the candidate's party in the state, as shown by the last general election.

Sec. 4. Section 43.20, Code 1987, is amended by adding the following new subsection 2 and renumbering the subsequent subsections:

NEW SUBSECTION. 2. If for any other state office, by at least fifty signatures in each of at least ten counties of the state, and in the aggregate not less than one thousand signatures.

Sec. 5. Section 43.26, Code Supplement 1987, is amended to read as follows:

43.26 BALLOT — FORM.

The official primary election ballot shall be prepared, arranged, and printed substantially in the following form:

PRIMARY ELECTION BALLOT

(Name of Party)

of

County of , State of Iowa, Rotation (if any).

Primary election held on the day of June, 19 . . .

FOR UNITED STATES SENATOR

(Vote for no more than one.)

_____ CANDIDATE'S NAME

_____ CANDIDATE'S NAME

FOR UNITED STATES

REPRESENTATIVE

(Vote for no more than one.)

_____ CANDIDATE'S NAME

_____ CANDIDATE'S NAME

FOR GOVERNOR

(Vote for no more than one.)

_____ CANDIDATE'S NAME

_____ CANDIDATE'S NAME

(Followed by other elective state officers in the order in which they appear in section 39.9 and district officers in the order in which they appear in sections 39.15 and 39.16.)

FOR COUNTY AUDITOR

(Vote for no more than one.)

_____ CANDIDATE'S NAME

_____ CANDIDATE'S NAME

(Followed by other elective county officers in the order in which they appear in sections 39.17 and 39.18.)

FOR TOWNSHIP CLERK

(Vote for no more than one.)

_____ CANDIDATE'S NAME

_____ CANDIDATE'S NAME

FOR TOWNSHIP TRUSTEES

(Vote for no more than two.)

_____ CANDIDATE'S NAME

_____ CANDIDATE'S NAME

_____ CANDIDATE'S NAME

Sec. 6. NEW SECTION. 43.37 NUMBER OF VOTES PERMITTED PER OFFICE.

The elector shall be permitted to vote for no more candidates for any office than there are persons to be elected to the office. If an elector votes for more persons for any office than the number permitted, the elector's ballot shall not be counted for that office.

Sec. 7. Section 43.115, unnumbered paragraph 1, Code 1987, is amended to read as follows:

All candidates for nominations to be made in primary elections held pursuant to section 43.112 shall file nomination papers with the city clerk not less than thirty forty days prior to the date of the election as established by section 43.114, except that candidates for precinct committee

member shall file affidavits of candidacy as required by section 420.130. The number of eligible electors signing petitions required for printing the name of a candidate upon the official primary ballot shall be one hundred for an office to be filled by the voters of the entire city and twenty-five for an office to be filled by the voters of a subdivision of the city.

Sec. 8. Section 44.4, unnumbered paragraphs 1 and 2, Code Supplement 1987, are amended to read as follows:

Nominations made under the provisions of this chapter and chapter 45 which are required to be filed in the office of the state commissioner shall be filed in that office not more than eighty-five days nor later than five o'clock p.m. on the sixty-seventh day prior to the date of the general election to be held in November; and those nominations made for a special election called pursuant to section 69.14 shall be filed not less than twenty days prior to the date of an election called upon at least forty days' notice and not less than seven days prior to the date of an election called upon at least ten days' notice. Nominations made pursuant to this chapter and chapter 45 which are required to be filed in the office of the commissioner shall be filed in that office not more than seventy-eight days nor later than five o'clock p.m. on the fifty-fifth day prior to the date of the general election. Nominations made under this chapter or chapter 45 for city office shall be filed not more than sixty-five seventy-two days nor later than five o'clock p.m. on the ~~fortieth~~ forty-seventh day prior to the city election with the city clerk, who shall process them as provided by law.

~~Objection~~ Objections to the legal sufficiency of a certificate of nomination or nomination petition or to the eligibility of a candidate may be filed by any person who would have the right to vote for a candidate for the office in question. Such objections must be filed with the officer with whom ~~such~~ the certificate or petition is filed and within the following time:

Sec. 9. Section 44.8, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The hearing shall be held within twenty-four hours of the receipt of the objection if a primary election must be held for the office sought by the candidate against whom the objection has been filed.

Sec. 10. Section 45.1, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. ~~In~~ Except as otherwise provided in subsection 5, in cities having a population of three thousand five hundred or greater according to the most recent federal decennial census, nominations may be made by nomination papers signed by not less than twenty-five eligible electors who are residents of the city or ward.

Sec. 11. Section 45.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Nominations for candidates other than partisan candidates for elective offices in special charter cities subject to section 43.112 may be submitted as follows:

a. For the office of mayor and alderman at large, nominations may be made by nomination papers signed by eligible electors residing in the city equal in number to at least two percent of the total vote received by all candidates for mayor at the last preceding city election.

b. For the office of ward alderman, nominations may be made by nomination papers signed by eligible electors residing in the ward equal in number to at least two percent of the total vote received by all candidates for ward alderman in that ward at the last preceding city election.

Sec. 12. Section 48.1, Code 1987, is amended to read as follows:

48.1 COMMISSIONER OF REGISTRATION.

The commissioner of elections of each county is designated the commissioner of registration for that county, and may designate the city clerk of any city in the county, or the secretary of the board of directors of any school district which has its office in that county, as a

deputy commissioner of registration who shall be responsible for voter registration, subject to the supervision of the county commissioner. The commissioner of registration or an employee of the commissioner of registration may visit each high school located in the county, during the month of May of each year, and at other times at the discretion of the commissioner of registration, and offer to register any person who is eligible under section 48.2 to be registered.

Sec. 13. Section 48.11, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Registration shall close in a precinct at five o'clock p.m., ten days before a general or primary election and eleven days before all other elections, except as provided in section 48.3. The commissioner's office shall be open from eight o'clock a.m. until at least ~~six~~ five o'clock p.m. on the day registration closes prior to each regularly scheduled election. In counties where mobile deputy registrars have been appointed, the commissioner's office shall remain open until at least six o'clock p.m. on the day registration closes for mobile deputy registrars to deliver completed forms, unless all mobile deputy registrars have turned in their supplies earlier.

Sec. 14. Section 48.29, Code 1987, is amended to read as follows:

48.29 REMOVAL OF REGISTRATION.

Upon registration in any county of an eligible elector who was previously a resident of another county, if that individual was a qualified elector in the former county of residence, the individual's name shall be struck from the record of voters currently registered in the former county of residence. If the registrar at any time discovers that the same individual is registered at more than one residence location, the commissioner or commissioners involved shall be informed and shall follow the procedure prescribed by section 48.31, subsection 7 6.

Sec. 15. Section 49.12, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

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.~~ the time the polls close to assist in counting the paper ballots.

Sec. 16. **NEW SECTION. 49.41 MORE THAN ONE OFFICE PROHIBITED.**

A candidate for public office shall not cause nomination papers to remain filed in the office of the state commissioner or the commissioner on the last day of filing nomination papers, for more than one office to be filled at the general election. A candidate for a public office to be filled at the general election who has filed nomination papers for more than one office shall, not later than the final date for filing, notify the state commissioner or commissioner by affidavit for which office the person elects to be a candidate, which in no case shall be more than one. In the event no such election is made by that date by the candidate, the state commissioner shall not certify the person's name to be placed on the ballot for any office nor shall the commissioner place the person's name on the ballot in any county.

Sec. 17. Section 49.43, Code 1987, is amended to read as follows:

49.43 CONSTITUTIONAL AMENDMENT OR OTHER PUBLIC MEASURE.

In precincts using paper ballots all public measures to be voted upon by an elector at a given election shall be printed upon one ballot of some color other than white. In precincts using voting machines all public measures shall be placed in the question row on the machine; however, if it is impossible to place all the public measures on the machine ballot, or if only a portion of the qualified electors of the precinct are entitled to vote upon any measure presented, the commissioner may provide a separate paper ballot for the public measure or measures.

Constitutional amendments and other public measures may be summarized by the commissioner as provided in section 52.25.

Sec. 18. Section 49.56, Code 1987, is amended to read as follows:

49.56 MAXIMUM COST OF PRINTING.

The cost of printing the official election ballots and printed supplies for voting machines shall not exceed an amount determined by the director of the department of general services or the director's designee the usual and customary rates that the printer charges its regular customers.

Sec. 19. Section 49.77, subsection 4, Code Supplement 1987, is amended to read as follows:

4. A person whose name does not appear on the election register of the precinct in which that person claims the right to vote shall not be permitted to vote, except in the circumstance described in section 48.7, subsection 1, paragraph "b", unless the commissioner informs the precinct election officials that an error has occurred and that the person is a qualified elector of that precinct. If the commissioner finds no record of the person's registration but the person insists that the person is a qualified elector of that precinct, the precinct election officials shall allow the person to cast a ballot in the manner prescribed by section 49.81.

Sec. 20. Section 50.22, Code Supplement 1987, is amended to read as follows:

50.22 SPECIAL PRECINCT BOARD TO DETERMINE CHALLENGES.

Upon being reconvened, the special precinct election board shall review the information upon the envelopes bearing the special ballots, and all evidence submitted in support of or opposition to the right of each challenged person to vote in the election. The board may divide itself into panels of not less than three members each in order to hear and determine two or more challenges simultaneously, but each panel shall meet the requirements of section 49.12 as regards political party affiliation of the members of each panel.

PARAGRAPH DIVIDED. The decision to count or reject each ballot shall be made upon the basis of the information given on the envelope containing the special ballot, the evidence concerning the challenge, the registration and the returned receipts of registration. If the challenged voter's registration was canceled in the same county where the person attempted to vote because first class mail was returned by the postal service during the four years preceding the election in progress, the person's ballot shall be accepted for counting and the elector's registration shall be reinstated.

If a special ballot is rejected, the person casting the ballot shall be notified by the commissioner within ten days of the reason for the rejection, on the form prescribed by the state commissioner pursuant to section 53.25, and the envelope containing the special ballot shall be preserved unopened and disposed of in the same manner as spoiled ballots. The special ballots which are accepted shall be counted in the manner prescribed by section 53.24. The commissioner shall make public the number of special ballots rejected and not counted, at the time of the canvass of the election.

Sec. 21. Section 50.45, Code 1987, is amended to read as follows:

50.45 CANVASS PUBLIC – RESULT DETERMINED.

All canvasses of tally lists shall be public, and the persons having the greatest number of votes shall be declared elected. When a public measure has been submitted to the electors, the proposition shall be declared to have been adopted if the vote cast in favor of the question is greater than fifty percent of the total vote cast in favor and against the question, unless laws pertaining specifically to the public measure election establish a higher percentage of a favorable vote. All ballots cast and not counted as a vote in favor or against the proposition shall not be used in computing the total vote cast in favor and against the proposition.

Sec. 22. Section 51.1, Code 1987, is amended to read as follows:

51.1 ELECTION COUNTING BOARD.

In all election precincts the board of supervisors may authorize the commissioner to appoint for each primary and general election in which a high voter turnout is anticipated five additional precinct election officials to be known as the election counting board.

Sec. 23. Section 51.7, Code 1987, is amended to read as follows:

51.7 DUTIES OF DOUBLE BOARDS.

The counting boards shall proceed to the respective voting places to which they have been appointed, ~~at one o'clock p.m., or in any precinct in which the commissioner shall deem it necessary, at such earlier hour after nine o'clock a.m.,~~ at such time as the commissioner may direct, and shall take charge of the ballot box containing the ballots already cast in that precinct. ~~It~~ The counting board shall retire to a partitioned space or room provided for that purpose and there proceed to count and tabulate the ballots as it shall find them deposited in the ballot box. The receiving board shall continue to receive the votes of electors in the other box provided, until such time as the counting board shall have finished counting and tabulating the ballots cast in the first ballot box. The two boards shall then exchange the first box for the second box and so continue until they have counted and tabulated all the votes cast on that election day. When the hour arrives for closing the polls, the receiving board shall certify to all matters pertaining to casting of ballots and shall then unite with the counting board in the counting of ballots. The precinct election officials shall then divide the ballots not counted and each group of officials shall proceed to canvass their portion of the same. When the canvass has been completed the officials shall report the result of their canvass in the manner provided by section 50.11.

Sec. 24. Section 52.22, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The precinct election officials shall, as soon as the count is completed and fully ascertained as in this chapter required, lock the machine against voting, and it shall so remain until thirty days after the proclamation of the results of ~~said~~ the election, except that it shall remain locked only ten days after a primary or school election, and only two days after a city primary election, if such election is not contested.

Sec. 25. Section 52.25, Code 1987, is amended to read as follows:

52.25 SUMMARY OF AMENDMENT OR PUBLIC MEASURE.

The question of a constitutional convention, amendments, and public measures including bond issues may be voted on ~~the voting machines and on special paper ballots and ballot cards~~ in the following manner:

The entire convention question, amendment or public measure shall be printed and displayed prominently in at least ~~two~~ four places within the voting precinct, and inside each voting booth, or on the left-hand side inside the curtain of each voting machine, said the printing to be in conformity with the provisions of chapter 49. The public measure shall be summarized by the commissioner and in the largest type possible printed on the special paper ballots, ballot cards, or inserts used in said the voting machines, except that:

1. In the case of the question of a constitutional convention, or of an amendment or measure to be voted on in the entire state, the summary ~~to be placed in the voting machine inserts~~ shall be worded by the state commissioner of elections as required by section 49.44; and.

2. In the case of a public question to be voted on in a political subdivision lying in more than one county, the summary shall be worded by the commissioner responsible under section 47.2 for conducting that election.

Sec. 26. Section 52.32, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The provisions of this section shall apply, in lieu of sections 50.1 to 50.12, to any precinct for those elections at which voting is conducted by means of an electronic voting system and the ballots are to be counted at a counting center.

Sec. 27. Section 52.32, subsection 2, Code 1987, is amended to read as follows:

2. The If ballot cards are used and write-in votes are cast on a separate envelope or write-in ballot, the precinct election officials shall next count the write-in votes cast in the precinct, if any. If ballot cards are used, and separate write-in ballots or envelopes for recording write-in votes are used, all special paper ballots or ballot cards are used and write-in votes are recorded directly upon the ballot, this subsection does not apply. All ballots or envelopes on which write-in votes have been recorded shall be serially numbered, starting with the number one, and the same number shall be placed on the regular ballot card of that voter. The precinct election official shall compare the write-in votes with the votes cast on the ballot card. If the total number of votes for any office exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot card and the votes for the office involved shall not be counted.

Sec. 28. Section 53.22, subsection 5, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Absentee ballots voted under this subsection shall be delivered to the commissioner no later than the time the polls are closed on election day. If the ballot is returned by mail 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 no later than the time established for the canvass by the board of supervisors for that election.

Sec. 29. Section 53.38, Code 1987, is amended to read as follows:

53.38 AFFIDAVIT CONSTITUTES REGISTRATION.

Whenever a ballot is requested pursuant to section 53.39 or 53.45 on behalf of a voter in the armed forces of the United States, the affidavit upon the ballot envelope of such voter, if the voter is found to be an eligible elector of the county to which the ballot is submitted, shall constitute a sufficient registration under the provisions of chapter 48 and the commissioner shall place the voter's name on the registration record as a qualified elector, if it does not already appear there.

Sec. 30. Section 53.45, subsections 1 and 4, Code Supplement 1987, are amended to read as follows:

1. As provided in this section, the commissioner shall provide special absentee ballots to be used for state general elections. A special absentee ballot shall only be provided to a qualified an eligible elector who completes an application stating both of the following to the best of the qualified eligible elector's belief:

a. The qualified eligible elector will be residing or stationed or working outside the continental United States.

b. The qualified eligible elector will be unable to vote and return a regular absentee ballot by normal mail delivery within the period provided for regular absentee ballots.

The application for a special absentee ballot shall not be filed earlier than ninety days prior to the general election. The special absentee ballot shall list the offices and measures, if known, scheduled to appear on the general election ballot. The qualified eligible elector may use the special absentee ballot to write in the name of any eligible candidate for each office and may vote on any measure.

4. Notwithstanding the provisions of section 53.49, a qualified an eligible elector who requests a special absentee ballot under this section may also make application for an absentee ballot under section 53.2 or an armed forces absentee ballot under section 53.40. If the regular absentee

or armed forces absentee ballot is properly voted and returned, the special absentee ballot is void and the commissioner shall reject it in whole when special absentee ballots are canvassed.

Sec. 31. NEW SECTION. 53.53 FEDERAL WRITE-IN BALLOTS.

Upon receipt of an official federal write-in ballot, the commissioner shall examine the voter's written declarations on the envelope. If it appears that the voter is eligible to vote under the provisions of this division, has applied in a timely fashion for an absentee ballot, and has complied with all requirements for the federal write-in ballot, then the federal write-in ballot is valid unless the Iowa absentee ballot is received in time to be counted.

The voter's declaration or affirmation on the federal write-in ballot constitutes a sufficient registration under the provisions of chapter 48 and the commissioner shall place the voter's name on the registration record as a qualified elector, if the voter's name does not already appear on the registration record. No witness to the oath is necessary.

The federal write-in ballot shall not be counted if any of the following apply:

1. The ballot was submitted from within the United States.
2. The voter's application for a regular absentee ballot was received by the commissioner less than thirty days prior to the election.
3. The voter's completed regular or special Iowa absentee ballot was received by the deadline for return of absentee ballots established in section 53.17.
4. The voter's federal write-in ballot was received after the deadline for return of absentee ballots established in section 53.17.

Sec. 32. Section 277.4, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

The secretary of the school board shall accept the petition for filing if on its face it appears to have the requisite number of signatures and if it is timely filed. The secretary of the school board shall note upon each petition and affidavit accepted for filing the date and time that the petition was filed. The secretary of the school board shall deliver all nomination petitions, together with the complete text of any public measure being submitted by the board to the electorate, to the county commissioner of elections not later than five o'clock p.m. on the day following the last day on which nomination petitions can be filed.

PARAGRAPH DIVIDED. Any person on whose behalf nomination petitions have been filed under this section may withdraw as a candidate by filing a signed statement to that effect with the ~~commissioner~~ secretary at any time prior to five o'clock p.m. on the thirty-fifth day before the election.

Sec. 33. NEW SECTION. 277.5 OBJECTIONS TO NOMINATIONS.

Objections to the legal sufficiency of a nomination petition or to the eligibility of a candidate may be filed by any person who would have the right to vote for a candidate for the office in question. The objection must be filed with the secretary of the school board at least thirty days before the day of the school election. When objections are filed notice shall forthwith be given to the candidate affected, addressed to the candidate's place of residence as given on the candidate's affidavit, stating that objections have been made to the legal sufficiency of the petition or to the eligibility of the candidate, and also stating the time and place the objections will be considered.

Objections shall be considered not later than two working days following the receipt of the objections by the president of the school board, the secretary of the school board, and one additional member of the school board chosen by ballot. If objections have been filed to the nominations of either of those school officials, that official shall not pass on the objection. The official's place shall be filled by a member of the school board against whom no objection exists. The replacement shall be chosen by ballot.

Sec. 34. Section 280A.15, subsection 2, Code 1987, is amended to read as follows:

2. Each candidate for member of the board of directors of a merged area shall be nominated by a petition signed by not less than fifty eligible electors of the director district from which the member is to be elected. The petition shall state the number of the director district from which the candidate seeks election, and the candidate's name and status as an eligible elector of the director district. Signers of the petition, in addition to signing their names, shall show their residence, including street and number if any, the school district in which they reside, and the date they signed the petition. ~~Each nomination paper shall have appended to it an affidavit of an eligible elector other than the candidate in substantially the form provided in section 43.17, except as to party affiliation.~~ The petition shall include the affidavit of the candidate being nominated, stating the candidate's name and residence, and that the individual is a candidate, is eligible for the office sought, and if elected will qualify for the office.

Sec. 35. Section 331.203, subsection 1, Code 1987, is amended to read as follows:

1. The board may by resolution, or shall upon petition of the number of qualified eligible electors of the county as specified in section 331.306, submit to the qualified electors of the county at a general election a proposition to increase the number of supervisors to five.

Sec. 36. Section 331.204, subsection 1, Code 1987, is amended to read as follows:

1. In a county having a five-member board, the board may by resolution, or shall upon petition of the number of qualified eligible electors of the county as specified in section 331.306, submit to the qualified electors of the county at a general election a proposition to reduce the number of supervisors to three.

Sec. 37. Section 331.207, subsection 1, Code 1987, is amended to read as follows:

1. The board, upon petition of the number of qualified eligible electors of the county as specified in section 331.306, shall call a special election to be held for the purpose of selecting one of the supervisor representation plans specified in section 331.206 under which the board of supervisors shall be elected.

Sec. 38. Section 303B.3, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The votes cast in the election shall be canvassed and abstracts of the votes cast shall be promptly certified by the commissioner to the commissioner of elections who is responsible under section 47.2 for conducting elections for that regional library board. In each county whose commissioner of elections is responsible under section 47.2 for conducting elections held for a regional library board, the county board of supervisors shall convene at nine o'clock a.m. on the third Monday in November, canvass the abstracts of votes cast and declare the results of the voting. The commissioner shall at once issue certificates of election to each person declared elected.

Sec. 39. Section 376.4, unnumbered paragraphs 5 and 6, Code Supplement 1987, are amended to read as follows:

If the city clerk is not readily available during normal office hours, the city clerk shall designate other employees or officials of the city who are ordinarily available to accept nomination papers under this section. The city clerk shall accept the petition for filing if on its face it appears to have the requisite number of signatures and if it is timely filed. The city clerk shall note upon each petition and affidavit accepted for filing the date and time that the petition was filed.

The city clerk shall deliver all nomination petitions together with the text of any public measure being submitted by the city council to the electorate to the county commissioner of

elections not later than five o'clock p.m. on the day following the last day on which nomination petitions can be filed.

PARAGRAPH DIVIDED. Any person on whose behalf nomination petitions have been filed under this section may withdraw as a candidate by filing a signed statement to that effect as prescribed in section 44.9. Objections to the legal sufficiency of petitions shall be filed in accordance with the provisions of sections 44.4, 44.5, and 44.8.

Sec. 40. Section 376.6, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Each city clerk shall certify to the commissioner of elections responsible under section 47.2 for conducting elections for that city the type of nomination process to be used for the city no later than seventy-seven days before the date of the regular city election. If the city has by ordinance chosen a runoff election or has chosen to have nominations made in the manner provided by chapter 44 or 45, or has repealed nomination provisions under those sections in preference for the primary election method, a copy of the city ordinance shall be attached. No changes in the method of nomination to be used in a city shall be made after the clerk has filed the certification with the commissioner, unless the change will not take effect until after the next regular city election.

Sec. 41. Section 376.8, subsection 2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In calculating the number of votes necessary to constitute a majority, fractions shall be rounded up to the next higher whole number.

Sec. 42. Section 376.11, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

376.11 WRITE-IN VOTES.

Write-in votes are permitted to be cast in all elections for city offices. A person who receives a sufficient number of write-in votes to be elected to a city office shall be declared the winner of the election. If a person who was elected by write-in votes chooses not to serve in that office the person shall submit a resignation in writing to the city clerk not later than five o'clock p.m. on the day following the canvass of the election. If a person who was elected by write-in votes resigns at a later time, the office shall be considered vacant at the end of the term and the council shall fill the vacancy pursuant to the provisions of section 372.13, subsection 2.

Except in cities where the council has chosen a runoff election in lieu of a primary, following the resignation of a person who was elected by write-in votes, the city clerk shall notify the person who received the next highest number of votes cast for the office that the person may assume the office. If the person accepts the position, the person shall be considered the duly elected officer unless a petition requesting a special election is filed by eligible electors of the city equal in number to twenty-five percent of the number of persons who voted for the office at the election. If the person declines, the person shall do so in writing to the city clerk within ten days and the office shall be considered vacant at the end of the term. The vacancy shall be filled pursuant to the provisions of section 372.13, subsection 2. If the council chooses to appoint, the appointment may be made before the end of the current term.

In city primary elections any person who receives write-in votes shall execute an affidavit in substantially the form required by section 45.3, and file it with the county commissioner of elections or the city clerk not later than five o'clock p.m. on the day after the canvass of the primary election. If any person who received write-in votes fails to file the affidavit at the time required, the county commissioner shall disregard the write-in votes cast for that person. A notation shall be made on the abstract of votes showing which persons who received write-in votes filed affidavits. The total number of votes cast for each office on the ballot shall

be amended by subtracting the write-in votes of those candidates who failed to file the affidavit. It is not necessary for a candidate whose name was printed upon the ballot to file an affidavit. Of the remaining candidates, those who receive the highest number of votes to the extent of twice the number of unfilled positions shall be placed on the ballot for the regular city election as candidates for that office.

In cities in which the city council has chosen a runoff election in lieu of a primary, if a person who was elected by write-in votes chooses not to accept the office by filing a resignation notice with the city clerk or commissioner of elections not later than five o'clock p.m. on the day following the canvass, all remaining persons who received write-in votes and who wish to be considered candidates for the runoff election shall execute an affidavit in substantially the form required by section 45.3 and file it with the county commissioner or the city clerk not later than five o'clock p.m. of the fourth day following the canvass. If a person receiving write-in votes fails to file the affidavit at the time required, the county commissioner of elections shall disregard the write-in votes cast for that person. The abstract of votes shall be amended to show that the person who was declared elected declined the office and a notation shall be made next to the names of those persons who did not file the affidavit. A runoff election shall be held with the remaining candidates who have the highest number of votes to the extent of twice the number of unfilled positions.

In a city in which the council has chosen a runoff election if no person was declared elected for an office all persons who received write-in votes shall execute an affidavit in substantially the form required by section 45.3 and file it with the county commissioner of elections or the city clerk not later than five o'clock p.m. on the day following the canvass of votes. If any person who received write-in votes fails to file the affidavit the county commissioner of elections shall disregard the write-in votes cast for that person. The abstract of votes shall be amended to note which of the write-in candidates failed to file the affidavit. A runoff election shall be held with the remaining candidates who have the highest number of votes to the extent of twice the number of unfilled positions.

Sec. 43. Section 420.130, Code 1987, is amended to read as follows:

420.130 AFFIDAVIT OF CANDIDACY.

Candidates for city precinct committee member shall cause their names to be printed on the primary ballot by filing an affidavit as provided for in section 43.18 with the county commissioner of elections at least ~~thirty~~ forty days prior to the day fixed for conducting the primary election.

Sec. 44. EFFECTIVE DATE.

1. This Act, being deemed of immediate importance, takes effect upon enactment.
2. However, the amendment to section 43.11, subsection 1, Code 1987, as enacted by this Act, takes effect January 1, 1989, and all sections of this Act except the sections amending section 43.11, subsection 1, and section 50.22, Code Supplement 1987, take effect July 1, 1988.

Approved April 27, 1988

CHAPTER 1120**LABORATORY CERTIFICATION BY DEPARTMENT OF NATURAL RESOURCES**
S.F. 2245

AN ACT relating to the certification of laboratories which perform analyses of specimens for the department of natural resources.

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

Section 1. NEW SECTION. 455B.113 CERTIFICATION OF LABORATORIES.

1. The director shall certify laboratories which perform laboratory analyses of samples required to be submitted by the department by this chapter, by rules adopted in accordance with this chapter, or by permits or orders issued under this chapter.

2. The commission shall adopt rules regarding content of laboratory certification application forms, which shall be furnished by the department.

The commission shall adopt rules regarding reciprocity agreements with other states that have equivalent laboratory certification requirements.

3. The director may charge a fee for processing of an application. The application fee is non-refundable. In establishing the fee, the director shall take into account the administrative costs incurred and the cost of enforcement of this section. Fees collected shall be retained by the department.

4. A laboratory shall submit an application, every other year, accompanied by the fee determined by the director.

Sec. 2. NEW SECTION. 455B.114 LABORATORY CERTIFICATES.

1. Upon determination by the director that an applicant for certification has the necessary competence, equipment, and capability to perform the laboratory analytical procedures required, the director shall issue a certificate of competency to the laboratory. The certificate shall indicate the analytical parameters and procedures which the laboratory is certified to conduct.

2. The director may suspend or revoke the certificate of competency of a laboratory upon determination of the director that the laboratory no longer fulfills the requirements for certification.

Sec. 3. NEW SECTION. 455B.115 ANALYSIS BY CERTIFIED LABORATORY REQUIRED.

Laboratory analysis of samples as required by this chapter or by rules adopted, or by permits or orders issued pursuant to this chapter, shall be conducted by a laboratory certified by the director as having the necessary competence, equipment, and capabilities to perform the analysis. Analytical results from laboratories not certificated shall not be accepted by the director.

Approved April 27, 1988

CHAPTER 1121**NOMINATION OF LIEUTENANT GOVERNOR***H.F. 2374*

AN ACT relating to the nomination of candidates for the office of lieutenant governor for the general election in the year 1990.

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

Section 1. NEW SECTION. 43.123 NOMINATION OF LIEUTENANT GOVERNOR.

Notwithstanding this chapter and any other statute relating to the nomination of a person for the office of lieutenant governor, the nomination of a person for the office of lieutenant governor for the general election in the year 1990 and each four years thereafter shall be held at the state convention of the political party. The nomination of a person for the office of lieutenant governor by a nonparty political organization shall be the procedure specified in chapter 44. This section applies only if the constitutional amendment contained in Senate Joint Resolution 1* is adopted by the qualified electors of this state in the general election in 1988.

Approved April 27, 1988

CHAPTER 1122**FAMILY SUPPORT SUBSIDIES FOR CHILDREN REQUIRING SPECIAL EDUCATION***S.F. 2018*

AN ACT creating a family support subsidy program.

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

Section 1. Sections 2 through 9 of this Act are created as a new division of chapter 225C.

Sec. 2. NEW SECTION. 225C.35 DEFINITIONS.

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

1. "Family" means a family member and the parent or legal guardian of the family member.
2. "Family member" means a person less than eighteen years of age who requires special education pursuant to section 281.9, subsection 1, paragraph "c" or "d".
3. "Legal guardian" means a person appointed by a court to exercise powers over a family member.
4. "Parent" means a biological or adoptive parent.
5. "Supplemental security income" means financial assistance provided to individuals pursuant to Title XVI of the federal Social Security Act, 42 U.S.C. § 1381 to 1383c.
6. "Department" means the department of human services.
7. "Medical assistance" means payment of all or part of the care authorized to be provided pursuant to chapter 249A.

Sec. 3. NEW SECTION. 225C.36 FAMILY SUPPORT SUBSIDY PROGRAM.

A family support subsidy program is created as specified in this division. The purpose of the family support subsidy program is to keep families together and to reduce capacity in state facilities by defraying some of the special costs of caring for a family member, thus facilitating the return of family members from out-of-home placements to their family homes, and preventing

*Chapter 1285 herein

or delaying the out-of-home placement of family members who reside in their family homes. The department shall adopt rules to implement the purposes of sections 225C.36 through 225C.42 which assure that families retain the greatest possible flexibility in determining appropriate use of the subsidy.

Sec. 4. NEW SECTION. 225C.37 PROGRAM SPECIFICATIONS RULES.

A parent or legal guardian of a family member who is a resident of or being considered for placement in a state hospital-school, a community-based intermediate care facility which is intended to serve mentally retarded individuals or persons with developmental disabilities, a child foster care group home, a child foster care family home, or a state mental health institute may apply to the local office of the department for the family support subsidy program. The application shall include:

1. A statement that the family resides in a county of this state.
2. Verification that the family member meets the definitional requirements of section 225C.35, subsection 2.
3. A statement that the family member resides, or is expected to reside, with the parent or legal guardian of the family member or, on a temporary basis, with another relative of the family member.
4. A statement that if the child receives medical assistance, then the family support subsidy shall only be used for the cost of a service which is not covered by medical assistance. The family may receive welfare assistance for which the family is eligible.
5. Verification that the net taxable income for the family for the calendar year immediately preceding the date of application did not exceed forty thousand dollars unless it can be verified that the estimated net taxable income for the family for the year in which the application is made will be less than forty thousand dollars.

Within the limits set by the appropriation for this purpose, the department shall approve or disapprove the application based on the family support services plan which identifies the needs of the child and the family and the eligibility criteria required to be included in the application under subsections 1 through 5 and shall notify the parent or legal guardian of the decision.

Sec. 5. NEW SECTION. 225C.38 EFFECT OF APPROVAL OF APPLICATION — CONTRACT — REPORT.

1. If an application for a family support subsidy is approved by the department:
 - a. A family support subsidy shall be paid to the parent or legal guardian on behalf of the family member. An approved subsidy shall be payable as of the first of the next month after the department approves the written application.
 - b. A family support subsidy shall be used to meet the special needs of the family. This subsidy is intended to complement but not supplant public assistance or social service benefits based on economic need, available through governmental programs.
 - c. Except as provided in section 225C.41, a family support subsidy shall be in an amount equivalent to the monthly maximum supplemental security income payment available in Iowa for an adult recipient living in the household of another, as formulated under federal regulations. In addition, the parent or legal guardian of a family member who is in an out-of-home placement at the time of application may receive a one-time lump-sum advance payment of twice the monthly family support subsidy amount for the purpose of meeting the special needs of the family in preparing for in-home care.
2. The department shall administer the payment of family support subsidies.
3. The parent or legal guardian who receives a family support subsidy shall report, in writing, the following information to the department:
 - a. Not less than annually, a statement that the family support subsidy was used to meet the special needs of the family.
 - b. The occurrence of any event listed in section 225C.40.

c. A request to terminate the family support subsidy.

Sec. 6. NEW SECTION. 225C.39 SUBSIDY PAYMENTS NOT ALIENABLE.

Family support subsidy payments shall not be alienable by action, including but not limited to, assignment, sale, garnishment, or execution, and in the event of bankruptcy shall not pass to or through a trustee or any other person acting on behalf of creditors.

Sec. 7. NEW SECTION. 225C.40 TERMINATION OR DENIAL OF SUBSIDY — HEARING.

1. The family support subsidy shall terminate if any of the following occur:
 - a. The family member dies.
 - b. The family no longer meets the eligibility criteria in section 225C.37.
 - c. The family member attains the age of eighteen years.
 - d. The family member is no longer eligible for special education pursuant to section 281.9, subsection 1, paragraph "c" or "d".
2. The family support subsidy may be terminated by the department if a report required by section 225C.38, subsection 3, is not timely made or a report required by section 225C.38, subsection 3, paragraph "a", contains false information.
3. If an application for a family support subsidy is denied or a family support subsidy is terminated by the department, the parent or legal guardian of the affected family member may request, in writing, a hearing before an impartial hearing officer.

Sec. 8. NEW SECTION. 225C.41 APPROPRIATIONS.

Family support subsidy payments shall be paid from funds appropriated by the general assembly for this purpose.

Sec. 9. NEW SECTION. 225C.42 ANNUAL EVALUATION OF PROGRAM.

The department shall conduct an annual evaluation of the family support subsidy program and shall submit the evaluation report with recommendations to the governor and general assembly prior to the end of the fiscal year. The evaluation shall include, but not be limited to, all of the following:

1. The impact of the family support subsidy program upon children covered by this division in institutions and residential care programs including, to the extent possible, sample case reviews of families who choose not to participate.
2. Case reviews of families who voluntarily terminate participation in the family support subsidy program for any reason, particularly when the family member is placed out of the family home, including the involvement of the department in offering suitable alternatives.
3. Sample assessments of families receiving family support subsidy payments including adequacy of subsidy and need for services not available.
4. The efforts to encourage program participation of eligible families.
5. The geographic distribution of families receiving subsidy payments and, to the extent possible, family members presumed to be eligible for family support subsidy payments.
6. Programmatic and legislative recommendations to further assist families in providing care for family members including eligibility criteria, availability of family support services and parent satisfaction with the program.
7. Problems that occur in identifying family members through diagnostic evaluations.
8. The number of beds reduced in state institutions and foster care facilities serving severely mentally, multiply, and autistically impaired children when the children return home to natural families as a result of the subsidy program.

The department shall report caseload figures by eligibility category as defined by administrative rule.

Approved April 27, 1988

CHAPTER 1123**PAYMENT OF PUBLIC EMPLOYEES' PRIOR SERVICE RETIREMENT ALLOWANCE**
S.F. 2291

AN ACT to provide that certain appropriations for retirement allowances be paid from the Iowa public employees' retirement fund rather than from the general fund of the state retroactive to July 1, 1987, and providing an effective date.

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

Section 1. Section 97B.43, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Any person with a record of thirty years as a public employee in the state of Iowa prior to July 1, 1947, and who is not eligible for prior service credit under other provisions of this section, is entitled to a credit for years of prior service in the determination of the retirement allowance payment under this chapter, provided the public employee makes application to the department of personnel for credit for prior public service, accompanied by such verification of the person's claim as the department may require. The person's allowance for prior service credits shall be computed in the same manner as otherwise provided in this section, but shall not exceed the sum of four hundred fifty dollars nor be less than three hundred dollars per annum. Any such person is entitled to receive retirement allowances computed as provided by this chapter, effective from the date of application to the department, provided such application is approved. However, beginning July 1, 1975 the amount of such person's retirement allowance payment received during June, 1975, as computed under this section shall be increased by two hundred percent and the allowance for prior service credits shall not exceed one thousand three hundred fifty dollars nor be less than nine hundred dollars per annum. There Effective July 1, 1987, there is appropriated for each fiscal year from the general Iowa public employees' retirement fund of the state created in section 97B.7 to the department of personnel from funds not otherwise appropriated an amount sufficient to fund the provisions of retirement allowance increases paid under this paragraph. Effective July 1, 1980, a person with a record of thirty years as a public employee in the state of Iowa prior to July 1, 1947 receiving retirement allowances under this chapter shall receive the monthly increase in benefits provided in section 97B.49, subsection 11.

Sec. 2. Section 97B.49, subsection 3, Code Supplement 1987, is amended to read as follows:

3. For each member employed before January 1, 1976, who has qualified for prior service credit in accordance with the first paragraph of section 97B.43, there shall be determined a benefit of eight-tenths of one percent per year of prior service credit multiplied by the monthly rate of the member's total remuneration not in excess of three thousand dollars annually during the twelve consecutive months of the member's prior service for which that total remuneration was the highest. An additional three-tenths of one percent of the remuneration not in excess of three thousand dollars annually shall be payable for prior service during each year in which the accrued liability for benefit payments created by the abolished system is funded by appropriation from the general fund of the state Iowa public employees' retirement fund.

Sec. 3. Section 97B.49, subsection 6, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

On January 1, 1976, for each member who retired before January 1, 1976, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for December, 1975 is increased by ten percent for the first calendar year or portion of a calendar year the member was retired, and by an additional five percent for each calendar year after the first calendar year the member was retired through the calendar year beginning January 1, 1975. The total increase shall not exceed one hundred

percent. ~~There~~ Effective July 1, 1987, there is appropriated for each fiscal year from the general Iowa public employees' retirement fund of the state created in section 97B.7 to the department of personnel from funds not otherwise appropriated an amount sufficient to fund the provisions of monthly retirement allowance increases paid under this subsection.

Sec. 4. Section 294.15, unnumbered paragraph 4, Code 1987, is amended to read as follows:
For the purpose of paying the teachers' retirement allowance payments granted under this section, effective July 1, 1987, there is hereby appropriated out of any funds in the state treasury not otherwise appropriated, a sum for each fiscal year from the Iowa public employees' retirement fund to the department of personnel, an amount sufficient therefor to make the payments granted under this section.

Sec. 5. The treasurer of state shall transfer from the Iowa public employees' retirement fund to the general fund of the state an amount equal to the total of payments made from the general fund of the state under sections 97B.43, 97B.49, subsections 3 and 6, and 294.15 from July 1, 1987, to the effective date of this Act.

Sec. 6. This Act is retroactive to July 1, 1987, and is applicable on and after that date.

Sec. 7. This Act being deemed of immediate importance takes effect upon its enactment.

Approved April 27, 1988

CHAPTER 1124

LICENSEE DISCIPLINE RELATING TO PRACTICE OF DENTISTRY OR DENTAL HYGIENE

S.F. 2274

AN ACT to allow the board of dental examiners to revoke or suspend a license of a licensee where the licensee has been disciplined in another state, territory, or country, and revising other provisions relating to the suspension and revocation of licenses by the board.

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

Section 1. Section 153.34, subsections 2 and 3, Code 1987, are amended by striking the subsections.

Sec. 2. Section 153.34, subsection 9, Code 1987, is amended to read as follows:

9. ~~For being guilty of gross immorality or~~ dishonorable or unprofessional conduct in the practice of dentistry or dental hygiene.

Sec. 3. Section 153.34, subsection 12, Code 1987, is amended to read as follows:

12. ~~For a violation of any provision of this chapter, or for~~ being a party to or assisting in any violation of any provision of this chapter.

Sec. 4. Section 153.34, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 13. For the conviction of a felony in the courts of this state or another state, territory, or country. Conviction as used in this subsection includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order

or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction.

NEW SUBSECTION. 14. For a violation of a law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which law relates to the practice of dentistry or dental hygiene. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction.

NEW SUBSECTION. 15. The revocation or suspension of a license to practice dentistry or dental hygiene or other disciplinary action taken by a licensing 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.

NEW SUBSECTION. 16. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice dentistry or dental hygiene.

NEW SUBSECTION. 17. For an adjudication of mental incompetence by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

NEW SUBSECTION. 18. Inability to practice dentistry or dental hygiene with reasonable skill and safety by reason of illness, drunkenness, or habitual or excessive use of drugs, intoxicants, narcotics, chemicals, or other types of materials or as a result of a mental or physical condition. At reasonable intervals following suspension or revocation under this subsection, a dentist or a dental hygienist shall be afforded an opportunity to demonstrate that the dentist or the dental hygienist can resume the competent practice of dentistry or dental hygiene with reasonable skill and safety to patients.

Approved April 27, 1988

CHAPTER 1125

COMPOSITION OF ENGINEERING AND LAND SURVEYING EXAMINING BOARD *S.F. 2203*

AN ACT relating to the composition of the engineering and land surveying examining board and providing an effective date.

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

Section 1. Section 114.3, Code 1987, is amended to read as follows:

114.3 ENGINEERING AND LAND SURVEYING EXAMINING BOARD CREATED.

An engineering and land surveying examining board is created within the professional licensing and regulation division of the department of commerce. The board consists of 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. ~~Not more than one registered member of the board shall be from the same branch~~ Insofar as practicable, registered engineer members of the board shall be from different branches of the profession of engineering. Professional associations or societies composed of registered engineers or registered land surveyors may recommend the names

of potential commission members whose profession is representative of that association or society to the governor. However, the governor is not 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. 2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 27, 1988

CHAPTER 1126

PHYSICAL CRIMINAL EVIDENCE REGISTRY STUDY

S.F. 2307

AN ACT providing for a study by the department of public safety concerning the establishment of a physical criminal evidence registry.

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

Section 1. The department of public safety shall prepare a study, including an implementation plan and budget, for the establishment of a physical criminal evidence registry. The report of this study shall be submitted to the governor and the general assembly no later than January 1, 1990. The study shall consider, but shall not be limited to, the use of genetic profiling techniques in criminal identification, and shall address the potential effectiveness, the cost, and the feasibility of the use of these techniques.

Approved April 27, 1988

CHAPTER 1127

INSURANCE COVERAGE FOR DENTIST SERVICES

S.F. 149

AN ACT relating to dentist's services under accident and sickness insurance policies.

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

Section 1. **NEW SECTION. 514C.3 DENTIST'S SERVICES UNDER ACCIDENT AND SICKNESS INSURANCE POLICIES.**

A policy of accident and sickness insurance issued in this state which provides payment or reimbursement for any service which is within the lawful scope of practice of a licensed dentist shall provide benefits for the service whether the service is performed by a licensed physician or a licensed dentist. As used in this section, "licensed physician" includes persons licensed under chapter 148, 150, or 150A and "policy of accident and sickness insurance" includes individual or group policies as defined in section 509B.1, subsections 3 and 4.

Approved April 28, 1988

CHAPTER 1128**SENATE CONFIRMATION OF GUBERNATORIAL APPOINTMENTS***S.F. 201*

AN ACT related to the senate's review and confirmation of gubernatorial appointments, and providing an effective date.

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

Section 1. Section 2.32, subsection 6, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A person whose appointment is subject to senate confirmation shall make available to the senate committee to which the appointment is referred, upon the committee's request, a notarized statement that the person has filed federal and state income tax returns for the three years immediately preceding the appointment, or a notarized statement of the legal reason for failure to file. If the appointment is to a board, commission, council, or other body empowered to take disciplinary action, all complaints and statements of charges, settlement agreements, findings of fact, and orders pertaining to any disciplinary action taken by that board, commission, council, or body in a contested case against the person whose appointment is being reviewed by the senate shall be made available to the senate committee to which the appointment is referred upon its request.

NEW UNNUMBERED PARAGRAPH. All tax records, complaint files, investigation files, other investigation reports, and other investigative information in the possession of the committee which relate to appointee tax filings or complaints and statements of charges, settlement agreements, findings of fact, and orders from any past disciplinary action in a contested case against the appointee are privileged and confidential and they are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the appointee unless otherwise provided by law.

Sec. 2. Section 147.12, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a person who has been appointed by the governor to serve on an examining board has ever been disciplined in a contested case by the board to which the person has been appointed, all board complaints and statements of charges, settlement agreements, findings of fact, and orders pertaining to the disciplinary action shall be made available to the senate committee to which the appointment is referred at the committee's request before the full senate votes on the person's appointment.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 28, 1988

CHAPTER 1129**HISTORY AND GOVERNMENT HIGH SCHOOL GRADUATION REQUIREMENT***S.F. 2253*

AN ACT to require that students in grades nine through twelve take history and government classes.

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

Section 1. **NEW SECTION. 280.9A HISTORY AND GOVERNMENT REQUIRED.**

The board of directors of each local public school district and the authorities in charge of each nonpublic school shall require that all students in grades nine through twelve complete, as a condition of graduation, instruction in American history and the governments of Iowa and the United States, including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot.

Approved April 28, 1988

CHAPTER 1130**CHILD DEVELOPMENT SERVICES FOR AT-RISK CHILDREN***S.F. 2192*

AN ACT to establish a child development coordinating council for the promotion of child development services to certain at-risk children and to prescribe its duties.

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

Section 1. **FINDINGS.** Programs designed to provide child development services to at-risk three-year and four-year old children have proven to have the potential to be cost-effective investments in the future productivity of these children. To be effective, these programs must be tailored to the needs of the whole child within the context of school, family, and community. The state has an opportunity to make a strong investment in assuring that these services are available to at-risk three-year and four-year old children throughout the state.

Sec. 2. **NEW SECTION. 256A.1 TITLE.**

This chapter shall be known as the "Child Development Assistance Act".

Sec. 3. **NEW SECTION. 256A.2 CHILD DEVELOPMENT COORDINATING COUNCIL ESTABLISHED.**

A child development coordinating council is established to promote the provision of child development services to at-risk three-year and four-year old children. The council shall consist of the following members:

1. The administrator of the division of children, youth, and families of the department of human rights or the administrator's designee.
2. The director of the department of education or the director's designee.
3. The commissioner of human services or the commissioner's designee.
4. The director of the department of public health or the director's designee.
5. An early childhood specialist of an area education agency selected by the area education agency administrators.

6. The dean of the college of family and consumer sciences at Iowa State University of science and technology or the dean's designee.

7. The dean of the college of education from the University of Northern Iowa or the dean's designee.

8. The professor and head of the department of pediatrics at the University of Iowa or the professor's designee.

9. A resident of this state who is a parent of a child who is or has been served by a federal head start program.

Staff assistance for the council shall be provided jointly by the department of education and the division of children, youth, and families of the department of human rights.

Sec. 4. NEW SECTION. 256A.3 COUNCIL RESPONSIBILITIES.

The child development coordinating council shall:

1. Develop a definition of at-risk children for the purposes of this chapter. The definition shall include income, family structure, the child's level of development, and availability or accessibility for the child of a head start or other child day-care program as criteria.

2. Establish minimum guidelines for comprehensive early child development services for at-risk three-year and four-year old children. The guidelines shall reflect current research findings on the necessary components for cost-effective child development services.

3. At least biennially, develop an inventory of child development services provided to at-risk three-year and four-year old children in this state and identify the number of children receiving and not receiving these services, the types of programs under which the services are received, the degree to which each program meets the council's minimum guidelines for a comprehensive program, and the reasons children not receiving the services are not being served. The council is not required to conduct independent research in developing the inventory, but shall determine information needs necessary to provide a more complete inventory.

4. Make recommendations to the department of education and the general assembly regarding appropriate curricula and staff qualifications and training for early elementary education and the coordination of the curricula with early child development programs.

5. Subject to the availability of funds appropriated or otherwise available for the purpose of providing child development services, award grants for programs that provide new or additional child development services to at-risk children.

In awarding program grants to an agency or individual, the council shall consider the following:

a. The quality of the staff and staff background in child development services.

b. The degree to which the program is or will be integrated with existing community resources and has the support of the local community.

c. The ability of the program to provide for child care in addition to child development services for families needing full-day child care.

d. A staff-to-children ratio within the guidelines established under subsection 2 of this section, but not less than one staff member per eight children.

e. The degree to which the program involves and works with the parents, and includes home visits, optional parental instruction on parenting and tutoring skills, and experiential education.

f. The manner in which health, medical, dental, and nutrition services are incorporated into the program.

g. The degree to which the program complements existing programs and services for at-risk three-year and four-year old children available in the area, including other day-care services, services provided through the school district, and services available through area education agencies.

h. The degree to which the program can be monitored and evaluated to determine its ability to meet its goals.

i. The provision of transportation or other auxiliary services that may be necessary for families to participate in the program.

j. The provision of staff training and development, and staff compensation sufficient to assure continuity.

6. Encourage the submission of grant requests from all potential providers of child development services and shall be flexible in evaluating grants, recognizing that different types of programs may be suitable for different locations in the state. However, requests for grants must contain a procedure for evaluating the effectiveness of the program and accounting procedures for monitoring the expenditure of grant moneys.

The council shall seek to use performance-based measures to evaluate programs. Not more than five percent of any state funds appropriated for child development purposes may be used for administration and evaluation.

7. Encourage the establishment of regional councils designed to facilitate the development on a regional basis of programs for at-risk three-year and four-year old children.

8. Annually, submit recommendations to the governor and the general assembly on the need for investment in child development services in the state.

Approved April 28, 1988

CHAPTER 1131

IOWA SMALL BUSINESS NEW JOBS TRAINING FUNDING

S.F. 2303

AN ACT relating to the Iowa small business new jobs training Act by providing for repayments to the permanent school fund, establishing a revolving loan account, and providing for departmental approval of certain projects by rule, and providing an effective date.

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

Section 1. Section 280C.6, Code 1987, is amended to read as follows:

280C.6 JOB TRAINING FUND — ADVANCES.

1. There is established for the area schools an area school job training fund under the supervision of the treasurer of state. The area school job training fund consists of two separate accounts containing moneys as follows:

a. An advance account to which is credited moneys appropriated by the state under section 280C.8, plus the interest from repayment of advances made to employers for program costs. Moneys in this account shall be used to provide advances to employers for program costs upon requests of the boards of directors of the area schools. A permanent school fund repayment account to which shall be credited the interest and principal from repayment of loans originating from the permanent school fund appropriation in section 280C.8, made to employers for program costs, and interest earned from moneys in the account. Moneys in this account shall be used to repay the appropriation from the permanent school fund. At the end of each calendar quarter, the treasurer of state shall transfer the moneys in the account and any moneys in the surplus account of the Iowa plan fund for economic development created in section 99E.31 to the permanent school fund as repayment of the loan from the permanent school fund. If there are moneys in the permanent school fund repayment account after the permanent school fund loan has been fully repaid, those moneys shall be transferred to the revolving loan account provided in paragraph "b" of this section.

b. A repayment account to which is credited the repayments of the advances made to employers for program costs. At the end of each calendar quarter, the treasurer of state shall transfer the moneys in the account to the permanent school fund as repayment of the appropriations made under section 280C.8. However, interest earned on moneys in the repayment account shall be credited to the advance account created in paragraph "a".

b. A revolving loan account to which shall be credited moneys appropriated for the fiscal year beginning July 1, 1987, and for succeeding fiscal years for the purposes of this chapter plus the interest and principal from repayment of advances made to employers for program costs and interest earned from moneys in the revolving loan account. Moneys in this account shall be used to provide advances to employers for program costs upon request of boards of directors of the area schools. Beginning July 1, 1995, the Iowa department of economic development shall reserve a portion of the moneys in the revolving loan account to pay a portion of the original one million dollar appropriation in section 280C.8 which, based upon projections of the state treasurer, may still be owed to the permanent school fund on June 30, 1996. The department shall reserve a portion of the moneys in the revolving loan account only if the moneys in the permanent school fund repayment account created in paragraph "a" and moneys in the "surplus" account of the Iowa plan fund for economic development created in section 99E.31, subsection 1, paragraph "c", are insufficient to repay the loan from the permanent school fund.

2. To provide funds for the present payment of the costs of a new jobs training program by the employer, the area school may provide to the employer an advance of the moneys to be used to pay for the program costs as provided in the agreement. To receive the funds for this advance from the area school job training fund revolving loan account, the area school shall submit an application to the treasurer of state department of economic development. The treasurer shall provide the funds to the extent available. The amount of the advance shall not exceed seventy-five fifty thousand dollars for any project. The advance shall be repaid with interest from the sources provided in the agreement. The rate of interest to be charged for advances made in a calendar month is equal to one half of the average rate of interest on tax exempt certificates issued by area schools pursuant to chapter 280B for the previous twelve months. The rate shall be computed by the Iowa department of economic development.

Sec. 2. Section 280C.7, Code 1987, is amended to read as follows:

280C.7 DEPARTMENT OF ECONOMIC DEVELOPMENT.

The Iowa department of economic development in consultation with the department of education and the division of job service of the department of employment services shall coordinate the new jobs training program. The department of economic development shall adopt, amend, and repeal rules under chapter 17A that the area school will use in developing projects with new and expanding small business new jobs training proposals. The department shall establish by rule criteria for determining what constitutes a small business. A project shall not be funded under this chapter unless the department approves the project. The department shall establish by rule criteria for approval of projects. The department is authorized to make any rule that is adopted, amended, or repealed effective immediately upon filing with the administrative rules coordinator or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication. The Iowa department of economic development shall prepare an annual report for the governor and general assembly on the activities and the future anticipated needs of this new jobs training program.

Sec. 3. Section 280C.8, Code 1987, is amended to read as follows:

280C.8 APPROPRIATIONS.

Notwithstanding sections 8.6, ~~292.1~~, and 302.1 and ~~302.13~~, there is appropriated from the permanent school fund, for the fiscal period beginning July 1, 1985, and ending June 30, 1988

1996, the sum of one million dollars to provide funds for the purposes of and deposits in the area school job training fund created in section 280C.6. The money appropriated under this section is a loan from the permanent school fund to the area school job training fund. The interest on the loan shall be prepaid for the a three-year period of the loan from funds appropriated by this section. The rate of interest shall be determined by the treasurer of state. ~~Notwithstanding section 8.33, moneys remaining of the appropriations made under this section on June 30, 1986 and June 30, 1987 shall not revert to the permanent school fund but remain in the area school job training fund. All moneys in the area school job training fund on June 30, 1988 and each fiscal year thereafter shall revert to the permanent school fund. Moneys to repay the amount of the loan from the permanent school fund shall be paid from funds to be credited to the "Surplus" account of the Iowa plan fund for economic development created in section 99E.31.~~

At the end of each calendar quarter the treasurer of state shall transfer moneys to repay the amount of the loan from the permanent school fund from the following sources:

1. Moneys in the permanent school fund repayment account created in section 280C.6,* paragraph "a".

2. Moneys to be credited to the "surplus" account of the Iowa plan fund for economic development created in section 99E.31.

On and after June 30, 1996, the moneys reserved by the Iowa department of economic development from the revolving loan account created in section 280C.6,* paragraph "b", shall be used to repay a portion of the loan from the permanent school fund provided the conditions stated in section 280C.6,* paragraph "b", are met.

Sec. 4. Moneys in the old advance account of the area school job training fund on the effective date of this Act shall be transferred to the new revolving loan account of the area school job training fund. Moneys in the old repayment account of the area school job training fund on the effective date of this Act shall be transferred to the new permanent school fund repayment account of the area school job training fund.

Sec. 5. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 28, 1988

CHAPTER 1132

LIBRARY FINANCIAL SUPPORT BY GOVERNMENTAL SUBDIVISIONS

S.F. 2301

AN ACT relating to the maintenance of local financial support by governmental subdivisions for operating expenses of local libraries.

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

Section 1. Section 303B.6, subsection 12, Code 1987, is amended to read as follows:

12. ~~Shall require, as a condition for receiving services, that a encourage governmental subdivision assure maintenance of subdivisions to maintain local effort to financial support for~~ the operating expenses of a local ~~library~~ libraries.

Sec. 2. Section 303B.9, Code 1987, is amended to read as follows:

*280C.6, subsection 1, probably intended.

303B.9 LOCAL FINANCIAL SUPPORT.

A regional board shall have the authority to require as a condition for receiving services under section 303B.6 that a governmental subdivision maintain any tax levy for library maintenance purposes that is in effect on July 1, 1973. Commencing July 1, 1977, each city within its corporate boundaries and each county within the unincorporated area of the county shall levy a tax of at least six and three-fourths cents per thousand dollars of assessed value on the taxable property or at least the monetary equivalent thereof when all or a portion of the funds are obtained from a source other than taxation, for the purpose of providing financial support to the public library which provides library services within the respective jurisdictions.

Approved April 28, 1988

CHAPTER 1133

SERVICE OF LEGAL PROCESS AND LEVY OF EXECUTION

S.F. 2331

AN ACT relating to the collection of fees for and the rights and duties of the sheriff regarding service of legal process and levy of execution.

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

Section 1. Section 79.5, subsection 3, Code 1987, is amended to read as follows:

3. When the orders, judgments, or decrees of a court are to be entered, or performed, ~~or its writs executed in divorce-related matters including child support, temporary custody, restraining orders, and writs of habeas corpus.~~

Sec. 2. Section 331.655, subsection 1, paragraph j, Code 1987, is amended to read as follows:

j. Mileage at the rate specified in section 79.9 in all cases required by law, going and returning. Mileage fees do not apply where provision is made for expenses, and both mileage and expenses shall not be allowed for the same services and for the same trip. If the sheriff transports one or more persons by auto to a state institution or any other destination required by law or if one or more legal papers are served on the same trip, the sheriff is entitled to one mileage, the mileage cost of which shall be prorated to the persons transported or papers served. However, in serving original notices in civil cases and in serving and returning a subpoena, the sheriff shall be allowed mileage in each action where the original notice or subpoena is served, with a minimum mileage of one dollar for each service. The sheriff may refuse to serve ~~original notices~~ any legal processes in civil cases until the fees and estimated mileage for service have been paid.

Sec. 3. Section 626.50, Code 1987, is amended to read as follows:

626.50 DUTY TO LEVY — NOTICE OF OWNERSHIP OR EXEMPTION.

An officer is bound to levy an execution on any personal property in the possession of, or that the officer has reason to believe belongs to, the defendant, or on which the plaintiff directs the officer to levy, after having received written instructions for the levy from the plaintiff or the attorney who had the execution issued to the sheriff, unless the officer has received notice in writing under oath from some other person, the or that person's agent or attorney, that such the property belongs to the person, stating the nature of the person's interests therein in the property, how and from whom the person acquired the same property, and the consideration paid therefor for the property; or from the defendant, that the property is exempt from execution.

Approved April 28, 1988

CHAPTER 1134

NONSUBSTANTIVE CODE AND REORGANIZATION CORRECTIONS

S.F. 2171

AN ACT making nonsubstantive, noncontroversial statutory corrections to comply with reorganization changes, improve clarity, remove conflicts and inconsistencies, correct references, and correct grammar and syntax.

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

Section 1. Section 2.49, subsection 5, Code 1987, is amended to read as follows:

5. Submit to each member of the general assembly quarterly a report of the current status of major state funds, a comparison of income with estimates used by the general assembly and other revenue and expenditure information which the legislative fiscal committee determines will be informative for members of the general assembly. The state comptroller department of revenue and finance and the department of management shall co-operate with the legislative fiscal bureau in the development of the report. The legislative fiscal committee shall approve the style and format of the report.

Sec. 2. Section 7C.7, subsection 1, Code Supplement 1987, is amended to read as follows:

1. If the bonds are issued and delivered for the purpose or project within the thirty-day period or the ~~forty-day~~ forty-five day extension period provided in subsection 2, the political subdivision or its representative shall within ten days following the issuance and delivery of the bonds or not later than October 25 of that year, if the bonds were issued and delivered on or before that date, file with the governor's designee, in the form or manner the governor's designee may prescribe, a notification of the date of issuance and the delivery of the bonds, and the actual principal amount of bonds issued and delivered. The filing of the notification shall be done by actual delivery or by posting in a United States post office depository with correct first class postage paid. If the actual principal amount of bonds issued and delivered is less than the amount of the allocation, the amount of the allocation is automatically reduced to the actual principal amount of the bonds issued and delivered.

Sec. 3. Section 8.34, Code 1987, is amended to read as follows:

8.34 CHARGING OFF UNEXPENDED APPROPRIATIONS.

Except as otherwise provided by law, the director of the department of management shall transfer to the fund from which ~~any~~ an appropriation was made, any unexpended or unencumbered balance of ~~such~~ that appropriation remaining at the expiration of three months after the close of the biennial fiscal term for which the appropriation was made. At the time the transfer is made on the books of the department of management, the director shall certify ~~such~~ that fact to the treasurer of state, who shall make corresponding entries on the books of the treasurer's office.

Sec. 4. Section 8.40, Code 1987, is amended to read as follows:

8.40 PENALTY — REMOVAL — IMPEACHMENT.

A refusal to perform any of the requirements of this chapter, ~~and the~~ or a refusal to perform ~~any~~ a rule or requirement or request of the governor or the ~~state comptroller~~ director of the department of management made pursuant to ~~or under authority~~ of this chapter, by ~~any~~ a board member, commissioner, director, manager, building committee, ~~or~~ other officer or person connected with any institution, or other state department or establishment as ~~herein defined~~, ~~shall~~ subject ~~subjects~~ the offender to a penalty of two hundred fifty dollars, to be recovered in an action instituted in the district court of Polk county by the attorney general for the use of the state. If ~~such~~ the offender ~~be~~ is not an officer elected by vote of the people, ~~such~~ the offense

shall be is sufficient cause for removal from office or dismissal from employment by the governor upon thirty days' notice in writing to such the offender; and, if such the offender be is an officer elected by vote of the people, such the offense shall be is sufficient cause to subject the offender to impeachment.

Sec. 5. Section 8.42, Code 1987, is amended to read as follows:

8.42 PAYROLL ACCRUAL ACCOUNT.

~~Beginning July 1, 1982, the state comptroller~~ The director of the department of management shall establish a payroll accrual account in the office of the state treasurer. In preparation of budgets for state departments, the ~~state comptroller~~ director shall compute an amount for each fiscal year sufficient to provide funds to meet the twenty-seventh biweekly payroll when it occurs and shall deposit the necessary amount each year in the payroll accrual account.

Sec. 6. Section 8.43, Code 1987, is amended to read as follows:

8.43 SALARY ADJUSTMENT FUND.

~~There is created a~~ A "salary adjustment fund" is created, to be used to segregate funds appropriated by the general assembly ~~to be distributed for distribution~~ to various state departments to fund certain salary increases for designated state employees. ~~Funds~~ Moneys distributed from the salary adjustment fund shall ~~be are~~ subject to the approval of the governor and ~~state comptroller~~ director of the department of management.

Sec. 7. Section 8.44, Code 1987, is amended to read as follows:

8.44 REPORTING ADDITIONAL FUNDS RECEIVED.

Upon receiving federal funds or any other funds from any public or private sources except gifts or donations made to institutions for the personal use or for the benefit of members, patients, or inmates and receipts from the gift shop of merchandise manufactured by members, patients, or inmates, the state departments, agencies, boards, and institutions receiving such funds shall submit a written report within thirty days after receipt of such the funds to the ~~state comptroller~~ director of the department of management. The report shall state the source of the funds that supplement or replace state appropriations for institutional operations, the amount received, and the terms under which such the funds are received.

Sec. 8. Section 9.3, Code 1987, is amended to read as follows:

9.3 COMMISSIONS.

All commissions issued by the governor shall be countersigned by the secretary, who shall register each commission in a book to be kept for that purpose, specifying the office, name of officer, date of commission, and tenure of office, and forthwith forward to the ~~state comptroller~~ a copy directors of the departments of management and of revenue and finance copies of said the registration.

Sec. 9. Section 10A.106, subsection 5, Code Supplement 1987, is amended to read as follows:

5. Gaming Racing and gaming division.

Sec. 10. Section 10A.701, Code Supplement 1987, is amended to read as follows:

10A.701 GAMING RACING AND GAMING DIVISION.

The racing and gaming division shall combine and coordinate the supervision of pari-mutuel betting and the conducting of games of skill, games of chance, or raffles in the state. The division shall enforce and implement chapters 99B and 99D. The division is headed by the administrator of racing and gaming who shall be appointed pursuant to section 99D.6. The state racing commission shall perform duties within the division as prescribed in chapter 99D.

Sec. 11. Section 12.26, subsections 2 and 3, Code 1987, are amended to read as follows:

2. The principal of and the interest on notes shall be are payable solely out of the taxes and revenues of the state for the fiscal year for which the notes are issued. The notes of each issue shall be dated, shall bear interest at the a rate or rates which may be variable according to a method approved by the treasurer of state, without regard to any limit contained in chapter 74A or any other law of this state, and shall mature at such a time or times not later than the end of the fiscal year, all as may be determined by the treasurer of state. The notes may be made redeemable before maturity, at the option of the treasurer of state, at the price and under the terms and conditions as provided by the treasurer of state. The treasurer of state shall determine the form of the notes and shall fix the denomination of the notes and the place of payment of principal and interest which may be at any bank within or without the state. The notes shall be executed by the manual or facsimile signatures of the treasurer of state, the director of management, and the state comptroller director of revenue and finance. If any an official whose signature or a facsimile of whose signature appears on any notes ceases to hold office before the delivery of the notes, the signature or the facsimile is valid and sufficient for all purposes the same as if the official had remained in office until the delivery. All notes issued under this section have the qualities and incidents of negotiable instruments under the laws of this state and without regard to any other law. The notes shall be issued in registered form. The notes may be sold in the a manner, at public or private sale, as the treasurer of state may determine without regard to chapter 75.

3. Notes may be issued under this section without obtaining the consent of any officer or agency of this state, and without any other proceedings or conditions other than those proceedings and conditions which are specifically required by this section. The treasurer of state, or the director of management, and the state comptroller is director of revenue and finance are not liable personally on the notes or subject to any personal liability or accountability by reason of the issuance of the notes.

Sec. 12. Section 15A.2, Code Supplement 1987, is amended to read as follows:

15A.2 CONFLICTS OF INTEREST.

If a member of the governing body of a city or county or an employee of a state, city, or county board, agency, commission, or other governmental entity of the state, city, or county has an interest, either direct or indirect, in a private person for which grants, loans, guarantees, or other financial assistance may be provided by such the governing board or governmental entity, the interest shall be disclosed to that governing body or governmental entity in writing. The member or employee having the interest shall not participate in the decision-making process with regard to the providing of such financial assistance to the private person.

Employment by a public body, its agencies, or institutions or by any other person having such an interest shall not be deemed an indicia of an interest by such the employee or of any ownership or control by such the employee of interests of the employee's employer.

The word "participate" or "participation" shall be deemed not to include discussion or debate preliminary to a vote of a local governing body or agency upon proposed ordinances or resolutions relating to such a project or any abstention from such a vote.

The designation of a bank or trust company as depository, paying agent, or agent for investment of funds shall not be deemed a matter of interest or personal interest.

Stock ownership in a corporation having such an interest shall not be deemed an indicia of an interest or of ownership or control by the person owning such the stocks when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by such that person.

The word "action" phrase "decision-making process" shall not be deemed to include resolutions advisory to the local governing body or agency by any citizens group, board, body, or commission designated to serve a purely advisory approving or recommending function for economic development.

A violation of a provision of this section is misconduct in office under section 721.2. However, a decision of the governing board or governmental entity is not invalid because of the participation of the member or employee in the decision-making process or because of a vote cast by a member or employee in violation of this section unless the participation or vote was decisive in the awarding of the financial assistance.

Sec. 13. Section 17.4, subsection 7, Code 1987, is amended by striking the subsection.

Sec. 14. Section 17.10, Code 1987, is amended to read as follows:

17.10 ~~COMMERCE COMMISSION UTILITIES BOARD.~~

The annual report of the ~~Iowa state commerce commission utilities board~~ shall, as to all statistical data, cover the year ending December 31 preceding the filing of the report, and the proceedings of the ~~commission board~~ to date of filing the report each year. ~~Said~~ The report shall be filed on or before December 1. ~~The commission board~~ shall determine the manner in which ~~such~~ the annual report shall be published.

Sec. 15. Section 25.6, Code 1987, is amended to read as follows:

25.6 CLAIMS BY STATE AGAINST MUNICIPALITIES.

The state appeal board ~~shall have power and authority to~~ may investigate and collect claims which the state ~~may have~~ has against municipal or political corporations in the state including counties, cities, townships, and school corporations. The board shall refer any such claim to the special assistant attorney general for claims, when ~~any such~~ the claim has not been promptly paid, and if the special assistant attorney general for claims is not able to collect the full amount of ~~said~~ the claim, the special assistant attorney general shall fully investigate ~~same~~ and report to the state appeal board findings of fact and conclusions of law, together with any recommendation as to ~~said~~ the claim. Thereafter the state appeal board may effect a compromise settlement with the debtor in ~~such an~~ amount and under ~~such~~ terms as the ~~said~~ board ~~may deem~~ deems just and equitable in view of the findings and conclusions reported to it. ~~In the event~~ If the state appeal board is unable to collect a claim in full or effect what it has determined to be a fair compromise, it shall deliver ~~same~~ the claim to the attorney general for ~~such~~ action as the attorney general shall determine and the special assistant attorney general for claims is specifically charged with carrying out the directions of the attorney general with reference ~~thereto to~~ the claim. When ~~any a~~ claim is compromised by the state appeal board, ~~it~~ the board shall file ~~in the office of the comptroller~~ with the department of management and the department of revenue and finance a statement as to the settlement, together with a true copy of the agreement of settlement, and if in settlement an amount less than the face amount is accepted in full, the proper entries shall be made in the books of the ~~comptroller, department of management, the department of revenue and finance,~~ and the auditor of state showing the amount of the claim, the amount of the settlement, and the amount charged off.

Sec. 16. Section 28D.3, subsection 3, Code 1987, is amended to read as follows:

3. Persons employed by the energy ~~policy council~~ and geological resources division of the ~~department of natural resources~~ under the provisions of chapter 28D shall are not be subject to the twenty-four-month time limitation specified in subsection 2.

Sec. 17. Section 28G.6, Code 1987, is amended to read as follows:

28G.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~~ natural resources. 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~~ environmental protection commission.

Sec. 18. Section 39.22, subsection 1, Code Supplement 1987, is amended to read as follows:

1. BY APPOINTMENT. The county board of supervisors may pass a resolution in favor of filling the offices of trustee and clerk within a township by appointment by the board, and may direct the county commissioner of elections to submit the question to the eligible voters of the township at the next general election. In a township which does not include a city, eligible voters shall consist of the voters of the entire township. In a township which includes a city, eligible voters are those voters who reside outside the corporate limits of a city. The resolution shall apply to all townships which have not approved a proposition to fill township offices by appointment. If the proposition to fill the township offices by appointment is approved by a majority of the eligible voters, the board shall fill the offices by appointment as the terms of office of the incumbent township officers expire.

PARAGRAPH DIVIDED. The election of the trustees and clerk of a township may be restored after approval of the appointment process under this subsection by a resolution of the board of supervisors submitting the question to the eligible voters of the township at the next general election. If the proposition to restore the election process is approved by a majority of the eligible voters, the election of the township officers shall commence with the next primary and general elections. A resolution submitting the question of restoring the election of township officers at the next general election shall be adopted by the board of supervisors upon petition of at least ten percent of the eligible voters of a township. The initial terms of the trustees shall be determined by lot, one for two years, ~~one for three years~~, and ~~one two for~~ four years. However, if a proposition to change the method of selecting township officers is adopted by the electorate, a resolution to change the method shall not be submitted to the electorate for four years.

Sec. 19. Section 39.22, subsection 2, paragraph a, Code Supplement 1987, is amended to read as follows:

a. TOWNSHIP TRUSTEES. Township trustees shall be elected biennially to succeed those whose terms of office expire on the first day of January following the election which is not a Sunday or legal holiday. The term of office of each elected township trustee is four years, except as provided in subsection 1 for initial terms following restoration of the election process.

Sec. 20. Section 76.2, unnumbered paragraph 2, Code 1987, is amended to read as follows:

If the resolution is filed prior to April 1 the annual levy shall begin with the tax levy for collection commencing July 1 of that year. If the resolution is filed after April 1, the annual levy shall begin with the tax levy for collection in the next succeeding fiscal year. However, the governing authority of a political subdivision may adjust a levy of taxes made under this section for the purpose of adjusting the annual levies and collections for property severed from the political subdivision, subject to the approval of the ~~state comptroller~~ director of the department of management.

Sec. 21. Section 99B.7, subsection 1, paragraph p, Code Supplement 1987, is amended to read as follows:

p. ~~The person or organization~~ A licensee shall keep records of all persons who serve as manager or cashier, or who are responsible for carrying out duties with respect to a bingo

account. ~~Any person or organization which~~ A licensee is subject to license revocation if it knowingly permits a person who to serve in one of these capacities if the person was a manager, cashier, or responsible for carrying out duties with respect to a bingo account for another organization licensee at the time of one or more violations leading to revocation of its the other licensee's license, and which if the license is currently under revocation shall be subject to license revocation still revoked at the time of the subsequent service.

Sec. 22. Section 103A.8, subsection 7, Code 1987, is amended to read as follows:

7. Limit the application of thermal efficiency standards for energy conservation to new construction which will incorporate a heating or cooling system. Air exchange fans designed to provide ventilation shall not be considered a cooling system. The commissioner shall exempt any new construction from thermal efficiency standards for energy conservation if the commissioner determines that the standards are unreasonable as they apply to a particular building or class of buildings including farm buildings for livestock use. Lighting efficiency standards shall recognize variations in lighting intensities required for the various tasks performed within the building. The commissioner shall consult with the ~~energy policy council~~ energy and geological resources division of the department of natural resources regarding standards for energy conservation prior to the ~~promulgation~~ adoption of the standards. However, the standards shall be consistent with the requirements of section 103A.8A.

Sec. 23. Section 103A.8A, Code 1987, is amended to read as follows:

103A.8A MINIMUM ENERGY EFFICIENCY STANDARD.

The state building code commissioner shall adopt as a part of the state building code a requirement that new single-family or two-family residential construction shall meet an established minimum energy efficiency standard. The standard shall be stated in terms of the home heating index developed by the physics department at Iowa state university of science and technology. The minimum standard shall be the average energy consumption of new single-family or two-family residential construction as determined by a survey conducted by the ~~energy policy council~~ energy and geological resources division of the department of natural resources of the average actual energy consumption, as expressed in terms of the home heating index. The minimum standard shall only apply to single-family or two-family residential construction commenced after the adoption of the standard.

Sec. 24. Section 106.2, subsection 14A, Code Supplement 1987, is amended by striking the subsection.

Sec. 25. Section 107.19, unnumbered paragraphs 1 and 2, Code 1987, are amended to read as follows:

All funds accruing to the fish and game protection fund, except an equitable portion of the administration fund, shall be expended solely in carrying on the activities embraced in the fish and wildlife division. Expenditures incurred by the ~~commission~~ division in carrying on the activities shall be only on authorization by the general assembly.

The ~~commission~~ department shall annually on or before September 1 of each year submit to the department of management for transmission to the general assembly a detailed estimate of the amount required by the department during the succeeding year for carrying on the activities embraced in the fish and wildlife division. The estimate shall be in the same general form and detail as required by law in estimates submitted by other state departments.

Sec. 26. Section 135D.25, unnumbered paragraph 3, Code Supplement 1987, is amended to read as follows:

When a mobile home is removed from the county where delinquent taxes, ~~both~~ regular or special, are owing, or when it is administratively impractical to pursue tax collection through

the remedies of this section, all taxes, ~~both regular or~~ and special, penalties, interest, and costs shall be abated by resolution of the county board of supervisors. The resolution shall direct the county treasurer to strike from the tax books the reference to that mobile home.

Sec. 27. Section 142B.1, subsection 3, Code Supplement 1987, is amended to read as follows:

3. The state plan shall designate those transplant procedures eligible for reimbursement under Title XIX. It is the policy of this state that Title XIX reimbursement shall be limited to nonexperimental human organ and tissue transplantation procedures and services as provided under Title XVIII of the federal Social Security Act. For the purposes of this section, "nonexperimental human organ and tissue transplantation procedures and services" shall be those so designated by Title XVIII of the federal Social Security Act, and heart transplants and services for patients so long as patient selection policies of the center satisfactorily address the elements of the most recent patient selection guidelines adopted by Title XVIII.

The commission shall adopt the state plan by January 1, 1988, at which time the department of human services shall adopt administrative rules pursuant to chapter 17A to implement the state plan. The Iowa department of public health shall adopt rules addressing organ donor protocols for hospitals. ~~Until such time as such rules are adopted, the department of human services shall adopt emergency rules for reimbursements of transplant services under Title XIX for those procedures defined as nonexperimental under Title XVIII of the federal Social Security Act. For the purposes of this section, "nonexperimental human organ and tissue transplantation procedure and services" shall be those so designated by Title XVIII of the federal Social Security Act, and heart transplants and services for patients so long as patient selection policies of the center satisfactorily address the elements of the most recent patient selection guidelines adopted by Title XVIII.~~

Sec. 28. Section 145.2, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The commission shall meet at least once during each calendar quarter. Meeting dates shall be set by members of the commission or by call of the chairperson upon five days notice to the members. Action of the commission shall not be taken except upon the affirmative vote of a majority of the voting members of the commission. ~~The three~~ four voting members of the commission shall not receive a salary or per diem for being on the commission but shall receive reimbursement for necessary travel and expenses while engaged in commission business. Funds for reimbursement shall come from the moneys appropriated to the department of which the member is the head. The two legislative members of the commission are entitled to per diem and necessary travel and actual expenses as provided in section 2.10, subsection 6. The commission staff and chairperson of the corporation, association, or entity under agreement with the commission pursuant to section 145.3, subsection 1, shall not receive ~~any~~ salary, wages, or per diem for serving the commission and shall not receive reimbursement for commission travel and related expenses or for other commission expenses.

Sec. 29. Section 147.14, subsection 7, Code 1987, is amended to read as follows:

7. ~~Five~~ For psychology examiners, five members who are licensed to practice psychology and two members not licensed to practice psychology and who shall represent the general public. Of the five members who are licensed to practice psychology, one member shall be primarily engaged in graduate teaching in psychology, two members shall be persons who render services in psychology, one member representing shall represent areas of applied psychology who and may be affiliated with training institutions and who shall devote a major part of their the member's time in to rendering service in psychology, and one member shall be primarily engaged in research psychology. A majority of the members of the board shall constitute constitutes a quorum.

Sec. 30. Section 148D.2, Code 1987, is amended to read as follows:

148D.2 ESTABLISHMENT.

~~There is established a~~ A state-wide medical education system is established for the purpose of training resident physicians in family practice. The dean of the college of medicine ~~shall be~~ is responsible for implementing the development and expansion of residency programs in co-operation with the medical profession, hospitals, and clinics located throughout the state. The head of the department of family practice in the college of medicine, ~~with the consent of the advisory board,~~ shall determine where affiliated residency programs shall be established, giving consideration to communities in the state where the population, hospital facilities, number of physicians and interest in medical education indicate the potential success of the residency programs. The medical education systems shall provide financial support for residents in training in accredited affiliated residency programs and shall establish positions for a director, assistant director, and other faculty in the programs. To assure continued growth, development, and academic essentials in ongoing programs, nonaffiliated residency programs which are ~~or hereafter become~~ accredited by a recognized national accrediting organization, shall be funded under this chapter at a level commensurate with the support of the affiliated residency programs having a comparable number of residents in training or, if there ~~be~~ are no affiliated residency ~~program~~ programs having a comparable number of residents in training, then a nonaffiliated program shall be funded in an amount determined on a pro rata capitation basis for each resident in training, equivalent to the per capita funding for each resident in training in an affiliated program having the nearest number of residents in training. As used in the preceding sentence, "support" ~~shall mean~~ means both cash grants and the value of service directly provided to affiliated residency programs by the college of medicine.

Sec. 31. Section 152.3, subsection 6, Code 1987, is amended to read as follows:

6. To appoint ~~such~~ assistants to the director and persons ~~as may be necessary~~ to administer the provisions of this Act. Any appointments shall be merit appointments made pursuant to chapter ~~19~~ 19A.

Sec. 32. Section 159.5, subsection 14, Code Supplement 1987, is amended by striking the subsection.

Sec. 33. Section 159.6, subsections 7, 11, and 12, Code 1987, are amended by striking the subsections.

Sec. 34. Section 159.6, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 18. The grain depositors and sellers indemnity fund as set forth in chapter 543A.

Sec. 35. Section 185.5, Code 1987, is amended to read as follows:

185.5 ELECTION FOR DIRECTORS.

~~Notice of the initial election for directors of the board shall be given by the secretary by publication in a newspaper of general circulation in the state at least five days prior to the date of the election and in any other reasonable manner as may be determined by the secretary. The notice shall set forth the period of time for voting, voting places, and such other information as the secretary may deem necessary.~~

Notice of ~~subsequent~~ elections for directors of the board in a district shall be given by the board by publication in a newspaper of general circulation in the district and in any other reasonable manner as ~~may be~~ determined by the board and shall set forth the period of time for voting, voting places, and ~~such other information as the board may deem~~ deems necessary.

Sec. 36. Section 185.7, unnumbered paragraph 2, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 37. Section 185.8, Code 1987, is amended to read as follows:

185.8 FUTURE ELECTIONS.

~~After election of the initial board, the~~ The board shall administer subsequent elections for directors of the board with the assistance of the secretary. Prior to the expiration of a director's term of office, the board shall appoint a nominating committee for the district represented by ~~such that~~ director. The nominating committee shall consist of five producers who are residents of the district from which a director must be elected. The nominating committee shall nominate two resident producers as candidates for each director position for which an election is to be held. Additional candidates may be nominated by a written petition of one hundred producers. Procedures governing the time and place of filing shall be ~~promulgated~~ adopted and publicized by the board.

Sec. 38. Section 185.15, Code 1987, is amended to read as follows:

185.15 INITIAL MEETING TERM OF PROMOTIONAL ORDER.

~~The initial board shall meet and organize following the members' election, and the promotional order, including the assessment, shall become effective sixty days following the date of the election of the board.~~ A promotional order shall be effective for four years from its effective date, and upon each four-year anniversary of its effective date shall be either extended or terminated as provided in this chapter.

Sec. 39. Section 185C.5, Code 1987, is amended to read as follows:

185C.5 NOTICE OF ELECTION.

~~Notice of the initial election for directors of the board shall be given by the secretary by publication in a newspaper of general circulation in the state at least five days prior to the date of the election and in any other reasonable manner as may be determined by the secretary. The notice shall set forth the period of time for voting, voting places, and such other information as the secretary may deem necessary.~~

Notice of subsequent elections for directors of the board in a district shall be given by the board by publication in a newspaper of general circulation in the district and in any other reasonable manner as may be determined by the board and shall set forth the period of time for voting, voting places, and ~~such other information as the board may deem~~ deems necessary.

Sec. 40. Section 185C.7, unnumbered paragraph 2, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 41. Section 185C.8, Code 1987, is amended to read as follows:

185C.8 FUTURE ELECTIONS.

~~After election of the initial board, the~~ The board shall administer subsequent elections for directors of the board with the assistance of the secretary. Prior to the expiration of a director's term of office, the board shall appoint a nominating committee for the district represented by ~~such that~~ director. The nominating committee shall consist of five producers who are residents of the district from which a director must be elected. The nominating committee shall nominate two resident producers as candidates for each director position for which an election is to be held. Additional candidates may be nominated by a written petition of twenty-five producers. Procedures governing the time and place of filing shall be ~~promulgated~~ adopted and publicized by the board.

Sec. 42. Section 185C.15, Code 1987, is amended to read as follows:

185C.15 INITIAL MEETING PROMOTIONAL ORDER.

~~The initial board shall meet and organize following the members' election, and the promotional order, including the assessment, shall become effective sixty days following the date~~

of the election of the board. A promotional order shall be effective for four years from its effective date.

Sec. 43. Section 217.5, Code 1987, is amended to read as follows:

217.5 COMMISSIONER DIRECTOR OF HUMAN SERVICES.

~~There shall be a commissioner of human services who shall be the~~ The chief administrative officer for the department of human services is the director of human services. ~~The commissioner~~ director shall be appointed by the governor subject to confirmation by the senate and shall serve at the pleasure of the governor. The governor shall fill a vacancy in this office in the same manner as the original appointment was made. ~~Such commissioner~~ The director shall be selected primarily for administrative ability.

~~The commissioner~~ director shall not be selected on the basis of political affiliation and shall not engage in political activity while holding this position.

Sec. 44. Section 217.7, Code 1987, is amended to read as follows:

217.7 DIRECTORS ADMINISTRATORS OF DIVISIONS.

~~The commissioner~~ director may appoint a director an administrator of each of the ~~mentioned~~ mentioned divisions. ~~Such directors~~ The administrators shall be selected on the basis of their particular professional qualifications, education, and background relative to the ~~intended~~ assigned responsibilities of their ~~division~~ divisions.

Sec. 45. Section 229.26, Code Supplement 1987, is amended to read as follows:

229.26 EXCLUSIVE PROCEDURE FOR INVOLUNTARY HOSPITALIZATION.

Sections ~~229.6 to through~~ 229.19 constitute the exclusive procedure for involuntary hospitalization of persons by reason of serious mental impairment in this state, except that this chapter does not negate the provisions of section 246.503 relating to transfer of mentally ill prisoners to state hospitals for the mentally ill and does not apply to commitments of persons under chapter 812 or the rules of criminal procedure, Iowa court rules, 2d ed., or negate the provisions of section 232.51 relating to disposition of mentally ill or mentally retarded children ~~and section 229.6A relating to a juvenile court's jurisdiction over proceedings involving minors.~~

Sec. 46. Section 232.2, subsection 11, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

"Custodian" means a step-parent or a relative within the fourth degree of consanguinity to a ~~minor~~ child who has assumed responsibility for that child, a person who has accepted a release of custody pursuant to division IV, or a person appointed by a court or juvenile court having jurisdiction over a child. The rights and duties of a custodian with respect to a child ~~shall be~~ are as follows:

Sec. 47. Section 232.2, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 26A. "Juvenile" means the same as "child". However, in the interstate compact on juveniles, sections 232.171 and 232.172, "juvenile" means a person defined as a juvenile in the law of a state which is a party to the compact.

Sec. 48. Section 232.8, subsection 1, unnumbered paragraph 3, Code Supplement 1987, is amended to read as follows:

Violations by a child of provisions of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, and violations by a child 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 the child regularly abuses alcohol and may be in need of treatment. The court shall notify the parents or legal guardians of a child who appears before it for a violation of section 123.47. A child convicted of a violation excluded from the jurisdiction of the juvenile court under this unnumbered paragraph shall be sentenced pursuant to section 903.1, subsection 3.

Sec. 49. Section 232.10, subsection 2, paragraphs a and b, Code 1987, are amended to read as follows:

a. When it appears that the best interests of the ~~minor~~ child or society or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county of the child's residence.

b. With the consent of the receiving court, the court may transfer the case to the court of the county where the ~~minor~~ child is found.

Sec. 50. Section 232.28, subsection 9, Code 1987, is amended to read as follows:

9. If the intake officer determines that the complaint is legally sufficient for the filing of a petition and that the filing of a petition is in the best interests of the juvenile child and the public, the officer shall request the county attorney to file a petition in accordance with section 232.35.

Sec. 51. Section 232.39, Code 1987, is amended to read as follows:

232.39 EXCLUSION OF PUBLIC FROM HEARINGS.

At any time during the proceedings, the court, on the motion of any of the parties or upon the court's own motion, may exclude the public from hearings under this division if the court determines that the possibility of damage or harm to the juvenile child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

Sec. 52. Section 232.102, subsection 2, Code Supplement 1987, is amended to read as follows:

2. After a dispositional hearing and upon the request of the department, the court may enter an order appointing the department as the guardian of an unaccompanied refugee ~~minor~~ child or of a child without parent or guardian.

Sec. 53. Section 232.118, subsection 2, Code 1987, is amended to read as follows:

2. ~~Any minor~~ A child fourteen years of age or older who has not been adopted but who is placed in a satisfactory foster home may, with the consent of the foster parents, join with the guardian appointed by the court in an application to the court to remove the existing guardian and appoint the foster parents as guardians of the child.

Sec. 54. Section 232.141, subsections 3, 5, and 6, Code Supplement 1987, are amended to read as follows:

3. If legal custody of a ~~minor~~ child is transferred by the court, if ~~the minor~~ a child is placed by the court with someone other than the parents, if a ~~minor~~ child is given a physical or mental examination ~~examination~~ or treatment under order of the court, or if a ~~minor~~ child is given a physical or mental examination or treatment with the consent of the parent, guardian, or legal custodian relating to a child abuse investigation, and no provision is otherwise made by law for payment for the care, examination, or treatment of the ~~minor~~ child, the costs shall be charged upon the funds of the county identified pursuant to subsection 4.

5. For court-ordered care, examination, and treatment authorized by this section, except where the parent-child relationship is terminated, the court may inquire into the ability of the parents to support the ~~minor~~ child and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay in the manner and to whom the court may direct, such sums as will cover in whole or in part the cost of care, examination, or treatment of the ~~minor~~

child. An order entered under this section shall not obligate a parent paying child support under a custody decree, except that any part of such a monthly support payment may be used to satisfy the obligations imposed by an order entered under this section. If the parents fail to pay the sum without good reason, the parents may be proceeded against for contempt or the court may inform the county attorney who shall proceed against the parents to collect the unpaid sums or both remedies may be sought. Any such sums ordered by the court shall be a judgment against each of the parents and a lien as provided in section 624.23. If all or any part of the sums that the parents are ordered to pay is subsequently paid by the county, the judgment and lien shall be against each of the parents in favor of the county to the extent of the county's payments.

6. Upon the issuance of a court order for the care, examination, or treatment of a minor child, the court shall furnish a copy of the court order to all providers of the care, examination, or treatment.

Sec. 55. Section 232.142, subsection 3, Code 1987, is amended by striking the subsection.

Sec. 56. Section 234.6, subsection 3, Code 1987, is amended to read as follows:

3. With the approval of the commissioner of human services, the governor, and ~~comptroller the director of management, and the director of revenue and finance~~, set up from the funds under the ~~director's administrator's~~ control and management an administrative fund and from ~~said the administrative fund~~ to pay the expenses of operating the state division.

Sec. 57. Section 237.8, subsection 2, Code Supplement 1987, is amended to read as follows:

2. A person who has been convicted of a violation crime under a law of any state of a crime or a person with a record of founded child abuse shall not be licensed, be employed by a licensee, or reside in a licensed home unless an evaluation of the crime or founded abuse has been made by the department of human services which concludes that the crime or founded abuse does not merit prohibition of employment or licensure. In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse abuses committed by the person involved.

Sec. 58. Section 237A.5, subsection 2, Code Supplement 1987, is amended to read as follows:

2. A person who has been convicted of a violation crime under a law of any state of a crime or a person with a record of founded child abuse shall not own or operate or be employed as a staff member, with direct responsibility for child care, of a child day care facility, as defined in section 237A.1, subsection 10, and shall not live in a child day care facility unless an evaluation of the crime or founded abuse has been made by the department of human services which concludes that the crime or founded abuse does not merit prohibition of employment licensure, or registration. In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse abuses committed by the person involved.

Sec. 59. Section 249D.12, Code 1987, is amended to read as follows:

249D.12 TERMS.

All members of the commission shall be appointed for terms of four years, with staggered expiration dates. The terms of office shall commence on the first day of July and end as provided by section 69.19. Any A vacancy on the commission shall be filled for the unexpired term of

the vacancy in the same manner as the original appointment was made. If a legislative member ceases to be a member of the general assembly the legislative member may continue to serve until a successor is appointed.

Sec. 60. Section 258.11, Code 1987, is amended to read as follows:

258.11 SALARY AND EXPENSES FOR ADMINISTRATION.

The director may make expenditures for salaries of assistants, actual expenses of the board and the director and the state advisory committee council incurred in the discharge of their duties, and other expenses as necessary to the proper administration of this chapter.

Sec. 61. Section 258A.1, subsection 1, paragraph w, Code Supplement 1987, is amended to read as follows:

w. The board of certification, created pursuant to chapter 455B director of the department of natural resources in certifying water treatment operators as provided in sections 455B.211 through 455B.224.

Sec. 62. Section 280.13A, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

If a school district does not provide an interscholastic activity for its students, the board of directors of that school district may complete an agreement with another school district to provide for the eligibility of its students in interscholastic activities provided by that other school district. A copy of each agreement completed under this section shall be filed with the appropriate organization as organization is defined in section 280.13 not later than April 30 of the school year preceding the school year in which the agreement takes effect, unless an exception is granted by the organization for good cause. An agreement completed under this section shall be deemed approved unless denied by the governing organization within ten days after its receipt. A governing organization shall determine whether an agreement would substantially prejudice the interscholastic activities of other schools. An agreement denied by a governing board organization under this section may be appealed to the state board of education under chapter 290.

Sec. 63. Section 280C.8, Code 1987, is amended to read as follows:

280C.8 APPROPRIATIONS.

Notwithstanding sections 8.6, 292.1, 302.1 and ~~302.13~~ 302.1A, there is appropriated from the permanent school fund, for the fiscal period beginning July 1, 1985, and ending June 30, 1988, the sum of one million dollars to provide funds for the purposes of and deposits in the area school job training fund created in section 280C.6. The money appropriated under this section is a loan from the permanent school fund to the area school job training fund. The interest on the loan shall be prepaid for the period of the loan from funds appropriated by this section. The rate of interest shall be determined by the treasurer of state. Notwithstanding section 8.33, moneys remaining of the appropriations made under this section on June 30, 1986, and June 30, 1987, shall not revert to the permanent school fund but remain in the area school job training fund. All moneys in the area school job training fund on June 30, 1988, and each fiscal year thereafter shall revert to the permanent school fund. Moneys to repay the amount of the loan from the permanent school fund shall be paid from funds to be credited to the "Surplus" account of the Iowa plan fund for economic development created in section 99E.31.

Sec. 64. Section 281.9, subsection 5, Code 1987, is amended to read as follows:

5. The division of special education shall audit the reports required in section 273.5 to determine that all children in the area who have been identified as requiring special education have received the appropriate special education instructional and support services, and to verify the proper identification of pupils in the area who will require special education instructional

services during the school year in which the report is filed. The division shall certify to the ~~state comptroller~~ director of the department of management the correct total enrollment of each school district in the state, determined by applying the appropriate pupil weighting index to each child requiring special education, as certified by the directors of special education in each area.

Sec. 65. Section 299.16, Code 1987, is amended to read as follows:

299.16 CENSUS BY SCHOOL OFFICER FAILURE TO ATTEND.

~~All school~~ School officers empowered to take the school census shall ascertain the number of children over seven and under sixteen years of age, in their respective districts, the number of such children who do not attend school, and so far as possible the cause of the failure to attend.

Sec. 66. Section 312.2, subsection 8, Code Supplement 1987, 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~~ a county for the secondary road fund by ~~an~~ the 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," "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~~ director of the department of management upon request by the treasurer of state.

Sec. 67. Section 321.180, subsection 1, Code 1987, is amended to read as follows:

1. ~~Any~~ A person who is at least fourteen years of age and who, except for the person's lack of instructions in operating a motor vehicle, would ~~otherwise~~ be qualified to obtain an operator's license, shall, upon meeting the requirements of section 321.186 other than driving demonstration, and upon paying the required fee, be issued a temporary instruction permit by the department, ~~entitling~~. Subject to the limitations in this subsection, a temporary instruction permit entitles the permittee, while having such the permit in the permittee's immediate possession, to drive a motor vehicle upon the highways for a period of two years from the date of issuance when. The permittee must be accompanied by a licensed operator or chauffeur who is at least eighteen years of age, or who is an approved driver education instructor, or who is a prospective driver education instructor who is enrolled in and has been specifically designated by a teacher education institution with a safety education program approved by the department of education, and who is actually occupying a seat beside the driver; except that any. The temporary instruction permit issued to a person who is less than sixteen years of age shall entitle such entitles the permittee to drive a motor vehicle upon the highways only when accompanied by a licensed operator or chauffeur who is the parent or guardian of the permittee, or an approved driver education instructor, or a prospective driver education instructor, who is enrolled in and has been specifically designated by a teacher education institution with a safety education program approved by the department of education, or by any a person who is twenty-five years of age or more if written permission is granted by the parent or guardian, who is a holder of a valid operator's or a chauffeur's license, and who is actually occupying a seat beside the driver.

If the ~~permit holder~~ permittee is driving a motorcycle, the qualified operator must be within audible and visual communications distance from the ~~permit holder~~ permittee and ~~is be~~ accompanying the permit holder permittee on or in a different motor vehicle. ~~However, only~~ Only one permit holder shall be under the immediate supervision of an accompanying qualified operator, unless the qualified operator is an approved motorcycle or driver education instructor or a prospective driver ~~or motorcycle or~~ driver education instructor, and the ~~permit holder~~ permittee is enrolled in an approved motorcycle or driver education course, in which case no more than three students shall be under the immediate supervision of each instructor while on the highway.

Sec. 68. Section 322B.2, subsection 4, Code 1987, is amended by striking the subsection.

Sec. 69. Section 324.79, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A separate fund is ~~hereby~~ created and designated as the "marine fuel tax fund". All moneys derived from the excise tax on the sale of motor fuel used in watercraft shall be deposited in the marine fuel tax fund. Moneys in ~~such the fund shall be~~ are subject to appropriation by the general assembly to the ~~state conservation commission~~ department of natural resources for use in its recreational boating program, which may include but ~~shall is~~ is not be limited to:

Sec. 70. Section 324.79, subsection 4, Code 1987, is amended to read as follows:

4. Administration, operation, and maintenance of the ~~recreation~~ recreational boating ~~division activities~~ of the ~~conservation commission~~ department of natural resources.

Sec. 71. Section 327D.192, Code 1987, is amended to read as follows:

327D.192 SPOT CHECKS FOR HAZARDOUS CARGO.

An employee of the ~~railroad division of the department~~ under the supervision of the department's administrator for rail and water designated by the director of the department may conduct spot inspections of vehicles subject to registration which are owned or operated by a railroad corporation to determine whether ~~the a~~ vehicle is used to transport products or property which may be a safety hazard for the operator of the vehicle subject to registration or any other employee of the railroad corporation who is transported in the vehicle.

Sec. 72. Section 331.510, subsections 3 and 4, Code 1987, are amended to read as follows:

3. An annual report not later than January 1 to the ~~state comptroller~~ department of management of the valuation by class of property for each taxing district in the county on forms provided by the ~~state comptroller~~ department of management. The valuations reported shall be those valuations used for determining the levy rates necessary to fund the budgets of the taxing districts for the following fiscal year.

4. An annual report not later than January 1 to the governing body of each taxing district in the county of the assessed valuations of taxable property in the taxing district as reported to the ~~state comptroller~~ department of management.

Sec. 73. Section 331.756, subsection 73, Code Supplement 1987, is amended by striking the subsection.

Sec. 74. Section 351.23, Code 1987, is amended to read as follows:

351.23 FORMS.

All forms for blanks and tags, ~~including proper columns in the assessors' books in which to note the ownership of dogs,~~ shall be prepared by the auditor. ~~All such blanks and tags shall be and~~ shall be furnished by the county.

Sec. 75. Section 351.24, Code 1987, is amended to read as follows:

351.24 TAXATION OF DOGS — MUNICIPAL LICENSE.

~~Dogs kept in kennels and not allowed to run at large shall be taxed as personal property. Dogs licensed as herein provided shall not be so taxed. Cities may license dogs in addition to the license herein required in this chapter.~~

Sec. 76. Section 351.34, Code 1987, is amended to read as follows:

351.34 CONDITION FOR LICENSE.

Before a license is issued for any dog, the owner must present evidence with the application required by section 351.3 that the dog has been vaccinated against rabies, ~~or if the dog license fee is paid to the assessor, as permitted in section 351.16, such evidence must be presented to the assessor.~~ Such The evidence shall be a certificate of vaccination signed by a licensed veterinarian, and the certificate shall show that the vaccination does not expire within six months from the effective date of the dog license.

Sec. 77. Section 422.45, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The gross receipts from sales of tangible personal property and services rendered, furnished, or performed, which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

Sec. 78. Section 422.57, subsection 1, Code 1987, is amended to read as follows:

1. A notice authorized or required under this division may be given by mailing the notice to the person for whom it is intended, addressed to that person at the address given in the last return filed by the person pursuant to this division, or if no return has been filed, then to any address obtainable. The mailing of the notice is presumptive evidence of the receipt of the notice by the person to whom addressed. Any period of time which is determined according to this division by the giving of notice commences to run from the date of registration and posting mailing of the notice.

Sec. 79. Section 422.70, subsection 3, Code 1987, is amended to read as follows:

3. The fees and mileage to be paid witnesses and ~~taxed charged~~ as costs shall be the same as prescribed by law in proceedings in the district court of this state in civil cases. All costs shall be ~~taxed charged~~ in the manner provided by law in proceedings in civil cases. ~~Where~~ If the costs are ~~taxed charged~~ to the taxpayer they shall be added to the taxes assessed against ~~said~~ the taxpayer and shall be collected in the same manner. Costs ~~taxed charged~~ to the state shall be certified by the director ~~to the state comptroller~~ who shall issue warrant warrants on the state treasurer for the amount of ~~said~~ the costs, to be paid out of the proceeds of the taxes collected under this chapter.

Sec. 80. Section 422.71, subsection 2, Code 1987, is amended to read as follows:

2. The salaries of all assistants, agents, and employees shall be fixed by the director in a budget to be submitted to the ~~comptroller~~ department of management and approved by the legislature.

Sec. 81. Section 427.1, subsection 36, paragraph b, Code Supplement 1987, is amended to read as follows:

b. "Open prairies" includes hillsides and gully areas which have a permanent grass cover but does not include native prairies meeting the criteria of the ~~state conservation~~ natural resource commission.

Sec. 82. Section 427A.12, subsections 4 and 5, Code 1987, are amended to read as follows:

4. The personal property tax replacement base for each taxing district ~~shall be is~~ perma- nent and shall not be adjusted, except that the ~~state comptroller~~ department of management

shall make any necessary corrections and shall make appropriate adjustments to reflect mergers, annexations, and other changes in taxing districts or their boundaries.

5. For each state fiscal year ending with or before the year in which the ninth increase in the additional personal property tax credit under this division becomes effective, each taxing district shall be reimbursed from the personal property tax replacement fund in an amount equal to its personal property tax replacement base multiplied by a fraction the numerator of which is the total assessed value of all personal property, excluding livestock, in the taxing district, on which taxes are not payable during ~~such~~ the fiscal year because of the various tax credits granted by this chapter, and the denominator of which is the total assessed value of all personal property in the taxing district, excluding livestock but including other personal property eligible for tax credits granted by this chapter. For the half year beginning January 1, 1974, and ending June 30, 1974, the amount of reimbursement shall be half the amount determined pursuant to this subsection. The county auditor shall certify and forward to the director of the department of management and the director of revenue and finance, at the times and in the form directed by the director of ~~revenue and finance~~ the department of management, any information needed for the purposes of this subsection. The director of ~~revenue and finance~~ the department of management shall make any necessary corrections and certify the appropriate information to the director of ~~management~~ revenue and finance.

Sec. 83. Section 442A.5, subsection 1, Code 1987, is amended to read as follows:

1. The powers of the authority are vested in and exercised by a board consisting of five members, including the treasurer of state, the ~~commissioner~~ director of public instruction the department of education, and the ~~state comptroller~~ director of the department of management, and two members appointed by the governor, subject to confirmation by the senate. The state officials may designate representatives to serve on the board for them. As far as possible, the governor shall appoint members who are knowledgeable or experienced in the school systems of this state or in finance.

Sec. 84. Section 450.84, Code 1987, is amended to read as follows:

450.84 COSTS CHARGED AGAINST ESTATE — EXCEPTIONS.

~~In all cases where~~ If an estate or interest therein so in an estate passes so as to be liable to taxation under this chapter, all costs of the proceedings had for the assessment of such the tax shall be are chargeable to such the estate as other costs in probate proceedings and, to discharge the lien, all costs as well as the taxes must be paid. In all other cases the costs are to be paid as ordered by the court. When a decision adverse to the state has been rendered, with an order that the state pay the costs, it shall be the duty of the clerk of the court in which such the action was pending to shall certify the amount of such the costs to the director of revenue and finance, who shall, if said the costs be are correctly certified and the case has been finally terminated and the tax, if any is due, has been paid, present audit the claim to the state comptroller to audit and, said claim being allowed by said comptroller, the comptroller is directed to issue a warrant on the treasurer of state in payment of such the costs.

Sec. 85. Section 455B.213, subsections 1 and 4, Code 1987, are amended to read as follows:

1. BY DIRECTOR. The director shall certify persons as to their qualifications to supervise the operation of ~~such~~ such treatment plants and water distribution systems after considering the recommendations of the ~~board~~ submitted through the commission.

4. VIOLATION. An employee of the department who willfully communicates or seeks to communicate such information, and a person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

A member of the ~~board~~ commission who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days.

Sec. 86. Section 455B.277, unnumbered paragraph 2, Code 1987, is amended to read as follows:

This section applies to drainage districts, soil conservation districts, the ~~state conservation~~ natural resource commission, political subdivisions of the state, and private persons undertaking projects relating to flood control.

Sec. 87. Section 455B.484, subsection 2, Code Supplement 1987, is amended to read as follows:

2. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for deposit into the waste management authority trust fund to be used for programs relating to the duties of the ~~division~~ authority under this part.

Sec. 88. Section 467A.42, subsection 6, Code Supplement 1987, is amended to read as follows:

6. "Conservation folder" means compiled information concerning the topography, soil composition, natural or artificial drainage characteristics, and other pertinent factors concerning a particular farm unit, which ~~are~~ is necessary to the preparation of a sound and equitable conservation agreement for that farm unit. The specific items to be contained in a conservation folder shall be prescribed by administrative rules of the department of ~~soil conservation~~. The department shall provide by rule that an updated farm plan prepared for a particular farm unit within ten years prior to the effective date of this subsection shall be considered an adequate replacement for the conservation folder for that farm unit.

Sec. 89. Section 467B.14, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The county auditor shall certify to the executive council of the state the amounts allocated to each school district in the previous year, on January 2 of the ~~following~~ each year. The ~~executive council of the state shall deduct this amount from any tax free land reimbursement claim filed that year under section 284.4; except that in no case shall the deduction result in an amount less than the total of the tax free land reimbursement plus any benefits payable to the school district other than the amounts specified in this paragraph.~~ The remaining ten percent of any ~~such~~ a payment received by the county treasurer from the federal government, or so as much thereof as ~~may be~~ is deemed necessary by the board of supervisors, shall be allocated to the local fire departments of the unincorporated villages, townships, and cities of the county which are principally affected by the federal flood control project involved, to be paid and prorated among them as determined by the board of supervisors. If the funds prorated to local fire departments in ~~any~~ a county are less than ten percent of the total county share of such federal payments for ~~any~~ a year, the amount which exceeds ~~such~~ the prorations shall revert back to and be divided equally between the secondary road fund and the local school district fund.

Sec. 90. Section 474.9, Code 1987, is amended to read as follows:

474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

The utilities board ~~shall have~~ has general supervision of all pipelines and all lines for the transmission, sale, and distribution of electrical current for light, heat, and power pursuant to the ~~provisions of chapters 476, 478, and 479 and 543, and such~~ has other duties as ~~may be~~ provided by law.

Sec. 91. Section 475A.4, subsection 1, paragraph d, Code 1987, is amended by striking the paragraph.

Sec. 92. Section 476.51, Code 1987, is amended to read as follows:

476.51 CIVIL PENALTY.

A public utility which willfully violates a provision of this chapter, a rule adopted by the board, or a provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not more than one hundred dollars per violation or one thousand dollars per day of a continuing violation, whichever is greater. Civil penalties collected pursuant to this section shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the energy research and development fund and to be used only for the low income home energy assistance program and the weatherization assistance program administered by the energy policy council division of community action agencies of the department of human rights. Penalties paid by a rate-regulated public utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to customers.

Sec. 93. Section 499.59, Code Supplement 1987, is amended to read as follows:

499.59 PERSONAL LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the association is not liable on the association's debts or obligations, and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for a breach of the duty of loyalty to the association, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

Sec. 94. Section 507D.3, subsection 6, Code Supplement 1987, is amended to read as follows:

6. An assistance program for the facilitation of insurance and financial responsibility coverage for owners and operators of underground storage tanks which store petroleum shall not be affected by the prohibitions exceptions of subsections 2 and 3.

Sec. 95. Section 534.102, subsection 32, Code 1987, is amended by striking the subsection.

Sec. 96. Section 535A.5, subsections 1 and 2, Code 1987, are amended to read as follows:

1. The superintendent of banking or the superintendent's designee shall be responsible for enforcing those enforce the sections in regard to all banks, persons licensed under chapter 536A, and mortgage banking companies.

2. The superintendent of savings and loan associations shall be responsible for enforcing those enforce the sections in regard to all savings and loan associations pursuant to chapter 534 and all persons licensed under chapter 536A.

Sec. 97. Section 537.3603, subsection 5, Code Supplement 1987, is amended to read as follows:

5. A lease which constitutes a consumer lease as defined in 12 C.F.R. § 226.2(a6) 213.2(a6).

Sec. 98. Section 543.6, subsection 4, paragraph b, and subsection 5, paragraph b, Code Supplement 1987, are amended to read as follows:

b. The warehouse operator shall submit, as required by the department, 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 department 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 department. The

department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the department shall cause the warehouse 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 543.2. In addition, the department shall cause a warehouse operator who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three-calendar-month period. However, the department shall not require that a warehouse operator submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the certified audited financial statement.

b. The warehouse operator shall submit, as required by the department, 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 department 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 department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the department shall cause the warehouse 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 543.2. In addition, the department shall cause a warehouse operator who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three-calendar-month period. However, the department shall not require that a warehouse operator submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the qualified audited financial statement.

Sec. 99. Section 557B.6, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The attorney general may by order deny, suspend, or revoke a membership camping operator's application or registration or impose a fine penalty of not more than five thousand dollars or a combination of suspension or revocation and fine penalty, if the attorney general finds that the order is for the protection of prospective purchasers or purchasers of membership camping contracts and that one of the following applies:

Sec. 100. Section 557B.6, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

An order denying, suspending, or revoking a registration or imposing a fine penalty shall be sent by certified mail, return receipt requested, to the applicant or registrant. The applicant or registrant has thirty calendar days from the date of mailing the order to request a hearing pursuant to chapter 17A. If a hearing is not requested within thirty days and is not ordered by the attorney general, the order shall remain in effect until modified or vacated by the attorney general. However, if the attorney general finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in the order, summary suspension of a membership camping operator's registration may be

ordered. If the membership camping operator desires to contest the summary order, the membership camping operator must request a hearing within fifteen calendar days of service of the summary order. If so requested, the hearing must be instituted within twenty calendar days of the request and the contest of the summary order must be promptly determined.

Sec. 101. Section 600.8, subsection 1, paragraph a, subparagraph (3), Code Supplement 1987, is amended to read as follows:

(3) Whether the prospective adoption petitioner has been convicted of a ~~violation~~ crime under a law of any state of a ~~crime~~ or has a record of founded child abuse.

Sec. 102. Section 602.8102, subsection 11, Code Supplement 1987, is amended by striking the subsection.

Sec. 103. Section 602.8102, subsection 23, Code Supplement 1987, is amended to read as follows:

23. Carry out duties relating to enforcing orders of the ~~occupational safety and health review commission~~ employment appeal board as provided in section 88.9, subsection 2.

Sec. 104. Section 602.8102, subsection 45, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

Report monthly to the ~~office for planning and programming~~ department of corrections the following information related to each district court conviction for, acquittal of, or dismissal of a felony, an aggravated misdemeanor, or a serious misdemeanor:

Sec. 105. Section 610.2, Code 1987, is amended to read as follows:

610.2 DIRECTIONS BY COURT.

When an application and supporting affidavit pursuant to this chapter is are filed with the court and approved by the court in a civil or criminal action, the court shall direct the appropriate officers of the court to issue and serve all necessary writs, process, and proceedings.

Sec. 106. Section 610.3, Code 1987, is amended to read as follows:

610.3 DEFERRAL OF COSTS.

When an application and supporting affidavit is are filed and approved by the court and a civil or criminal proceeding is instituted, the court shall order that all fees, costs, and security be deferred until final disposition of the proceeding.

Sec. 107. Section 622.10, unnumbered paragraph 2, Code 1987, is amended to read as follows:

No qualified school guidance counselor, who has met the certification and ~~approval~~ accreditation standards of the department of education as provided in section ~~257.25~~ 256.11, subsection ~~9~~ 10, who obtains information by reason of the counselor's employment as a qualified school guidance counselor shall be allowed, in giving testimony, to disclose any confidential communications properly entrusted to the counselor by a pupil or the pupil's parent or guardian in the counselor's capacity as a qualified school guidance counselor and necessary and proper to enable the counselor to perform the counselor's duties as a qualified school guidance counselor.

Sec. 108. Section 622B.1, subsection 2, Code 1987, is amended to read as follows:

2. The supreme court, after consultation with the ~~Iowa~~ department of ~~public health~~ human rights, shall adopt rules governing the qualifications and compensation of interpreters appearing in a proceeding before a court, grand jury, or administrative agency 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. 109. Section 622B.4, Code 1987, is amended to read as follows:

622B.4 LIST.

The service program for the division of deaf services of the Iowa department of public health human rights shall prepare and continually update a listing of qualified and available interpreters. The courts and administrative agencies shall maintain a directory of qualified interpreters for hearing impaired persons as furnished by the Iowa department of public health human rights. The service program for the division of deaf services shall maintain information on the qualifications of interpreters, which information is confidential except to a court, administrative agency, or interested parties to an action using the services of such an interpreter.

Sec. 110. Section 625.29, subsection 1, paragraph g, Code 1987, is amended to read as follows:

g. The proceeding involved the Iowa merit employment commission department of personnel under chapter 19A.

Sec. 111. Section 633.535, subsection 2, Code Supplement 1987, is amended to read as follows:

2. A joint tenant who intentionally and unjustifiably causes or procures the death of another joint tenant thereby affecting which affects their interests so that the share of the decedent passes as the decedent's property and the person causing death has no rights by survivorship. This provision applies to joint tenancies and tenancies by the entireties in real and personal property, joint and multiple-party accounts in banks, savings and loan associations, credit unions, and other institutions, and any other form of co-ownership with survivorship rights.

Sec. 112. Section 633.545, Code 1987, is amended to read as follows:

633.545 SALE — PROCEEDS.

If within six months from the giving of notice, a claimant does not appear, the property may be sold and the proceeds paid over by the personal representative to the state comptroller department of revenue and finance for the benefit of the permanent school fund.

Sec. 113. Section 692.19, subsection 6, Code 1987, is amended to read as follows:

6. May conduct such inquiries and investigations as it the director finds appropriate to achieve the purposes of this chapter. Each criminal justice agency in this state and each state and local agency otherwise authorized access to criminal history data is authorized and directed to furnish to the director of public safety, upon the director's request, such statistical data, reports, and other information in its possession as the director deems necessary to carry out its functions under implement this chapter. However, the director of public safety, in the capacity of providing oversight of confidential records, shall not have access to criminal history data or intelligence data unless it is data from which individual identities are not ascertainable or data which has been masked so that individual identities are not ascertainable. However, the director may examine data from which the identity of an individual is ascertainable if requested in writing by that individual or the individual's attorney with written authorization and fingerprint identification.

Sec. 114. Section 715A.7, Code Supplement 1987, is amended to read as follows:

715A.7 FILING MULTIPLE COUNTS IN ONE INFORMATION, INDICTMENT, OR COMPLAINT.

A single information, indictment, or complaint charging false use of a financial instrument a violation of a provision of this chapter may allege more than one such violation against a person. The multiple charges shall be set out in separate counts, and the accused person shall be acquitted or convicted upon each count by a separate verdict. A convicted person shall be sentenced upon each verdict of guilty. The court may consider separate verdicts of guilty returned at the same time as one offense for the purpose of sentencing.

Sec. 115. Section 804.31, unnumbered paragraph 1, Code 1987, is amended to read as follows:

When a person is detained for questioning or arrested for an alleged violation of a law or ordinance and there is reason to believe that the person is hearing impaired, the peace officer making the arrest or taking the person into custody or any other officer detaining the person shall determine if the person is a hearing impaired person as defined in section 622B.1. If the officer so determines, the officer, at the earliest possible time and prior to commencing any custodial interrogation of the person, shall procure a qualified interpreter in accordance with section 622B.2 and the rules adopted by the supreme court under section 622B.1 unless the hearing impaired person knowingly, voluntarily, and intelligently waives the right to an interpreter in writing by executing a form prescribed by the Iowa department of public health human rights and the Iowa county attorneys association. The interpreter shall interpret the officer's warnings of constitutional rights and protections and all other warnings, statements, and questions spoken or written by any officer, attorney, or other person present and all statements and questions communicated in sign language by the hearing impaired person.

Sec. 116. Sections 80.28, 185.4, 185C.4, 351.15, and 351.16, Code 1987, are repealed.

Approved April 28, 1988

CHAPTER 1135

UNALLOCATED ANNUITY CONTRACT COVERAGE UNDER GUARANTY ASSOCIATION

H.F. 2296

AN ACT providing coverage under the Iowa life and health guaranty association to the holders of unallocated annuity contracts.

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

Section 1. Section 508C.3, subsection 2, Code Supplement 1987, is amended to read as follows:

2. This chapter shall provide coverage to the persons specified in subsection 1 under direct life insurance policies, health insurance policies, annuity contracts, supplemental contracts, and certificates under group policies or contracts, and unallocated annuity contracts issued by member insurers.

Sec. 2. Section 508C.3, subsection 3, paragraph d, Code Supplement 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

d. An unallocated annuity contract issued to an employee benefit plan protected under the federal pension benefit guaranty corporation, which is not issued to or in connection with a specific employee, union, or association of natural persons, or any portion of a financial guarantee.

Sec. 3. Section 508C.3, subsection 3, Code Supplement 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. An annuity contract issued to a government lottery or to a liability insurer in connection with a structured settlement.

Sec. 4. Section 508C.5, subsection 1, Code Supplement 1987, is amended to read as follows:

1. "Account" means any of the ~~three~~ four accounts created under section 508C.6.

Sec. 5. Section 508C.5, subsection 10, Code Supplement 1987, is amended to read as follows:

10. "Premiums" means direct gross insurance premiums and annuity considerations received on covered policies, less return insurance premiums and annuity considerations and dividends paid or credited to policyholders on the direct business. "Premiums" do not include premiums

and considerations on contracts between insurers and reinsurers, or amounts received and held by a member insurer in an account or fund unless and until the amounts are applied by the member insurer to the purchase of an annuity or other benefit for a specific person.

Sec. 6. Section 508C.5, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 13. "Unallocated annuity contract" means a guaranteed investment contract, deposit administration contract, unallocated funding agreement, or any other annuity contract which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such a contract or certificate.

Sec. 7. Section 508C.6, subsection 1, paragraph c, Code Supplement 1987, is amended to read as follows:

c. An annuity account. A plan established under section 403(b) of the United States Internal Revenue Code shall be covered by the annuity account.

Sec. 8. Section 508C.6, subsection 1, Code Supplement 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. An unallocated annuity contract account.

Sec. 9. Section 508C.8, subsection 8, Code Supplement 1987, is amended to read as follows:

8. The contractual obligations of the insolvent insurer, for which the association becomes or may become liable, are as great as but not greater than the contractual obligations of the insolvent insurer would have been in the absence of an insolvency, unless the obligations are reduced as permitted in this chapter. However, with respect to any one life, the aggregate liability of the association shall not exceed one hundred thousand dollars in cash and termination values, or three hundred thousand dollars for all benefits, including cash and termination values, death benefits, annuity payments, accident and health benefits, and all other amounts payable under all policies or contracts of the insolvent insurer. With respect to any one holder of an unallocated annuity contract, the aggregate liability of the association shall not exceed one million dollars of contract benefits, irrespective of the number of contracts held by the contract holder.

Sec. 10. Section 508C.9, subsection 5, Code Supplement 1987, is amended to read as follows:

5. a. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of the insurer's premiums received in this state during the calendar year preceding the assessment on the policies related to that account. If the maximum assessment for any account, together with the other assets of the association in either the account, does not provide in any one year in either the account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed for the account as soon thereafter in succeeding years as permitted by this chapter.

b. If the maximum assessment under paragraph "a" for any account, other than the health insurance account, does not provide an amount sufficient to carry out the responsibilities of the association in any succeeding year, the board, pursuant to subsection 3, paragraph "a", shall assess the necessary additional amount and allocate the amount for assessment among the accounts, other than the health insurance account, in the following sequence: from the life insurance account, to the annuity account, to the unallocated annuity contract account; from the annuity account, to the unallocated annuity contract account, to the life insurance account; from the unallocated annuity contract account, to the annuity account, to the life insurance account; provided that no amount shall be allocated to an account for assessment until the maximum amount has been allocated to the preceding account.

CHAPTER 1136**VENTURE CAPITAL INVESTMENT ACT REPEAL***H.F. 2317*

AN ACT relating to the repeal of the Iowa venture capital investment Act.

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

Section 1. Section 537A.4, unnumbered paragraph 2, Code 1987, is amended to read as follows:

This section does not apply to a contract for the operation of or for the sale or rental of equipment for games of skill or games of chance, if both the contract and the games are in compliance with chapter 99B. This section does not apply to wagering under the pari-mutuel method of wagering authorized by chapter 99D. This section does not apply to the sale, purchase or redemption of a ticket or share in the state lottery in compliance with chapter 99E or the sale, purchase or redemption of a share in the raffle conducted under section 28.113.

Sec. 2. Section 725.15, Code 1987, is amended to read as follows:

725.15 EXCEPTIONS FOR LEGAL GAMBLING.

Sections 725.5 to 725.10 and 725.12 do not apply to a game, activity, ticket, share or device when lawfully possessed, used, conducted or participated in pursuant to ~~section 28.113~~, chapter 99B or chapter 99E.

Sec. 3. Sections 28.111, 28.112, and 28.113, Code 1987, are repealed.

Approved April 29, 1988

CHAPTER 1137**DRUGGING AND NUMBING OF RACE HORSES AND DOGS***S.F. 2263*

AN ACT relating to horse and dog racing by allowing the application of cold with ice, cold packs, or similar treatments to the limbs of a horse or a dog prior to the start of a race and by allowing the use of certain drugs on racing horses under rules adopted by the state racing commission, and providing an effective date.

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

Section 1. Section 99D.7, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 21. To require licensees to indicate in their racing programs those horses to which the drugs lasix or phenylbutazone were administered within ten days before the race or to which the drugs are to be administered before the race. The program shall also indicate if it is the first, second, or third or subsequent time that a horse is racing with lasix, or if the horse has previously raced with lasix and the present race is the first race for the horse without lasix following its use.

Sec. 2. Section 99D.12, subsection 1, Code 1987, is amended to read as follows:

1. In horse races the breakage shall be retained by the licensee to supplement purses for races ~~won by restricted to Iowa-foaled horses as provided in section 99D.22 or to supplement purses won by Iowa-foaled horses by finishing first, second, third, or fourth in any other race. The purse supplements will be paid in proportion to the purse structure of the race.~~

Sec. 3. Section 99D.23, Code 1987, is amended by adding the following new subsection: NEW SUBSECTION. 4. The commission veterinarian shall keep a continuing record of the racing soundness of all horses examined by a commission veterinarian at a racetrack.

Sec. 4. Section 99D.23, subsection 1, Code 1987, is amended to read as follows:

1. The commission shall employ one or more chemists or contract with a qualified chemical laboratory to determine by chemical testing and analysis of saliva, urine, blood, or other excretions or body fluids whether a substance or drug has been introduced which may affect the outcome of a race or whether an action has been taken or a substance or drug has been introduced which may interfere with the testing procedure. The commission shall adopt rules under chapter 17A concerning procedures and actions taken on positive drug reports. The commission may adopt by reference the standards of the national association of state racing commissioners, the association of official racing chemists, and New York jockey club, or the United States trotting association or may adopt any other procedure or standard. The commission has the authority to retain and preserve by freezing, test samples for future analysis.

Sec. 5. Section 99D.25, subsection 1, paragraphs a and b, Code 1987, are amended to read as follows:

a. "Drugging" means administering to a horse or dog any substance, foreign to the natural horse or dog prior to the start of a race. However, in counties with a population of two hundred fifty thousand or more, "drugging" does not include administering to a horse the drugs lasix and phenylbutazone in accordance with section 99D.25A and rules adopted by the commission.

b. "Numbing" means the applying of ice, dry ice, a cold pack, or a chemical or mechanical freezing device to the limbs of a horse or dog within ten hours before the start of a race, or the applying of ice or a cold pack to the limbs of a horse or dog within two hours before the start of a race, or a surgical or other procedure which was, at any time, performed in which the nerves of a horse or dog were severed, destroyed, or removed.

Sec. 6. Section 99D.25, subsection 4, Code 1987, is amended to read as follows:

4. The owners of a horse or dog and their agents and employees shall permit a member of the commission or a person employed or appointed by the commission to make tests as the commission deems proper in order to determine whether a horse or dog has been improperly drugged. The fact that purse money has been distributed prior to the issuance of a test report shall not be deemed a finding that no chemical substance has been administered unlawfully to the horse or dog earning the purse money. The findings of the commission that a horse or dog has been improperly drugged by a narcotic or other drug are prima facie evidence of the fact. The results of the tests shall be kept on file by the commission for at least one year following the tests.

Sec. 7. Section 99D.25, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Every horse which suffers a breakdown on the racetrack, in training, or in competition, and is destroyed, and every other horse which expires while stabled on the racetrack under the jurisdiction of the commission, shall undergo a postmortem examination at a time and place acceptable to the commission veterinarian to determine the injury or sickness which resulted in euthanasia or natural death. The postmortem examination shall be conducted by a veterinarian employed by the owner or the owner's trainer in the presence of and in consultation with the commission veterinarian. Test samples shall be obtained from the carcass upon which the postmortem examination is conducted and shall be sent to a laboratory approved by the commission for testing for foreign substances and natural substances at abnormal levels. When practical, blood and urine test samples should be procured prior to euthanasia. The owner of the deceased horse is responsible for payment of any charges due the veterinarian employed to conduct the postmortem examination. The services of the

commission veterinarian and the laboratory testing of postmortem samples shall be made available by the commission without charge to the owner. A record of every postmortem shall be filed with the commission by the owner's veterinarian within seventy-two hours of the death and shall be submitted on a form supplied by the commission. Each owner and trainer accepts the responsibility for the postmortem examination provided herein as a requisite for maintaining the occupational license issued by the commission.

Sec. 8. Section 99D.25, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 6. Phenylbutazone may not be administered to a horse within ninety-six hours of the start of a race in which the horse is entered.

Sec. 9. Section 99D.25, Code 1987, is amended by adding the following new subsections:
NEW SUBSECTION. 7. Any horse which in the opinion of the commission veterinarian has suffered a traumatic injury or disability such that a controlled program of phenylbutazone administration would not aid in restoring the racing soundness of the horse shall not be allowed to race while medicated with phenylbutazone or with phenylbutazone present in the horse's bodily systems.

NEW SUBSECTION. 8. A person found within or in the immediate vicinity of a security stall who is in possession of unauthorized drugs or hypodermic needles or who is not authorized to possess drugs or hypodermic needles shall, in addition to any other penalties, be barred from entry into any racetrack in Iowa and any occupational license the person holds shall be revoked.

Sec. 10. Section 99D.25, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 9. Before a horse is allowed to race using phenylbutazone, the veterinarian attending the horse shall certify to the commission the course of treatment followed in administering the phenylbutazone.

Sec. 11. Section 99D.25, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 10. The commission shall conduct random tests of bodily substances of horses entered to race each day of a race meeting to aid in the detection of any unlawful drugging. The tests shall be conducted both prior to and after a race. The commission shall also test any horse that breaks down during a race and shall perform an autopsy on any horse that is killed or subsequently destroyed as a result of accident during a race.

Sec. 12. Section 99D.25, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 11. Veterinarians must submit daily to the commission veterinarian on a prescribed form a report of all medications and other substances which the veterinarian prescribed, administered, or dispensed for horses registered at a current race meeting. A log-book detailing other professional services performed while on the grounds of a racetrack shall be kept by veterinarians and shall be made immediately available to the commission veterinarian or the stewards upon request.

Sec. 13. NEW SECTION. 99D.25A ADMINISTRATION OF LASIX OR PHENYLBUTAZONE.

1. As used in this section unless the context otherwise requires:

a. "Bleeder" means, according to its context, either:

(1) A horse which, during a race or exercise, is observed by the commission veterinarian or designee to be shedding blood from one or both nostrils and in which no upper airway injury is noted during an examination by the commission veterinarian immediately following such a race or exercise;

(2) A horse which, within one and one-half hours of such a race or exercise, is observed by the commission veterinarian, through visual or endoscopic examination, to be shedding blood from the lower airway; or

(3) A horse which has been certified as a bleeder in another state.

b. "Bleeder list" means a tabulation of all bleeders maintained by the commission veterinarian.

c. "Detention barn" means a secured structure designated by the commission.

2. Phenylbutazone shall not be administered to a horse in dosages which would result in concentrations of more than two point two micrograms of the substance or its metabolites per millimeter of blood.

3. If a horse is to race with phenylbutazone in its system, the trainer shall be responsible for marking the information on the entry blank for each race in which the horse shall use phenylbutazone. Changes made after the time of entry must be submitted on the prescribed form to the commission veterinarian no later than scratch time.

4. If a test detects concentrations of phenylbutazone in the system of a horse in excess of the level permitted in this section, the commission shall assess a civil penalty against the trainer of two hundred dollars for the first offense and five hundred dollars for a second offense. The penalty for a third or subsequent offense shall be in the discretion of the commission. A penalty assessed under this subsection shall not affect the placing of the horse in the race.

5. Lasix may be administered to certified bleeders. Upon request, any horse placed on the bleeder list shall, in its next race, be permitted the use of lasix. Once a horse has raced with lasix, it must continue to race with lasix in all subsequent races unless a request is made to discontinue the use. If the use of lasix is discontinued, the horse shall be prohibited from again racing with lasix unless it is later observed to be bleeding. Requests for the use of or discontinuance of lasix must be made to the commission veterinarian by the horse's trainer or assistant trainer on a form prescribed by the commission on or before the day of entry into the race for which the request is made.

6. Once a horse has been permitted the use of lasix, it must be brought to the detention barn for treatment not less than four hours prior to scheduled post time for the race in which it is entered to start. Once at the detention barn, a horse shall remain there until it is taken to the paddock to be saddled or harnessed for a race. If a horse is brought to the detention barn late, the commission shall assess a civil penalty of one hundred dollars against the trainer.

7. A horse entered to race with lasix must be treated at least four hours prior to post time. The lasix shall be administered intravenously by a veterinarian employed by the owner or trainer of the horse under the visual supervision of the commission veterinarian. The practicing veterinarian must deposit with the commission veterinarian at the detention barn an unopened supply of lasix and sterile hypodermic needles and syringes to be used for the administrations. Lasix shall only be administered in a dose level of two hundred fifty milligrams. The commission veterinarian shall extract a test sample of the horse's blood, urine, or saliva to determine whether the horse was improperly drugged both before the lasix was administered and after the race is run.

8. A person found within or in the immediate vicinity of the detention barn who is in possession of unauthorized drugs or hypodermic needles or who is not authorized to possess drugs or hypodermic needles shall, in addition to any other penalties, be barred from entry into any racetrack in Iowa and any occupational license the person holds shall be revoked.

Sec. 14. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 2, 1988

CHAPTER 1138**MOBILE HOME ABANDONMENT AND DISPOSAL***S.F. 2259*

AN ACT relating to the disposal of abandoned mobile homes and abandoned personal property of the abandoned mobile home owner.

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

Section 1. **NEW SECTION. 562C.1 DEFINITIONS.**

Unless the context otherwise requires, in this chapter:

1. "Demolisher" means demolisher as defined in section 321.89.
2. "Junkyard" means junkyard as defined in section 306C.1.
3. "Claimant" includes any government subdivision with authority to levy a tax on abandoned personal property.
4. "Personal property" includes personal property of the mobile home owner in the abandoned mobile home, on the mobile home lot, in the immediate vicinity of the abandoned mobile home and the mobile home lot, and in any storage area provided by the real property owner for the use of the mobile home owner.
5. "Real property owner" means the owner or other lawful possessor of real property upon which a mobile home is located.

Sec. 2. **NEW SECTION. 562C.2 REMOVAL — NOTICE TO SHERIFF.**

1. A real property owner may remove or cause to be removed a mobile home and other personal property which is unlawfully parked, placed, or abandoned on that real property, and may cause the mobile home and personal property to be placed in storage until the owner of the personal property pays a fair and reasonable charge for removal, storage, or other expense incurred, including reasonable attorneys' fees, or until a judgment of abandonment is entered pursuant to section 562C.8 provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 135D. For purposes of this chapter, a lien exists only if the real property owner receives notice of a lien on the standardized registration form completed by a tenant pursuant to section 562B.27, subsection 3, or a lien has been filed in state or county records on a date before the mobile home is considered to be abandoned. The real property owner or the real property owner's agent is not liable for damages caused to the mobile home and personal property by the removal or storage unless the damage is caused willfully or by gross negligence.

2. The real property owner shall notify the sheriff of the county where the real property is located of the removal of the mobile home and other personal property.

a. If the mobile home owner can be determined, and if the real property owner so requests, the sheriff shall notify the mobile home owner of the removal by restricted certified mail. If the mobile home owner cannot be determined, and the real property owner so requests, the sheriff shall give notice by one publication in one newspaper of general circulation in the area where the mobile home and personal property was unlawfully parked, placed, or abandoned. If the mobile home and personal property have not been claimed by the owner within six months after notice is given, the mobile home and personal property shall be sold by the sheriff at a public or private sale. After deducting costs of the sale the net proceeds shall be applied to the cost of removal and storage of the property. The remainder, if any, shall be paid to the county treasurer.

b. If the real property owner removes the mobile home and personal property but does not request that the sheriff notify the mobile home owner, the real property owner shall proceed with an action for abandonment as provided in sections 562C.3 through 562C.9.

Sec. 3. NEW SECTION. 562C.3 ACTION FOR ABANDONMENT — JURISDICTION.

A real property owner not requesting notification by the sheriff as provided in section 562C.2 may bring an action alleging abandonment in the court within the county where the real property is located provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 135D. The action shall be tried as an equitable action. Unless commenced as a small claim, the petition shall be presented to a district judge. Upon receipt of the petition, the court shall order a hearing not later than fourteen days from the date of the order.

Sec. 4. NEW SECTION. 562C.4 NOTICE.

1. Personal service pursuant to rule of civil procedure 56.1 shall be made upon the mobile home owner not less than ten days before the hearing. If personal service cannot be completed in time to give the mobile home owner the minimum notice required by this section, the court may set a new hearing date.

2. If personal service cannot be made on the mobile home owner because the mobile home owner is avoiding service or cannot be found, service may be made by mailing a copy of the petition and notice of hearing to the mobile home owner's last known address and publishing the notice in one newspaper of general circulation in the county where the petition is filed. If the mobile home owner's address is not known to the real property owner, service may be made pursuant to rule of civil procedure 62 except that service is complete seven days after the initial publication. The court shall set a new hearing date if necessary to allow the ten-day minimum notice required under subsection 1 of this section.

3. If a lien exists on the mobile home or personal property, the real property owner shall notify the county treasurer of each county in which a tax lien appears by restricted certified mail sent not less than ten days before the hearing. The notice shall describe the mobile home and shall state the date and time at which the hearing is scheduled, and the county treasurer's right to assert a claim to the mobile home at the hearing. The notice shall also state that failure to assert a claim to the mobile home is deemed a waiver of all right, title, claim, and interest in the mobile home and is deemed consent to the sale or disposal of the mobile home.

Sec. 5. NEW SECTION. 562C.5 CHANGE OF VENUE.

In an action under this chapter a change of place of trial may be had as in other cases.

Sec. 6. NEW SECTION. 562C.6 PRIORITY OF ASSIGNMENT.

An action under this chapter shall be accorded reasonable priority for assignment to assure prompt disposition.

Sec. 7. NEW SECTION. 562C.7 REMEDY NOT EXCLUSIVE.

An action under this chapter may be brought in connection with a claim for monetary damages, possession, or recovery as provided in section 562B.25 or 562B.30 or chapter 648.

Sec. 8. NEW SECTION. 562C.8 JUDGMENT.

1. If the court determines that the mobile home and personal property have been abandoned, judgment shall be entered in favor of the real property owner for the reasonable costs of removal, storage, notice, and attorneys' fees; any other expenses incurred for preserving the mobile home and personal property or for bringing the action; and, if the action is brought in conjunction with one for monetary damages, the amount of monetary damages assessed.

2. If the mobile home owner or other claimant asserts a claim to the property, the judgment shall be satisfied before the mobile home owner or other claimant may take possession of the mobile home or personal property.

3. If no claim is asserted to the mobile home or personal property or if the judgment is not satisfied at the time of entry, an order shall be entered allowing the real property owner to sell or otherwise dispose of the mobile home and personal property pursuant to section 562C.9. If

a claimant satisfies the judgment at the time of entry, the court shall enter an order permitting and directing the claimant to remove the mobile home or personal property from its location within a reasonable time to be fixed by the court. The court shall also determine the amount of further rent or storage charges to be paid by the claimant to the real property owner at the time of removal.

Sec. 9. NEW SECTION. 562C.9 DISPOSAL — PROCEEDS.

1. Pursuant to an order for disposal under section 562C.8, subsection 3, the real property owner shall dispose of the mobile home and personal property by public or private sale in a commercially reasonable manner. If the personal property owner or other claimant has asserted a claim to the mobile home or personal property, that person shall be notified of the sale by restricted certified mail not less than five days before the sale. The notice is deemed given upon the mailing. The real property owner may buy at any public sale, and if the mobile home or personal property is of a type customarily sold in a recognized market or is the subject of widely distributed standard price quotations, the real property owner may buy at a private sale.

2. A sale pursuant to subsection 1 transfers to the purchaser for value, all of the mobile home owner's rights in the mobile home and personal property, and discharges the real property owner's interest in the mobile home and personal property and any tax lien. The purchaser takes free of all rights and interests even though the real property owner fails to comply with the requirements of this chapter or of any judicial proceedings, if the purchaser acts in good faith.

3. The proceeds of the sale of mobile home and personal property shall be distributed as follows:

a. First, to satisfy the real property owner's judgment obtained under section 562C.8.

b. Second, to satisfy any tax lien for which a claim was asserted pursuant to section 562C.4, subsection 3.

c. Any surplus remaining after the proceeds are distributed shall be held by the real property owner for six months. If the mobile home owner fails to claim the surplus in that time, the surplus may be retained by the real property owner. If a deficiency remains after distribution of the proceeds, the mobile home owner is liable for the amount of the deficiency.

4. Notwithstanding subsections 1 through 3, the real property owner may propose to retain the mobile home and personal property in satisfaction of the judgment obtained pursuant to section 562C.8. Written notice of the proposal shall be sent to the mobile home owner or other claimant, if that person has asserted a claim to the mobile home or personal property in the judicial proceedings. If the real property owner receives objection in writing from the mobile home owner or other claimant within twenty-one days after the notice was sent, the real property owner shall dispose of the mobile home and personal property pursuant to subsection 1. If no written objection is received by the real property owner within twenty-one days after the notice was sent, the mobile home and personal property may be retained. Retention of the mobile home and personal property discharges the judgment of the real property owner and any tax lien.

5. If the real property owner has made a good faith attempt to sell the mobile home and personal property pursuant to subsection 1 but is unsuccessful and elects not to retain the mobile home and personal property pursuant to subsection 4, the real property owner may dispose of the mobile home and personal property to a demolisher or junkyard. Proceeds from the disposition shall be distributed pursuant to subsection 3. If the personal property is a motor vehicle to which section 321.90 applies, the real property owner shall present the order for disposal obtained pursuant to section 562C.8, subsection 3, to the police authority to obtain a certificate of authority to dispose of the motor vehicle pursuant to section 321.90, subsection 2.

Sec. 10. NEW SECTION. 562C.10 LIMITATION ON LIABILITY.

1. A real property owner who disposes of a mobile home or personal property in accordance with this chapter is not liable for damages by reason of the removal, sale, or disposal of the mobile home and personal property unless the damage is caused willfully or by gross negligence. Upon a motion to the district court and a showing that the real property owner is not proceeding in accordance with this chapter, the court may enjoin the real property owner from proceeding further and a determination for the proper disposition of the mobile home and personal property shall be made. If disposition of the personal property has not occurred in accordance with this chapter, the personal property owner has a right to recover from the real property owner, any loss caused by failure to comply with this chapter.

2. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the real property owner is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the real property owner sells the mobile home and personal property in the usual manner in any recognized market or if the real property owner sells at the price current in the market at the time of the real property owner's sale or if the real property owner has otherwise sold in conformity with reasonable commercial practices among dealers in the type of mobile home or personal property sold, the real property owner has sold in a commercially reasonable manner. A disposition approved in any judicial proceeding shall be deemed conclusively to be commercially reasonable.

Sec. 11. Section 135D.24, subsection 6, Code Supplement 1987, is amended to read as follows:

6. Before a mobile home may be moved from its present site by the owner or the owner's assignee, a tax clearance statement in the name of the owner must be obtained from the county treasurer of the county where the present site is located certifying that taxes are not owing under this section for previous years and that the taxes have been paid for the current tax period. However, a tax clearance statement shall ~~is not be~~ required for a mobile home in a manufacturer's or dealer's stock which is not used as a place for human habitation. A tax clearance form is not required to move an abandoned mobile home. A tax clearance form is not required in eviction cases provided the mobile home park owner or manager advises the county treasurer that the tenant is being evicted. If a dealer acquires a mobile home from a person other than a manufacturer, the person shall provide a tax clearance statement in the name of the owner of record to the dealer. The tax clearance statement shall be provided by the county treasurer and ~~shall be made out in quadruplicate in a method prescribed by the department of transportation. Two copies are to be provided to the company or person transporting the mobile home with one copy to be carried in the vehicle transporting the mobile home. One copy is to be forwarded to the county treasurer of the county in which the mobile home is to be relocated and one copy is to be retained by the county treasurer issuing the tax clearance statement.~~

Sec. 12. Section 321.90, subsection 2, paragraph b, Code 1987, is amended to read as follows:

b. The application shall set out the name and address of the applicant, and the year, make, model, and serial number of the motor vehicle, if ascertainable, together with any other identifying features, and shall contain a concise statement of the facts surrounding the abandonment, or a statement that the title of the motor vehicle is lost or destroyed, or the reasons for the defect of title in the owner. The applicant shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. An order for disposal obtained pursuant to section 562C.8, subsection 3, satisfies the application requirements of this paragraph.

Sec. 13. Section 321.90, subsection 2, paragraph c, Code 1987, is amended to read as follows:

c. If the police authority finds that the application is executed in proper form, and shows that the motor vehicle has been abandoned upon the property of the applicant, or if it shows that the motor vehicle is not abandoned but that the applicant appears to be the rightful owner,

the police authority shall follow appropriate notification procedures as set forth in section 321.89, subsection 3, except that in the case of an order for disposal obtained pursuant to section 562C.8, subsection 3, no notification is required.

Sec. 14. Section 321.90, subsection 2, paragraph g, Code 1987, is amended to read as follows:

g. Any proceeds from the sale of an abandoned motor vehicle to a demolisher under this section, by one other than the owner of the vehicle, except the sale of a vehicle pursuant to an order for disposal obtained pursuant to section 562C.8, subsection 3, shall first be applied to that person's expenses in effecting the sale, including storage, towing, and disposal charges, and any surplus shall be distributed in accordance with section 321.89, subsection 4. The proceeds from the sale of a vehicle disposed of pursuant to section 562C.8, subsection 3, shall be distributed in accordance with section 562C.9.

Sec. 15. Section 562B.13, subsection 3, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. To remove, store, and dispose of a mobile home if it is abandoned as defined in section 562B.27.

Sec. 16. Section 562B.27, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

562B.27 REMEDIES FOR ABANDONMENT – REQUIRED REGISTRATION.

1. A tenant is considered to have abandoned a mobile home when the tenant has been absent from the mobile home without reasonable explanation for thirty days or more during which time there is a default of rent three days after rent is due, or the rental agreement is terminated pursuant to section 562B.25.

2. When a mobile home is abandoned on a mobile home space:

a. If a tenant abandons a mobile home on a mobile home space, the landlord shall notify the mobile home owner or other claimant of the mobile home and communicate to that person that the person is liable for any costs incurred for the mobile home space, including rent and utilities due and owing. However, the person is only liable for costs incurred ninety days before the landlord's communication. After the landlord's communication, costs for which liability is incurred shall then become the responsibility of the mobile home owner or other claimant of the mobile home. The mobile home shall not be removed from the mobile home space without a signed written agreement from the landlord showing clearance for removal, and that all debts are paid in full, or an agreement reached with the mobile home owner or other claimant and the landlord.

b. If there is no lien on the mobile home other than a lien for taxes, the landlord shall follow the procedure in chapter 562C to dispose of the mobile home.

c. An action pursuant to chapter 562C may be combined with an action for possession under chapter 648 or an action for damages under section 562B.30.

3. A required standardized registration form shall be filled out by each tenant upon the rental of a mobile home space, showing the mobile home make, year, serial number, and also showing if the mobile home is paid for, if there is a lien on the mobile home, and if so the lienholder, and the name of the legal owner of the mobile home. The registration forms shall be kept on file with the landlord as long as the mobile home is on the mobile home space within the mobile home park. The tenant shall give notice to the landlord within ten days of any new lien, change of existing lien, or settlement of lien.

Sec. 17. Section 648.19, Code 1987, is amended to read as follows:

648.19 NO JOINDER OR COUNTERCLAIM – EXCEPTION.

An action of this kind shall not be brought in connection with any other action, with the exception of a claim for rent or recovery as provided in sections 562A.24, 562A.32, 562B.22, ~~or~~ 562B.25, or 562B.27, nor shall it be made the subject of counterclaim.

Sec. 18. Section 135D.24, subsection 4, Code Supplement 1987, is amended to read as follows:

4. The tax is a lien on the vehicle senior to any other lien upon it except a judgment obtained in an action to dispose of an abandoned mobile home under section 562C.8. The mobile home bearing a current registration issued by any other state and remaining within this state for an accumulated period not to exceed ninety days in any twelve-month period is not subject to Iowa tax. However, when one or more persons occupying a mobile home bearing a foreign registration are employed in this state, there is no exemption from the Iowa tax. This tax is in lieu of all other taxes general or local on a mobile home.

Approved May 2, 1988

CHAPTER 1139

PROPERTY TAX CREDITS, RENT REIMBURSEMENTS, AND MOBILE HOME TAXES FOR ELDERLY AND DISABLED

S.F. 2188

AN ACT relating to the mobile home annual tax, the property tax credit and rent reimbursement for elderly and disabled individuals by changing the formula used for determining the amount of the annual tax, credit and reimbursement and providing effective dates.

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

Section 1. Section 135D.22, subsection 2, Code Supplement 1987, is amended to read as follows:

2. If the owner of the mobile home is an Iowa resident, was totally disabled, as defined in section 425.17, subsection 6 on or before December 31 of the base year, is a surviving spouse having attained the age of fifty-five years on or before December 31 of the base year, 1988 or has attained the age of sixty-five years on or before December 31 of the base year and has an income when included with that of a spouse which is less than five thousand dollars per year, no annual tax shall be imposed on the mobile home. If the income is five thousand dollars or more but less than twelve thousand dollars, the annual tax shall be computed as follows:

If the Household Income is:	Annual Tax Per Square Foot:
\$ 5,000 — 5,999.99	6.0 cents
	<u>3.0</u>
6,000 — 6,999.99	10.0
	6.0
7,000 — 7,999.99	12.0
	9.0
8,000 — 8,999.99	14.0
9,999.99	12.0
9,000	
10,000 — 11,999.99	15.0

For purposes of this subsection "income" means income as defined in section 425.17, subsection 1, and "base year" means the calendar year preceding the year in which the claim for a reduced rate of tax is filed. The mobile home reduced rate of tax shall only be allowed on the mobile home in which the claimant is residing at the time in which the claim for a reduced rate of tax is filed.

Sec. 2. Section 425.17, subsections 5 and 9, Code 1987, are amended to read as follows:

5. "Claimant" means a person filing a claim for credit or reimbursement under this division who has attained the age of sixty-five years on or before December 31 of the base year or who is a surviving spouse having attained the age of fifty-five years on or before December 31 of the base year, 1988, or who is totally disabled and was totally disabled on or before December 31 of the base year, and was domiciled in this state during the entire base year and is domiciled in this state at the time the claim is filed or at the time of the person's death in the case of a claim filed by the executor or administrator of the claimant's estate. "Claimant" includes a vendee in possession under a contract for deed and may include one or more joint tenants or tenants in common. In the case of a claim for rent constituting property taxes paid, the claimant shall have rented the property during any part of the base year. If a homestead is occupied by two or more persons, and more than one person is able to qualify as a claimant, the persons may determine among them who will be the claimant. If they are unable to agree, the matter shall be referred to the director of revenue and finance not later than October 31 of each year and the director's decision shall be final.

9. "Property taxes due" means property taxes including any special assessments, but exclusive of delinquent interest and charges for services, due on a claimant's homestead in this state, but includes only property taxes for which the claimant is liable and which will actually be paid by the claimant. However, if the claimant is a person whose property taxes have been suspended under sections 427.8 and 427.9, "property taxes due" means property taxes including any special assessments, but exclusive of delinquent interest and charges for services, due on a claimant's homestead in this state, but includes only property taxes for which the claimant is liable and which would have to be paid by the claimant if the payment of the taxes have not been suspended pursuant to sections 427.8 and 427.9. "Property taxes due" shall be computed with no deduction for any credit under this division or for any homestead credit allowed under section 425.1. Each claim shall be based upon the taxes due during the fiscal year next following the base year. If a homestead is owned by two or more persons as joint tenants or tenants in common, and one or more persons are not a member of claimant's household, "property taxes due" is that part of property taxes due on the homestead which equals the ownership percentage of the claimant and the claimant's household. The county treasurer shall include with the tax receipt a statement that if the owner of the property is sixty-five years of age or over or is totally disabled, or is a surviving spouse of such person who is over was fifty-five years of age on or before December 31, 1988, the person may be eligible for the credit allowed under this division. If a homestead is an integral part of a farm, the claimant may use the total property taxes due for the larger unit. If a homestead is an integral part of a multidwelling or multipurpose building the property taxes due for the purpose of this subsection shall be prorated to reflect the portion which the value of the property that the household occupies as its homestead is to the value of the entire structure. For purposes of this subsection, "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

Sec. 3. Section 425.17, subsection 7, Code 1987, is amended to read as follows:

7. "Rent constituting property taxes paid" means ~~twenty-five~~ twenty-seven and one-half percent of the gross rent actually paid in cash or its equivalent during the base year by the claimant or the claimant's household solely for the right of occupancy of their homestead in the base year, and which rent constitutes the basis, in the succeeding year, of a claim for reimbursement under this division by the claimant.

Sec. 4. Section 425.23, subsection 1, Code 1987, is amended to read as follows:

1. The tentative credit or reimbursement shall be determined in accordance with the following schedule:

If the household income is:	Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement:
\$ 0 — 4,999.99	100%
5,000 — 5,999.99	70 85
6,000 — 6,999.99	50 70
7,000 — 7,999.99	40 55
8,000 — 8,999.99 9,999.99	30 40
9,000 10,000 — 11,999.99	25

Sec. 5. Section 1 of this Act is effective January 1, 1989, for mobile home tax claims filed on or after that date.

Sec. 6. Section 2 of this Act is effective January 1, 1989.

Sec. 7. Section 3 of this Act is effective January 1, 1990.

Sec. 8. Section 4 of this Act is effective January 1, 1989, for property tax claims filed on or after that date. Section 4 of this Act is applicable to rent reimbursement claims filed on or after January 1, 1990.

Approved May 2, 1988

CHAPTER 1140

TAX REFUND CLAIMS TO THE COUNTY

H.F. 2461

AN ACT relating to tax refunds paid by the county treasurer.

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

Section 1. Section 445.60, Code 1987, is amended to read as follows:

445.60 REFUNDING ERRONEOUS TAX.

The board of supervisors shall direct the treasurer to refund to the taxpayer any tax or portion thereof of any tax found to have been erroneously or illegally exacted or paid, with all interest and costs actually paid thereon. A refund shall not be ordered or made unless a claim for refund is presented to the board within one year of the date the tax was due or if appealed to the board of review, the state board of tax review, or district court within one year of the final decision.

Approved May 2, 1988

CHAPTER 1141**PROPERTY TRANSFERS AND HOMESTEAD TAX CREDITS
UPON DISSOLUTION OF MARRIAGE***H.F. 666*

AN ACT to provide that a homestead tax credit claim need not be refiled when the homestead is transferred to one of the spouses pursuant to a dissolution of marriage.

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

Section 1. Section 425.2, unnumbered paragraph 2, Code 1987, is amended to read as follows:
Upon the filing and allowance of the claim, the claim shall be allowed on that homestead for successive years without further filing as long as the property is legally or equitably owned and used as a homestead by that person or that person's spouse on July 1 of each of those successive years. When the property is sold or transferred, the buyer or transferee who wishes to qualify shall refile for the credit. However, when the property is transferred as part of a distribution made pursuant to chapter 598, the transferee who is the spouse retaining ownership of the property is not required to refile for the credit. Property divided pursuant to chapter 598 cannot be modified following the division of the property. An owner who ceases to use a property for a homestead shall provide written notice to the assessor by July 1 following the date on which the use is changed. A person who sells or transfers a homestead or the personal representative of a deceased person who had a homestead at the time of death, shall provide written notice to the assessor that the property is no longer the homestead of the former claimant.

Sec. 2. Section 598.21, subsection 8, paragraph k, Code 1987, is amended by inserting after unnumbered paragraph 2 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Property divisions made under this chapter are not subject to modification.

Approved May 2, 1988

CHAPTER 1142**NAME CHANGES AS PART OF MARRIAGE DISSOLUTION
OR ANNULMENT DECREES***H.F. 2117*

AN ACT allowing certain name changes on an application for marriage or in divorce and annulment decrees.

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

Section 1. Section 595.5, Code 1987, is amended to read as follows:
595.5 SURNAME ADOPTED.

Upon marriage either A party may request on the application for a marriage license a name change to that of the other party or to some other surname mutually agreed upon by the parties. The names used on the marriage license shall become the legal names of the parties to the marriage. The marriage license shall contain a statement that when a name change is requested and affixed to the marriage license, the new name is the legal name of the requesting party. If a party requests a name change, other than a change of surname to that of the other spouse or to a hyphenated combination of the surnames of both spouses, the party shall

request approval of the court pursuant to chapter 674 and shall submit to the court the information required by section 674.2; and upon Upon approval of the court and solemnization of the marriage, the clerk of the district court shall send a certified copy of the return of marriage to the recorder's office in every county in this state where real property is owned by either of the parties. The judge may approve the name change. The new names and the immediate former names shall appear on the return of marriage, and the return of marriage shall be recorded in the miscellaneous records in the recorder's office. An individual can shall have only one legal name at any one time.

Sec. 2. NEW SECTION. 598.37 NAME CHANGE.

Either party to a marriage may request as a part of the decree of dissolution or decree of annulment a change in the person's name to either the name appearing on the person's birth certificate or to the name the person had immediately prior to the marriage. If a party requests a name change other than to the name appearing on the person's birth certificate or to the name the person had immediately prior to the marriage, the request shall be made under chapter 674.

Approved May 2, 1988

CHAPTER 1143

MODULAR HOME TAX EXEMPTIONS

H.F. 2458

AN ACT relating to the exemption from the state sales, services, and use taxes of the gross receipts from the sales of modular homes which are not attributable to the cost of the tangible personal property used in the processing of the modular homes.

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

Section 1. Section 422.45, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 36. The gross receipts from the sale of a modular home, as defined in section 135D.1, to the extent of the portion of the purchase price of the modular home which is not attributable to the cost of the tangible personal property used in the processing of the modular home. For purposes of this exemption, the portion of the purchase price which is not attributable to the cost of the tangible personal property used in the processing of the modular home is forty percent.

Approved May 2, 1988

CHAPTER 1144**URBAN RENEWAL AREA REVENUE USE***H.F. 2327*

AN ACT relating to the use of certain revenues obtained from the transfer of property or taxes imposed in urban renewal areas for economic development purposes and providing an effective date.

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

Section 1. Section 403.8, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 5. Proceeds received by a municipality from the sale, lease, or other transfer of real property or an interest in real property acquired by it in an urban renewal area may be used by the municipality for economic development purposes outside the urban renewal area.

Sec. 2. Section 403.19, subsection 3, Code 1987, is amended to read as follows:

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which they shall be paid, may be irrevocably pledged by a municipality for the payment of the principal and interest on loans, advances, bonds issued under the authority of section 403.9, subsection 1, or indebtedness, incurred by a municipality to finance or refinance, in whole or in part, the urban renewal project. The portion of taxes mentioned in subsection 2 of this section may be pledged to pay the indebtedness of a municipality for a water supply and distribution system outside of the urban renewal area and the transfer is approved by each of the local taxing jurisdictions affected by the transfer.

Sec. 3. This Act is repealed effective December 31, 1989.

Sec. 4. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 2, 1988

CHAPTER 1145**TITLE GUARANTY AND HOUSING FINANCE PROGRAMS***H.F. 2407*

AN ACT relating to the Iowa housing finance authority, by modifying the title guaranty program requirements that participation fees be charged, that lenders be participants, that persons or lenders not receive a portion of the charge for title guaranty, and that financial institutions disclose the availability of the program, and by expanding the purposes of and renaming the commitment cost fund.

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

Section 1. Section 220.40, Code 1987, is amended to read as follows:

220.40 COMMITMENT COSTS HOUSING PROGRAM FUND.

A ~~commitment costs~~ housing program fund is created within the treasurer of state's office. The moneys shall be used by the authority ~~to~~ and are appropriated for the following purposes:

1. To cover initial commitment costs of authority bond issues and loans in order to facilitate and ensure equal access across the state to funds for programs for first time home buyers.
2. For the homeless grant program under section 220.100, subsection 2, paragraph "a".

3. For the home maintenance and repair program under section 220.100, subsection 2, paragraph "b".

4. For the rental rehabilitation program under section 220.100, subsection 2, paragraph "c".

5. For the home ownership incentive program under section 220.100, subsection 2, paragraph "d".

Moneys in the fund shall not revert to the general fund and interest on the moneys in the fund shall be retained as part of the fund and not accrue to the general fund.

Sec. 2. Section 220.91, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The authority through the title guaranty division shall initiate and operate a program in which the division shall offer guaranties of real property titles in this state. The terms, conditions and form of the guaranty contract shall be forms approved by the division board. The division shall fix a charge for the guaranty in an amount sufficient to permit the program to operate on a self-sustaining basis, including payment of administrative costs and the maintenance of an adequate reserve against claims under the title guaranty program. A title guaranty fund is created in the office of the treasurer of state. Funds collected under this program shall be placed in the title guaranty fund and are available to pay all claims, necessary reserves and all administrative costs of the title guaranty program. Moneys in the fund shall not revert to the general fund and interest on the moneys in the fund shall be retained as a part of the fund and shall not accrue to the general fund. If the authority board in consultation with the division board determines that there are surplus funds in the title guaranty fund after providing for adequate reserves and operating expenses of the division, the surplus funds shall be transferred to the ~~commitment costs~~ housing program fund created pursuant to section 220.40.

Sec. 3. Section 220.91, subsection 4, Code Supplement 1987, is amended to read as follows:

4. Each participating ~~mortgage lender~~, attorney and abstractor ~~shall~~ may be required to pay an annual participation fee to be eligible to participate in the title guaranty program. The fee, if any, shall be set by the division, subject to the approval of the authority.

Sec. 4. Section 220.91, subsection 5, Code Supplement 1987, is amended to read as follows:

5. The participation of abstractors, and attorneys and lenders shall be in accordance with rules established by the division and adopted by the authority pursuant to chapter 17A. Each participant shall at all times maintain liability coverage in amounts approved by the division. Upon payment of a claim by the division, the division shall be subrogated to the rights of the claimant against all persons relating to the claim.

Sec. 5. Section 220.91, subsection 7, Code Supplement 1987, is amended to read as follows:

7. The attorney rendering a title opinion shall be authorized to issue a title guaranty certificate subject to the rules of the authority. ~~A person or mortgage lender participating in the title guaranty program shall not charge or receive any portion of the charge for the guaranty as a result of their participation in the title guaranty program.~~

Sec. 6. Section 535A.12, Code 1987, is repealed.

Approved May 3, 1988

CHAPTER 1146**MORTGAGE BANKERS, BROKERS, AND LENDERS REGULATION***H.F. 613*

AN ACT relating to the licensing and examination of first mortgage bankers and mortgage brokers, and regulation of other mortgage lenders, and providing penalties.

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

Section 1. NEW SECTION. 535B.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Mortgage banker" means a person who does one or more of the following:
 - a. Makes at least four first mortgage loans on residential real property located in this state in a calendar year.
 - b. Originates at least four first mortgage loans on residential real property located in this state in a calendar year and sells four or more such loans in the secondary market.
 - c. Services first mortgage loans on residential real property located in this state.
2. "Mortgage broker" means a person who arranges or negotiates, or attempts to arrange or negotiate, at least four first mortgage loans or commitments for four or more such loans on residential real property located in this state in a calendar year.
3. "Residential real property" means real property, which is an owner-occupied single-family or two-family dwelling, located in this state, occupied or used or intended to be occupied or used for residential purposes, including an interest in any real property covered under chapter 499B.
4. "Person" means an individual, an association, joint venture or joint stock company, partnership, limited partnership, business corporation, nonprofit corporation, or any other group of individuals however organized.
5. "Licensee" means a person licensed under this chapter; however, any individual who is acting solely as an employee or agent of a mortgage banker or broker licensed under this Act need not be separately licensed.
6. "Administrator" means the superintendent of the division of savings and loan of the department of commerce.
7. "First mortgage loan" means a loan of money secured by a first lien on residential real property and includes a refinancing of a contract of sale, an assumption of a prior loan, and a refinancing of a prior loan.

Sec. 2. NEW SECTION. 535B.2 EXEMPTIONS.

This chapter, except for sections 535B.11, 535B.12, and 535B.13, does not apply to any of the following:

1. A national bank.
2. A federally chartered savings and loan association.
3. A federally chartered savings bank.
4. A federally chartered credit union.
5. A loan company licensed under chapter 536 or 536A.
6. A bank organized under chapter 524.
7. A savings and loan association or savings bank organized under chapter 534.
8. A credit union organized under chapter 533.
9. An insurance company organized under the laws of this state and subject to regulation by the commissioner of insurance.
10. A wholly owned subsidiary of an organization listed in subsections 1 through 9 if the listed organization has its principal place of business in Iowa.

11. A bank, savings and loan association, credit union, or insurance company organized or chartered under the laws of any other state provided the financial institution or insurance company has a place of business in Iowa.

12. Mortgage lenders of mortgage bankers maintaining an office in this state whose principal business in this state is conducted with or through mortgage lenders or mortgage bankers otherwise exempt under this section and which maintain a place of business in this state.

Sec. 3. NEW SECTION. 535B.3 REGISTRATION.

1. A person exempt under section 535B.2, subsection 10, 11, or 12, shall register with the administrator.

2. A registrant shall submit to the administrator a registration statement on forms provided by the administrator. The forms shall include all addresses at which business is to be conducted, the names and titles of each director and principal officer of the business, and a description of the activities of the applicant in such detail as the administrator may require.

3. The registrant shall pay a fifty-dollar registration fee.

4. A registration under this chapter is not assignable.

Sec. 4. NEW SECTION. 535B.4 GENERAL LICENSING REQUIREMENTS.

1. A person shall not act as a mortgage banker or mortgage broker in this state or use the title "mortgage banker" or "mortgage broker" without first obtaining a license from the administrator.

2. License applicants shall submit to the administrator an application on forms provided by the administrator. The forms shall include, at a minimum, all addresses at which business is to be conducted, the names and titles of each director and principal officers of the business, and a description of the activities of the applicant in such detail as the administrator may require.

3. The applicant shall also submit a recently prepared certified financial statement.

4. The applicant for an initial license shall submit a fee in the amount of five hundred dollars.

5. Licenses granted under this chapter are not assignable.

6. Licenses granted under this chapter expire on the next June 30 after their issuance.

7. Applications for renewals of licenses under this chapter must be filed with the administrator before June 1 of the year of expiration and must be accompanied by a fee of two hundred dollars.

Sec. 5. NEW SECTION. 535B.5 GRANTING AND DENIAL OF LICENSE.

1. Upon the filing of an application for a license, if the administrator finds that the financial responsibility, character, and general fitness of the applicant and of the members thereof if the applicant is a partnership, association, or other organization and of the officers, directors, and principal employees if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly, soundly, and efficiently in the public interest consistent with the purposes of this chapter, the administrator shall issue the applicant a license to engage in mortgage lending, brokering, and servicing. The administrator shall approve or deny an application for a license within ninety days after the filing of the application for a license.

2. If the administrator does not so find, the license shall not be issued, and the administrator shall notify the applicant in writing of the denial and the reasons for the denial.

Sec. 6. NEW SECTION. 535B.6 LICENSING OF FOREIGN CORPORATION.

An applicant that is a foreign corporation must be authorized to do business in this state. A foreign corporation shall file with the license application both of the following:

1. An irrevocable consent, duly acknowledged, that suits and actions may be commenced against that licensee in the courts of this state by service of process in the usual manner provided for by the statutes and court rules of this state.

2. Proof of authorization to do business in this state.

Sec. 7. NEW SECTION. 535B.7 SUSPENSION OR REVOCATION OF LICENSE.

1. The administrator may, pursuant to chapter 17A, suspend or revoke any license issued pursuant to this chapter if the administrator finds any of the following:

a. The licensee has violated a provision of this chapter or a rule adopted under this chapter or any other state or federal law applicable to the conduct of its business including but not limited to chapters 535 and 535A.

b. A fact or condition exists which, if it had existed at the time of the original application for the license, would have warranted the administrator to refuse originally to issue the license.

c. The licensee is found upon investigation to be insolvent, in which case the license shall be revoked immediately.

2. The administrator may order an emergency suspension of a licensee's license pursuant to section 17A.18, subsection 3. A written order containing the facts or conduct which warrant the emergency action shall be timely sent to the licensee by restricted certified mail. Upon issuance of the suspension order, the licensee must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

Except as provided in this section, a license shall not be revoked or suspended except after notice and a hearing thereon in accordance with chapter 17A.

3. A licensee may surrender a license by delivering to the administrator written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

4. A revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and any person, including a mortgagor.

Sec. 8. NEW SECTION. 535B.8 OPERATING WITHOUT A LICENSE.

A person, who without first obtaining a license under this chapter, engages in the business or occupation of, or advertises or holds the person out as, or claims to be, or temporarily acts as, a mortgage banker or mortgage broker in this state is guilty of a class "D" felony and may be prosecuted by the attorney general or a county attorney.

Sec. 9. NEW SECTION. 535B.9 BONDS REQUIRED OF LICENSE APPLICANT.

An applicant for a license shall file with the administrator one of the following:

a. A current certified financial statement evidencing a net worth of one million dollars or more.

b. A bond in the amount of fifty thousand dollars, furnished by a surety company authorized to do business in this state. The bond shall be for the use of the state and any persons who may have causes of action against the applicant. The bond shall be conditioned upon the applicant's faithfully conforming to and abiding by this chapter and any rules adopted under this chapter and shall require that the surety pay to the state and to any persons all moneys that become due or owing to the state and to the persons from the applicant by virtue of this chapter.

Sec. 10. NEW SECTION. 535B.10 INVESTIGATIONS AND EXAMINATIONS.

1. Within one hundred twenty days after the end of a licensee's fiscal year, the licensee shall file financial statements which are certified by an independent accounting firm.

2. For the purposes of discovering violations of this chapter or any rules adopted under this chapter or for securing information lawfully required under this chapter, the administrator may at any time and as often as the administrator deems necessary, investigate the business and examine the books, accounts, records, and files used by a licensee. However, if the financial statement required by subsection 1 shows that the licensee satisfies the minimum net worth requirement necessary to be an approved mortgagor by the United States department of

housing and urban development pursuant to its guidelines, as amended, the licensee is not subject to an investigation or examination as described in this subsection.

3. Notwithstanding subsection 2, all licensees are subject to limited examination by the administrator to investigate complaints or alleged violations about the licensee made to the administrator. Such investigation or examination by the administrator shall be restricted to acquiring information from the licensee relevant to the alleged violations.

4. In conducting any examination under this section, the administrator may rely on current reports made by the licensee which have been prepared for the following federal agencies or federally related entities:

- a. United States department of housing and urban development.
- b. Federal housing administration.
- c. Federal national mortgage association.
- d. Government national mortgage association.
- e. Federal home loan mortgage corporation.
- f. Veterans administration.

5. With respect to mortgage lenders or mortgage bankers who are specifically exempted from this chapter but are subject to sections 535B.11, 535B.12, and 535B.13, the powers of examination and investigation concerning compliance with sections 535B.11, 535B.12, and 535B.13 shall be exercised by the official or agency to whose supervision the exempted person is subject. If the administrator receives a complaint or other information concerning noncompliance with this chapter by an exempted person, the administrator shall inform the official or agency having supervisory authority over that person.

6. The total charge for an examination or investigation shall be paid by the licensee to the administrator within thirty days after the administrator has requested payment. The administrator may by rule provide for a charge for late payment of the fee. The amount of the fee shall be based on the actual costs of the examination as determined by the administrator. Examination reports and correspondence regarding these reports shall be kept confidential except as provided in this subsection, notwithstanding chapter 22. The administrator may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the administrator. The administrator may also provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act.

Sec. 11. NEW SECTION. 535B.11 SERVICING MORTGAGES AND PAYOFFS.

A licensee or other mortgagee who services mortgages on residential real estate located in this state shall do all of the following:

1. Disburse required funds paid by the mortgagor and held in escrow for the payment of real estate taxes and insurance payments no later than their final due date.

2. Pay penalties incurred by the mortgagor due to the licensee's or mortgagee's failure to meet the due dates referred to in subsection 1 unless the licensee or mortgagee can show that the failure was due solely to the fact that the mortgagor received a statement of the amount due more than fifteen days before the due date and has failed to remit it to the licensee or mortgagee.

3. Perform a complete escrow analysis yearly. A clear and legible copy of the yearly analysis shall be promptly mailed to the mortgagor. If there is a change in the payment amount, the analysis shall be mailed at least twenty days before the effective date of the change. The summary shall contain all of the following information:

- a. The name and address of the mortgagee.
- b. The name and address of the mortgagor.
- c. A summary of escrow account activity during the year which includes all of the following:
 - (1) The balance of the escrow account at the beginning of the year.

- (2) The aggregate amount of deposits to the escrow account during the year.
 - (3) The aggregate amount of withdrawals from the escrow account for each of the following categories:
 - (a) Payments against loan principal.
 - (b) Payments against interest.
 - (c) Payments against real estate taxes.
 - (d) Payments for real property insurance premiums.
 - (e) All other withdrawals.
 - (4) A summary of loan principal for the year as follows:
 - (a) The amount of principal outstanding at the beginning of the year.
 - (b) The aggregate amount of payments against principal during the year.
 - (c) The amount of principal outstanding at the end of the year.
- Compliance with sections 524.905, 533.16, 534.206, and 536A.20 shall constitute compliance with this subsection.

4. Answer in writing, within ten business days of receipt, any written request for payoff information received from a mortgagor or the mortgagor's designated representative.

5. Execute and deliver a release after payoff and within forty-five days after receipt of correct payment. If the licensee or mortgagee fails to execute and deliver a release of lien to the mortgagor or the mortgagor's designated representative, the mortgagor or the mortgagor's designated representative may notify in writing the administrator and any other official to whom the mortgagee is primarily subject. The administrator shall promptly mail by certified mail to the licensee or mortgagee a notice stating that the licensee or mortgagee must both release the mortgage and deliver the release to the administrator within fifteen days of receipt of said notice or face a penalty as provided in this section. If the licensee or mortgagee fails to make the release and deliver it to the administrator, the administrator may assess a penalty not to exceed fifty dollars for each day of delinquency after the fifteen days. The administrator may waive the penalty if the administrator finds the failure was not intentional and resulted from bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid error.

6. If a person in connection with a first mortgage loan has possession of an abstract of title and fails to deliver the abstract to the borrower within twenty calendar days of the borrower's request made by certified mail return receipt requested in connection with a proposed sale of the property, then the borrower may authorize the preparation of a new abstract of title to the property and the person failing to deliver the original abstract shall pay to the borrower the reasonable costs of preparation. If the borrower brings an action against the person failing to deliver to recover such payment and in the action recovers the payment, then the borrower shall also be entitled to recover attorney fees and court costs incurred in the action.

Sec. 12. NEW SECTION. 535B.12 PAYMENT PROCESSING.

A licensee or other mortgagee shall not assess a late charge if full payment is received before the date late charges are authorized in the mortgage documents and shall post all periodic payments in full within two business days of receipt.

Sec. 13. NEW SECTION. 535B.13 ENFORCEMENT.

1. The administrator has cease and desist powers as follows:
 - a. For the purposes of this subsection, "administrator" means either the superintendent of savings and loans or the official or agency charged with enforcing this chapter, or parts thereof, against the person under investigation.
 - b. If the administrator has reason to believe that a person has been or is in violation of this chapter or rules adopted under this chapter, after notice and hearing, the administrator may

order a person to cease and desist from violating any provision of this chapter or rules adopted under this chapter.

c. The administrator, upon such hearing, may administer oaths, examine and cross-examine witnesses, receive evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of all records or other documents which the administrator deems relevant to the inquiry. In case of a refusal of a person to comply with a subpoena issued under this section or to testify with respect to any matter relevant to the proceeding, on application of the administrator, the district court of Polk county may issue an order requiring the person to comply with the subpoena and to testify. A failure to obey an order of the court to comply with the subpoena may be punished by the court as a civil contempt. A cease and desist hearing need not observe any formal rules of pleading or evidence.

d. If after the hearing, the administrator finds that the person charged has violated this chapter or rules adopted under this chapter, the administrator shall issue written findings, a copy of which shall be served upon the person charged with the violations, along with an order requiring the person to cease and desist from engaging in the violations.

e. A person aggrieved by a cease and desist order of the administrator may obtain judicial review of the order and the administrator may obtain an order of the Polk county district court for the enforcement of the cease and desist order.

f. A proceeding for review must be initiated within thirty days after the aggrieved person receives the cease and desist order. If no proceeding is initiated, the administrator may obtain a decree of the Polk county district court for enforcement of the cease and desist order.

g. A person who violates a cease and desist order of the administrator may, after notice and hearing, and upon further order of the administrator, be subject to a penalty of not more than five thousand dollars for each act or violation of the cease and desist order.

2. The administrator may request the attorney general to enforce the provisions of this chapter. A civil enforcement action by the attorney general may be filed in equity in either the county in which the violation occurred or Polk county. A civil enforcement action by the attorney general may seek any or all of the following:

a. Temporary and permanent injunctive relief.

b. Restitution for a mortgagor aggrieved by a violation of this chapter.

c. Costs for the investigation and prosecution of the enforcement action including attorneys fees.

3. This chapter does not limit the power of the attorney general to determine that any other practice is unlawful under the Iowa consumer fraud Act, section 714.16, and to file an action under that section.

Sec. 14. NEW SECTION. 535B.14 RULEMAKING AUTHORITY.

The administrator may adopt, amend, or repeal rules to aid in the administration and enforcement of this chapter.

Sec. 15. NEW SECTION. 535B.15 LIABILITY OF STATE.

An act or omission by the state pursuant to this chapter including, but not limited to, an examination, inspection, audit, or other financial oversight responsibility shall not subject the state to liability.

Approved May 3, 1988

CHAPTER 1147**MOTOR VEHICLE RENTAL COLLISION DAMAGE WAIVERS***H.F. 653*

AN ACT relating to issuance of collision damage waivers in motor vehicle rental agreements, making penalties applicable, and providing an effective date.

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

Section 1. NEW SECTION. 516C.1 TITLE.

This chapter shall be known and may be cited as the "Iowa Collision Damage Waiver Act".

Sec. 2. NEW SECTION. 516C.2 SCOPE.

This chapter applies to a person in the business of renting a motor vehicle for a period of sixty days or less from a location in this state under an agreement which imposes upon the customer an obligation to pay for any damages caused to, or loss due to theft of, the rented vehicle. This chapter applies solely to the collision damage waiver portion of the rental agreement.

Sec. 3. NEW SECTION. 516C.3 DEFINITIONS.

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

1. "Collision damage waiver" means a contract or contractual provision, whether separate from or a part of a motor vehicle rental agreement, whereby the rental company agrees, for a charge, to waive any and all claims against the customer for any damages to, or loss due to theft of, the rental vehicle during the term of the rental agreement.

2. "Rental company" means a person in the business of providing rental motor vehicles to customers.

3. "Customer" means a person obtaining the use of a rental motor vehicle from a rental company under the terms of a rental agreement.

4. "Rental agreement" means a written agreement containing the terms and conditions for the use of the rental motor vehicle by the customer for a term of sixty days or less.

5. "Rental motor vehicle" means a private passenger type vehicle which, upon execution of a rental agreement, is made available to a customer for its use.

Sec. 4. NEW SECTION. 516C.4 PROHIBITIONS.

A rental company shall not deliver or issue for delivery in this state a rental agreement containing a collision damage waiver unless:

1. The rental agreement contains the terms of the collision damage waiver in simple and readable words with common meanings and the collision damage waiver is understandable.

2. All restrictions, conditions, and exclusions are printed in the rental agreement in eight-point type, or larger; or written in pen and ink or typewritten in or on the face of the rental agreement in a blank space provided therefore.* The collision damage waiver may exclude the following:

a. Damages caused intentionally by the customer or as a result of the customer's willful or wanton misconduct.

b. Damages caused by driving while intoxicated or under the influence of a controlled substance.

The collision damage waiver may not exclude simple negligence.

3. The collision damage waiver includes a statement of the total charge for the waiver period.

4. The rental agreement displays in boldface capitals in eight-point type, or larger, the following notice:

*According to enrolled Act

NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A COLLISION DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY* FOR DAMAGE TO THE VEHICLE.

BEFORE DECIDING WHETHER TO PURCHASE THE COLLISION DAMAGE WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN AUTOMOBILE INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE WAIVER IS NOT MANDATORY AND MAY BE DECLINED.

The disclosures required to be made as part of a rental agreement pursuant to this chapter shall be made on a separate sheet or handout given to the customer prior to entering into the rental agreement. The separate sheet or handout must be acknowledged by the customer as being received prior to entering into the rental agreement.

Sec. 5. NEW SECTION. 516C.5 UNFAIR OR DECEPTIVE ACTS OR PRACTICES.

Unfair or deceptive acts or practices in the advertisement or sale of collision damage waivers are prohibited. Unfair and deceptive practices include, but are not limited to, the following:

1. The representation in connection with the sale or advertisement of a rental agreement or collision damage waiver that the purchase of a collision damage waiver is mandatory.
2. The failure to provide disclosures as required in this chapter.
3. The failure to disclose in a manner likely to be noticed and comprehended in any advertisement, as defined in section 714.16, subsection 1, paragraph "a", if a collision damage waiver is available, and the cost of the waiver.

Sec. 6. NEW SECTION. 516C.6 ENFORCEMENT.

A violation of this chapter is a violation of section 714.16, subsection 2, paragraph "a". The provisions of section 714.16, including, but not limited to, provisions relating to investigation, injunctive relief, and penalties, apply to violations of this chapter.

Approved May 3, 1988

CHAPTER 1148

GRAIN TRADING REGULATION

S.F. 2135

AN ACT relating to the issuance of grain bargaining permits and limiting the assets of the grain depositors and sellers indemnity fund, providing for penalties for certain delinquent payments, and providing for an early effective date and date of applicability.

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

Section 1. Section 542A.2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may deny an application for a permit to a person licensed as a grain dealer under chapter 542 if the grain dealer license is under suspension or has been revoked pursuant to section 542.10. If information or a complaint is filed with the department against the person as a grain dealer in accordance with section 542.10, the department may delay approving the application for a permit until after a hearing is provided under that section.

*According to enrolled Act

Sec. 2. Section 542A.7, Code 1987, is amended by adding the following new unnumbered paragraph after the second unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department, after a hearing, may suspend or revoke a bargaining agent's permit if the permittee is licensed as a grain dealer under chapter 542 and the permittee's grain dealer license is under suspension or has been revoked pursuant to section 542.10.

Sec. 3. Section 543A.3, subsection 2, Code Supplement 1987, is amended to read as follows:

2. The grain dealer or warehouse operator shall forward the per-bushel fee to the department in the manner and using the forms prescribed by the department. If the per-bushel fee has not been received by the department by the date required by the department, the grain dealer or warehouse operator is subject to a penalty of ten dollars for each day the grain dealer or warehouse operator is delinquent or an amount equal to the amount of the deficiency, whichever is less. The department may establish and apply a margin of error in determining whether a grain dealer or warehouse operator is delinquent. If the per-bushel fee has not been received by the department within thirty days after the payment was due, the grain dealer's or warehouse operator's license shall be suspended. The per-bushel fee shall be collected only once on each bushel of grain.

Sec. 4. Section 543A.5, subsection 2, Code Supplement 1987, is amended to read as follows:

2. If, at the end of any fiscal year three-month period, the assets of the fund exceed six million dollars, less any encumbered balances or pending or unsettled claims, the per-bushel fee required under section 543A.3, subsection 2, and the dealer-warehouse fee required under section 543A.3, subsection 3, shall be waived until the board reinstates and the fees are not assessable or owing. The board shall reinstate the fees if the assets of the fund, less any unencumbered balances or pending or unsettled claims, are three million dollars or less.

Sec. 5. Section 3 of this Act shall be applied retroactively on and after July 1, 1987. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 3, 1988

CHAPTER 1149

FOREIGN SAVINGS AND LOAN ASSOCIATION CERTIFICATES OF DEPOSIT

S.F. 2289

AN ACT relating to the sale of certificates of deposit, issued by foreign associations, within the state.

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

Section 1. Section 534.702, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 10. LIMITED EXEMPTION FOR SOLVENT FOREIGN ASSOCIATIONS. A foreign savings and loan association is exempt from the requirements of this section if the association's business in this state is limited to the sale of certificates of deposit through independent broker-dealers registered under section 502.302, unless the superintendent of savings and loans by order determines the association is insolvent.

Sec. 2. Section 534.704, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not make unlawful the activities of a broker-dealer registered under section 502.302 when the broker-dealer makes available in this state certificates of deposit issued by a foreign association whose deposits are insured by a federal insurer.

Approved May 3, 1988

CHAPTER 1150

MEMBERSHIP AND GENDER BALANCE ON STATE COMMISSIONS

S.F. 2170

AN ACT relating to the membership of the commission on the status of women and other boards, commissions, committees, and councils.

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

Section 1. Section 69.16A, Code Supplement 1987, is amended to read as follows:
69.16A GENDER BALANCE.

All appointive boards, commissions, committees and councils of the state established by the Code if not otherwise provided by law shall be gender balanced. No person shall be appointed or reappointed to any board, commission, committee, or council established by the Code if that appointment or reappointment would cause the number of members of the board, commission, committee, or council of one gender to be greater than one-half the membership of the board, commission, committee, or council plus one if the board, commission, committee, or council is composed of an odd number of members. If the board, commission, committee, or council is composed of an even number of members, not more than one-half of the membership shall be of one gender. If there are multiple appointing authorities for a board, commission, committee, or council, they shall consult each other to avoid a violation of this section. This section shall not prohibit an individual from completing a term being served on June 30, 1987.

Sec. 2. Section 601K.52, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

601K.52 COMMISSION CREATED.

The commission on the status of women is created, composed of thirteen members as follows:

1. Four members of the general assembly serving as ex officio nonvoting members, one to be appointed by the speaker of the house from the membership of the house, one to be appointed by the minority leader of the house from the membership of the house, one to be appointed by the majority leader of the senate from the membership of the senate, and one to be appointed by the minority leader of the senate from the membership of the senate.

2. Nine members to be appointed by the governor representing a cross section of the citizens of the state, subject to confirmation by the senate.

No more than a simple majority of the commission shall be of the same political party. The members of the commission shall elect one of its members to serve as chairperson of the commission.

Sec. 3. Section 601K.53, Code 1987, is amended to read as follows:

601K.53 TERM OF OFFICE.

~~One-half~~ Four of the members appointed to the initial commission shall be designated by the governor to serve two-year terms, and ~~one-half~~ five shall be designated by the governor to serve four-year terms. The legislative members of the commission shall be appointed to

four-year terms of office, two of which shall expire every two years unless sooner terminated by a commission member ceasing to be a member of the general assembly. Succeeding appointments shall be for a term of four years. Vacancies in the membership shall be filled for the unexpired term in the same manner as the original appointment.

Sec. 4. Section 601K.54, Code 1987, is amended to read as follows:
601K.54 MEETINGS OF THE COMMISSION.

The commission shall meet at least ~~four~~ six times each year, and shall hold special meetings on the call of the chairperson. The commission shall adopt rules pursuant to chapter 17A as it deems necessary for the commission and division. The members of the commission shall receive a per diem of forty dollars and be reimbursed for actual expenses while engaged in their official duties. Members may also be eligible to receive compensation as provided in section 7E.6. Legislative members of the commission shall receive payment pursuant to sections 2.10 and 2.12.

Sec. 5. The terms of members of the commission on the status of women who were appointed prior to the effective date of this Act shall expire on the effective date of this Act.

Approved May 3, 1988

CHAPTER 1151

MILITARY SERVICE TAX CREDIT AND FRANCHISE TAX ADMINISTRATION

H.F. 2473

AN ACT relating to the administration and requirements for military service tax credits, and making appropriations directly from the state general fund for purposes of the military service tax credit and payment of the franchise tax to local governments, and providing an effective date.

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

Section 1. Section 123.53, subsection 7, Code 1987, is amended by striking the subsection.

Sec. 2. Section 422.65, Code 1987, is amended to read as follows:
422.65 ALLOCATION OF REVENUE.

~~Fifty five percent of the total~~ All moneys received from the franchise tax shall be deposited in the state general fund. ~~The remaining moneys received from the franchise tax shall be deposited in a franchise tax fund hereby established in the office of the treasurer of state, and Forty-five percent of all franchise tax money received and deposited in the state general fund shall be paid quarterly on warrants by the director, after certification by the director,~~ as follows:

1. Sixty percent to the general fund of the city from which the tax is collected.
2. Forty percent to the county from which the tax is collected.

If the financial institution maintains one or more offices for the transaction of business, other than its principal office, a portion of its franchise tax shall be allocated to each office, based upon a reasonable measure of the business activity of each office. The director shall prescribe, for each type of financial institution, a method of measuring the business activity of each office. Financial institutions shall furnish all necessary information for this purpose at the request of the director.

Quarterly, the director shall certify to the treasurer of state the amounts to be paid to each city and county from the franchise tax state general fund. All moneys received from the franchise tax are hereby appropriated according to the provisions of this section.

Sec. 3. Section 426A.1, Code 1987, is amended to read as follows:

426A.1 MILITARY SERVICE TAX CREDIT FUND APPROPRIATION.

There is hereby appropriated from any moneys in the general fund of the state treasury not otherwise appropriated, the sum of eight hundred thousand dollars to establish a fund to be known as "the military service tax credit fund", in which fund shall also be included the amounts credited to the military service tax fund provided by section 123.53, subsection 7 necessary to fund the credits provided under this chapter.

Sec. 4. Section 426A.2, Code 1987, is amended to read as follows:

426A.2 WHERE CREDIT GIVEN.

The military service tax credit fund moneys shall be apportioned each year as hereinafter provided so as to replace all or a portion of the tax on property eligible for military service tax exemption in the state, were such the property subject to taxation the amount of such credit to be equal to not more than six dollars and seventy-five cents per thousand dollars of assessed value upon the valuation of property subject to the tax which, but for military service tax exemption, would be payable upon such the property in the taxing district to which such the property is located.

Sec. 5. Section 426A.4, Code 1987, is amended to read as follows:

426A.4 CERTIFICATION BY DIRECTOR OF REVENUE AND FINANCE.

Sums distributable from the military service tax credit general fund of the state shall be allocated annually to the counties of the state. On September 15 annually the director of revenue and finance shall certify and draw warrants to the treasurer of each county payable from the military service tax credit general fund of the state in the amount claimed. However, if the amount of money in the fund is insufficient to pay the credits claimed in full, the claims shall be paid on a pro rata basis. Payments shall be made to the treasurer of each county not later than September 30 of each year. The director of revenue and finance shall transfer any funds in the military service tax credit fund on May 31 of each year not necessary for the payment of claims to the general fund.

Sec. 6. Section 426A.6, Code 1987, is amended to read as follows:

426A.6 SETTING ASIDE ALLOWANCE.

If the director of revenue and finance determines that any claim for military service tax exemption has been allowed by any board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within twenty-four months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the county in which the claim has been improperly granted and a written notice of the disallowance shall also be addressed to the claimant at the claimant's last known address. The claimant or the board of supervisors may seek judicial review of the action of the director of revenue and finance in accordance with the Iowa administrative procedure Act chapter 17A. In any case, where a claim is so disallowed by the director of revenue and finance and a petition for judicial review is not filed with respect to the disallowance, any amounts of credits allowed and paid from the military service tax credit general fund of the state become a lien upon the property on which the credit was originally granted, if still in the hands of the claimant, and not in the hands of a bona fide purchaser, and any amount so erroneously paid shall be collected by the county treasurer in the same manner as other taxes and the collections shall be returned to the department of revenue and finance and credited to the military service tax credit general fund of the state. The

director of revenue and finance may institute legal proceedings against a military service tax exemption claimant for the collection of all payments made on disallowed exemptions.

Sec. 7. Section 426A.8, Code 1987, is amended to read as follows:

426A.8 EXCESS REMITTED — APPEALS.

If the amount of credit apportioned to any property eligible to military service tax exemption under the provisions of this chapter in any year shall exceed the total tax, exclusive of any special assessments levied against such property eligible for military service tax exemption then such the excess shall be remitted by the county treasurer to the department of revenue and finance to be redeposited in the military service tax credit general fund of the state and reallocated the following year by the department as provided hereunder.

~~In the event~~ If any claim for exemption made ~~hereunder~~ has been denied by the board of supervisors, and ~~such the~~ the action is subsequently reversed on appeal, the same credit shall be allowed on the assessed valuation, not to exceed the amount of the military service tax exemption involved in ~~said the~~ the appeal, as was allowed on other military service tax exemption valuations for the year or years in question, and the director of revenue and finance, the county auditor, and the county treasurer ~~are hereby authorized and directed to make such shall credit and to change their books and records accordingly.~~

~~In the event~~ If the appealing taxpayer has paid one or both of the installments of the tax payable in the year or years in question on such military service tax exemption valuation, remittance shall be made to the county treasurer in the amount of such credit.

The amount of ~~such the~~ credit shall be allocated and paid from the surplus redeposited in the military tax credit general fund of the state provided for in the first paragraph of this section.

Sec. 8. Section 426A.9, Code 1987, is amended to read as follows:

426A.9 ERRONEOUS CREDITS.

~~In the event~~ If any claim is allowed, and subsequently reversed on appeal, any credit ~~made thereunder~~ shall be void, and the amount of ~~such the~~ credit shall be charged against the property in question, and the director of revenue and finance, the county auditor and the county treasurer ~~are authorized and directed to shall correct their books and records accordingly.~~ The amount of ~~such the~~ erroneous credit, when collected, shall be returned by the county treasurer to the military service tax credit general fund ~~to be reallocated the following year as provided herein of the state.~~

Sec. 9. Section 427.3, subsection 5, Code 1987, is amended to read as follows:

5. The provisions of this section shall apply to personal property held in partnership but not in excess of the value of the veteran's share actually held. Wherever the word "soldier" shall appear in this chapter, it shall be construed to include, without limitation, the members of the United States air force and the United States merchant marine.

Sec. 10. Section 427.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. For the purpose of determining a military tax exemption under this section, property includes a mobile home as defined in section 135D.1.

Approved May 4, 1988

CHAPTER 1152**MILK INDUSTRY REGULATION***H.F. 2471*

AN ACT relating to regulation of milk production and marketing by creating a fund for administration and appropriating the moneys in the fund, providing for inspection, raising fees relating to the milk industry, and providing for the establishment of milk production and processing standards.

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

Section 1. Section 192.8, subsection 7, Code 1987, is amended by striking the subsection, inserting in lieu thereof the following, and renumbering subsequent subsections:

7. A "milk plant" is any place where milk or milk products are collected, handled, processed, stored, pasteurized, aseptically processed, bottled, or prepared for distribution.

8. A "receiving station" is any place where raw milk is received, collected, handled, stored, or cooled and prepared for further transporting.

Sec. 2. Section 192.11, unnumbered paragraphs 4 and 5, Code 1987, are amended to read as follows:

Each dairy farm, milk plant, receiving station, and transfer station whose milk or milk products are intended for consumption as grade "A" pasteurized milk and milk products shall be inspected by the secretary prior to the issuance of the permit provided for in section 192.5. ~~However, if any a person, including a municipal corporation, makes application to the secretary for authority to may conduct such inspections, the secretary, upon finding that such municipal corporation has qualified personnel to perform the same, shall enter into agreements with the municipal corporation providing for such inspection if authorized by an agreement under section 192.48. Inspection by either the secretary or approved municipal corporation a person acting under an agreement pursuant to section 192.48, including a municipal corporation, or a person acting under a sub-agreement with a municipal corporation shall be acceptable for issuance of such permit by the secretary or municipal corporation making or entering into an agreement or sub-agreement for the inspection.~~

~~When inspections are conducted and permits are issued by a municipal corporation under this chapter, in a manner which the secretary deems consistent with the provisions of the agreement, this chapter and chapters 190 and 191, as evidenced by the annual survey by the Iowa department of public health provided for in section 192.31, the secretary shall accept such procedures in lieu of administration of the provisions of said chapters by the state, within the jurisdiction involved. In the event the survey required in section 192.31 indicates secretary finds that a municipal corporation is acting in a manner which is inconsistent with the provisions of the agreement or said chapters, the secretary may revoke the agreement with the municipal corporation after notice and hearing, in the manner described for permit revocation in section 192.5 and perform such acts as are necessary to regulate grade "A" milk and milk products in such jurisdiction in conformity herewith.~~

Sec. 3. Section 192.30, unnumbered paragraph 1, Code 1987, is amended to read as follows:

This chapter and chapters 190 and 191 shall be enforced by the secretary or municipal corporations, which have entered into agreements with the secretary under ~~section~~ sections 192.11 and 192.48, both of whom shall make regulations which shall conform to the Grade "A" Pasteurized Milk Ordinance with Administrative Procedures — 1978 Recommendations of the United States Public Health Service, a certified copy of which shall be on file at the secretary's office or the office of the clerk of an authorized municipal corporation. Where the mandatory compliance with provisions of the appendixes therein is specified, the provisions shall be deemed a requirement of the chapters.

Sec. 4. Section 192.40, Code 1987, is amended to read as follows:

192.40 FEES.

A license, unless earlier revoked, is valid until July 1 after the date of its issuance. The maximum fee for each a license shall be three is twenty-five dollars, which shall be paid before the license is issued, and standard test bottles and pipettes shall be furnished at actual cost. Fees collected under this section shall be deposited in the milk fund established in section 192.47.

Sec. 5. NEW SECTION. 192.47 INSPECTION FEES AND MILK FUND.

1. Except as otherwise provided in this section, a milk plant which is not a receiving station shall pay an inspection fee not greater than one thousand dollars per year. A transfer station shall pay an inspection fee not greater than two hundred dollars per year. A milk hauler shall pay an inspection fee not greater than twenty-five dollars per year. The secretary shall fix the fees annually. The fees shall be paid on July 1 of each year.

2. A purchaser of milk from a grade "A" milk producer shall pay an inspection fee not greater than one point five cents per hundredweight. The fee shall be payable monthly to the secretary in a manner prescribed by the secretary. A fee imposed under this subsection shall not be paid on milk subject to inspection by a municipal corporation pursuant to section 192.11.

3. a. Fees collected under this section and moneys appropriated to the department for dairy control shall be deposited in the milk fund which is established in the office of the treasurer of state. All moneys deposited in the milk fund are appropriated for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and chapters 194 and 195. All moneys in the milk fund are subject to audit by the auditor of state. The milk fund is subject at all times to warrants by the director of revenue and finance, drawn upon written requisition of the secretary. Notwithstanding section 8.33, moneys, including interest earned, in the milk fund shall remain from year to year and shall not revert to the general fund.

b. If there is an unencumbered balance of funds in the milk fund on June 30 of any fiscal year equal to or exceeding one hundred fifty thousand dollars, the secretary shall reduce the fees provided for in section 192.47, subsection 2 and section 194.21 for the next fiscal year in an amount which will result in an ending estimated balance for June 30 of the next fiscal year of one hundred fifty thousand dollars.

Sec. 6. NEW SECTION. 192.48 INSPECTIONS REQUIRED, AGREEMENTS.

The department shall be responsible for the inspection of a dairy farm, milk plant, or transfer station to ensure compliance with this chapter and chapters 190 and 191. Whenever practical, the department shall enter into an agreement with a person, including but not limited to a municipal corporation, qualified to perform inspection services if the agreement for the services is cost-effective and the quality of inspection assures compliance with state and federal law. A person entering into an agreement with the secretary or a person entering into a sub-agreement with an authorized municipal corporation for the purpose of inspecting premises, taking samples, or testing samples, shall be deemed to be an agent of the secretary or municipal corporation, and have the same authority under this chapter provided to the secretary or authorized municipal corporation, unless the agreement or sub-agreement specifies otherwise. The department shall review inspection services performed by a person under an agreement with the department or sub-agreement with a municipal corporation to ensure quality cost-effective inspections. If a person is acting in a manner which is inconsistent with the provisions of the applicable chapter, agreement, or sub-agreement, the secretary or municipal corporation entering into the agreement or sub-agreement with the person may revoke the agreement or sub-agreement with the person after notice and hearing, in the manner described for permit revocation in section 192.5 and perform such acts as are necessary to enforce this chapter.

Sec. 7. Section 194.2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The secretary may adopt by rule requirements recommended by the United States department of agriculture for the production and processing of milk for manufacturing purposes, including, but not limited to, requirements for the inspection and certification of grade "B" dairy farms and grade "B" dairy plants.

Sec. 8. Section 194.14, Code 1987, is amended to read as follows:

194.14 FEE.

Each A license shall, unless sooner revoked, be is valid until July 1 after date of issuance. The maximum fee therefor shall be for each license is three dollars, which shall be paid before the license is issued. Fees collected under this section shall be deposited in the milk fund established in section 192.47.

Sec. 9. Section 194.19, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Every A vehicle used for the collection of milk for manufacture of dairy products, and persons purchasing milk for manufacture of dairy products, shall first be licensed by the secretary of agriculture according to chapter 195 department. A license, unless earlier revoked, is valid until July 1 after the date of its issuance. The maximum fee for a license is twenty-five dollars, which shall be paid before the license is issued. A fee shall not be imposed under this section if the vehicle or its operator has paid the fee imposed upon milk haulers under section 192.47. Fees collected under this section shall be deposited in the milk fund established in section 192.47. This shall section does not apply to individuals transporting their own dairy products.

Sec. 10. NEW SECTION. 194.21 INSPECTION FEES.

A purchaser of milk from a grade "B" milk producer shall pay an inspection fee not greater than one half cent per hundredweight. The fee is payable monthly to the secretary at a time prescribed by the secretary. A fee imposed by this section shall not be paid on milk subject to inspection by a municipal corporation pursuant to section 192.11. Fees collected under section 192.47, subsection 2 and this section shall be deposited in the milk fund established in section 192.47.

Sec. 11. Section 195.9, Code 1987, is amended to read as follows:

195.9 TENURE — FEE.

Each A license shall, unless sooner revoked, be is valid until July 1 after the date of its issuance. The maximum fee therefor shall be three for a license is twenty-five dollars which shall be paid before the license is issued. Fees collected under this section shall be deposited in the milk fund established in section 192.47.

Approved May 4, 1988

CHAPTER 1153
LOCAL OPTION TAXES
H.F. 2463

AN ACT relating to local option taxes by authorizing a city or county to receive tax return information relating to the taxes; changing the number of days notice must be given before a local hotel or motel tax is imposed, repealed, or its rate changed; legalizing the premature collection of a local hotel or motel tax; and providing an effective date.

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

Section 1. Section 98.6, subsection 5, Code 1987, is amended by striking the subsection.

Sec. 2. Section 123.37, Code 1987, is amended to read as follows:

123.37 EXCLUSIVE POWER TO LICENSE AND LEVY TAXES.

The power to establish licenses and permits and levy taxes as imposed in title VI of the Code is vested exclusively with the state. Unless specifically provided, ~~no~~ a local authority shall levy a local tax on the sale of alcoholic beverages, wine, or beer, not require the obtaining of a special license or permit for such the sale of alcoholic beverages, wine, or beer at any establishment, or require the obtaining of a license by any person as a condition precedent to the person's employment in the sale, serving, or handling of alcoholic beverages, wine, or beer, within an establishment operating under a license or permit.

Sec. 3. Section 422.72, subsection 4, Code Supplement 1987, is amended to read as follows:

4. A person violating subsection 1, 2, ~~or~~ 3, or 6 is guilty of a serious misdemeanor.

Sec. 4. Section 422.72, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The department may enter into a written informational exchange agreement for tax administration purposes with a city or county which is entitled to receive funds due to a local hotel and motel tax or a local sales and services tax. The written informational exchange agreement shall designate no more than two paid city or county employees that have access to actual return information relating to that city's or county's receipts from a local hotel and motel tax or a local sales and services tax.

City or county employees designated to have access to information under this subsection are deemed to be officers and employees of the state for purposes of the restrictions and penalties pursuant to subsection 1 pertaining to confidential information. The department may refuse to enter into a written informational exchange agreement if the city or county does not agree to pay the actual cost of providing the information and the department may refuse to abide by a written informational exchange agreement if the city or county does not promptly pay the actual cost of providing the information or take reasonable precautions to protect the information's confidentiality.

Sec. 5. Section 422A.1, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

A local hotel and motel tax shall be imposed on January 1, April 1, July 1, or October 1, following the notification of the director of revenue and finance. Once imposed, the tax shall remain in effect at the rate imposed for a minimum of one year. A local hotel and motel tax shall terminate only on March 31, June 30, September 30, or December 31. At least ~~sixty~~ forty-five days prior to the tax being effective or prior to a revision in the tax rate, or prior to the repeal of the tax, a city or county shall provide notice by mail of such action to the director of revenue and finance.

Sec. 6. NEW SECTION. 422B.11 CONSTRUCTION CONTRACTOR REFUNDS.

1. Construction contractors may make application to the department for a refund of the additional local sales and services tax paid under this chapter by reason of taxes paid on goods, wares, or merchandise under the following conditions:

a. The goods, wares, or merchandise are incorporated into an improvement to real estate in fulfillment of a written contract fully executed prior to the date of the imposition or increase in rate of a local sales and services tax under this chapter. The refund shall not apply to equipment transferred in fulfillment of a mixed construction contract.

b. The contractor has paid to the department or to a retailer the full amount of the state and local tax.

c. The claim is filed on forms provided by the department and is filed within six months of the date the tax is paid.

2. The department shall pay the refund from the appropriate city's or county's account in the local sales and services tax fund.

3. A contractor who makes an erroneous application for refund shall be liable for payment of the excess refund paid plus interest at the rate in effect under section 421.7. In addition, a contractor who willfully makes a false application for refund is guilty of a simple misdemeanor and is liable for a penalty equal to fifty percent of the excess refund claimed. Excess refunds, penalties, and interest due under this subsection may be enforced and collected in the same manner as the local sales and services tax imposed under this chapter.

Sec. 7. In a city that was authorized to impose a local hotel and motel tax under chapter 422A as a result of an election held during the last quarter of the 1987 calendar year, any hotel and motel owner or other person responsible for collection of a local hotel and motel tax that prematurely collects a local hotel and motel tax in such city during the period beginning January 1, 1988, and ending with the actual imposition of such tax, shall remit the amount collected to the department of revenue and finance at the time of filing the person's next state sales, services, and use tax return. Moneys received by the department pursuant to this section shall be deposited and disbursed as provided in section 422A.2. To the extent of the amount prematurely collected, the local hotel and motel tax shall be deemed to have been imposed January 1, 1988, in a city described in this section.

Sec. 8. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 4, 1988

CHAPTER 1154

SALES, SERVICES, AND USE TAXES ON OUT-OF-STATE RETAILERS

H.F. 2459

AN ACT relating to the imposition and collection of the state sales, services, and use taxes by out-of-state retailers.

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

Section 1. Section 422.43, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A tax of four percent is imposed upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as

otherwise provided in this division, sold at retail in the state to consumers or users within the state by retailers that meet any of the following criteria:

a. Solicit retail sales of tangible personal property from residents of this state on a continuous, regular, seasonal, or systematic basis by means of advertising which is broadcast from or relayed from a transmitter within this state.

b. Solicit orders from residents of this state for tangible personal property by mail or otherwise, if the solicitations are continuous, regular, or systematic and if the retailer benefits from any banking, financing, debt collection, telecommunications, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

c. Are owned or controlled by the same interests which own or control a retailer engaged in business in the same or a similar line of business in this state.

d. Maintain or have a franchisee or licensee operating under the retailer's trade name in this state if the franchisee or licensee is required to collect the tax imposed by this division or chapter 423.

Sec. 2. Section 422.69, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The director shall estimate the amount of tax revenues collected as a result of the sales tax imposed under section 422.43, subsection 12, and shall deposit a like amount in a "GAAP escrow account" to be created within the general fund. Amounts deposited in the GAAP escrow account shall be used to implement generally accepted accounting principles as required in 1986 Iowa Acts, chapter 1245, section 2046, as amended by 1986 Iowa Acts, chapter 1238, section 59.

Sec. 3. Section 422B.8, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax and may not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 324, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, on the gross receipts upon which sales tax is imposed only under section 422.43, subsection 12, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E. ~~However, notwithstanding that the gross receipts from the sale or rental of the tangible personal property described in section 422.45, subsections 26 and 27 are taxable during the period beginning July 1, 1985 and ending June 30, 1987, a local sales and services tax shall not be imposed on the sale or rental of such property.~~ A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Approved May 4, 1988

CHAPTER 1155**SPECIAL EDUCATION SERVICES FEDERAL FUNDING***S.F. 2296*

AN ACT requiring the area education agencies to utilize federally funded health care programs to share in the costs of services provided to certain children requiring special education and providing an effective date.

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

Section 1. NEW SECTION. 281.15 SPECIAL EDUCATION SERVICES.

1. The state board of education in conjunction with the department of education shall develop a program to utilize federally funded health care programs, except the federal medically needy program for individuals who have a spend-down, to share in the costs of services which are provided to children requiring special education.

2. The department of education shall designate an area education agency to develop a system for collecting the information necessary to implement procedures for billing and collecting the costs of the services. The area education agency shall begin to develop the system immediately. The area education agency shall consult with and work jointly with state agencies and federal agencies to determine procedures and standards which shall be initiated by all area education agencies to qualify for receipt of benefits under federal programs.

3. The department of education, in conjunction with the area education agency, shall determine those specific services which are covered by federally funded health care programs, which shall include, but not be limited to, physical therapy, audiology, speech language therapy, and psychological evaluations. The department shall also determine which other special services may be subject to reimbursement and the qualifications necessary for personnel providing those services. If it is determined that services are required from other service providers, these providers shall be reimbursed for those services.

4. All services referred to in subsection 1 shall be initially funded by the area education agency and shall be provided regardless of subsequent subrogation collections. The area education agency shall make a claim for reimbursement to federally funded health care programs.

5. Not later than July 1, 1988, the area education agency designated by the department of education shall have developed the program for collecting for the services provided. The program shall be distributed to all of the area education agencies in the state. All area education agencies shall begin collecting the information on July 1, 1988.

6. Effective November 1, 1988, all area education agencies in the state shall participate in the program and begin billing for and collecting for the covered services and shall bill for services provided retroactive to July 1, 1988. Retroactive Title XIX billing is contingent upon state plan approval. Nothing contained in this section shall be construed to allow nonlicensed individuals to perform services which otherwise require licenses under the laws of this state or to allow licensed providers to perform services outside their scope of practice.

7. All reimbursements received by the area education agencies for eligible services shall be paid annually to the treasurer of state. The treasurer of state shall credit all receipts received under this subsection to the general fund of the state.

8. The department of education and the department of human services may adopt rules pursuant to chapter 17A as these agencies deem necessary to implement this section. These rules shall take effect immediately as provided in section 17A.5, subsection 2, paragraph "b".

9. Students or their parents or guardians covered by a federal health care program shall provide health care information to an area education agency or local school district.

10. The department of education and the department of human services shall adopt rules to implement this section to be effective immediately upon filing with the administrative rules

coordinator, or at a stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication.

Sec. 2. RESPONSIBILITIES OF THE DEPARTMENT OF HUMAN SERVICES. The department of human services shall amend its Title XIX plan to include area education agencies as eligible Title XIX providers and to include as reimbursable medical expenditures physical therapy, occupational therapy, psychological evaluations, psychotherapy, speech therapy, and audiological services provided by an area education agency. It is the intent of the general assembly that the plan amendments be submitted as soon after July 1, 1988, as possible, so that reimbursement for services can be made for the period beginning July 1, 1988 if state plan approval is secured. The department shall adopt rules to be effective immediately upon filing with the administrative rules coordinator, or at a stated date less than thirty-five days after filing, indexing, and publication. The rules also shall provide that the services provided under the Title XIX plan shall be considered separate and distinct from other services provided under Title XIX and shall not limit the rights of Title XIX clients to receive services from other providers as long as those services meet standards of appropriateness and necessity. The area education agencies shall determine their costs incurred in recording and billing the medical assistance program Title XIX for services, and these costs shall be recovered from federal funds recovered from the Title XIX program, not to exceed five percent of the amount recovered.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 4, 1988

CHAPTER 1156

PESTICIDE REGULATION

S.F. 2247

AN ACT relating to the regulation and reporting of certain pesticides.

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

Section 1. Section 206.8, subsection 2, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A pesticide dealer shall pay the greater of a minimum annual license fee of twenty-five dollars or an annual license fee based on one-tenth of one percent of the gross retail sales of all pesticides sold at retail for use in this state by the pesticide dealer in the previous year. The annual license fee shall be paid to the department of agriculture and land stewardship, beginning July 1, 1988, and July 1 of each year thereafter. The secretary shall provide for a ninety-day grace period for licensure and shall impose a late fee of two percent of gross retail sales upon the licensure of a pesticide dealer applying for licensure during the period July 2 through July 31, a late fee of four percent of gross retail sales upon the licensure of a pesticide dealer applying for licensure during the month of August, and a late fee of five percent of gross retail sales upon the licensure of a pesticide dealer applying for licensure during the month of September. A licensee shall pay a fee of twenty-five dollars for the period July 1, 1987 through June 30, 1988.

Sec. 2. Section 206.12, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

Every pesticide which is distributed, sold, or offered for sale for use within this state or delivered for transportation or transported in intrastate commerce between points within the

state through any point outside this state shall be registered with the department of agriculture and land stewardship. All registration of products shall expire on the thirty-first day of December following date of issuance, unless such registration shall be renewed annually, in which event expiration date shall be extended for each year of renewal registration, or until otherwise terminated; provided that:

Sec. 3. Section 206.12, subsection 3, Code Supplement 1987, is amended to read as follows:

3. The registrant, before selling or offering for sale any pesticide for use in this state, shall register each brand and grade of such pesticide with the secretary upon forms furnished by the secretary, and the secretary shall set the registration fee annually at one-fifth of one percent of gross sales within this state with a minimum fee of two hundred fifty dollars and a maximum fee of three thousand dollars for each and every brand and grade to be offered for sale in this state except as otherwise provided. The annual registration fee for products with gross annual sales in this state of less than one million five hundred thousand dollars shall be the greater of two hundred fifty dollars or one-fifth of one percent of the gross annual sales as established by affidavit of the registrant. The secretary shall adopt by rule exemptions to the minimum fee. Fifty dollars of each fee collected shall be deposited in the treasury to the credit of the pesticide fund to be used only for the purpose of enforcing the provisions of this chapter and the remainder of each fee collected shall be placed in the agriculture management account of the groundwater protection fund.

Sec. 4. Section 206.12, subsection 7, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:

7. a. Each licensee under section 206.8 shall file an annual report at the time of application for licensure with the secretary of agriculture in a form specified by the secretary of agriculture and which includes the following information:

(1) The gross retail sales of the pesticides sold by the licensee at retail for use in this state.

(2) The individual label name and dollar amount of each pesticide sold at retail for which gross retail sales of the individual pesticide are three thousand dollars or more.

b. A person who is subject to the household hazardous materials permit requirements, and whose gross annual retail sales of pesticides are less than ten thousand dollars for each business location owned or operated by the person, shall report annually, the individual label name of an individual pesticide for which annual gross retail sales are three thousand dollars or more. The information shall be submitted on a form provided to household hazardous materials permittees by the department of natural resources, and the department of natural resources shall remit the forms to the department of agriculture and land stewardship.

c. Notwithstanding the reporting requirements of this section, the secretary of agriculture may, upon recommendation of the advisory committee created pursuant to section 206.23, and if the committee declares a pesticide to be a pesticide of special concern, require the reporting of annual gross retail sales of a pesticide.

d. A person who sells feed which contains a pesticide as an integral part of the feed mixture, shall not be subject to the reporting requirements of this section. However, a person who manufactures feed which contains a pesticide as an integral part of the feed mixture shall be subject to the licensing requirements of section 206.8.

e. The information collected and included in the report required under this section shall remain confidential. Public reporting concerning the information collected shall be performed in a manner which does not identify a specific brand name in the report.

CHAPTER 1157**INCOME TAX WITHHOLDING REGARDING NONRESIDENT AGRICULTURAL SALES**
S.F. 2058

AN ACT exempting the withholding agent from the requirement to withhold state income taxes from payments made to a nonresident, if the payments are from the sale of federal commodity certificates or agricultural commodities or products and the withholding agent submits needed information and providing for retroactive applicability and an effective date.

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

Section 1. Section 422.16, subsection 12, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding this subsection, withholding agents are not required to withhold state income tax from payments subject to taxation made to nonresidents for commodity credit certificates, grain, livestock, domestic fowl, or other agricultural commodities or products sold to the withholding agents by the nonresidents or their representatives, if the withholding agents provide on forms prescribed by the department information relating to the sales required by the department to determine the state income tax liabilities of the nonresidents.

Sec. 2. This Act is retroactive to January 1, 1985, for payments made to nonresidents on or after January 1, 1985.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 4, 1988

CHAPTER 1158**CODE AND REORGANIZATION CORRECTIONS**
S.F. 2238

AN ACT relating to statutory corrections which adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, remove ambiguities and providing effective dates.

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

Section 1. Section 15.106, subsection 2, Code 1987, is amended to read as follows:

2. Employ personnel as necessary to carry out the duties and responsibilities of the department, consistent with the merit system provisions of chapter 19A for nonprofessional employees. Professional staff of the department are exempt from the merit system provisions of chapter 19A.

Sec. 2. Section 17A.6, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The Code editor, with the approval of the administrative rules review committee and the administrative rules coordinator, may delete a rule from the Iowa administrative code if the agency that adopted the rule has ceased to exist, no successor agency has jurisdiction over the rule, and no statutory authority exists supporting the rule.

Sec. 3. Section 18.8, unnumbered paragraph 6, Code 1987, is amended to read as follows:

The director shall appoint a superintendent of buildings and grounds, who shall serve at the pleasure of the director and ~~shall is~~ not be governed by the merit system provisions of chapter 19A.

Sec. 4. Section 18.74, Code 1987, is amended to read as follows:

18.74 APPOINTMENT.

The director of the department of general services shall appoint a ~~person to administer the provisions of this division. This person shall be known as the superintendent of printing and to administer this division. The superintendent shall serve at the pleasure of the director without being and is not~~ subject to the merit system provisions of chapter 19A.

Sec. 5. Section 18.115, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

~~In order to carry out the powers vested in the director by this chapter, the~~ The director of the department of general services shall appoint a state vehicle dispatcher and ~~such~~ other employees as ~~may be necessary to carry out the provisions of~~ administer this chapter. The state vehicle dispatcher shall serve at the pleasure of the director and ~~shall is~~ not be governed by the merit system provisions of chapter 19A. Subject to the approval of the director, the state vehicle dispatcher shall ~~have~~ has the following duties:

Sec. 6. Section 18.163, Code 1987, is amended to read as follows:

18.163 PERSONNEL.

The director of the department shall employ a risk manager and ~~such~~ other permanent full-time personnel as ~~shall be~~ necessary to administer this chapter. All permanent full-time personnel other than the risk manager ~~shall be~~ are subject to the merit system provisions of chapter 19A. The director is authorized to hire as independent contractors ~~such~~ other persons as ~~may be necessary to assist the risk manager in establishing standards and procedures under sections 18.160 to 18.169.~~

Sec. 7. Section 27A.2, Code 1987, is amended to read as follows:

27A.2 MEMBERSHIP OF COMMISSION.

The director of the department of natural resources ~~shall be~~ is a permanent member from Iowa of the upper Mississippi riverway commission and may designate an alternate in accordance with article IV "a" of the compact. The governor shall appoint the three remaining members ~~from Iowa of the commission from Iowa. Such~~ The members may also be members of another board or commission established by law. The appointment of the remaining three members ~~shall be~~ is subject to confirmation by the senate. The members so appointed shall serve for staggered periods of four years, beginning and ending as provided in section 69.19. Commission members from this state shall be reimbursed, upon certification by the ~~comptroller~~ director of revenue and finance, ~~be reimbursed~~ for the actual and necessary expenses incurred by them in the discharge of their duties.

Sec. 8. Section 56.3, subsection 2, Code Supplement 1987, is amended to read as follows:

2. A person who receives contributions in excess of one hundred dollars for a committee shall, not later than fifteen days from the date of receipt of the contributions or on demand of the treasurer, render to the treasurer the contributions and an account of the total of all contributions; including the name and address of each person making a contribution in excess of ten dollars, the amount of ~~such contribution~~ the contributions, and the date on which the contributions were received. The treasurer shall deposit all contributions within seven days of receipt by the treasurer in an account maintained by the committee in a financial institution. All funds of a committee shall be segregated from any other funds ~~of~~ held by officers,

members, or associates of the committee or the committee's candidate. However, if a candidate's committee receives contributions only from the candidate, or if a permanent organization temporarily engages in activity which qualifies it as a political committee and all expenditures of the organization are made from existing general operating funds and funds are not solicited or received for this purpose from sources other than operating funds, then that committee is not required to maintain a separate account in a financial institution. The funds of a committee are not attachable for the personal debt of the committee's candidate or an officer, member, or associate of the committee.

Sec. 9. Section 79.23, Code 1987, is amended to read as follows:

79.23 CREDIT FOR ACCRUED SICK LEAVE.

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~~ department of natural resources 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 payments for accumulated, unused sick leave shall not exceed two thousand dollars per employee and are payable upon retirement or death. Banked sick leave is defined as accrued sick leave in excess of ninety days.

Sec. 10. Section 86.24, subsection 5, Code 1987, is amended to read as follows:

5. The decision of the industrial commissioner is final agency action ~~and an appeal of the decision shall be made directly to the supreme court.~~

Sec. 11. Section 86.26, Code 1987, is amended to read as follows:

86.26 JUDICIAL REVIEW.

Judicial review of decisions or orders of the industrial commissioner ~~shall not be to the district court but shall be made directly to the supreme court, notwithstanding may be sought in accordance with chapter 17A, the Iowa administrative procedure Act.~~ Petitions Notwithstanding chapter 17A, the Iowa Administrative Procedure Act, petitions for judicial review shall may be filed with the clerk of the supreme court as are other actions for appeal or review in the district court of the county in which the hearing under section 86.17 was held. The supreme court may transfer the action to the court of appeals. Such a review proceeding shall be accorded priority over other matters pending before the district court.

Sec. 12. Section 86.29, Code 1987, is amended to read as follows:

86.29 THE JUDICIAL REVIEW PETITION.

~~In the Notwithstanding chapter 17A, the Iowa Administrative Procedure Act, in a petition for judicial review of a decision of the industrial commissioner in a contested case under this~~

chapter or chapter 85, 85A, 85B, or 87, the opposing party shall be named the respondent, and the agency shall not be named as a respondent.

Sec. 13. Section 86.32, Code 1987, is amended to read as follows:
86.32 COSTS OF JUDICIAL REVIEW.

In proceedings for judicial review of compensation cases the clerk of the supreme court shall charge no fee for any service rendered except the filing and docketing fees fee and transcript fees when the transcript of the contested case proceeding a judgment is required. The taxation of costs on judicial review shall be in the discretion of the supreme court.

Sec. 14. Section 86.39, Code 1987, is amended to read as follows:
86.39 FEES — APPROVAL — LIEN.

All fees or claims for legal, medical, hospital, and burial services rendered under this chapter and chapters 85, 85A, 85B, and 87 are subject to the approval of the industrial commissioner, and no lien for such service is enforceable without the approval of the amount of the lien by the industrial commissioner. For services rendered in the district court or and appellate court courts, the attorney's fee is subject to the approval of a judge of the district court.

Sec. 15. Section 86.42, Code 1987, is amended to read as follows:
86.42 JUDGMENT BY DISTRICT COURT ON AWARD.

Any party in interest may present a certified copy of an order or decision of the commissioner, from which a timely petition for judicial review has not been filed or if judicial review has been filed, which has not had execution or enforcement stayed as provided in section 17A.19, subsection 5, or an order or decision of a deputy commissioner from which a timely appeal has not been taken within the agency and which has become final by the passage of time as provided by rule and section 17A.15, or an agreement for settlement approved by the commissioner, and all papers in connection therewith, to the district court of the county in which the hearing under section 86.17 was held, of Polk county, or of the county in which the petitioner resides or has its principal place of business where judicial review of the agency action may be commenced. The court shall render a decree or judgment and cause the clerk to notify the parties. The decree or judgment, in the absence of a petition for judicial review or if judicial review has been commenced, in the absence of a stay of execution or enforcement of the decision or order of the industrial commissioner, or in the absence of an act of any party which prevents a decision of a deputy industrial commissioner from becoming final, has the same effect and in all proceedings in relation thereto is the same as though rendered in a suit duly heard and determined by the court.

Sec. 16. Section 99E.14, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The commissioner shall designate three administrative positions within the division which require specific areas of expertise relating to the operation of the lottery. These three administrative positions are exempt from the merit system provisions of chapter 19A. The commissioner shall designate one of these three administrators to serve as acting commissioner in the commissioner's absence.

Sec. 17. Section 103A.6, Code 1987, is amended to read as follows:
103A.6 MERIT SYSTEM.

Employees of the commissioner shall, where if required by federal statutes, be are covered by the merit system provisions of chapter 19A.

Sec. 18. Section 107.19, unnumbered paragraph 6, Code 1987, is amended to read as follows:

All expenditures under this Act shall be chapter are subject to approval by the state comptroller director of management and the director of revenue and finance.

Sec. 19. Section 114.9, Code 1987, is amended to read as follows:

114.9 ORGANIZATION OF THE BOARD — STAFF.

The board shall elect annually from its members a chairperson and a vice chairperson. The administrator of the professional licensing and regulation division of the department of commerce shall hire and provide staff to assist the board in implementing this chapter. The board shall hold at least one meeting at the seat of government location of the board's principal office, and meetings shall be called at other times by the administrator at the request of the chairperson or four members of the board. At any meeting of the board, a majority of members constitutes a quorum.

Sec. 20. Section 114.22, Code 1987, is amended to read as follows:

114.22 PROCEDURE.

Proceedings for any action under section 114.21 shall be begun by filing with the board written charges against the accused. The Upon the filing of charges the board may request the department of inspections and appeals to conduct an investigation into the charges. The department of inspections and appeals shall report its findings to the board, and the board shall designate a time and place for a hearing, and shall notify the accused of this action and furnish the accused a copy of all charges at least thirty days prior to the date of the hearing. The accused shall have has the right to appear personally or by counsel, to cross-examine witnesses, or to produce witnesses in defense.

Sec. 21. Section 116.3, subsection 2, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The board shall meet as often as deemed necessary, but shall hold at least one meeting per year at the seat of government location of the board's principal office.

Sec. 22. Section 116.23, subsection 1, Code 1987, is amended to read as follows:

1. The board may initiate proceedings under this chapter either on its own motion or on the complaint of any person. Before scheduling a hearing under this section, the board may request the department of inspections and appeals to conduct an investigation into the charges to be addressed at the board hearing. The department of inspections and appeals shall report its findings to the board.

Sec. 23. Section 117.34, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The real estate examining board may upon its own motion and shall upon the verified complaint in writing of any person, ~~provided if~~ the complaint together with evidence, documentary or otherwise, presented in connection with the complaint, makes out a prima-facie case, request the department of inspections and appeals to investigate the actions of any real estate broker, real estate salesperson, or any other person who shall assume assumes to act in either capacity within this state, and may suspend or revoke any a license issued under the provisions of this chapter, at any time if the licensee has by false or fraudulent representation obtained a license, or if the licensee is found to be guilty of any of the following:

Sec. 24. Section 117.50, Code 1987, is amended to read as follows:

117.50 MEETINGS.

The real estate examining board shall hold at least one meeting per year at the seat of government location of the board's principal office and shall elect a chairperson annually. A majority of the members of the board shall constitute a quorum.

Sec. 25. Section 117A.4, subsections 1 and 2, Code 1987, are amended to read as follows:

1. The board ~~or the attorney general at the request of the board~~ may cause request the department of inspections and appeals to conduct an investigation and inspection to be made of any subdivided land proposed to be offered for sale or lease in this state pursuant to this

chapter and may. The department of inspections and appeals shall make a report of the its findings thereon.

2. ~~Where~~ If an inspection is to be made of subdivided land situated outside of this state and offered for sale in this state, ~~said~~ the inspection as authorized by subsection 1 shall be made by the department of inspections and appeals at the expense of the subdivider. After the application required by section 117A.2 is filed and after the filing fee required by section 117A.8 is received, the board may decide whether ~~or not~~ an inspection pursuant to this subsection is to be made. If the board requires an inspection, the department of inspections and appeals, ~~or the attorney general at the request of the board~~ shall so notify the subdivider and the subdivider shall remit to the department ~~or the attorney general~~ an amount equivalent to the round trip cost of travel from this state to the location of the project, as estimated by the department ~~or the attorney general~~ and a further amount estimated to be necessary to cover the additional expenses of ~~such~~ inspection but not to exceed fifty dollars a day for each day incurred in the examination of the project inspection. The costs of any subsequent inspections deemed necessary shall be paid for by the subdivider. At the completion of any an inspection trip the department ~~or the attorney general~~ shall furnish the subdivider a statement as to the costs of the inspection trip, and ~~should said if the costs be are less than the amount advanced by the subdivider to the department, or the attorney general the remaining balance will shall~~ be refunded to the subdivider.

Sec. 26. Section 118.13, unnumbered paragraph 3, Code Supplement 1987, is amended to read as follows:

Proceedings for the revocation of a certificate shall be begun initiated by filing written charges against the accused with the board. A Upon the filing of charges the board may request the department of inspections and appeals to conduct an investigation into the charges. The department of inspections and appeals shall report its findings to the board, and a time and place for the hearing of the charges shall be fixed by the board if the board determines that a hearing is warranted. Where If personal service or ~~services service~~ through counsel cannot be effected, ~~services service~~ may be had by publication. At the hearing, the accused shall have has the right to be represented by counsel, to introduce evidence, and to examine and cross-examine witnesses. The board ~~shall have the power to may~~ subpoena witnesses, to administer oaths to ~~such~~ witnesses, and to employ counsel. The board shall make a written report of its findings, which ~~report~~ shall be filed with the secretary of state, and which ~~shall be is~~ conclusive.

Sec. 27. Section 118A.4, Code 1987, is amended to read as follows:

118A.4 ORGANIZATION OF THE BOARD — MEETINGS — QUORUM.

The board shall elect annually from its members a chairperson and vice chairperson. The duties of the officers shall be such as are usually performed by such officers. The board shall hold at least one meeting each year at the ~~seat of government location~~ of the board's principal office, and meetings shall be called at other times by the secretary at the request of the chairperson or four members of the board. A majority of the members shall constitute a quorum. No action at any meeting can be taken without the affirmative votes of a majority of the members of the board.

Sec. 28. Section 118A.16, Code 1987, is amended to read as follows:

118A.16 PROCEDURE.

Any A person may file charges with the board against a landscape architect or the board may initiate charges. ~~Such~~ The charges shall be in writing, sworn to if by a complainant other than the board, and filed with the board. Unless the charges are dismissed by the board as unfounded or trivial, the board ~~shall may~~ request the department of inspections and appeals to conduct an investigation into the charges. The department of inspections and appeals shall

report its findings to the board, and the board shall hold a hearing within sixty days after the date on which they the charges are filed. The board shall fix the time and place for such hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the accused at least thirty days before the date fixed for the hearing. Where personal service cannot be effected, service may be effected by publication. At such hearing, the accused shall have the right to appear personally or by counsel, to cross-examine witnesses against the accused, and to produce evidence and witnesses in defense. After the hearing, the board may suspend or revoke the certificate of registration. The board may restore the certificate of registration to any person whose certificate of registration has been revoked. Application for the restoration of a certificate of registration shall be made in such manner, form and content as the board may prescribe.

Sec. 29. Section 123.24, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The administrator may refuse to sell alcoholic liquor to a class "E" liquor control licensee who tenders a check or electronic funds transfer which is subsequently dishonored until the outstanding obligation is satisfied.

Sec. 30. Section 123.92, unnumbered paragraph 2, Code 1987, is amended to read as follows:
Every liquor control licensee and class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such an amount as determined by the division.

Sec. 31. Section 125.39, subsection 1, Code 1987, is amended to read as follows:
1. In addition to other requirements established by this chapter, a facility shall not be licensed pursuant to section 125.13 unless it is either a political subdivision, a licensed hospital, a licensed health maintenance organization, a corporation organized under chapter 496A, or a community mental health center operating under chapter 230A, or it is organized under the Iowa nonprofit corporation Act appearing as chapter 504A. In the latter case, one-third of the membership of the board of directors shall be representatives of such government units providing funds to the facility for treatment of substance abuse.

Sec. 32. Section 135.2, unnumbered paragraph 1, Code 1987, is amended to read as follows:
The governor shall appoint the director of the department, subject to confirmation by the senate. The director shall serve at the pleasure of the governor. The director is exempt from the merit system provisions of chapter 19A. The governor shall set the salary of the director within the range established by the general assembly.

Sec. 33. Section 144.5, subsections 3 and 6, Code 1987, are amended to read as follows:
3. Direct, supervise, and control the activities of local registrars and deputy local registrars, and the activities of clerks of the district court related to the operation of the vital statistics system and provide registrars with necessary postage.

6. Delegate functions and duties vested in the state registrar to officers, employees of the department, and to the local county registrars as the state registrar deems necessary or expedient.

Sec. 34. Section 144.9, unnumbered paragraph 1 and subsection 1, Code 1987, are amended to read as follows:

The clerk of the district court shall be is the county registrar and with respect to the county registrar's registration district shall:

1. Administer and enforce the provisions of this chapter and the rules issued by the department, and exercise general supervision over the local and deputy local registrars in the county registrar's district.

Sec. 35. Section 144.12, Code 1987, is amended to read as follows:

144.12 FORMS UNIFORM.

In order to promote and maintain uniformity in the system of vital statistics, the forms of certificates, reports, and other returns, shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval and modification by the department. Forms shall be furnished by the department. The forms or other recording methods used by county and local registrars to record copies of records made under this chapter shall be prescribed by the department.

Sec. 36. Section 144.13, subsections 1 and 2, Code 1987, are amended to read as follows:

1. A certificate of birth for each live birth which occurs in this state shall be filed with the local county registrar of the district county in which the birth occurs within five days after the birth and shall be registered by the registrar if it has been completed and filed in accordance with this chapter; provided that. However, when a birth occurs in a moving conveyance, a birth certificate shall be filed in the district county in which the child was first removed from the conveyance.

2. When a birth occurs in an institution, the person in charge of the institution or the person's designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate, and file the certificate with the local county registrar. The physician in attendance shall certify to the facts of birth and provide the medical information required by the certificate within three days after the birth.

Sec. 37. Section 144.13A, Code Supplement 1987, is amended to read as follows:

144.13A REGISTRATION FEE.

The local county registrar and state registrar shall charge the parent a ten dollar fee for the registration of a certificate of birth. If the person responsible for the filing of the certificate of birth under section 144.13 is not the parent, the person shall be entitled to collect the fee from the parent. The fee shall be remitted to the appropriate registrar. If the expenses of the birth are reimbursed under the medical assistance program established by chapter 249A, or paid for under the statewide indigent patient care program established by chapter 255, or paid for under the obstetrical and newborn indigent patient care program established by chapter 255A, or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent, the registration fee is waived. If the person responsible for the filing of the certificate is not the parent, the person is discharged from the duty to collect and remit the fee under this section if the person has made a good faith effort to collect the fee from the parent. The fees collected by the local county registrar and state registrar shall be remitted to the treasurer of state for deposit in the general fund of the state. It is the intent of the general assembly that the funds generated from the registration fees be appropriated and used for primary and secondary child abuse prevention programs.

Sec. 38. Section 144.14, unnumbered paragraph 1, Code 1987, is amended to read as follows:

~~Whoever~~ A person who assumes the custody of a living infant of unknown parentage shall report on a form and in the manner prescribed by the state registrar within five days to the local county registrar of the district county in which the child was found, the following information:

Sec. 39. Section 144.17, subsection 2, Code 1987, is amended to read as follows:

2. That no record of birth of such that person can be found in the office of the state or local county custodian of birth records.

Sec. 40. Section 144.26, unnumbered paragraphs 1 and 2, Code 1987, are amended to read as follows:

A death certificate for each death which occurs in this state shall be filed with the ~~local~~ county registrar of the ~~district~~ county in which the death ~~occurred~~ occurs, within three days after the death and prior to final disposition, and shall be registered by the registrar if it has been completed and filed in accordance with this chapter. All information including the certifying physician's name shall be typewritten.

If the place of death is unknown, a death certificate shall be filed in the ~~registration district~~ county in which a dead body is found within three days after the body is found. If death occurs in a moving conveyance, a death certificate shall be filed in the ~~registration district~~ county in which the dead body was is first removed from the conveyance.

Sec. 41. Section 144.29, Code 1987, is amended to read as follows:

144.29 FETAL DEATHS.

A fetal death certificate for each fetal death which occurs in this state after a gestation period of twenty completed weeks or more shall be filed with the ~~local~~ county registrar of the ~~district~~ county in which the delivery of the dead fetus ~~occurred~~ occurs, within three days after delivery and prior to final disposition of the fetus ~~and~~. The certificate shall be registered if it has been completed and filed in accordance with this chapter.

If the place of delivery of a dead fetus is unknown, a fetal death certificate shall be filed in the ~~registration district~~ county in which a dead fetus ~~was~~ is found, within three days after the fetus is found. If a fetal death occurs in a moving conveyance, a fetal death certificate shall be filed in the ~~registration district~~ county in which the fetus ~~was~~ is first removed from the conveyance.

Sec. 42. Section 144.32, Code 1987, is amended to read as follows:

144.32 BURIAL-TRANSIT PERMIT.

The funeral director who first assumes custody of a dead body or fetus shall obtain a burial-transit permit prior to final disposition of the body or fetus and within seventy-two hours after death. When a person other than a funeral director assumes custody of a dead body or fetus, the person ~~shall be~~ is responsible for securing the permit required in this section. A burial-transit permit shall be issued by the ~~local~~ county registrar of the ~~district~~ county where the certificate of death or fetal death was filed, in accordance with the ~~requirements of~~ sections 144.26 to 144.31.

Sec. 43. Section 144.43, unnumbered paragraph 2, Code 1987, is amended to read as follows:

However, the following vital statistics may be inspected and copied as of right under chapter 22 when they are in the custody of a county ~~or of a~~ local registrar:

Sec. 44. Section 169.14, subsections 1 and 8, Code 1987, are amended to read as follows:

1. The board, upon its own motion or upon a verified complaint in writing, may request the department of inspections and appeals to conduct an investigation of the charges contained in the complaint. The department of inspections and appeals shall report its findings to the board, and the board may issue an order fixing the time and place for hearing if a hearing is deemed warranted. A written notice of the time and place of the hearing, together with a statement of the charges, shall be served upon the licensee at least ten days before the hearing in the manner required for the service of notice of the commencement of an ordinary action.

8. ~~Judicial review of the~~ The board's action actions may be ~~sought~~ appealed to the department of inspections and appeals and judicial review may be sought in accordance with the terms of ~~chapter~~ chapters 10A and 17A.

Sec. 45. Section 175.7, subsection 2, Code 1987, is amended to read as follows:

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 shall

hire and supervise the authority's staff pursuant to its directions and under the merit system 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~~ the merit system.

Sec. 46. Section 175.22, subsection 4, Code 1987, is amended to read as follows:

4. The authority shall submit to the governor, the auditor of state ~~and the state comptroller, the department of management, and the department of revenue and finance~~, within thirty days of its receipt, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

Sec. 47. Section 175A.5, subsection 2, Code 1987, is amended to read as follows:

2. The executive director is a nonvoting ex officio member of the board, and shall advise the authority on matters relating to finance, carry out all directives from the authority, and hire and supervise the authority's staff pursuant to its directions and under the merit system provisions of chapter 19A, except that principal administrative assistants with responsibilities in operating loan programs, accounting, and processing of applications for interest reduction are exempt from ~~that chapter~~ the merit system.

Sec. 48. Section 175A.13, subsection 2, Code 1987, is amended to read as follows:

2. The authority shall submit to the governor, the auditor of state, ~~and the director department of management, and the department of revenue and finance~~, within thirty days of its receipt, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

Sec. 49. Section 220.2, subsection 1, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

A title guaranty division is created within the authority. The powers of the division as relating to the issuance of title guaranties ~~shall be~~ are vested in and shall be exercised by a division board of five members appointed by the governor subject to confirmation by the senate. The membership of the board shall include an attorney, an abstractor, a real estate broker, a representative of a mortgage-lender, and a representative of the housing development industry. The executive director of the authority shall appoint a an attorney as director of the title guaranty division who ~~shall be an attorney~~ and shall serve as an ex officio member of the board. The appointment of and compensation for the division director ~~shall be~~ is exempt from the merit system provisions of chapter 19A.

Sec. 50. Section 220.6, subsection 2, Code 1987, is amended to read as follows:

2. The executive director shall advise the authority on matters relating to housing and housing finance, carry out all directives from the authority, and hire and supervise the authority's staff pursuant to its directions and under the merit system provisions of chapter 19A, except that principal administrative assistants with responsibilities in housing development, accounting, mortgage loan processing, and investment portfolio management ~~shall be~~ are exempt from the merit system.

Sec. 51. Section 220.31, subsection 4, Code 1987, is amended to read as follows:

4. The authority shall submit to the governor, the auditor of state, ~~and the state comptroller department of management, and the department of revenue and finance~~, within thirty days of its receipt by the authority, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

Sec. 52. Section 235.3, subsections 3 and 4, Code 1987, are amended to read as follows:

3. ~~Make such Adopt rules and regulations as may be necessary or advisable for the supervision of the private child-caring agencies or their officers thereof which the state director administrator is empowered to license, inspect and supervise.~~

4. ~~Supervise and inspect private institutions for the care of dependent, neglected, and delinquent children, and to make reports regarding the same the institutions.~~

Sec. 53. Section 235A.15, subsection 3, Code Supplement 1987, is amended to read as follows:

3. Access to unfounded child abuse information is authorized only to those persons identified in subsection 2, paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "e e", subparagraph (2).

Sec. 54. Section 256.9, subsection 4, Code Supplement 1987, is amended to read as follows:

4. Employ personnel and assign duties and responsibilities of the department. The director shall appoint a deputy director and division administrators deemed necessary. They shall be appointed on the basis of their professional qualifications, experience in administration, and background. Members of the professional staff are not subject to the merit system provisions of chapter 19A and shall be employed pursuant are subject to section 256.10.

Sec. 55. Section 273.13, Code 1987, is amended to read as follows:

273.13 ADMINISTRATIVE EXPENDITURES.

During the budget year beginning July 1, 1989, and the three succeeding budget years, the board of directors of an area education agency in which the administrative expenditures as a percent of the area education agency's operating fund for a base year exceed ~~eight~~ five percent shall reduce its administrative expenditures to five percent of the area education agency's operating fund. During each of the four years, the board of directors shall reduce administrative expenditures ~~of by~~ twenty-five percent of the reduction in administrative expenditure required by this section. Thereafter, the administrative expenditures shall not exceed ~~eight~~ five percent of the operating fund. Annually, the board of directors shall certify to the department of ~~public instruction~~ education the amounts of the area education agency's expenditures and its operating fund. ~~Base year and budget year~~ For the purposes of this section, "base year" and "budget year" mean base year and budget year the same as defined in section 442.6. For the purposes of this section, and "administrative expenditures" means expenditures for executive administration.

Sec. 56. Section 279.45, Code 1987, is amended to read as follows:

279.45 ADMINISTRATIVE EXPENDITURES.

For the budget year beginning July 1, 1989, and each of the following three budget years, the board of directors of a school district in which the administrative expenditures as a percent of the school district's operating fund for a base year exceed five percent, shall reduce its administrative expenditures so that they are one-half percent less as a percent of the school district's operating fund than they were for the base year. However, a school district is not required to reduce its administrative expenditures below ~~eight~~ five percent of its operating fund. Thereafter, a school district shall not increase the percent of its administrative expenditures compared to its operating fund. Annually, the board of directors shall certify to the department of education the amounts of the school district's administrative expenditures and its operating fund. ~~Base year and budget year~~ For the purposes of this section, "base year" and "budget year" mean base year and budget year the same as defined in section 442.6. For the purposes of this section, and "administrative expenditures" means expenditures for executive administration.

Sec. 57. Section 280A.15, subsection 2, Code 1987, is amended to read as follows:

2. ~~Each~~ A candidate for member of the board of directors of a merged area shall be nominated by a petition signed by not less than fifty eligible electors of the director district from which the member is to be elected. The petition shall state the number of the director district from which the candidate seeks election, and the candidate's name and status as an eligible elector of the director district. Signers of the petition, in addition to signing their names, shall show their residence, including street and number if any, the school district in which they reside, and the date they signed the petition. ~~Each nomination paper shall have appended to it an affidavit of an eligible elector other than the candidate in substantially the form provided in section 43.17, except as to party affiliation.~~ The petition shall include the affidavit of the candidate being nominated, stating the candidate's name and residence, and that the individual is a candidate, is eligible for the office sought, and if elected will qualify for the office.

Sec. 58. Section 280B.6, subsection 1, Code 1987, is amended to read as follows:

1. Certificates may be sold at public sale ~~as provided by chapter 75~~ or at private sale at par, premium, or discount at the discretion of the board of directors. ~~However, chapter 76~~ Chapter 75 does not apply to the issuance of these certificates.

Sec. 59. Section 282.2, Code 1987, is amended to read as follows:
282.2 OFFSETTING TAX.

The parent or guardian whose child or ward attends school in any a district of which the ~~child or ward parent or guardian~~ is not a resident shall be allowed to deduct the amount of school tax paid by the parent or guardian in said district from the amount of tuition required to be paid.

Sec. 60. Section 303.88, subsection 4, Code 1987, is amended to read as follows:

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

Sec. 61. Section 304.3, subsections 2 and 4, Code 1987, are amended to read as follows:

2. ~~The executive director of the Iowa state historical department~~ director of the department of cultural affairs.

4. ~~The state comptroller~~ director of revenue and finance.

Sec. 62. Section 304.3, Code 1987, is amended by adding the following new subsection as subsection 5 and renumbering the present subsections 5 through 7 as subsections 6 through 8:
NEW SUBSECTION. 5. The director of the department of management.

Sec. 63. Section 307.48, unnumbered paragraph 1, Code 1987, is amended to read as follows:

~~An employee under the supervision of the department's administrator of highways and subject to chapter 19A department who is was hired on or after July 1 by the state highway commission on or before June 30, 1971, is not entitled to longevity pay. However, this section does not apply to an employee under the supervision of the department's administrator of highways and subject to chapter 19A who was employed prior to July 1, 1971, and whose employment continued after June 30, 1971. An employee under the supervision of the department's administrator of highways and subject to chapter 19A eligible for longevity pay under this section whose employment is terminated on or after July 1, 1971, if reemployed under the supervision of by the department's administrator of highways department, forfeits any right the employee may have had to longevity pay.~~

Sec. 64. Section 308.9, subsection 1, Code 1987, is amended to read as follows:

1. When, as a result of its investigations and studies, the state transportation commission, in co-operation with the ~~state conservation commission~~ department of natural resources, finds that there may be a need in the future for the development and construction or reconstruction of segments of the great river road, and when the state transportation commission determines that in order to prevent conflicting costly economic development on areas of lands to be available for the great river road when needed for ~~such~~ future development, there is need to establish and to inform the public of the approximate location and widths of new or improved segments of the great river road to be needed, the state transportation commission may proceed to establish ~~such~~ the location and the approximate widths in the manner provided in this section. The state transportation commission shall give notice and hold a public hearing on the matter in a convenient place in the area to be affected by the proposed improvement of the great river road. The state transportation commission shall consider and evaluate the testimony presented at the public hearing and it shall make a study and prepare a map showing the location of the proposed new or reconstructed segment of the great river road and the approximate widths of right of way needed. ~~There shall be shown on such~~ The map shall show the existing roadway and the property lines and record owners of lands to be needed. The approval of ~~such~~ the map shall be recorded by reference in the state transportation commission's minutes, and a notice of ~~such~~ the action and a copy of the map showing the lands or interest in the lands needed in any county shall be filed in the office of the county recorder of ~~such~~ that county. Notice of the action and of the filing shall be published once in a newspaper of general circulation in ~~such~~ the county, and within sixty days following the filing, notice of the filing shall be served ~~in~~ by registered mail on the owners of record on the date of filing and on the functional classification board of the county. Using the same procedures for approval, notice and publications, and notice to the affected record owners, the state transportation commission may, ~~from time to time~~, amend the map.

Sec. 65. Section 321.23, subsection 4, Code 1987, is amended to read as follows:

4. ~~Any~~ A 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 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~~ the 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~~ does 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~~ if the special identification device is carried in the vehicle and shown to ~~any~~ a peace officer on request.

Sec. 66. Section 321.89, subsection 4, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

The director of ~~revenue and finance~~ transportation shall establish by rule a claims procedure to be followed by police authorities in obtaining expenses and costs from the fund.

Sec. 67. Section 321A.3, subsection 4, Code Supplement 1987, is amended to read as follows:

4. The abstract of operating record provided under this section shall designate which speeding violations occurring on or after July 1, 1986, but before May 12, 1987, are for violations of ten

miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour. For speeding violations occurring on or after May 12, 1987, the abstract provided under this section shall designate which speeding violations are for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour.

Sec. 68. Section 323.1, subsection 10, Code 1987, is amended to read as follows:

10. "Commission Department" means the Iowa state ~~commeree~~ commission department of inspections and appeals.

Sec. 69. Section 331.502, subsection 12, Code Supplement 1987, is amended by striking the subsection.

Sec. 70. Section 331.556, Code 1987, is amended to read as follows:

331.556 LOSS OF FUNDS — REPLACEMENT.

1. A loss of funds in the custody of a treasurer resulting from an act of omission or commission for which the treasurer is responsible, except a loss covered by the treasurer's bond or a loss which occurs while the funds are deposited in an authorized depository, shall be replaced by the several counties of the state as provided in this section.

2. The auditor of state shall determine the amount of loss to be replaced after a complete examination of the accounts of the treasurer of the county where the loss has occurred. The auditor of state shall file a written report of the examination with the state ~~comptroller~~ director of management.

3. When the loss which is to be replaced has been determined by the auditor of state, the state ~~comptroller~~ director of management shall apportion the loss among the counties of the state, including the county in which the loss has occurred, in the proportion which the taxable property of each county bears to the total taxable property of all counties of the state. The written apportionment shall be filed in the office of state ~~comptroller~~ with the department of management. The state ~~comptroller~~ director of management shall certify to each treasurer the amount of the loss which has been apportioned to the various counties.

4. Upon receipt of the certification from the state ~~comptroller~~ director of management, each treasurer, except the treasurer of the county where the loss occurred, shall charge the general fund of the county with the amount apportioned to the county and remit the amount to the state ~~comptroller~~ director of revenue and finance. The amount apportioned to a county shall draw interest at the rate of one percent per month after thirty days from the date when the treasurer received the certification of the apportionment from the state ~~comptroller~~ director of management.

5. If the amount apportioned to a county is not paid, the default shall be reported by the state ~~comptroller~~ director of management to the director of revenue and finance who shall levy upon the taxable property of the delinquent county a tax sufficient to raise the apportionment, a penalty of twenty-five percent of the apportionment, and interest. The tax levy shall be transmitted to the auditor of the delinquent county who shall include the levy on the next tax list of the county. The tax shall be collected and remitted to the state ~~comptroller~~ director of revenue and finance.

6. The treasurer of state shall credit the funds received under this section to a separate fund in the state treasury. The treasurer of state shall pay the reimbursement funds to the county where the loss occurred by warrant issued by the state ~~comptroller~~ director of revenue and finance.

Sec. 71. Section 411.22, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. The retirement system shall be indemnified out of the recovery of damages to the extent of benefit payments made by the retirement system, with legal interest, except that the plaintiff member's attorney fees are ~~not indemnifiable~~ may be first allowed by the district court.

Sec. 72. Section 421.16, Code 1987, is amended to read as follows:

421.16 EXPENSES.

The director, deputy directors, secretary, and assistants ~~shall be~~ are entitled to receive from the state their actual necessary expenses while traveling on the business of the department; ~~such. The expenditures to~~ shall be sworn to by the party who incurred the expense, and approved by the director, ~~and allowed by the state comptroller. Provided, however, that~~ However, no such expense shall be allowed the director, deputy directors, secretary, or employees of the department while in the city of Des Moines or traveling between their homes and the city of Des Moines.

Sec. 73. Section 421.31, subsection 8, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

8. INTEREST OF THE PERMANENT SCHOOL FUND. To transfer the interest of the permanent school fund to the credit of the first in the nation in education foundation as provided in section 302.1A.

Sec. 74. Section 421.45, Code 1987, is amended to read as follows:

421.45 CANCELLATION OF STATE WARRANTS.

The director of the department of revenue and finance, as of March 31, June 30, September 30, and December 31 of each year shall cancel and request the treasurer of state to stop payment on all state warrants which have been outstanding and unredeemed by the state treasurer for ~~one year~~ six months or longer.

Sec. 75. Section 444.7, Code 1987, is amended to read as follows:

444.7 EXCESSIVE TAX PROHIBITED.

It is ~~hereby made~~ a simple misdemeanor for the board of supervisors to authorize, or the county auditor to carry upon the tax lists for any year, an amount of tax for ~~any~~ a public purpose in excess of the amount certified or authorized as provided by law. ~~The state comptroller department of management shall prescribe and furnish the county auditors forms and instructions to aid them in determining the legality and authorized amount of tax levies. In the case of an excessive levy, it shall be the duty of the~~ The county auditor to ~~shall reduce it an excessive levy to the maximum amount authorized by law, and in any event not in excess of the amount certified; and in case of an illegal levy the county auditor shall not enter or carry any a tax on the tax lists for such an illegal levy.~~

Sec. 76. Section 463.6, Code 1987, is amended to read as follows:

463.6 EXTENDING PAYMENT OF ASSESSMENTS.

~~In case~~ If no appeal is taken to the issuance of ~~said~~ bonds, as provided by chapter 23, the board may extend the time of payment of ~~said~~ the unpaid assessment or ~~any an~~ an installment or installments ~~thereof~~ of it as requested in the petition and may issue drainage refunding bonds, or, in case of an appeal, the board may issue ~~such the~~ such bonds in accordance with the decision of the ~~state comptroller appeal board~~ provided said the assessments, installment, or installments ~~thereof~~ have not been entered on the delinquent tax lists and have not been previously extended.

Sec. 77. Section 474.10, Code 1987, is amended to read as follows:

474.10 GENERAL COUNSEL.

The board shall employ a competent attorney to serve as its general counsel, and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The

general counsel is the attorney for, and legal advisor of, the board and is exempt from the merit system provisions of chapter 19A. Assistants to the general counsel are subject to the merit system provisions of chapter 19A. The general counsel or an assistant to the general counsel shall provide the necessary legal advice to the board in all matters and represent the board in all actions instituted in a state or federal court challenging the validity of any a rule or order of the board. The existence of a fact which disqualifies a person from election or from acting as a utilities board member disqualifies the person from employment as general counsel or assistant general counsel. The general counsel shall devote full time to the duties of the office. During employment the counsel shall not be a member of a political committee, contribute to a political campaign fund other than through the income tax checkoff for contributions to the Iowa election campaign fund and the presidential election campaign fund, participate in a political campaign, or be a candidate for a political office.

Sec. 78. Section 516B.3, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The commissioner shall require that insurance companies transacting business in this state not consider speeding violations occurring on or after July 1, 1986, but before May 12, 1987, which are for speeding violations for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit greater than thirty-five miles per hour or speeding violations occurring on or after May 12, 1987, which are for speeding violations for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour for the purpose of establishing rates for motor vehicle insurance charged by the insurer and shall require that insurance companies not cancel or refuse to renew any such policy for such violations. In any twelve-month period, this section applies only to the first two such violations which occur.

Sec. 79. Section 534.401, subsections 2, 3, and 4, Code 1987, are amended to read as follows:

2. GENERAL SUPERVISORY POWER. The supervisor superintendent has general supervision over all supervised organizations.

The supervisor superintendent may, with the approval of the auditor of state, appoint examiners and assistants necessary to properly execute the duties of the office. Any An examiner so appointed shall have had at least one year of actual experience as examiner, officer, or employee, of a savings and loan association. Such The examiners' salaries shall be fixed by the auditor of state superintendent subject to the approval of the comptroller director of management and governor, which salaries shall be commensurate with that those in the range of other employees as prescribed by certain classifications in accordance with their experience and qualifications. In addition such the examiners shall be reimbursed for their actual and necessary expense.

Before entering upon their duties, the supervisor of savings and loan associations superintendent and each examiner appointed by the supervisor superintendent shall take an oath of office and shall each give bond to the state, signed by a responsible surety company, in the penal sum of two thousand dollars, conditioned upon faithful and impartial discharge of the person's duty and on proper accounting for all funds and other valuables which may come into the person's hands. Such The bonds shall be approved by and filed with the auditor of state, together with oaths of office of such officer the officers.

The supervisor shall have the right to pass superintendent may adopt further regulations rules deemed necessary to enable savings and loan associations to properly carry on the activities authorized under this chapter and which are not inconsistent with the provisions of this chapter.

3. DUTIES. The supervisor superintendent shall, at least once each year, examine or cause examination and audit to be made into of the affairs of every association subject to this chapter. If an association is insured under the provisions of Title IV of the National Housing Act

(48 Stat. L. 1246, 12 U.S.C., ch 13), as now or hereafter amended, the supervisor superintendent may, in lieu of such examination and audit accept any an examination or audit made by the federal savings and loan insurance corporation. Any such An association may, in lieu of such examination and audit by the supervisor superintendent, at the option of the supervisor superintendent be audited by a certified public accountant, or by a public accountant qualified and licensed to practice accountancy under the provisions of the Code of Iowa. At least two copies of each examination or audit report, signed and verified by the accountant making it, shall promptly be filed with the supervisor superintendent. Whenever When, in the judgment of the supervisor superintendent, the condition of any an association renders it necessary or expedient to make an extra examination or audit or to devote any extraordinary attention to its affairs, the supervisor superintendent shall cause such work to be done. A copy of every examination or audit report shall be furnished to the association examined, exclusive of confidential comments made by the examiner, and a copy of every report and comments and any other information pertaining to an association may be furnished to the federal home loan bank board, federal home loan bank, and federal savings and loan insurance corporation. A copy of such an examination or audit report shall be presented to the board of directors at its next regular or special meeting, and their action thereon on it shall be recorded in the minutes, and two certified copies of such the minutes shall be transmitted to the supervisor superintendent.

4. SUPERVISOR'S SUPERINTENDENT'S ANNUAL REPORT. The supervisor of savings and loan associations shall superintendent, as of December 31 of each year, shall prepare and publish a report showing in general terms the condition of all savings and loan associations doing business in this state, and containing such other general information as in the supervisor's superintendent's judgment shall seem seems desirable. Such The reports shall also list the names of all examiners and other assistants employed by the supervisor superintendent, together with the their respective salaries and expenses, and shall list all receipts from savings and loan associations, and shall show all expenditures made on account of the supervision and examination of such the associations.

Sec. 80. Section 534.403, Code 1987, is amended to read as follows:
534.403 EXAMINATIONS.

1. SUPERVISOR'S SUPERINTENDENT'S AUTHORITY — EXAMINATIONS. The supervisor superintendent and examiners shall have full access to all books and papers of an association which relate to its business, and to books, records, and papers kept by an officer, director, agent, or employee relating to, or upon which any record of its business is kept, and may summon witnesses and administer oaths or affirmations, in the examination of the directors, officers, agents, or employees of any such an association, or any other person, in relation to its affairs, transactions, and condition, and may require and compel the production of records, books, papers, contracts, or other documents by court order, if not voluntarily produced.

2. EXPENSES, PER DIEM, VACATION AND SICK LEAVE. Where If the examination is made under the provisions of section 534.401, subsection 3, each examiner shall file with the auditor of state superintendent an itemized, certified, and sworn voucher of the examiner's expense for the time such the examiner is actually engaged in such an examination. On the fifteenth and last days of each month each examiner shall file in triplicate with the auditor of state superintendent a certified statement of the actual days engaged in such examination examinations. The salaries shall be included in a semimonthly biweekly payroll. Upon approval of the auditor of state superintendent, the director of revenue and finance is authorized to issue warrants for the payment of said the vouchers, and salaries, including a prorated amount for vacation and sick leave, from the savings and loan revolving fund. Repayment to the state shall be made as provided by section 534.408, subsection 4. Savings and loan examiners shall

be paid salaries at rates commensurate with, and shall be reimbursed for meals and lodging at the same rate as, that which is received by federal examiners operating under the federal home loan bank board.

3. RECORD REQUIRED. A record of ~~such~~ each examination shall be kept in the ~~auditor's~~ ~~superintendent's~~ office, showing in detail as to each association all matters connected with the conduct of the business, its financial standing, and everything touching its solvency, plan of business, and integrity.

~~Such~~ ~~The~~ examinations and reports, and other information connected ~~therewith~~ ~~with~~ ~~them~~, shall be kept confidential in the office of the ~~auditor of state and the supervisor of savings and loan associations~~ ~~superintendent~~, and ~~shall~~ ~~are~~ not be subject to publication or disclosure to others except as in this chapter provided. However, any evidence of felonious acts on the part of the officers, directors, or employees of ~~such~~ an association may be referred by the ~~office of the auditor of state superintendent~~ to proper authorities. Members of ~~such~~ associations, other than their officers and directors, ~~shall~~ ~~are~~ not be entitled to inspection of any such records or information, and ~~shall~~ ~~are~~ not be entitled to any information relative to the names of the members of ~~any~~ an association, or the amounts invested by them, as disclosed in the ~~auditor's~~ ~~superintendent's~~ office, or in the records of ~~any~~ ~~such~~ an association.

4. REVOCATION OF AUTHORITY. If ~~any~~ ~~such~~ an association ~~refuse~~ ~~refuses~~ to submit to ~~such~~ examination, the ~~auditor~~ ~~superintendent~~ shall revoke its certificate of authority.

Sec. 81. Section 534.405, Code 1987, is amended to read as follows:

534.405 CONSERVATORSHIP — OPERATION — TERMINATION.

If the ~~supervisor~~ ~~superintendent~~, as a result of any examination or from ~~any~~ a report made to the ~~supervisor~~ ~~shall~~ ~~find~~ ~~superintendent~~ finds that ~~any~~ a savings and loan association is violating the ~~provisions~~ a provision of its certificate of incorporation, or bylaws, or the laws of this state, or of the United States, or ~~any~~ a lawful order of the ~~supervisor~~ ~~superintendent~~, or is conducting its business in an unsafe manner, the ~~supervisor~~ ~~superintendent~~ may by an order, direct discontinuance of ~~such~~ the violation or unsafe practice, and conformance with all requirements of law. ~~No~~ A conservator shall ~~not~~ be appointed for a solvent association where ~~such~~ if a violation or unsafe practice can be corrected otherwise. If ~~any~~ ~~such~~ an association ~~shall~~ ~~refuse~~ ~~refuses~~ or ~~neglect~~ ~~neglects~~ to comply with ~~such~~ the order within the time specified ~~therein~~ in it, or if it ~~shall~~ ~~appear~~ ~~appears~~ to the ~~supervisor~~ ~~superintendent~~ that ~~any~~ ~~such~~ an association is in an unsafe condition or is conducting its business in an unsafe manner, or if the ~~supervisor~~ ~~shall~~ ~~find~~ ~~superintendent~~ finds that an impairment of capital exists to such extent that it threatens loss to the members, or if ~~any~~ an association refuses to submit its books, papers, and accounts to the inspection of the ~~supervisor~~ ~~superintendent~~ or the ~~supervisor's~~ ~~superintendent's~~ representative, the ~~supervisor~~ ~~superintendent~~, by written order signed by the ~~supervisor~~ and the ~~auditor of state~~ ~~superintendent~~, may appoint a conservator to take charge of the association and manage its business until the ~~supervisor~~ ~~shall~~ ~~superintendent~~ ~~permit~~ ~~permits~~ the board of directors to resume management of the business or ~~shall~~ ~~reorganize~~ ~~reorganizes~~ the association, or until a receiver ~~shall~~ ~~be~~ ~~is~~ appointed to liquidate its affairs. ~~Any~~ A conservator so appointed ~~shall~~ ~~has~~, subject to approval of the ~~supervisor~~ and ~~auditor of state~~ ~~superintendent~~, have all the rights, powers, and privileges possessed by the officers, board of directors, and members of the association. The conservator shall not retain special counsel or other experts, or incur any expenses other than normal operating expenses, or liquidate assets, except in the ordinary course of operations. The directors and officers shall remain in office and the employees shall remain in their respective positions, but the ~~super-~~ ~~visor~~ ~~superintendent~~ may remove any director, officer, or employee. While the association is in the charge of a conservator, members of ~~such~~ the association shall continue to make payments to the association in accordance with the terms and ~~conditions~~ of their contracts and

the conservator, in the conservator's discretion, may permit members to withdraw as such in the ordinary course of business, or under, and subject to such rules and regulations as the supervisor superintendent may prescribe and the. The conservator shall have power to may accept savings but any such savings thereon received by the conservator may be segregated if the supervisor superintendent shall so order orders in writing and if so ordered such savings shall are not be subject to offset and shall not be used to liquidate any an indebtedness of such the association existing at the time the conservator was appointed for it, or any subsequent indebtedness incurred for the purpose of liquidating the indebtedness of such the association existing at the time such a conservator was appointed. All expenses of the association during such conservatorship shall be paid by the association. The appointment of a conservator shall be evidenced by the supervisor superintendent issuing a certificate, signed by the supervisor and by the auditor of state superintendent, delivered to the president, or the vice president, or to at least three members of the board of directors of the association, certifying that a conservator has been appointed pursuant to this section. Within six months from the date upon which the conservator shall take takes charge of an association, the supervisor superintendent shall determine whether or not the supervisor shall to restore the management of the association to the board of directors. Such The determination shall be evidenced by the supervisor's superintendent's certificate under the seal of the office, delivered to the president, or vice president, or to the board of directors of the association, that the conservator forthwith is redelivering the management of the association to the board of directors of the association then in office. After the management of the association shall have been redelivered to the board of directors of an association, the association shall thenceforth be managed and operated as though no conservator had been appointed. At any time prior to the redelivery of the management to the board of directors, the supervisor superintendent shall determine whether such the association shall be required to reorganize. Such That determination shall be evidenced by a certificate, signed by the supervisor, and by the auditor of state superintendent, under the seal of the office, delivered to an executive officer of the association, stating that unless the association reorganize reorganizes under the laws of this state within a period of sixty days from the date of such the certificate, or within such further time as the supervisor shall approve superintendent approves, the supervisor superintendent shall proceed to liquidate the association. If the association has the insurance protection provided by Title IV of the National Housing Act [48 Stat. L. 1246, 12 U.S.C., ch 13], as now or hereafter amended, a signed and sealed copy of each order and certificate mentioned in this section shall be promptly sent by the supervisor superintendent by registered mail to the federal savings and loan insurance corporation, Washington, D.C. If the association is insured by the federal savings and loan insurance corporation, that corporation shall be named receiver if the supervisor and auditor have superintendent has determined the need for a receivership.

Sec. 82. Section 534.406, Code 1987, is amended to read as follows:
534.406 RECEIVERSHIP.

When any If a building and loan or savings and loan association is conducting its business illegally, or in violation of its articles of incorporation or bylaws, or is practicing deception upon its members or the public, or is pursuing a plan of business that is injurious to the interest of its members, or if its affairs are in an unsafe condition, the auditor of state superintendent shall notify the directors of the association, and, if they fail to put its affairs upon a safe basis, the auditor superintendent shall advise the attorney general, who shall take the necessary steps to wind up its affairs in the manner provided by law. In the proceedings a receiver may be appointed by the court and the proceedings shall be the exclusive liquidation or insolvency proceeding and a receiver shall not be appointed in any other proceedings.

Sec. 83. Section 534.407, Code 1987, is amended to read as follows:

534.407 REVOCATION OF CERTIFICATE.

If a certificate of authority to do business ~~shall have~~ has been issued to ~~any an~~ an association, and it ~~shall violate~~ violates any of the provisions of this chapter, the ~~auditor of state~~ auditor of state ~~superintendent~~ superintendent may revoke ~~the same~~ the certificate.

Sec. 84. Section 534.408, subsections 2 through 7, Code Supplement 1987, are amended to read as follows:

2. **INCORPORATION FEE.** Simultaneously with the filing with the ~~supervisor~~ superintendent of a certificate of incorporation, the corporation shall pay an incorporation fee of one hundred dollars.

3. **CHANGE OF LOCATION OR CHANGE OF NAME.** ~~There~~ A ~~fee of fifty dollars~~ fee of fifty dollars shall accompany each application to the ~~supervisor~~ superintendent for ~~leave~~ permission to change the location of the home office or to change the name of the association ~~a fee of fifty dollars~~.

4. **SUPERVISION AND EXAMINATION FEE.** At the time of filing its annual report each association shall pay to the ~~auditor of state~~ superintendent an annual filing fee of fifty dollars. The ~~supervisor~~ superintendent shall assess against ~~any an~~ an association the actual and necessary expenses incidental to ~~any~~ any examinations, or to supervision, or to ~~any~~ a special audit made pursuant to an order of the ~~supervisor~~ superintendent acting under authority of this chapter. The annual assessment to each association shall also include a fair proportion of the cost of administration of the savings and loan division.

5. **MERGER FEE.** At the time of filing with the ~~supervisor~~ any superintendent a merger agreement, the association proposing to ~~so~~ merge shall submit ~~therewith~~ a fee of one hundred fifty dollars, which fee shall be paid in equal parts by the associations which are parties to the proposed merger.

6. **FOR REORGANIZATION, TRANSFER OF ASSETS, AND DISSOLUTION.** ~~There~~ A ~~fee of fifty dollars~~ fee of fifty dollars shall accompany ~~every~~ every a proposed plan of reorganization, ~~every~~ every a proposal for the transfer of assets in bulk, and ~~every~~ every a certificate of dissolution, filed with the ~~supervisor~~ superintendent for approval, ~~a fee of fifty dollars~~.

7. **FOR APPROVAL OF SUPERVISOR SUPERINTENDENT.** The ~~supervisor is authorized~~ superintendent, in the ~~supervisor's~~ superintendent's discretion, ~~to~~ may charge a fee of not exceeding ten dollars upon each application for the ~~supervisor's~~ superintendent's approval, as provided by this chapter.

Sec. 85. Section 534.511, subsection 8, Code 1987, is amended to read as follows:

8. **CERTIFICATION.** The superintendent of ~~savings and loan~~ savings and loan associations shall prepare a certificate of merger upon the occurrence of all of the events stated in subsections 3, 4, 5, 6, and 7. This certificate shall include the name of the surviving association, federal association, or bank and the effective date of the merger. The original certificate shall be filed with the secretary of state. The superintendent shall provide a certified copy of the certificate to any person upon payment of a five dollar fee. A certified copy of this certificate ~~shall be~~ is sufficient proof of the merger for purposes of establishing the liability for debts or the ownership of assets as provided in section 534.512, subsections 1 and 2. An association involved in a merger may transfer assets or receive assets under the plan of merger only after the certificate of merger has been issued by the superintendent.

Sec. 86. Section 534.515, subsections 3 through 13, Code 1987, are amended to read as follows:

3. **DEPOSIT OF SECURITIES.** ~~No such~~ An unincorporated building and loan association shall be ~~permitted to~~ not carry on its business within this state unless it ~~shall~~ first deposit deposits with the ~~auditor of state~~ auditor of state ~~superintendent~~ superintendent at least fifty thousand dollars of first mortgages and negotiable notes in the same amount secured ~~thereby upon~~ by real estate in the state, bearing interest at a rate not less than five percent per annum, which ~~said~~ said mortgages shall ~~in no case~~ not exceed one-half the actual value of the real estate upon which they are taken.

4. ADDITIONAL DEPOSITS. The auditor of state shall have power and authority to superintendent may require that such a further amount of such securities shall be deposited with the auditor superintendent as in the auditor's superintendent's judgment may thereafter be is necessary to protect the members of such the building and loan association, or the persons making periodical payments thereto to it.

5. SECURITIES HELD IN TRUST. The notes, mortgages, and securities so deposited with the auditor of state shall superintendent, with all interest and accumulations thereon on them, shall be held in trust by the auditor superintendent for the purpose of fulfilling and carrying out all contracts made by such building and loan associations with the their members thereof, and with the persons making periodical payments thereto to them.

6. APPROVAL — CERTIFICATE OF AUTHORITY. If the executive council approves the plan or method of business of any such a building and loan association, it shall endorse its approval upon the statement of the resources and liabilities and plan of business presented to it, and such the statement shall thereupon be filed in the office of the auditor of state superintendent, who shall issue a certificate to such the building and loan association to transact business within the state, if such the association has deposited with the auditor superintendent the mortgages and securities required by the other provisions of this chapter.

7. OFFICERS TO GIVE BONDS — APPROVAL. Every An officer of such a building and loan association who signs or endorses checks, or handles any of the funds or securities thereof of the association, shall give such bond or fidelity insurance for the faithful performance of the officer's duty in such a sum as the auditor of state superintendent may require, and no such officer shall be deemed is qualified to enter upon the duties of the office until the officer's bond is approved by, and deposited with, the auditor of state superintendent. And any such The bond may be increased or additional sureties required by the auditor of state whenever superintendent if in the auditor's superintendent's judgment it becomes necessary to protect the interest of the association or its members, or persons making periodical payments of money thereto to it.

8. EXAMINATION. The auditor of state superintendent may at any time the auditor may see superintendent deems proper make, or cause to be made, an examination of any such a building and loan association, or the auditor superintendent may call upon it for a report of its condition upon any given day which has passed, as often as four times each year, which report shall contain the information hereinafter required in this section.

9. EXPENSE OF EXAMINATION. The expense of making such an examination shall be paid by the building and loan association, and if made by the auditor superintendent in person the auditor superintendent shall be paid the auditor's superintendent's necessary expenses only; if made by an examiner designated by the auditor superintendent, the examiner shall receive not to exceed twenty-five dollars a day for the time employed by the auditor superintendent, and the examiners's examiner's necessary expenses.

10. ANNUAL REPORTS. On or before the first day of February of each year, every such building and loan association shall file with the auditor of state superintendent its annual report in writing for the year ending on the thirty-first day of December preceding, giving a complete statement in detail of all of its receipts from all sources, and all disbursements made during such the year, arranged and itemized as may be required by the auditor of state superintendent. Such The report shall also show the number of members or persons making periodical payments to such the association, the number and amount of loans made to such the persons, the interest received therefrom from them, the number and amounts of mortgages, contracts, or other securities held by the association, the actual cash value of the real estate securing such the mortgages or contracts, the salary paid to each of its officers during the preceding year, the assets and liability liabilities of the association at the end of the year, and any other matters which in the judgment of the auditor of state may be superintendent are

required to give the ~~auditor~~ superintendent full information as to the business transacted by ~~such~~ the building and loan association.

11. FAILURE TO FURNISH REPORTS. If ~~any~~ such a building and loan association ~~shall fail fails~~ or refuses ~~refuses~~ to furnish the ~~auditor of state~~ superintendent the report required in subsection 10, the officers or persons conducting the business of ~~such~~ the building and loan association shall forfeit the sum of twenty-five dollars for each day that ~~such~~ the report is withheld, and the ~~auditor of state~~ superintendent may maintain an action, jointly or severally, against them in the name of the state to recover ~~such~~ that penalty, and the ~~same~~ penalty shall be paid into the state treasury when recovered by the ~~auditor~~ superintendent.

12. CRIMINAL OFFENSES. If any officer or agent of any such building and loan association, or any person conducting the business thereof, shall knowingly and willfully swear falsely to any statement in regard to any matter in this chapter required to be made under oath, the person shall be guilty of perjury and punished accordingly. And if any officer, agent or employee of any such association, or any person transacting the business thereof, shall issue, utter, or offer to utter, any warrant, check, order, or promise to pay of such association, or shall sign, transfer, cancel, or surrender any note, bond, draft, mortgage, or other evidence of indebtedness belonging to such association, or shall demand, collect, or receive any money from any member or other person in the name of such association without being authorized so to do, the person shall be guilty of a fraudulent practice; or if any such officer, agent, or employee of such association, or any person transacting the business thereof, shall embezzle, convert to the person's own use, or shall use or pledge for the person's own benefit or purpose, any moneys, securities, credits, or other property belonging to the association, the person shall be guilty of theft; or if the person shall knowingly solicit, transact, or attempt to transact any business for any such association which has not procured and does not hold the certificate of authority from the ~~auditor of state~~ superintendent to transact business in this state as provided ~~herein~~ in this section, the person shall be guilty of a serious misdemeanor; or if the person shall knowingly make, or cause to be made, any false entries in the books of the association, or shall, with intent to deceive any person making an examination of such association, as herein provided, exhibit to the person making the examination any false entry, paper, or statement, the person shall be guilty of a fraudulent practice.

13. REVOCATION OF CERTIFICATE — RECEIVER. If any such building and loan association holding a certificate of authority to transact business within this state issued by the ~~auditor~~ superintendent as ~~herein~~ provided in this chapter, shall violate any of the provisions of this chapter, or shall fail to deposit with the ~~auditor of state~~ superintendent such further amount of mortgages or securities as the ~~auditor~~ superintendent may require under this chapter, the ~~auditor of state~~ superintendent shall at once revoke ~~such~~ the certificate and notify the executive council of ~~the~~ its revocation ~~thereof~~; and under the direction of the executive council, application shall be made by the attorney general to the proper court for the appointment of a receiver to wind up the affairs of the association; ~~and in such.~~ In the proceedings the amount due from the borrowing members or persons making periodical payments upon contracts or mortgages given by them, shall be ascertained in the manner provided in section 534.405; and the amount owing upon ~~such~~ mortgages or contracts from members of the association or persons making periodical payments ~~thereto~~ to it, shall be treated and considered as due and payable within a reasonable time, to be fixed by the court after the appointment of a receiver.

Sec. 87. Section 534.602, subsections 1 and 2, Code 1987, are amended to read as follows:

1. DOMESTIC COMPANIES — BONDS — CUSTODY. The officers and employees of ~~any~~ a domestic association who sign or endorse checks or handle any funds or securities of ~~such~~ an association shall give ~~such~~ bonds or fidelity insurance as the board of directors may require; and no such officer shall be deemed qualified to enter upon the duties of the office until the

officer's bond is approved by the board of directors and by the ~~auditor of state superintendent~~. ~~Such~~ The bonds shall be deposited and filed with the ~~auditor of state superintendent~~. ~~Such~~ The associations may in connection with obtaining ~~such~~ bonds or insurance acquire and hold membership in mutual insurance or bonding companies. No such bond shall be terminated or canceled because of failure to pay premium or for any other cause until after ten days' written notice to the ~~supervisor superintendent~~ of intention to cancel ~~such the~~ bond.

2. ADDITIONAL BONDS. All such bonds shall be increased or additional securities required by the board of directors or the ~~auditor of state superintendent~~ when it becomes necessary to protect the interests of the association or its members.

Sec. 88. Section 534.701, Code 1987, is amended to read as follows:
534.701 STATE RECIPROcity.

When by the laws of any other state, territory, country, or nation, or by the decision or rulings of the appropriate and proper officers thereof, any greater taxes, fines, penalties, licenses, fees, deposits of money or other securities, or other obligations or prohibitions, are demanded of building and loan or savings and loan associations of this state, as a condition to be complied with before doing business or granting loans in that state, so long as such laws continue in force, the same requirements, obligations, and prohibitions of whatever kind shall be imposed on all building and loan or savings and loan associations of such other state, territory, country, or nation doing business in this state, and upon their agents. ~~It is hereby made the duty of the auditor of state to~~ The superintendent shall enforce the provisions of this section.

Sec. 89. Section 534.702, subsections 2 through 8, Code Supplement 1987, are amended to read as follows:

2. APPROVAL BY ~~SUPERVISOR SUPERINTENDENT~~ — CERTIFICATE OF AUTHORITY. If upon receipt of the report the ~~supervisor superintendent~~ finds 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 superintendent~~ shall issue a like certificate of authority, signed by the ~~auditor of state superintendent~~ as in the case of domestic associations.

3. CONDITIONS ATTENDING APPROVAL. A foreign association shall not be authorized to do business in this state if the foreign association's articles of incorporation are not found by the ~~supervisor superintendent~~ to be in substantial compliance with the laws of this state, and affording equal security and protection to its members.

4. DEPOSIT BY FOREIGN ASSOCIATION. Before the ~~supervisor superintendent~~ issues a certificate to a foreign association, it shall deposit with the ~~auditor of state superintendent~~ two hundred fifty thousand dollars, either in cash, or bonds of the United States or of the state of Iowa, or of a county or municipal corporation of the state, or notes secured by first mortgages on real estate, or a like amount in other security which is satisfactory to the ~~auditor of state superintendent~~.

The foreign association may collect and use the interest on any securities so deposited as long as it fulfills its obligations and complies with this chapter. Upon the approval of the ~~auditor superintendent~~, it may also exchange the securities for other securities of equal value.

5. LIABILITY OF DEPOSIT. The deposit made with the ~~auditor of state superintendent~~ shall be held as security for all claims of resident members of the state against ~~said the~~ association, and ~~shall be is~~ liable for all judgments or decrees thereon, and subject to ~~the~~ their payment of the same.

6. ~~AUDITOR OF STATE SUPERINTENDENT AS PROCESS AGENT~~. ~~Such~~ The foreign associations shall also file with the ~~auditor of this state superintendent~~ a duly authorized copy of a resolution adopted by the board of directors of ~~such the~~ association, stipulating and agreeing that, if any legal process or notice affecting ~~such the~~ association ~~be is~~ served on the said

state auditor superintendent, and a copy thereof be mailed, postage prepaid, by the party procuring and issuing the same it, or the party's attorney, to said the association, addressed to its home office, then such service and mailing of such process or notice shall have has the same effect as personal service on said the association within this state.

7. MANNER OF SERVICE. When proceedings have been commenced against, or affecting any a foreign building and loan or savings and loan association, as contemplated in subsection 6, and notice has been served upon the auditor of the state superintendent, the same notice shall be by duplicate copies, one of which shall be filed in the auditor's superintendent's office, and the other mailed by the auditor superintendent, postage prepaid, to the home office of such the association.

8. 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 superintendent.

Sec. 90. Section 534.703, Code 1987, is amended to read as follows:

534.703 FEES — FOREIGN ASSOCIATIONS.

Foreign building and loan or savings and loan associations shall pay to the auditor of state superintendent the following fees, which shall be paid by the auditor superintendent into the state treasury: For each an application to do business in this state, two hundred dollars; for each a certificate of authority and each or an annual renewal thereof of a certificate, one hundred dollars; for filing each an annual statement of the assets of the association as shown by the statement filed, amounts to fifty thousand dollars or less, six dollars; if more than fifty thousand dollars and less than one hundred thousand dollars, ten dollars; if more than one hundred thousand dollars or more and less than two hundred fifty thousand dollars, twenty dollars; if more than two hundred fifty thousand dollars or more, and less than five hundred thousand dollars, forty dollars; if more than five hundred thousand dollars or more and less than one million dollars, sixty dollars; and if more than one million dollars or more, one hundred dollars.

Sec. 91. Section 534.705, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

All associations doing business in this state shall, on or before the first day of February of each year, file with the auditor of state superintendent a detailed report and financial statement of their business for the year ending the thirty-first day of December next preceding, and such the report shall be verified by the president and secretary or by three directors of the association, and such report shall show:

Sec. 92. Section 534.705, subsection 3, Code 1987, is amended to read as follows:

3. VIOLATIONS. If an association shall fail or refuse fails or refuses to furnish the auditor of state superintendent the report required in subsections 1 and 2 it shall forfeit the sum of twenty-five dollars for every day such the report shall be is withheld and the auditor of state superintendent may maintain an action in the name of the state to recover such that penalty and the same penalty shall be paid into the treasury of the state.

Sec. 93. Section 544.7, subsection 4, paragraph c, Code 1987, is amended to read as follows:

c. As an annuity to a widow spouse or representative of a deceased partner,

Sec. 94. Section 562B.15, Code 1987, is amended to read as follows:

562B.15 LANDLORD TO DELIVER POSSESSION OF MOBILE HOME SPACE.

At the commencement of the term the landlord shall deliver possession of the mobile home space to the tenant in compliance with the rental agreement and section 562B.16. The landlord may bring an action for possession against any a person wrongfully in possession and may recover the damages provided in section ~~562B.31~~ 562B.30, subsection 2.

Sec. 95. Section 601K.2, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The governor shall appoint the administrators of each of the divisions subject to confirmation by the senate. Each administrator shall serve at the pleasure of the governor and is exempt from the merit system provisions of chapter 19A. The governor shall set the salary of the division ~~directors~~ administrators within the ranges set by the general assembly.

Sec. 96. Section 601K.36, Code 1987, is amended to read as follows:

601K.36 ADMINISTRATOR.

The administrator shall serve as executive officer of the commission and ~~be~~ is exempt from the merit system provisions of chapter 19A. The administrator ~~shall be~~ is responsible to the commission and, pursuant to section 601K.2, with the approval of the commission shall employ and supervise the commission's staff and be responsible for implementing policy set by the commission. The administrator shall carry out programs and policies as determined by the commission.

Sec. 97. Section 602.8102, subsection 4, Code Supplement 1987, is amended to read as follows:

4. Upon the death of a judge or magistrate of the district court, give written notice to the ~~state comptroller department of management and the department of revenue and finance~~ of the date of death. The clerk shall also give written notice of the death of a justice of the supreme court, ~~or~~ a judge of the court of appeals, or a judge or magistrate of the district court who resides in the clerk's county to the state commissioner of elections, as provided in section 46.12.

Sec. 98. Section 674.13, Code 1987, is amended to read as follows:

674.13 FURTHER CHANGE BARRED.

~~No~~ A person shall not change the person's name more than once under the provisions of this chapter unless just cause is shown. However, ~~a person may change in a decree dissolving a person's marriage, the person's name may be changed back to the name appearing on the person's original birth certificate after each decree dissolving a marriage is entered, or a person may request a name change to a legal name previously acquired in a former marriage.~~

Sec. 99. Section 805.1, subsection 8, Code Supplement 1987, is amended to read as follows:

8. A peace officer shall issue a citation in lieu of arrest to a person under eighteen years of age accused of ~~violating~~ committing a simple misdemeanor under the provisions of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, a violation of a county or municipal curfew or traffic ordinance, or a violation of section 123.47, and shall not detain or confine the person in a facility regulated under chapter 356 or 356A.

Sec. 100. Section 903.1, subsection 3, Code Supplement 1987, is amended to read as follows:

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, or a violation of a county or municipal curfew or traffic ordinance, or a violation of section 123.47, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

Sec. 101. 1986 Iowa Acts, chapter 1245, section 1526, is amended to read as follows:

SEC. 1526. TRANSITION — TERMS. The terms of all persons serving on the board of parole on June 30, 1986, expire on that date. Notwithstanding the four-year term specified in section ~~1511 of this Act~~ 904A.1, appointments of the new members shall be as follows:

1. One full-time and one part-time member to serve from July 1, 1986, to ~~June~~ April 30, 1988.
2. One full-time and one part-time member to serve from July 1, 1986, to ~~June~~ April 30, 1989.

3. One member to serve from July 1, 1986, to ~~June~~ April 30, 1990. Thereafter, all appointments shall be for four-year terms beginning and ending as provided in section 69.19.

Sec. 102. Sections 135.43, 135.44, 144.6 through 144.8, 144.10, and 144.11, Code 1987, are repealed.

Sec. 103. Sections 67 and 78 of this Act, being deemed of immediate importance, take effect upon its enactment.

Approved May 4, 1988

CHAPTER 1159

ANNUITY CONTRACT PREMIUMS TAX

S.F. 2338

AN ACT relating to the deduction of premiums received in connection with annuity contracts in computing the gross amount of premiums for purpose of the state gross premiums tax, requiring related reports by the commissioner of insurance, and providing applicable and effective dates.

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

Section 1. Section 432.1, subsection 1, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In determining the gross amount of premiums to be taxed, there shall be excluded all consideration received in connection with an annuity contract, whether or not such contract is qualified or exempt under the federal Internal Revenue Code as now or hereafter amended, and all premiums returned to policyholders or annuitants during the preceding calendar year, except cash surrender values, and all dividends that, during said year, have been paid in cash or applied in reduction of premiums or left to accumulate to the credit of policyholders or annuitants.

Sec. 2. Section 505.8, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner shall do the following:

1. By July 1, 1988, prepare a report on the level of Iowa investments of Iowa domestic and nondomestic insurance companies.

2. By September 1, 1988, prepare a plan of action outlining the alternatives and incentives for increasing in-state investments of domestic and nondomestic insurance companies.

3. By July 1, 1989, prepare a report on the number of new jobs added, new companies that have moved to or established subsidiaries in the state, and the approximate amount of tax revenues resulting from the expanded deduction of premiums for all annuity contracts in computing the premiums tax under section 432.1, subsection 1.

4. On an annual basis, prepare a report identifying the premium volume of nonqualified insurance annuities issued by domestic insurance companies doing at least a volume of five million dollars per annum, and relating that to projections for increased volume of such sales.

5. The reports prepared under subsections 1, 2, and 3 shall, upon completion, be forwarded to the members of the house standing committee on small business and commerce and the house standing committee on ways and means and to members of the senate standing committee on commerce and the senate standing committee on ways and means.

Domestic insurance companies shall cooperate with the commissioner in providing information to develop the reports under this section.

Sec. 3. Section 1 of this Act is effective July 1, 1988, and applies to premiums for annuity contracts received on or after that date for purposes of determining the tax imposed on the gross amount of premiums received during the 1988 and subsequent calendar years.

Sec. 4. Section 2 of this Act is effective upon enactment.

Approved May 5, 1988

CHAPTER 1160

COMMUNITY-BASED CORRECTIONAL PROGRAMS

S.F. 173

AN ACT establishing priorities for deductions from the earnings of residents of community-based correctional facilities.

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

Section 1. Section 905.8, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The deputy director of the department of corrections responsible for community-based correctional programs shall reallocate funds allocated by the department among the judicial districts as necessary to assure an equitable allocation of district departmental staff throughout the state and to comply with section 905.10.

NEW UNNUMBERED PARAGRAPH. The deputy director of the department of corrections responsible for community-based correctional programs shall comply with section 246.108, subsection 1, paragraph "i".

Sec. 2. Section 905.12, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

905.12 SURRENDER OF EARNINGS.

When committing a person to a residential treatment center operated by a judicial district department of correctional services, the court shall order the person to surrender to the district department their total earnings less payroll deductions required by law. The court shall establish the person's legal obligations by order and the district department shall deduct from the earnings to satisfy the court order in the following order of priority:

1. 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. For the purpose of this subsection, "legally obligated" means under a court order.

2. 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.

3. Restitution ordered by the court under chapter 910.

4. 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.

Any balance remaining after deductions and payments shall be credited to the resident's personal account at the district department and shall be paid to the resident upon release. The deputy director of the department of corrections responsible for community-based correctional

programs shall establish a plan to comply with the provisions of court orders entered pursuant to this section.

Approved May 5, 1988

CHAPTER 1161

PUBLIC DEFENDER REPRESENTATION OF INDIGENT ADULTS AND JUVENILES

S.F. 2304

AN ACT relating to the administration of legal representation of indigent persons in criminal cases and proceedings under chapter 232 by local public defenders, and the state public defender's office, and providing an effective date.

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

Section 1. Section 13B.1, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

13B.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Appointed attorney" means an attorney appointed and compensated by the state to represent an indigent defendant.
2. "Department" means the department of inspections and appeals.
3. "Financial statement" means a full written disclosure of all assets, liabilities, current income, dependents, and other information required to determine if a client qualifies for legal assistance at public expense.
4. "State public defender" means the state public defender appointed pursuant to this chapter.

Sec. 2. Section 13B.2, Code 1987, is amended to read as follows:

13B.2 POSITION ESTABLISHED.

The position of state ~~appellate~~ public defender is established within the department of inspections and appeals. The governor shall appoint the state ~~appellate~~ public defender, who shall serve at the pleasure of the governor, subject to confirmation by the senate, no less frequently than once every four years, whether or not there has been a new ~~appellate~~ state public defender appointed during that time, and shall establish the ~~appellate~~ state public defender's salary.

Sec. 3. Section 13B.3, Code 1987, is amended to read as follows:

13B.3 QUALIFICATIONS OF ~~APPELLATE~~ STATE PUBLIC DEFENDER.

Only persons admitted to practice law in this state shall be appointed ~~appellate~~ state public defender or assistant ~~appellate~~ state public defender.

Sec. 4. Section 13B.4, Code 1987, is amended to read as follows:

13B.4 JURISDICTION OF ~~APPELLATE~~ STATE PUBLIC DEFENDER.

The ~~appellate~~ state public defender shall represent indigents on appeal in criminal cases and on appeal in proceedings to obtain postconviction relief when appointed to do so by the district court in which the judgment or order was issued, and may represent indigents in proceedings instituted pursuant to chapter 908, and shall not engage in the private practice of law. The court may, upon the application of the indigent or the indigent's trial attorney, or on its own motion, appoint the ~~appellate~~ state public defender to represent the indigent on appeal or on appeal in postconviction proceedings.

Sec. 5. Section 13B.5, Code 1987, is amended to read as follows:

13B.5 STAFF.

The appellate state public defender may appoint assistant appellate state public defenders who, subject to the direction of the appellate state public defender, shall have the same duties as the appellate state public defender and shall not engage in the private practice of law. The salaries of the staff shall be fixed by the appellate state public defender. The appellate state public defender and the appellate state public defender's staff shall receive actual and necessary expenses, including travel at the state rate set forth in section 18.117.

Sec. 6. Section 13B.6, Code 1987, is amended to read as follows:

13B.6 ACCOUNT ESTABLISHED.

1. There is established in the state general fund an account to be known as the appellate state public defender operating account. The appellate state public defender may bill a county for services rendered to the county by the office of the appellate state public defender. Receipts shall be deposited in the operating account established under this section. There is appropriated from the state general fund all amounts deposited in the appellate state public defender operating account for use in maintaining the operations of the office of appellate state public defender.

2. The department of inspections and appeals shall provide internal accounting and related fiscal services for the appellate state public defender.

Sec. 7. Section 13B.7, Code 1987, is amended to read as follows:

13B.7 SUPERVISORY DUTY.

The appellate state public defender may supervise the provision of legal services, funded by an appropriation to the Iowa department of corrections, to inmates of adult correctional institutions in civil cases involving prison litigation.

Sec. 8. NEW SECTION. 13B.8 OFFICE OF LOCAL PUBLIC DEFENDER.

1. The state public defender may establish or abolish local public defender offices. In determining whether to establish or abolish a local public defender office, the state public defender shall consider the following:

a. The number of cases or potential cases where a local public defender is or would be involved.

b. The population of the area served or to be served.

c. The willingness of the local private bar to participate in cases where a public defender is or would be involved.

d. Other factors which the state public defender deems to be important.

Before establishing or abolishing a local public defender office, the state public defender shall provide a written report detailing the reasons for the action to be taken to the justice systems appropriations subcommittee, the chairperson, vice chairperson, and ranking member of the senate committee on judiciary, and the chairperson, vice chairperson, and ranking member of the house of representatives committee on judiciary and law enforcement. The report shall contain a statement of the estimated fiscal impact of the action taken. Any action taken in establishing or abolishing a local public defender office shall only take effect upon the approval of the general assembly. If the state public defender proposes to abolish a local public defender office prior to the beginning of any regular session of the general assembly and the general assembly takes no action regarding that proposal during the first ninety days of the first regular session occurring after the proposal is made, the office shall be abolished.

2. The state public defender may appoint a local public defender and may remove the local public defender for cause. The local public defender must be an attorney admitted to the practice of law before the Iowa supreme court.

3. The compensation of the local public defender and staff of the local public defender offices shall be fixed by the state public defender.

4. The state public defender shall provide suitable office space, furniture, equipment, and supplies for the office of local public defender out of funds appropriated to the department for this purpose.

Sec. 9. NEW SECTION. 13B.9 POWERS AND DUTIES OF LOCAL PUBLIC DEFENDERS.

1. The local public defender shall do all of the following:

a. Represent without fee an indigent person who is under arrest or charged with a crime if the indigent person requests it or the court orders it. The local public defender shall counsel and defend an indigent defendant at every stage of the criminal proceedings and prosecute before or after conviction any appeals or other remedies which the local public defender considers to be in the interest of justice unless the court appoints other counsel.

b. Represent an indigent party, without fee and upon an order of the court, in child in need of assistance, family in need of assistance, delinquency, and termination of parental rights proceedings pursuant to chapter 232. The local public defender shall counsel and represent an indigent party in all proceedings pursuant to chapter 232 and prosecute before or after judgment any appeals or other remedies which the local public defender considers to be in the interest of justice unless the court appoints other counsel. The state public defender shall be reimbursed by the counties for services rendered by employees of the local public defenders' offices under this subsection, pursuant to section 232.141.

c. Make an initial determination of indigence as required under section 815.9 prior to the initial arraignment or other initial court appearance.

d. Make an annual report to the state public defender. The report shall include all cases handled by the local public defender during the preceding calendar year.

2. An appointed attorney under this section is not liable to a person represented by the attorney pursuant to this chapter for damages as a result of a conviction unless the court determines in a postconviction appeal that the person's conviction resulted from ineffective assistance of counsel.

3. The local public defender may appoint the number of assistant indigent defenders, clerks, investigators, stenographers, and other employees as approved by the state public defender. An assistant local public defender must be an attorney licensed to practice before the Iowa supreme court. Appointments shall be made in the manner prescribed by the state public defender.

Sec. 10. NEW SECTION. 13B.10 DETERMINATION OF INDIGENCY.

1. For purposes of this chapter, a determination of indigency shall be made pursuant to section 815.9.

2. A determination of indigence shall not be made except upon the basis of information contained in a detailed financial statement submitted by the person or by the person's parent, guardian, or custodian. The financial statement shall be in the form prescribed by the board. If a person is determined to be indigent and given legal assistance, the financial statement shall be filed in the person's court file and with the administrator.

3. A person who knowingly submits a false financial statement for the purpose of obtaining legal assistance at public expense commits a fraudulent practice. As used in this subsection "legal assistance" includes appointed counsel, transcripts, witness fees and expenses, and any other goods or services required by law to be provided to an indigent person at public expense.

4. The district court shall decide, based upon the financial statement and other relevant information, whether the person is indigent. An indigent defender may make a temporary determination of indigency prior to the initial arraignment or other initial court appearance.

Sec. 11. Section 19A.3, subsection 11, Code Supplement 1987, is amended to read as follows:

11. Professional employees under the supervision of the attorney general, the ~~appellate defender state public defender~~, the auditor of state, the treasurer of state, and the public employment relations board. However, employees of the consumer advocate division of the department of justice, other than the consumer advocate, are subject to the merit system.

Sec. 12. Section 331.321, subsection 2, Code Supplement 1987, is amended by striking the subsection.

Sec. 13. Section 331.322, subsection 5, Code Supplement 1987, is amended to read as follows:

5. Furnish offices within the county for the sheriff, and at the county seat for the recorder, treasurer, auditor, county attorney, county surveyor or engineer, county assessor, and city assessor. ~~If the office of public defender is established, the board shall furnish the public defender's office as provided in section 331.776.~~ The board shall furnish the officers with fuel, lights, and office supplies. However, the board is not required to furnish the county attorney ~~or public defender~~ with law books. The board shall not furnish an office also occupied by a practicing attorney to an officer other than the county attorney ~~or public defender~~.

Sec. 14. Section 602.1302, subsection 2, Code Supplement 1987, is amended by striking the subsection.

Sec. 15. ACCRUED EMPLOYEE RIGHTS.

1. Persons who were paid salaries by the counties immediately prior to becoming state employees as a result of this Act shall not forfeit accrued vacation, accrued sick leave, or seniority, except as provided in this section.

2. As a part of its rulemaking authority, the department of personnel, after consulting with the department of management, shall prescribe rules to provide for the following:

a. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued vacation days that was credited to the person as a county employee as of the end of the day prior to becoming a state employee.

b. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued days of sick leave that was credited to the person as a county employee as of the end of the day prior to becoming a state employee. However, the number of days of sick leave credited to a person under this subsection and eligible to be taken when sick or eligible to be received upon retirement shall not respectively exceed the maximum number of days, if any, or the maximum dollar amount as provided in section 79.23 that state employees generally are entitled to accrue or receive according to rules in effect as of the date the person becomes a state employee.

c. Commencing on the date of becoming a state employee, each person referred to in subsection 1 is entitled to claim the person's most recent continuous period of service in full-time county employment as full-time state employment for purposes of determining the number of days of vacation which the person is entitled to earn each year. The actual vacation benefit, including the limitation on the maximum accumulated vacation leave, shall be determined as provided in section 79.1 according to rules in effect for state employees of comparable longevity, irrespective of any greater or lesser benefit as a county employee.

Sec. 16. COLLECTIVE BARGAINING. A person who becomes a state employee as a result of this Act is a public employee, as defined in section 20.3, subsection 3, for purposes of chapter 20. Such employees shall be accreted into bargaining units which exist for state employees. The public employment relations board shall adopt rules pursuant to chapter 17A to implement this subsection.

Sec. 17. A public office providing indigent defense which is in existence on December 31, 1988, shall become an office of a local public defender under the authority and supervision of the state public defender unless the state public defender determines the office should cease to operate.

Sec. 18. REPEALS. Sections 331.775 through 331.777, Code 1987, are repealed. However, this Act shall not affect the existing terms of office for the appellate defender or public defenders. This Act does not authorize a reduction in compensation provided by the state or a county to any employee of the state appellate defender's office or a public defender's office.

Sec. 19. This Act does not affect a contract in effect at the time of enactment of this section relating to office space, or other services or equipment to be provided to a public defender. However, a county or public defender shall not enter into a contract for any services to be provided to the public defender after enactment of this section without the approval of the department of inspections and appeals.

Sec. 20. For the period beginning January 1, 1989, and ending June 30, 1989, the judicial branch shall reimburse the department of inspections and appeals out of funds appropriated to the judicial branch for the costs of adult indigent defense and costs of juvenile proceedings including attorney and witness fees.

Sec. 21. EFFECTIVE DATES.

1. Section 18 of this Act, being deemed of immediate importance, is effective upon enactment.
2. Sections 1 through 10, 12 through 14, and section 19 of this Act are effective January 1, 1989.

Approved May 5, 1988

CHAPTER 1162

CONSTRUCTION CONTRACTOR REGISTRATION

S.F. 2318

AN ACT relating to the registration of construction contractors; providing for administration and enforcement of a system of registration by the labor commissioner; providing for administrative penalties; providing an effective date; and providing other properly related matters.

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

Section 1. Section 96.11, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 14. For purposes of contractor registration under chapter 549, the division of job service shall provide for the issuance of special contractor numbers to contractors for whom employer accounts are not required under this chapter. A contractor who is not in compliance with the requirements of this chapter shall not be issued a special contractor number.

Sec. 2. **NEW SECTION. 549.1 DEFINITION — EXEMPTION.**

1. As used in this chapter, unless the context otherwise requires, "contractor" means a person who engages in the business of construction, as the term "construction" is defined in section 345-3.82 (96), Iowa Administrative Code, for purposes of the Iowa employment security law. However, a person who earns less than one thousand dollars annually or who performs

work or has work performed on the person's own property is not a contractor for purposes of this chapter.

2. If a contractor's registration application shows that the contractor is self-employed, does not pay more than one thousand dollars annually to employ other persons in the business, and does not work with or for other contractors in the same phases of construction, the contractor is exempt from the fee requirements under this chapter.

Sec. 3. NEW SECTION. 549.2 REGISTRATION REQUIRED – CONDITIONS.

A contractor doing business in this state shall register with the labor commissioner and shall meet both of the following requirements as a condition of registration:

1. The contractor shall be in compliance with the laws of this state relating to workers' compensation insurance and shall provide evidence of workers' compensation insurance coverage annually, of relief from the insurance requirement pursuant to section 87.11, or of compliance with the notice provision of section 87.2. Notice of a policy's cancellation shall be provided to the labor commissioner by the insurance company.

2. The contractor shall possess an employer account number or a special contractor number issued by the division of job service of the department of employment services pursuant to the Iowa employment security law.

Sec. 4. NEW SECTION. 549.3 APPLICATION – INFORMATION TO BE PROVIDED.

The registration application shall be in the form prescribed by the labor commissioner, shall be accompanied by the registration fee prescribed pursuant to section 549.4, and shall contain information which is substantially complete and accurate. In addition to the information determined by the labor commissioner to be necessary for purposes of section 549.2, the application shall include information as to each of the following:

1. The name, principal place of business in this state, address, and telephone number of the contractor.

2. The name, address, telephone number, and position of each officer of the contractor, if the contractor is a corporation, or each owner if the contractor is not a corporation.

3. A description of the business, including the principal products and services provided. Any change in the information provided shall be reported promptly to the labor commissioner.

Sec. 5. NEW SECTION. 549.4 FEES.

The labor commissioner shall prescribe the fee for registration, which fee shall not exceed twelve dollars and fifty cents. All fees collected shall be deposited in the general fund of the state.

Sec. 6. NEW SECTION. 549.5 PUBLIC REGISTRATION NUMBER – RECORDS.

The labor commissioner shall issue to each registered contractor an identifying public registration number and shall compile records showing the names and public registration numbers of all contractors registered in the state. These records and the complete registration information provided by each contractor are public records and the labor commissioner shall take steps as necessary to facilitate access to the information by governmental agencies and the general public.

Sec. 7. NEW SECTION. 549.6 RULES.

The labor commissioner shall adopt rules, pursuant to chapter 17A, determined to be reasonably necessary for the administration and enforcement of the system of contractor registration established by this chapter.

Sec. 8. NEW SECTION. 549.7 STATE CONTRACTS.

A contractor who is not registered with the labor commissioner as required by this chapter shall not be awarded a contract to perform work for the state or an agency of the state.

Sec. 9. NEW SECTION. 549.8 INVESTIGATIONS — ENFORCEMENT — ADMINISTRATIVE PENALTIES.

1. The labor commissioner and inspectors of the division of labor services of the department of employment services have jurisdiction for investigation and enforcement in cases where contractors may be in violation of the requirements of this chapter or rules adopted pursuant to this chapter.

2. If, upon investigation, the labor commissioner or the commissioner's authorized representative believes that a contractor has violated either of the following, the commissioner shall with reasonable promptness issue a citation to the contractor:

a. The requirement that a contractor be registered.

b. The requirement that the contractor's registration information be substantially complete and accurate.

Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the statute alleged to have been violated.

If a citation is issued, the commissioner shall, within seven days, notify the contractor by certified mail of the administrative penalty, if any, proposed to be assessed and that the contractor has fifteen working days within which to notify the commissioner that the employer wishes to contest the citation or proposed assessment of penalty.

The administrative penalties which may be imposed under this section shall be not more than five hundred dollars in the case of a first violation and not more than five thousand dollars for each violation in the case of a second or subsequent violation. All administrative penalties collected pursuant to this chapter shall be deposited in the general fund of the state.

If, within fifteen working days from the receipt of the notice, the contractor fails to notify the commissioner that the contractor intends to contest the citation or proposed assessment of penalty, the citation and the assessment, as proposed, shall be deemed a final order of the employment appeal board and not subject to review by any court or agency.

If the contractor notifies the commissioner that the contractor intends to contest the citation or proposed assessment of penalty, the commissioner shall immediately advise the employment appeal board established by section 10A.601. The employment appeal board shall review the action of the commissioner and shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the commissioner's citation or proposed penalty or directing other appropriate relief, and the order shall become final sixty days after its issuance.

The labor commissioner shall notify the department of revenue and finance upon final agency action regarding the citation and assessment of penalty against a registered contractor.

Judicial review of any order of the employment appeal board issued pursuant to this section may be sought in accordance with the terms of chapter 17A. If no petition for judicial review is filed within sixty days after service of the order of the employment appeal board, the appeal board's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of the sixty-day period. In any such case, the clerk of court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of the decree to the employment appeal board and the contractor named in the petition.

Sec. 10. Section 10A.601, subsections 1 and 7, Code 1987, are amended to read as follows:

1. A full-time employment appeal board is created within the department of inspections and appeals to hear and decide contested cases under chapters 19A, 80, 88, 96, 97B, ~~and 104~~, and 549.

7. An application for rehearing before the appeal board shall be filed pursuant to section 17A.16, unless otherwise provided in chapter 19A, 80, 88, 96, 97B, ~~or 104~~, or 549. A petition for judicial review of a decision of the appeal board shall be filed pursuant to section 17A.19. The appeal board may be represented in any such judicial review by an attorney who is a regular salaried employee of the appeal board or who has been designated by the appeal board for

that purpose, or at the appeal board's request, by the attorney general. Notwithstanding the petitioner's residency requirement in section 17A.19, subsection 2, a petition for judicial review may be filed in the district court of the county in which the petitioner was last employed or resides, provided that if the petitioner does not reside in this state, the action shall be brought in the district court of Polk county, Iowa, and any other party to the proceeding before the appeal board shall be named in the petition. Notwithstanding the thirty-day requirement in section 17A.19, subsection 6, the appeal board shall, within sixty days after filing of the petition for judicial review or within a longer period of time allowed by the court, transmit to the reviewing court the original or a certified copy of the entire records of a contested case. The appeal board may also certify to the court, questions of law involved in any decision by the appeal board. Petitions for judicial review and the questions so certified shall be given precedence over all other civil cases except cases arising under the workers' compensation law of this state. No bond shall be required for entering an appeal from any final order, judgment, or decree of the district court to the supreme court.

Sec. 11. EFFECTIVE DATE. This Act takes effect July 1, 1988, for purposes of rulemaking and administrative preparation and February 15, 1989, for all other purposes.

Approved May 5, 1988

CHAPTER 1163

CIVIL RIGHTS VIOLATIONS

H.F. 185

AN ACT relating to violations of a person's civil rights and providing penalties.

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

Section 1. **NEW SECTION. 729.5 PROHIBITING VIOLATIONS OF AN INDIVIDUAL'S CIVIL RIGHTS — PENALTIES.**

1. Persons within the state of Iowa have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, or sex.

2. A person who conspires with another person or persons to injure, oppress, threaten, or intimidate or interfere with any citizen in the free exercise or enjoyment of any right or privilege secured to that person by the constitution or laws of the state of Iowa or by the constitution or laws of the United States, and assembles with one or more persons for the purpose of teaching or being instructed in any technique or means capable of causing property damage, bodily injury or death when the person or persons intend to employ those techniques or means in furtherance of the conspiracy, is on conviction, guilty of a class "D" felony.

3. The fact that a person committed a felony or misdemeanor, or attempted to commit a felony, because of the victim's race, color, religion, nationality, country of origin, political affiliation, or sex, shall be considered a circumstance in aggravation of any crime in imposing sentence.

4. This section does not make unlawful the teaching of any technique in self-defense.

5. This section does not make unlawful any activity of:

a. Law enforcement officials of this or any other jurisdiction while engaged in the lawful performance of their official duties;

b. Federal officials required to carry firearms while engaged in the lawful performance of their official duties;

c. Members of the armed forces of the United States or the national guard while engaged in the lawful performance of their official duties; or

d. Any conservation commission, law enforcement agency, or any agency licensed to provide security services, or any hunting club, gun club, shooting range, or other organization or entity whose primary purpose is to teach the safe handling or use of firearms, archery equipment, or other weapons or techniques employed in connection with lawful sporting or other lawful activity.

Approved May 5, 1988

CHAPTER 1164

DANGEROUS WEAPONS AND KNIVES

H.F. 498

AN ACT to revise provisions relating to dangerous weapons and the carrying of dangerous weapons and knives, and providing penalties.

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

Section 1. Section 702.7, Code 1987, is amended to read as follows:

702.7 DANGEROUS WEAPON.

A "dangerous weapon" is any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the defendant intends to inflict death or serious injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include, but are not limited to, any offensive weapon, pistol, revolver, or other firearm, dagger, razor, stiletto, switchblade knife, or knife having a blade of three exceeding five inches or longer in length.

Sec. 2. Section 724.1, Code 1987, is amended by adding the following new subsection as subsection 5 and renumbering the subsequent subsections:

NEW SUBSECTION. 5. A ballistic knife. A ballistic knife is a knife with a detachable blade which is propelled by a spring-operated mechanism, elastic material, or compressed gas.

Sec. 3. Section 724.1, subsection 5, Code 1987, is amended to read as follows:

5 6. Any part or combination of parts either designed or intended to be used to convert any device into an offensive weapon as described in subsections 1 to 4 5 of this section, or to assemble into such an offensive weapon, except magazines or other parts, ammunition, or ammunition components used in common with lawful sporting firearms or parts including but not limited to barrels suitable for refitting to sporting firearms.

Sec. 4. Section 724.4, Code Supplement 1987, is amended to read as follows:

724.4 CARRYING WEAPONS.

1. A Except as otherwise provided in this section, a person who goes armed with a dangerous weapon concealed on or about the person, or who, within the limits of any city, goes armed with a pistol or revolver, or any loaded firearm of any kind, whether concealed or not, or who knowingly carries or transports in a vehicle a pistol or revolver, commits an aggravated misdemeanor, provided that this section shall not apply to any of the following:

2. A person who goes armed with a knife concealed on or about the person, if the person uses the knife in the commission of a crime, commits an aggravated misdemeanor.

3. A person who goes armed with a knife concealed on or about the person, if the person does not use the knife in the commission of a crime:

a. If the knife has a blade exceeding eight inches in length, commits an aggravated misdemeanor.

b. If the knife has a blade exceeding five inches but not exceeding eight inches in length, commits a serious misdemeanor.

4. Subsections 1 through 3 do not apply to any of the following:

1 a. A person who goes armed with a dangerous weapon in the person's own dwelling or place of business, or on land owned or possessed by the person.

2 b. Any A peace officer, when the officer's duties require the person to carry such weapons.

3 c. Any A member of the armed forces of the United States or of the national guard or person in the service of the United States, when the weapons are carried in connection with the person's duties as such.

4 d. A correctional officer, when the officer's duties require, serving under the authority of the Iowa department of corrections.

5 e. Any A person who for any lawful purpose carries an unloaded pistol, revolver, or other dangerous weapon inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person.

6 f. Any A person who for any lawful purpose carries or transports an unloaded pistol or revolver in any a vehicle inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person or inside a cargo or luggage compartment where the pistol or revolver will not be readily accessible to any person riding in the vehicle or common carrier.

7 g. Any A person while the person is lawfully engaged in target practice on a range designed for that purpose or while actually engaged in lawful hunting.

h. A person who carries a knife used in hunting or fishing, while actually engaged in lawful hunting or fishing.

8 i. Any A person who has in the person's possession and who displays to any a peace officer on demand a valid permit to carry weapons which has been issued to the person, and whose conduct is within the limits of that permit. No A person shall not be convicted of a violation of this section if the person produces at the person's trial a permit to carry weapons which was valid at the time of the alleged offense and which would have brought the person's conduct within this exception if the permit had been produced at the time of the alleged offense.

9 j. A law enforcement officer from another state when the officer's duties require the officer to carry the weapon and the officer is in this state for any of the following reasons:

a. (1) The extradition or other lawful removal of a prisoner from this state.

b. (2) Pursuit of a suspect in compliance with chapter 806.

e. (3) Activities in the capacity of a law enforcement officer with the knowledge and consent of the chief of police of the city or the sheriff of the county in which the activities occur or of the director of public safety.

CHAPTER 1165

INMATE WORK PROGRAMS

H.F. 2233

AN ACT relating to work programs for inmates of state correctional institutions.

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

Section 1. Section 85.59, Code Supplement 1987, is amended by adding the following new unnumbered paragraph after unnumbered paragraph two:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, an inmate on a work assignment under section 246.703 working in construction or maintenance at a public or charitable facility, or under assignment to another agency of state, county, or local government, shall be considered an employee of the state.

Sec. 2. Section 246.703, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Inmates shall work ~~only~~ on state account in the maintenance of state institutions, in the erection, repair, authorized demolition, or operation of buildings and works used in connection with the institutions, and in industries established and maintained in connection with the institutions by the director. ~~The director may detail inmates classified as trustees, from correctional institutions under the control of the director to perform public service for the department of natural resources and other agencies of state, county, or local government.~~ The director shall encourage the making of agreements with departments and agencies of the state or its political subdivisions to provide products or services under an inmate work program to the departments and agencies. The director may implement an inmate work program for trustworthy inmates of state correctional institutions, under proper supervision, whether at work centers located outside the state correctional institutions or in construction or maintenance work at public or charitable facilities and for other agencies of state, county, or local government. The supervision, security, and transportation of, and allowances paid to inmates used in public service projects shall be provided pursuant to agreements made by the director and the agency of state, local, or county government for which the work is done. Housing and maintenance shall also be provided pursuant to the agreement unless the inmate is housed and maintained in the correctional facility. All such work, including but not limited to that provided in this section, shall have as its primary purpose, ~~and shall provide for, inculcation or the reactivation~~ the development of attitudes, skills, and habit patterns which will be are conducive to inmate rehabilitation. ~~The director may adopt rules allowing inmates participating in an inmate work program to receive educational or vocational training outside the state correctional institutions and away from the work centers or public or charitable facilities used under a program.~~

Sec. 3. Section 246.805, subsection 7, Code 1987, is amended by striking the subsection.

Approved May 5, 1988

CHAPTER 1166

INMATE ALLOWANCE DEDUCTIONS AND DISTRIBUTIONS

H.F. 2262

AN ACT relating to the deduction and disbursement of certain moneys from an allowance paid to an inmate.

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

Section 1. Section 246.702, Code Supplement 1987, is amended to read as follows:

246.702 DEDUCTION TO PAY COURT COSTS, INDUSTRIES PROGRAM COSTS, INCARCERATION COSTS, OR DEPENDENTS – DEPOSITS.

If allowances are paid pursuant to section 246.701, the director may deduct an amount established by the inmate's restitution plan of payment or an amount sufficient to pay all or part of the court costs taxed as a result of the inmate's commitment. The amount deducted shall be forwarded to the clerk of the district court or proper official. The director may deduct and disburse an amount sufficient for industries' programs to qualify under the eligibility requirements established in the Justice Assistance Act of 1984, Pub. L. No. 98-473, including an amount to pay all or part of the cost of the inmate's incarceration. The director may pay all or any part of remaining allowances paid pursuant to section 246.701 directly to a dependent of the inmate, or may deposit the allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

Sec. 2. Section 912.3, Code 1987, is amended by adding the following new subsection 6 and by renumbering the subsequent subsection:

NEW SUBSECTION. 6. Receive moneys collected pursuant to section 246.702 for the purpose of compliance with Pub. L. 98-743.*

Approved May 5, 1988

CHAPTER 1167

JUVENILE DETENTION AND PROSECUTION

H.F. 2278

AN ACT relating to the issuance of citations to juveniles, the detention of juveniles and restrictions on the detention of juveniles in adult facilities, and providing penalties.

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

Section 1. Section 232.8, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The juvenile court has exclusive original jurisdiction in proceedings concerning a child who is alleged to have committed a delinquent act unless otherwise provided by law, and has exclusive original jurisdiction in proceedings concerning an adult who is alleged to have committed a delinquent act prior to having become an adult, provided that the taking of that person into custody for the alleged act or the filing of a delinquency petition alleging the commission of the act occurs within the time periods and under the conditions specified in chapter 802.

The juvenile court has jurisdiction over such an adult for one year beyond the last date upon which jurisdiction over the adult attaches under this subsection and who has been transferred to the jurisdiction of the juvenile court pursuant to an order under section 803.5.

Violations by a child of provisions of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, and 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 the child regularly abuses alcohol and may be in need of treatment. The court shall notify the parents or legal guardians of a child who appears before it for a violation of section 123.47. A child convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph shall be sentenced pursuant to section 805.8, where applicable, and pursuant to section 903.1, subsection 3, for all other violations.

*98-473 probably intended

Sec. 2. Section 232.22, subsection 2, paragraph c, Code Supplement 1987, is amended to read as follows:

c. A room in a facility intended or used for the detention of adults if there is probable cause to believe that the child has committed a delinquent act which if committed by an adult would be a felony, or aggravated misdemeanor under section 708.2 or 709.11, a serious or aggravated misdemeanor under section 321J.2, or a violation of section 123.46, and if all of the following apply:

(1) The child is at least ~~sixteen~~ fourteen years of age.

(2) The child has shown by the child's conduct, habits, or condition that the child constitutes an immediate and serious danger to another or to the property of another, and a facility or place enumerated in paragraph "a" or "b" is unavailable, or the court determines that the child's conduct or condition endangers the safety of others in the facility.

(3) The facility has an adequate staff to supervise and monitor the child's activities at all times.

(4) The child is confined in a room entirely separated from detained adults, is confined in a manner which prohibits communication with detained adults, and is permitted to use common areas of the facility only when no contact with detained adults is possible.

However, if the child is to be detained for a violation of section 123.46 or section 321J.2, placement in a facility pursuant to this paragraph shall be made only after an attempt has been made to notify the parents or legal guardians of the child and request that the parents or legal guardians take custody of the child. If the parents or legal guardians cannot be contacted, or refuse to take custody of the child, an attempt shall be made to place the child in another facility, including but not limited to a local hospital or shelter care facility. Also, a child detained for a violation of section 123.46 or section 321J.2 pursuant to this paragraph shall only be detained in a facility with adequate staff to provide continuous visual supervision of the child.

Sec. 3. Section 232.22, subsection 4, Code Supplement 1987, is amended to read as follows:

4. A child shall not be detained in a facility under subsection 2, paragraph "c" for a period of time in excess of six hours without the oral or written order of a judge or a magistrate authorizing the detention. A judge or magistrate may authorize detention in a facility under subsection 2, paragraph "c" for a period of time in excess of six hours but less than twenty-four hours, excluding weekends and legal holidays, but only if all of the following occur or exist:

a. The facility serves a geographic area outside a standard metropolitan statistical area as determined by the United States census bureau.

b. The court determines that an acceptable alternative placement does not exist pursuant to criteria developed by the department of human services.

c. The facility has been certified by the department of corrections as being capable of sight and sound separation pursuant to this section and 356.3.

d. The child is awaiting an initial hearing before the court pursuant to section 232.44.

The restrictions contained in this subsection relating to the detention of a child in a facility under subsection 2, paragraph "c" do not apply if the court has waived its jurisdiction over the child for the alleged commission of a felony offense pursuant to section 232.45.

Sec. 4. Section 803.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The jurisdiction of the criminal court includes the prosecution of any individual arrested who is eighteen years of age or older and who is charged with committing a criminal offense. If the individual is alleged to have committed the offense prior to having reached the age of eighteen, that individual or the county attorney may petition the criminal court to transfer the matter to juvenile court, pursuant to section 803.5.

Sec. 5. NEW SECTION. 803.5 TRANSFER OF JURISDICTION.

1. An adult who is alleged to have committed a criminal offense prior to having reached the age of eighteen may be transferred to juvenile court for adjudication and disposition as a juvenile, provided that the taking of that person into custody for the alleged act or the filing of a complaint, information, or indictment alleging the act, occurs within the time periods and under the conditions specified in chapter 802 and further provided that the juvenile court has not already waived its jurisdiction over the person and the alleged offense.

2. The defendant or the county attorney may file a motion for the transfer any time within ten days of the initial appearance.

3. The court shall hold a transfer hearing on all such motions. A notice of the time and place of the transfer hearing shall be given to all parties to the hearing.

4. Prior to the transfer hearing, the juvenile probation officer, or other person or agency designated by the court, shall conduct an investigation for the purpose of collecting information relevant to the court's decision to waive its jurisdiction over the defendant for the alleged commission of the public offense and shall submit a report concerning the investigation to the court. The report shall include any recommendations made concerning transfer. Prior to the hearing the court shall provide the defendant's counsel and the county attorney with access to the report and to all written material to be considered by the court.

5. After the hearing, the court may transfer jurisdiction to the juvenile court if the court determines that there is probable cause to believe that the adult committed an offense while still a juvenile, and waiver to the criminal court would be inappropriate under the criteria set forth in section 232.45, subsection 6, paragraph "c", and section 232.45, subsection 7, if the adult were still a child.

6. If after the hearing the court transfers jurisdiction over the adult to the juvenile court for the alleged commission of the public offense to the juvenile court, the court shall forward the transfer order together with all papers, documents, and a transcript of all testimony filed or admitted into evidence in connection with the case to the clerk of the juvenile court in the same manner as provided in section 232.8, subsection 2.

Sec. 6. Section 805.1, subsection 8, Code Supplement 1987, is amended by striking the subsection.

Sec. 7. NEW SECTION. 805.16 CITATIONS TO PERSONS UNDER EIGHTEEN YEARS OF AGE.

1. Except as provided in subsection 2 of this section, a peace officer shall issue a police citation or uniform citation and complaint, in lieu of making a warrantless arrest, to a person under eighteen years of age accused of committing a simple misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, section 123.47, or a local ordinance not subject to the jurisdiction of the juvenile court, and shall not detain or confine the person in a facility regulated under chapter 356 or 356A.

2. A person under the age of eighteen who refuses to sign the citation without qualification, who persists in engaging in the conduct for which the citation was issued, who refuses to provide proper identification or to identify the person's self, or who constitutes an immediate threat to the person's own safety or the safety of the public may be arrested in the manner provided in subsection 3. In addition, or alternatively, the peace officer may require that person to surrender the person's motor vehicle operator's license until the time of the person's initial court appearance. The peace officer shall immediately send the person's operator's license along with a copy of the unsigned citation indicating the juvenile's refusal to sign to the clerk of the district court for the district in which the peace officer issued the citation.

3. A person arrested pursuant to subsection 2 shall only be arrested for the limited purpose of holding the person in nonsecure custody in an area not intended for secure detention while

awaiting transfer to an appropriate juvenile facility or to court, for booking, for implied consent testing, for contacting and release to the person's parents, or for other administrative purposes.

For purposes of this subsection, "nonsecure custody" means custody in an unlocked multipurpose area, such as a lobby, office, or interrogation room which is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area, the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held, and the use of the area is limited to providing nonsecure custody only long enough for the purposes stated in the preceding paragraph and not for a period of time in excess of six hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

4. This section does not prohibit the execution of an arrest warrant by a peace officer.

Sec. 8. Section 903.1, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

When If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence, within the following limits:

Sec. 9. Section 903.1, subsection 3, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A person under eighteen years of age convicted of a simple misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, section 123.47, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

Approved May 5, 1988

CHAPTER 1168

CRIMINAL SENTENCING OPTIONS

H.F. 2412

AN ACT relating to judicial sentencing options.

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

Section 1. Section 321J.4, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 7. On a conviction for or as a condition of a deferred judgment for a violation of section 321J.2, the court may order the defendant to install ignition interlock devices of a type approved by the commissioner of public safety on all motor vehicles owned or operated by the defendant which, without tampering or the intervention of another person, would prevent the defendant from operating the motor vehicle with an alcohol concentration greater than a level set by rule of the commissioner of public safety. The commissioner of public safety shall adopt rules to approve certain ignition interlock devices and the means of installation of the devices, and shall establish the level of alcohol concentration beyond which

an ignition interlock device will not allow operation of the motor vehicle in which it is installed. The order shall remain in effect for a period of time as determined by the court which shall not exceed the maximum term of imprisonment which the court could have imposed according to the nature of the violation. While the order is in effect, the defendant shall not operate a motor vehicle which does not have an approved ignition interlock device installed. If the defendant's motor vehicle license or nonresident operating privilege has been revoked, the department shall not issue a temporary permit or a motor vehicle license to the person without certification that approved ignition interlock devices have been installed in all motor vehicles owned or operated by the defendant while the order is in effect. A defendant who fails within a reasonable time to comply with an order to install an approved ignition interlock device may be declared in contempt of court and punished accordingly. A person who tampers with or circumvents an ignition interlock device installed under a court order while an order is in effect commits a serious misdemeanor.

NEW SUBSECTION. 8. A person whose motor vehicle license has been revoked under this chapter and who is not eligible for a temporary restricted license under this chapter may petition the court for an order to the department to require the department to issue a temporary restricted license to the person. The court shall determine if the temporary restricted license is necessary for the person to maintain the person's present employment. If the court determines that the temporary restricted license is necessary for the person to maintain the person's present employment, the court shall order the department to issue to the person a temporary restricted license conditioned upon the person's certification to the court of the installation of approved ignition interlock devices in all motor vehicles that it is necessary for the person to operate to maintain the person's present employment. If the person operates a motor vehicle which does not have an approved ignition interlock device or if the person tampers with or circumvents an ignition interlock device, in addition to other penalties provided, the person's temporary restricted license shall be revoked.

Sec. 2. Section 907.1, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

907.1 DEFINITIONS.

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

1. "Deferred judgment" means a sentencing option whereby both the adjudication of guilt and the imposition of a sentence are deferred by the court. The court retains the power to pronounce judgment and impose sentence subject to the defendant's compliance with conditions set by the court as a requirement of the deferred judgment.

2. "Deferred sentence" means a sentencing option whereby the court enters an adjudication of guilt but does not impose a sentence. The court retains the power to sentence the defendant to any sentence it originally could have imposed subject to the defendant's compliance with conditions set by the court as a requirement of the deferred sentence.

3. "Suspended sentence" means a sentencing option whereby the court pronounces judgment and imposes a sentence and then suspends execution of the sentence subject to the defendant's compliance with conditions set by the court as a requirement of the suspended sentence. Revocation of the suspended sentence results in the execution of sentence already pronounced.

4. "Probation" means the procedure under which a defendant, against whom a judgment of conviction of a public offense has been or may be entered, is released by the court subject to supervision by a resident of this state or by the judicial district department of correctional services.

Sec. 3. Section 907.3, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

With the consent of the defendant, the court may defer judgment and place the defendant on probation upon such conditions as it may require, ~~or defer sentence and assign the defendant to the judicial district department of correctional services.~~ Upon a showing that ~~such person~~ the defendant is not co-operating with the program of probation or is not responding to it, the court may ~~withdraw the person defendant from the program,~~ pronounce judgment, and impose any sentence authorized by law. Before taking such action, the court shall give the ~~person~~ defendant an opportunity to be heard on any matter relevant to the proposed action. Upon fulfillment of the conditions of probation, the defendant shall be discharged without entry of judgment. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 4. Section 907.3, Code 1987, is amended by adding the following new subsection after subsection 1 and renumbering the subsequent subsection:

NEW SUBSECTION. 2. At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 5. Section 907.4, Code 1987, is amended to read as follows:

907.4 DEFERRED JUDGMENT DOCKET.

Any ~~A~~ deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court to the ~~supreme~~ state court administrator who shall maintain a permanent record of the ~~deferment~~ deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the ~~deferment~~ deferred judgment. Before granting ~~deferment~~ deferred judgment in any case, the court shall request of the ~~supreme~~ state court administrator a search of the deferred judgment docket and shall consider any prior record of a ~~deferment of~~ deferred judgment against the defendant. The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 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 a justice, judge, magistrate, or county attorney.

Sec. 6. Section 907.9, Code 1987, is amended to read as follows:

907.9 DISCHARGE FROM PROBATION.

At any time that the court determines that the purposes of probation have been fulfilled, the court may order the discharge of any ~~a~~ person from probation. At the expiration of the period of probation, in cases where the court fixes the term of probation, the court shall order the discharge of ~~such~~ the person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to ~~such~~ that person. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the ~~supreme~~ state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

Sec. 7. Section 907.13, subsection 2, Code 1987, is amended to read as follows:

2. The defendant's plan of community service, the comments of the defendant's probation officer, and the comments of the representative of the judicial district department of correctional services responsible for the unpaid community service program, shall be submitted

promptly to the court. The court shall promptly enter an order approving the plan or modifying it. Compliance with the plan of community service as approved or modified by the court shall be a condition of the defendant's probation. The court thereafter may modify the plan at any time upon the defendant's request, upon the request of the judicial district department of correctional services, or upon the court's own motion. As an option for modification of a plan, the court may allow a defendant to complete some part or all of the defendant's community service obligation through the donation of property to a charitable organization other than a governmental subdivision. A donation of property to a charitable organization offered in satisfaction of some part or all of a community service obligation under this subsection is not a deductible contribution for the purposes of federal or state income taxes.

Approved May 5, 1988

CHAPTER 1169
GROUNDWATER QUALITY
S.F. 2250

AN ACT relating to environmental protection by exempting certain persons from pesticide application certification requirements, by correcting the reference to the membership of the advisory committee for the center for health effects of environmental contamination; by establishing requirements regarding sanitary disposal project inspections, the disposal of solid waste, and the solid waste tonnage fee; by making corrections relating to the collection and allocation of moneys within the solid waste account and the agriculture management account; by correcting a reference to the duties of the department of natural resources regarding household hazardous materials; and by specifying the content and liability for the content of statements submitted with a declaration of value regarding the existence and location of wells, disposal sites, underground storage tanks, and hazardous waste.

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

Section 1. Section 200.8, subsection 1, unnumbered paragraph 3, Code Supplement 1987, is amended to read as follows:

Any person other than a manufacturer who annually offers for sale, sells, or distributes specialty fertilizer in the amount of four thousand pounds or more in packages of twenty-five pounds or less or applies specialty fertilizer for compensation ~~shall be required to~~ pay an annual inspection fee of fifty thirty dollars in lieu of the semiannual inspection fee as set forth in this chapter.

Sec. 2. Section 206.5, Code Supplement 1987, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 3:

NEW UNNUMBERED PARAGRAPH. An employee of a food processing and distribution establishment is exempt from the certification requirements of this section provided that at least one person holding a supervisory position is certified and provided that the employer provides a program, approved by the department, for training, testing, and certification of personnel who apply, as an incidental part of their duties, any pesticide on property owned or rented by the employer. The secretary shall adopt rules to administer the provisions of this paragraph.

Sec. 3. Section 263.17, subsection 4, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

An advisory committee consisting of one representative of each of the organizations enumerated in subsection 2, paragraph "a", a representative of the Iowa department of public health, and a representative of the department of natural resources is established. The advisory committee shall:

Sec. 4. Section 455B.302, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Cities and counties may execute with public and private agencies contracts, leases, or other necessary instruments, purchase land and do all things necessary not prohibited by law for the collection of solid waste, establishment and operation of sanitary disposal projects, and general administration of the same. Any agreement executed with a private agency for the operation of a sanitary disposal project shall provide for the posting of a sufficient surety bond by the private agency conditioned upon the faithful performance of the agreement. A city or county may at any time during regular working hours enter upon the premises of a sanitary disposal project, including the premises of a sanitary landfill, in order to inspect the premises and monitor the operations and general administration of the project to ensure compliance with the agreement and with state and federal laws. This includes the right of the city or county to enter upon the premises of a former sanitary disposal project which has been closed, including the premises of a former sanitary landfill, owned by a private agency, for the purpose of providing required postclosure care.

Sec. 5. Section 455B.307, subsection 1, Code Supplement 1987, is amended to read as follows:

1. A private agency or public agency shall not dump or deposit or permit the dumping or depositing of any solid waste ~~resulting from its own residential, farming, manufacturing, mining, or commercial activities~~ at any place other than a sanitary disposal project approved by the director unless the agency has been granted a permit by the department which allows the dumping or depositing of solid waste on land owned or leased by the agency. The department shall adopt rules regarding the permitting of this activity which shall provide that the public interest is best served, but which may be based upon criteria less stringent than those regulating a public sanitary disposal project provided that the rules adopted meet the groundwater ~~non-degradation~~ protection goal specified in section 455E.4. The comprehensive plans for these facilities may be varied in consideration of the types of sanitary disposal practices, hydrologic and geologic conditions, construction and operations characteristics, and volumes and types of waste handled at the disposal site. The director may issue temporary permits for dumping or disposal of solid waste at disposal sites for which an application for a permit to operate a sanitary disposal project has been made and which have not met all of the requirements of part 1 of this division and the rules adopted by the commission if a compliance schedule has been submitted by the applicant specifying how and when the applicant will meet the requirements for an operational sanitary disposal project and the director determines the public interest will be best served by granting such temporary permit.

Sec. 6. Section 455B.310, subsection 2, Code Supplement 1987, is amended to read as follows:

2. The tonnage fee is twenty-five cents per ton of solid waste. However, for the year beginning July 1, 1988, the tonnage fee is one dollar and fifty cents per ton of solid waste for the year beginning July 1, 1988 and shall increase annually in the amount of fifty cents per ton through July 1, 1992. The city or county providing for the establishment and operation of the sanitary landfill may charge an additional tonnage fee for the disposal of solid waste at the sanitary landfill, to be used exclusively for the development and implementation of alternatives to sanitary landfills. A county in which a privately operated landfill accepts solid waste from outside of the county may charge an additional tonnage fee for the disposal of solid waste at the sanitary landfill which is not more than one hundred percent of the fee otherwise established in this section. The additional fee charged and the moneys collected shall be used exclusively for the development and implementation of alternatives to sanitary landfills or for the

costs incurred by the county to abate problems associated with the operation of the sanitary landfill.

Sec. 7. Section 455B.310, subsection 3, Code Supplement 1987, is amended to read as follows:

3. Solid waste disposal facilities with special provisions which limit the site to the disposal of construction and demolition waste and, landscape waste, and coal combustion waste, or foundry sand, or solid waste materials approved by the department for lining or capping or for construction berms, dikes or roads in a sanitary disposal project or sanitary landfill ~~or which limit the site to the disposal of excess fly ash used in the reclamation of strip mined land~~ are exempt from the tonnage fees imposed under this section. However, solid waste disposal facilities under this subsection are subject to the fees imposed pursuant to section 455B.105, subsection 12, paragraph "a". Notwithstanding the provisions of section 455B.105, subsection 12, paragraph "b", the fees collected pursuant to this subsection shall be used by the department for the regulation of these solid waste disposal facilities.

Sec. 8. Section 455B.310, subsection 5, Code Supplement 1987, is amended to read as follows:

5. Fees imposed by this section prior to July 1, 1988, are due on April 15, 1988, for the previous calendar year and are due on July 30, 1988, for the period January 1, 1988, through June 30, 1988. The fees shall be paid to the department and shall be accompanied by a return in the form prescribed by the department. Fees imposed by this section beginning July 1, 1988 shall be paid to the department on a quarterly basis. The initial payment of fees collected beginning July 1, 1988 shall be paid to the department ~~on~~ by January 1, 1989 and on a quarterly basis thereafter. The payment shall be accompanied by a return in the form prescribed by the department.

Sec. 9. Section 455E.11, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A groundwater protection fund is created in the state treasury. Moneys received from sources designated for purposes related to groundwater monitoring and groundwater quality standards shall be deposited in the fund. Notwithstanding section 8.33, any unexpended balances in the groundwater protection fund and in any of the accounts within the groundwater protection fund at the end of each fiscal year shall be retained in the fund and the respective accounts within the fund. Notwithstanding section 453.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the groundwater protection fund or in any of the accounts within the groundwater protection fund shall be credited to the groundwater protection fund or the respective accounts within the groundwater protection fund. The fund may be used for the purposes established for each account within the fund.

Sec. 10. Section 455E.11, subsection 2, paragraph a, Code Supplement 1987, is amended by adding the following new subparagraph (1) and by renumbering the subsequent subparagraphs:

NEW SUBPARAGRAPH. (1) The moneys received from the tonnage fee imposed under section 455B.310 for the fiscal year beginning July 1, 1987, and ending June 30, 1988, shall be used for the following purposes:

(a) An amount equal to fifty percent of the moneys received from the tonnage fee imposed pursuant to section 455B.310 shall be reserved for the purpose of providing grants to cities and counties required to provide for sanitary disposal projects under section 455B.302 for the purpose of developing or updating plans required to be filed under section 455B.306. Grants shall be governed by section 455B.311.

(b) An amount equal to twenty-five percent of the moneys received from the tonnage fee imposed under section 455B.310 shall be reserved for the purpose of providing grants to public water supply systems to abate or eliminate threats to public health and safety resulting from contamination of the water supply source. However, a public water supply shall not receive

a grant for more than ten percent of the moneys available for those purposes.

(c) An amount equal to twenty-five percent of the moneys received from the tonnage fee imposed under section 455B.310 shall be appropriated to the waste management authority.

Sec. 11. Section 455E.11, subsection 2, paragraph a, Code Supplement 1987, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8A) Fifty cents per ton per year of funds received from the tonnage fee imposed under section 455B.310 for the fiscal year beginning July 1, 1990, and thereafter may be retained by the agency making the payments to the state provided that a separate account is established for these funds and that they are used in accordance with the requirements of section 455B.306.

Sec. 12. Section 455E.11, subsection 2, paragraph b, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

b. An agriculture management account. Moneys collected from the groundwater protection fee levied pursuant to section 200.8, subsection 4, the portion of the fees collected pursuant to sections 206.8, subsection 2, and 206.12, subsection 3, and other moneys designated for the purpose of agriculture management shall be deposited in the agriculture management account. The agriculture management account shall be used for the following purposes:

Sec. 13. Section 455E.11, subsection 2, paragraph b, subparagraph (2), subparagraph subdivision (c), Code Supplement 1987, is amended to read as follows:

(c) The department shall allocate a sum not to exceed seventy-nine thousand dollars of the moneys appropriated for the fiscal year beginning July 1, 1987, and ending June 30, 1988 for the preparation of a detailed report and plan for the establishment on July 1, 1988 of the center for health effects of environmental contamination. The plan for establishing the center shall be presented to the general assembly on or before January 15, 1988. The report shall include the assemblage of all existing data relating to Iowa drinking water supplies, including characteristics of source, treatment, presence of contaminants, precise location, and usage patterns to facilitate data retrieval and use in research; and detailed organizational plans, research objectives, and budget projections for the anticipated functions of the center in subsequent years. The department may allocate annually a sum not to exceed nine percent of the moneys appropriated of the account to the center, beginning July 1, 1988.

Sec. 14. Section 455F.6, subsection 4, Code Supplement 1987, is amended by striking the subsection.

Sec. 15. Section 455F.7, Code Supplement 1987, is amended to read as follows:
455F.7 HOUSEHOLD HAZARDOUS MATERIALS PERMIT.

1. A retailer offering for sale or selling a household hazardous material shall have a valid permit for each place of business owned or operated by the retailer for this activity. All permits provided for in this division shall expire on June 30 of each year. Every retailer shall submit an annual application by July 1 of each year and a fee of ~~ten dollars based upon gross retail sales of up to fifty thousand dollars, twenty-five dollars based upon gross retail sales of fifty thousand dollars to three million dollars, and one hundred dollars based upon gross retail sales of three million dollars or more~~ to the department of revenue and finance for a permit upon a form prescribed by the director of revenue and finance. Permits are nonrefundable, are based upon an annual operating period, and are not prorated. A person in violation of this section shall be subject to permit revocation upon notice and hearing. The department shall remit the fees collected to the household hazardous waste account of the groundwater protection fund. A person distributing general use pesticides labeled for agricultural or lawn and garden use with gross annual pesticide sales of less than ten thousand dollars is subject to the requirements and fee payment prescribed by this section.

2. A manufacturer or distributor of household hazardous materials, which authorizes retailers as independent contractors to sell the products of the manufacturer or distributor on a person-to-person basis primarily in the customer's home, may obtain a single household hazardous materials permit on behalf of its authorized retailers in the state, in lieu of individual permits for each retailer, and pay a fee based upon the manufacturer's or distributor's gross retail sales in the state according to the fee schedule and requirements of subsection 1 of twenty-five dollars. However, a manufacturer or distributor which has gross retail sales of three million dollars or more in the state shall pay an additional permit fee of one hundred dollars for each subsequent increment of three million dollars of gross retail sales in the state, up to a maximum permit fee of three thousand dollars.

Sec. 16. Section 558.69, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

With each declaration of value submitted to the county recorder under chapter 428A, there shall also be submitted a statement that no known wells are situated on the property, or if known wells are situated on the property, the statement must state the approximate location of each known well and its status with respect to section 159.29 or 455B.190. The statement shall also state that no known disposal site for solid waste, as defined in section 455B.301, which has been deemed to be potentially hazardous by the department of natural resources, exists on the property, or if such a known disposal site does exist, the location of the site on the property. The statement shall additionally state that no known underground storage tank, as defined in section 455B.471, subsection 6, exists on the property, or if an a known underground storage tank does exist, the type and size of the tank, and the any known substance in the tank. The statement shall also state that no known hazardous waste as defined in section 455B.411, subsection 4, or listed by the department pursuant to section 455B.412, subsection 2, or section 455B.464, exists on the property, or if known hazardous waste does exist, that the waste is being managed in accordance with rules adopted by the department of natural resources. The statement shall be signed by the grantors or the transferors of the property at least one of the sellers or their agents. The county recorder shall refuse to record any deed, instrument, or writing for which a declaration of value is required under chapter 428A unless the statement required by this section has been submitted to the county recorder. A buyer of property shall be provided with a copy of the statement submitted, and, following the fulfillment of this provision, if the statement submitted reveals no well, disposal site, underground storage tank, or hazardous waste on the property, the county recorder may destroy the statement.

Sec. 17. Section 558.69, Code Supplement 1987, is amended by inserting the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The owner of the property is responsible for the accuracy of the information submitted on the form. The owner's agent shall not be liable for the accuracy of information provided by the owner of the property. The provisions of this paragraph do not limit liability which may be imposed under a contract or under any other law.

Sec. 18. **CASH ADVANCE — SMALL BUSINESS ASSISTANCE CENTER.** The department of natural resources shall provide a cash advance with repayment and deposit of the funds in the account of origin of not more than one hundred thousand dollars for the period beginning July 1, 1988, and ending June 30, 1989, to the University of Northern Iowa to develop and maintain the small business assistance center for the safe and economic management of solid waste and hazardous substances established at the University of Northern Iowa.

Approved May 6, 1988

CHAPTER 1170

LEGAL LIABILITIES OF CERTAIN OFFICERS, EMPLOYEES, AND VOLUNTEERS

S.F. 2248

AN ACT relating to indemnification and limitation of liability of directors and officers and to liability of persons who serve rural water districts, volunteer as guardians or conservators, or who provide child foster care.

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

Section 1. NEW SECTION. 217.11 DEPARTMENT TO PROVIDE CERTAIN VOLUNTEER SERVICES — VOLUNTEER LIABILITY.

1. The department of human services shall establish volunteer programs designed to enhance the services provided by the department. Roles for volunteers may include but shall not be limited to parent aides, friendly visitors, commodity distributors, clerical assistants, and medical transporters. Roles for volunteers shall include conservators and guardians. The department shall adopt rules for programs which are established.

2. a. The commissioner shall appoint a coordinator of volunteer services to oversee the provision of services of volunteer conservators and guardians on a volunteer basis to individuals in this state requiring such services. The coordinator, after consulting with personnel assigned to the district of the department, shall recommend to the commissioner how best to serve the needs of individuals in need of the services of a guardian or conservator. Where possible, the coordinator shall recommend that the services be provided on a multicounty basis.

b. The coordinator shall cooperate with the directors of the divisions of the department in providing these services and shall seek out alternative sources for providing the services required under this section.

3. All volunteers registered with the department and in compliance with departmental rules are considered state employees for purposes of chapter 25A. However, this section does not exempt a conservator or guardian from an action brought under section 658.1 or 658.3. This section does not relieve a guardian or conservator from duties under chapter 633.

Sec. 2. NEW SECTION. 357A.22 PERSONAL LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or other personnel of the board are not liable on the district's debts or obligations and a director, officer, employee, or volunteer of the board is not personally liable in that capacity, for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for any of the following:

1. A breach of the duty of loyalty to the district.

2. Acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law.

3. A transaction from which the person derives an improper personal benefit.

Sec. 3. Section 491.5, subsection 8, Code Supplement 1987, is amended to read as follows:

8. A Any provision which eliminates eliminating or limits limiting the personal liability of a director to the corporation or its shareholders or members for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for a any breach of the director's duty of loyalty to the corporation or its shareholders or members, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, or for a any transaction from which the director derives an improper personal benefit. A provision in the articles of incorporation shall not eliminate or limit the liability of a director for ~~a~~ any act or omission occurring prior to the date when the provision becomes effective.

Sec. 4. Section 496A.4A, subsection 7, Code Supplement 1987, is amended to read as follows:

7. Except as limited in subsection 2 with respect to proceedings by or in the right of the corporation, the indemnification and advancement of expenses provided by, or granted pursuant to, the other subsections of this section are not exclusive of any other rights to which those seeking indemnification or advancement of expenses are entitled under a provision in the articles of incorporation or bylaws, agreements, vote of shareholders or disinterested directors, or otherwise, both as to action in a person's official capacity and as to action in another capacity while holding the office. However, the provisions or agreements indemnification shall not provide indemnification be provided to a director for a any breach of the director's duty of loyalty to the corporation or its stockholders shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, or for a any transaction from which the director derives an improper personal benefit, or under section 496A.44.

Sec. 5. Section 496A.49, subsection 13, Code Supplement 1987, is amended to read as follows:

13. A Any provision which eliminates eliminating or limits limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision shall not eliminate or limit the liability of a director for a any breach of the director's duty of loyalty to the corporation or its stockholders shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, for a any transaction from which the director derives an improper personal benefit, or under section 496A.44. A provision shall not eliminate or limit the liability of a director for an any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 6. NEW SECTION. 497.34 INDEMNIFICATION.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in section 496A.4A, provided that where section 496A.4A provides for action by shareholders the section is applicable to action by voting members of the cooperative association, and where section 496A.4A refers to the corporation organized under chapter 496A the section is applicable to the cooperative association organized under this chapter, and where section 496A.4A refers to the director the section is applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

Sec. 7. NEW SECTION. 498.36 INDEMNIFICATION.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in section 496A.4A, provided that where section 496A.4A provides for action by shareholders the section is applicable to action by voting members of the cooperative association, and where section 496A.4A refers to the corporation organized under chapter 496A the section is applicable to the cooperative association organized under this chapter, and where section 496A.4A refers to the director the section is applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

Sec. 8. NEW SECTION. 499.59A INDEMNIFICATION.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in section 496A.4A, provided that where section 496A.4A provides for action by shareholders the section is applicable to action by voting members of the cooperative association, and where section 496A.4A refers to the corporation organized under chapter 496A the section is applicable to the cooperative association organized under this chapter, and where

section 496A.4A refers to the director the section is applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

Sec. 9. Section 508C.16, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The provisions of section 496A.4A shall apply to the association.

Sec. 10. Section 524.302, subsection 10, Code Supplement 1987, is amended to read as follows:

10. A Any provision which eliminates eliminating or limits limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for a any breach of the director's duty of loyalty to the corporation or its stockholders shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, for a any transaction from which the director derives an improper personal benefit, or under subsections 1 and 2 of section 524.605. A provision shall not eliminate or limit the liability of a director for an any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 11. Section 533.1, subsection 8, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The original articles or amended articles may contain a provision which eliminates eliminating or limits limiting the personal liability of a director, officer, or employee of the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, officer, or employee, provided that the provision does not eliminate or limit the liability of a director, officer, or employee for a any breach of the director's, officer's, or employee's duty of loyalty to the corporation or its stockholders shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, or for a any transaction from which the director, officer, or employee derives an improper personal benefit. A provision shall not eliminate or limit the liability of a director, officer, or employee for an any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 12. Section 534.501, subsection 1, paragraph m, Code Supplement 1987, is amended to read as follows:

m. A Any provision which eliminates eliminating or limits limiting the personal liability of a director to the corporation or its shareholders or members, for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for a any breach of the director's duty of loyalty to the association or its stockholders shareholders or members, for an act acts or omission omissions not in good faith or which involves involve intentional misconduct or a knowing violation of the law, or for a any transaction from which the director derives an improper personal benefit. A provision shall not eliminate or limit the liability of a director for an any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 13. The commissioner of human services shall appoint a person in each district to recruit and to assist volunteers to serve as guardians and conservators. The person appointed in each district shall attempt to recruit a sufficient number of qualified volunteers in each county to meet local needs for guardian or conservator services.

Sec. 14. INTERIM STUDY OF ISSUES RELATING TO GUARDIANSHIP AND CONSERVATORSHIP. The legislative council shall create an interim study committee during the 1988 interim to study issues relating to guardianship and conservatorship including, but not

limited to, the need for reasons for a shortage of, and means to provide for, surrogate decision makers and case management services for clients, patients, or residents of health care facilities, and residents within communities, who are either temporarily or permanently incapacitated in their decision-making ability regarding health care, money management, or independent living, and who have no family, legally appointed decision maker, or other person willing or able to take responsibility for them. The study committee shall submit a report of its findings and recommendations to the legislative council and the Seventy-third General Assembly, 1989 Session.

Sec. 15. The department shall report to the general assembly by January 15, 1989, on the level of demand for guardianship and conservatorship services, whether the resources are available to meet the demand, and resources that are needed to handle unmet demand in the areas of recruitment, training, and monitoring of guardians and conservators.

Approved May 6, 1988

CHAPTER 1171

REGISTRATION OF VOTERS IN STATE OFFICES

S.F. 2233

AN ACT relating to the registration of voters in state offices.

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

Section 1. Section 48.20, Code Supplement 1987, is amended to read as follows:

48.20 REGISTRATION IN STATE OFFICES.

The registration forms provided in section 48.3 shall be available in the all offices maintained by the state agencies listed in this section. The officers and employees of those agencies shall offer to each person doing business in that office the opportunity to register, unless the officer or employee is reasonably certain that a person doing business in the office has already been offered a registration form within the previous twelve-month period. If the person does execute the form, the form shall be sent to the appropriate commissioner of registration. This section applies to the Iowa civil rights commission and the state departments of human services, human rights, cultural affairs, employment services, revenue and finance, personnel, agriculture and land stewardship, and transportation, and the offices of the clerks of court of the district courts. This section does not prevent the officers or employees of any other state agency from offering voter registration forms to persons in those offices.

The state commissioner of elections is responsible for coordinating and encouraging voter registration activities required by this section. Each department where voter registration is conducted under this section shall report quarterly to the state commissioner the number of registrations completed by the office. The state commissioner shall adopt rules and forms necessary to carry out this section.

Approved May 6, 1988

CHAPTER 1172**WATER DISTRICTS, UTILITIES, AND ASSOCIATIONS***H.F. 2395*

AN ACT permitting certain water utilities to become cooperatives, restricting the exemption from the application of the provisions of chapter 476 for persons furnishing electricity to five or fewer customers to those such persons who are furnishing the electricity by secondary line, from an alternate energy production facility, or small hydro facility, and expanding allowable purposes under chapter 499.

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

Section 1. Section 357A.21, Code Supplement 1987, is amended to read as follows:
357A.21 ANNEXATION OF LAND BY A CITY — ARBITRATION.

A water district organized under chapter 357, 357A, 499, or 504A shall be fairly compensated for losses resulting from annexation. The governing body of a city or water utility and the board of directors or trustees of the water district may agree to terms which provide that the facilities owned by the water district and located within the city shall be retained by the water district for the purpose of transporting water to customers outside the city. If an agreement is not reached within ninety days, the issues shall be submitted to arbitration. An arbitrator shall be selected by a committee which includes one member of the governing body of the city or its designee, one member of the water district's board of directors or trustees or its designee, and a disinterested party selected by the other two members of the committee. A list of qualified arbitrators may be obtained from the American arbitration association or other recognized arbitration organization or association.

Sec. 2. Section 476.1, subsection 3, unnumbered paragraph 3, Code 1987, is amended to read as follows:

This chapter does not apply to water works having less than two thousand customers, municipally owned water works, or rural water districts incorporated and organized pursuant to chapters 357A and 504A, cooperative water associations incorporated and organized pursuant to chapter 499, or to a person furnishing electricity to five or fewer customers either by secondary line or from an alternate energy production facility or small hydro facility, from electricity that is produced primarily for the person's own use.

Sec. 3. Section 499.5, Code 1987, is amended to read as follows:
499.5 PERMISSIBLE ORGANIZERS.

1. Five or more individuals, or two or more associations, may organize an association.

2. All individual incorporators of agricultural associations must be engaged in producing agricultural products, which term shall include phrase includes landlords and tenants as specified in section 499.13.

3. A nonprofit water utility organized under chapter 357A or 504A may elect to become an association under this chapter upon majority vote of its members by filing with the secretary of state a verified statement confirming the election and appropriate articles of incorporation. However, the association is subject to the service limitation provisions contained in sections 357.1 and 357A.2.

Sec. 4. **NEW SECTION.** 499.5A WATER UTILITIES — MEMBERS OF FEDERATED ASSOCIATIONS.

Notwithstanding section 499.13, a water utility organized under this chapter and a municipal water utility may be a member of a federated association.

Sec. 5. Section 499.6, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

499.6 OBJECTS.

A cooperative association may be organized under this chapter for any lawful purpose or purposes.

Approved May 6, 1988

CHAPTER 1173**CABLE SYSTEM, TELEGRAPH, AND TELEPHONE LINE CONSTRUCTION***H.F. 2387*

AN ACT relating to the construction of cable systems and telegraph and telephone lines in the state.

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

Section 1. Section 477.1, Code 1987, is amended to read as follows:

477.1 RIGHT OF WAY.

Any person, ~~or~~ firm, and ~~any~~ corporation ~~organized for such purpose~~, within or without the state, may construct a telegraph or telephone line or cable system along the public roads of the state, or across or under the rivers or over, under, or through any lands belonging to the state or any private individual, and may erect ~~the~~ or install necessary fixtures ~~therefor~~. However, construction of a telegraph or telephone line or cable system along a primary road is subject to rules adopted by the state department of transportation.

Sec. 2. Section 477.2, Code 1987, is amended to read as follows:

477.2 REMOVAL OF LINES AND CABLE SYSTEMS.

When any road along which ~~said~~ the telegraph or telephone line or cable system has been constructed ~~shall be~~ or installed is changed, the person, firm or corporation shall, upon ninety days' notice in writing, remove said the telegraph or telephone lines or cable system to said the road as established. The notice may be served upon any agent or operator in the employ of ~~such~~ the person, firm or corporation.

Sec. 3. Section 477.3, Code 1987, is amended to read as follows:

477.3 CONSTRUCTION — INSTALLATION — DAMAGES.

~~Such~~ The fixtures shall not be ~~so~~ constructed as to or installed in a manner which causes inconvenience to the public in the use of any road or in the navigation of any stream; nor shall they be set up erected or installed on the private grounds of any individual without paying the individual a just equivalent for the damage the individual thereby sustains by the construction or installation.

Sec. 4. Section 477.4, Code 1987, is amended to read as follows:

477.4 CONDEMNATION.

If the person over or through whose lands ~~such~~ this telegraph or telephone line or cable system passes claims more damages therefor than the proprietor of such the line or cable system is willing to pay, the amount thereof of damages sustained may be determined in the same manner as provided for taking private property for works of internal improvement.

Approved May 6, 1988

CHAPTER 1174**GAS AND ELECTRIC UTILITY COST INFORMATION***H.F. 2316*

AN ACT requiring gas and electric public utilities to provide annual gas or electric energy costs for certain properties to certain persons when requested in writing and making civil penalties applicable.

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

Section 1. Section 476.1A, unnumbered paragraph 2, Code 1987, is amended to read as follows:

However, sections 476.20, 476.21, 476.41 through 476.44, 476.51, and 476.56, and 476.61 and chapters 476A and 478, to the extent applicable, apply to such electric utilities.

Sec. 2. Section 476.1B, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. h. Enforcement of section 476.56.

Sec. 3. NEW SECTION. 476.56 ENERGY COSTS PROVIDED.

A gas or electric public utility shall provide, upon the request of a person who states in writing that the person is an owner of real property, or an interested prospective purchaser or renter of the property, which is or has been receiving gas or electric service from the public utility, the annual gas or electric energy costs for the property.

Approved May 6, 1988

CHAPTER 1175**ENERGY ASSISTANCE PROGRAMS FOR LOW-INCOME PERSONS***H.F. 683*

AN ACT relating to energy assistance to low income households by establishing a customer contribution fund, an emergency weatherization fund, an energy crisis fund and an affordable heating payment program pilot project, making civil penalties applicable, and providing an appropriation.

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

Section 1. Section 476.1A, unnumbered paragraph 2, Code 1987, is amended to read as follows:

However, sections 476.20, 476.21, 476.41 through 476.44, 476.51, and 476.61, and 476.66 and chapters 476A and 478, to the extent applicable, apply to such electric utilities.

Sec. 2. Section 476.1B, subsection 1, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Enforcement of section 476.66.

Sec. 3. NEW SECTION. 476.66 CUSTOMER CONTRIBUTION FUND.

1. The utilities board shall adopt rules which shall require each electric and gas public utility to establish a fund whose purposes shall include the receiving of contributions to assist

the utility's low-income customers with weatherization and to supplement the energy assistance received under the federal low-income heating energy assistance program for the payment of winter heating bills.

2. The rules shall require each utility to periodically notify its customers of the availability and purpose of the fund and to provide them with forms on which they can authorize the utility to bill their contribution to the fund on a monthly basis.

3. The rules shall permit the fund to accept matching funds from persons or organizations who wish to provide assistance for customers of the utility.

4. The utility may be reimbursed by the fund for the administrative costs of the billings, disbursements, notices to customers, and financial recordkeeping. However, such reimbursement shall not exceed five percent of the total revenues collected.

5. The utility shall establish a board or committee to determine the appropriate distribution of the funds. The board or committee shall include representatives from community or regional organizations which are active in assisting citizens with payment of their winter heating bills.

6. The rules established by the utilities board shall require an annual report to be filed for each fund. The utilities board shall compile an annual statewide report of the fund results. The division of community action agencies of the department of human rights shall prepare an annual report of the unmet need for energy assistance and weatherization. Both reports shall be submitted to the appropriations committees of the general assembly on the first day of the following session.

7. Existing programs to receive customer contributions established by public utilities shall be construed to meet the requirements of this section. Such plans shall be subject to review by the utilities board. If determined not to be in compliance with the provisions of this section, they shall be given until July 1989 to modify their operation so as to be in compliance.

Sec. 4. Section 556.18, subsection 3, Code 1987, is amended to read as follows:

3. After July 1, ~~1983~~ 1988, the treasurer of state shall annually credit the first one hundred fifty thousand dollars of all funds moneys received under section 556.4, after a proportional amount has been deducted for the trust fund under subsection 1 and any costs have been deducted under subsection 2, to the energy research and development fund created under section 93.14, and shall credit all additional moneys received under section 556.4 to the energy crisis fund created under section 601K.102.

Sec. 5. NEW SECTION. 601K.101 EMERGENCY WEATHERIZATION FUND.

1. The division of community action agencies of the department of human rights shall identify all participants in the low-income home energy assistance program for the 1987-1988 winter heating season whose household income was less than seventy-five percent of the poverty level.

2. The division shall conduct within each community action agency an inventory of the residences of these individuals to determine the number of residences eligible for weatherization under the two programs currently administered by the division but which will not be weatherized in the next twelve months due to the current priorities imposed by the federal programs.

3. One and one-half percent of the total amount of funds appropriated by 1988 Iowa Acts, Senate File 2323, to the division of community action agencies for the fiscal year beginning October 1, 1988, for the low-income home energy assistance block grants, shall be expended by the division for the operation of the program under this section. The one and one-half percent shall be taken from those funds to be used for low-income residential weatherization or other related home repairs for low-income households; however, no less than ten percent of the total amount of funds appropriated for the low-income home energy assistance block grants shall be expended by the division for other low-income residential weatherization or related home repairs for low-income households.

4. The division shall allocate the available funds among the nineteen community action agencies and shall establish weatherization goals for each agency based upon the inventory in subsection 2 of this section. The division shall give priority to weatherizing these residences.

5. The division shall submit a report to the general assembly on February 1, 1989. The report shall include the number of residences identified as eligible for weatherization in this project, the number of residences weatherized from July 1, 1988, to December 31, 1988, the average cost per dwelling weatherized, and the range of costs for individual weatherizations. In addition, the report shall include the department's recommendation for a program to complete the weatherization of the remaining residences in this category. The report shall also include an inventory of the number of residences not weatherized for the 1987-1988 participants whose household incomes fall between seventy-five percent and one hundred percent of the poverty level.

Sec. 6. NEW SECTION. 601K.102 ENERGY CRISIS FUND.

1. An energy crisis fund is created in the state treasury. Moneys deposited in the fund shall be used to assist low-income families who qualify for the low-income heating energy assistance program to avoid loss of essential heating.

2. The fund may receive moneys including, but not limited to, the following:

a. Moneys appropriated by the general assembly for the fund.

b. Moneys credited to the fund under section 556.18.

c. After July 1, 1988, unclaimed patronage dividends of electric cooperative corporations or associations shall be applied to the fund following the time specified in section 556.12 for claiming the dividend from the holder.

d. The fund may also receive contributions from customer contribution funds established under section 476.66.

3. Under rules developed by the division of community action agencies of the department of human rights, the fund may be used to negotiate reconnection of essential utility services with the energy provider.

Sec. 7. AFFORDABLE HEATING PAYMENT PROGRAM PILOT PROJECT.

1. The division of community action agencies of the department of human rights in cooperation with the department of natural resources and the utilities board shall conduct a two-year pilot project from October 1, 1988, through September 30, 1990, to do all of the following:

a. Determine the most economical and effective means of maintaining low-income Iowans' access to heating fuels at a cost that is within their means.

b. Develop more effective programs for weatherizing residences and achieving energy conservation.

2. The pilot projects shall:

a. Involve at least one provider of each of these sources of heat in the state:

(1) Natural gas.

(2) Electricity.

(3) Deliverable fuels.

Providers shall be selected on a voluntary basis. The scope of the project shall include a statistically valid demographic region but will not necessarily include all customers of the selected energy provider in the state. If a provider has a pilot project in progress, that project may be selected for a pilot project under this section.

b. Provide a schedule or formula under which funds appropriated by this Act are used to make up the difference between what a low-income family or individual pays toward heating costs plus federal low-income home energy assistance payments and either the actual heating cost or the cost determined by rule by the division of community action agencies, department of human rights, as the cost of reasonable heating fuel consumption for the customer, considering

size of family, location of residence, and such other factors as may be considered appropriate by the division.

c. Include programs designed to promote the use of energy conservation strategies by the participant. These programs shall be cost-effective.

d. Include a plan for affordable budget level repayment of heating provider bills in arrears at the time a customer enters an affordable heating payment program.

e. Provide for data gathering and evaluation of the projects to determine the effect of the program on residents who participate in comparison with residents in areas where such programs are not available.

f. Be designed and implemented to operate within funds appropriated or budgeted for the projects.

3. An advisory board is created to provide guidance in the development of the pilot programs and their administration.

a. The advisory board shall include the administrator of the division of community action agencies, who shall serve as chairperson of the board, the director of the department of natural resources, or the director's designee, the chairperson of the utilities board, or the chairperson's designee, the consumer advocate, or the consumer advocate's designee, and the following members to be appointed by the governor to serve for the two-year term of the pilot projects:

(1) A representative of the investor-owned utility industry.

(2) A representative of a municipal utility.

(3) A representative of a rural electric cooperative.

(4) A representative of dealers of deliverable fuels.

(5) Representatives of two local community action agencies.

(6) Representatives of two private advocacy or assistance agencies.

The speaker of the house of representatives, the senate majority leader, and the minority leaders of the house of representatives and senate shall each name a member of the general assembly to serve on the advisory board without vote.

b. Advisory board members who are not members of the general assembly shall serve without compensation, but shall be reimbursed for actual expenses.

c. The advisory board shall provide the general assembly with an evaluation of the first year of the program and recommendations for further legislative action no later than January 15, 1990.

4. The division of community action agencies of the department of human rights shall adopt rules pursuant to chapter 17A regarding eligibility for customer participation, means of calculating assistance payments, and procedures for provider participation under the pilot projects.

Approved May 6, 1988

CHAPTER 1176

DEMOLITION INSURANCE RESERVES FOR PROPERTY WITHIN CITIES

H.F. 382

AN ACT to reserve a specific amount of a claim payable on an insurance policy on property located within the corporate limits of a city for the cost of demolition of the property by the city.

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

Section 1. **NEW SECTION. 515.150 DEMOLITION RESERVE ON FIRE AND CASUALTY CLAIMS ON PROPERTY.**

1. An insurer shall reserve five thousand dollars or ten percent, whichever amount is greater, of the payment for damages to the property excluding personal property on which it has issued a fire and casualty insurance policy as demolition cost reserve if the following are applicable:

a. The property is located within the corporate limits of a city with a population of twenty thousand or more.

b. The damage to the property renders it uninhabitable or unfit for the purpose for which it was intended, without repair.

c. Proof of loss has been submitted by the policyholder for a sum in excess of seventy-five percent of the face value of the policy covering the building or other insured structure.

2. An insurer which has received a proof of loss in excess of seventy-five percent of the face value of the policy covering a building or other insured structure, shall notify the city council of the city within which the property is located. The notice shall be made by certified mail within five working days after receipt of the proof of loss.

3. The city shall release all interest in the demolition cost reserve within ninety days after receiving notice of the existence of the demolition cost reserve unless the city has instituted legal proceedings for the demolition of said building or other insured structure, and has notified the insurer in writing of the institution of such legal proceedings. Failure of the city to notify the insurer of such legal proceedings shall terminate the city's claim to any proceeds from the reserve.

4. A reserve for demolition costs shall no longer be required if:

a. The insurer has received notice from both the insured and the city council that the insured has commenced repairs to the property or has commenced demolition of the property.

b. The city has failed to notify the insurer as provided under subsection 3.

5. If the city is required to demolish the damaged property at city expense, after instituting legal proceedings, emergency actions, or obtaining waivers for the demolition of the building or other insured structure, the city shall present to the insurer the actual cost of demolition of the property, including engineering, legal, and other demolition project costs, and the insurer shall compensate the city for that actual cost of the demolition project up to the amount in the demolition cost reserve. Any amount left from the demolition cost reserve after the cost of demolition of the property is paid to the city shall be paid to the insured if the insured is entitled to the remaining proceeds under the policy.

6. The insurer is not liable for any amount in excess of the limits of liability set out by the policy.

7. Insurers complying with this section or attempting in good faith to comply with this section shall be immune from civil and criminal liability.

Approved May 6, 1988

CHAPTER 1177**EMERGENCY TELEPHONE COMMUNICATION SYSTEMS***H.F. 2400*

AN ACT relating to enhanced 911 emergency telephone communication systems, by requiring each county to prepare an enhanced 911 service plan for submittal to the office of disaster services on or before March 1, 1989, by requiring conversion of pay telephones to accept 911 calls without charge, by allowing a local E911 service surcharge, by providing certain liability exemptions in conjunction with the delivery of E911 services, and by providing a limited privacy waiver to permit nonlisted or unpublished numbers to be included in E911 service providing a penalty, and an effective date.

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

Section 1. NEW SECTION. 477B.1 PURPOSE.

The legislature finds that enhanced 911 emergency telephone communication systems further the public interest and protect the health, safety, and welfare of the people of Iowa. The purpose of this chapter is to enable the orderly development, installation, and operation of enhanced 911 emergency telephone communication systems statewide. These systems are to be operated under governmental management and control for the public benefit.

Sec. 2. NEW SECTION. 477B.2 DEFINITIONS.

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

1. "Administrator" means the administrator of the division of disaster services of the department of public defense.
2. "Public or private safety agency" means a unit of state or local government, a special purpose district, or a private firm which provides or has the authority to provide fire fighting, police, ambulance, or emergency medical services.
3. "Provider" means a person who provides, or offers to provide, E911 equipment, installation, maintenance, or exchange access services within the enhanced 911 service area.
4. "Enhanced 911" or "E911" means a service which provides the user of a public telephone system the ability to reach a public safety answering point by dialing the digits 911, and which has the following additional features:
 - a. Routes an incoming 911 call to the appropriate public safety answering point selected from the public safety answering points operating in a 911 service area.
 - b. Automatically displays the name, address, and telephone number of an incoming 911 call and public safety agency servicing the address on a video monitor at the appropriate public safety answering point.
5. "Enhanced 911 service plan" means a plan that includes the following information:
 - a. A description of the enhanced 911 service area.
 - b. A list of all public and private safety agencies within the enhanced 911 service area.
 - c. The number of public safety answering points within the enhanced 911 service area.
 - d. Identification of the agency responsible for management and supervision of the enhanced 911 emergency telephone communication system.
 - e. A statement of estimated costs to be incurred by the joint E911 service board, including separate estimates of the following:
 - (1) Nonrecurring costs, including, but not limited to, public safety answering points, network equipment, software, database, addressing, initial training, and other capital and start-up expenditures, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider.

(2) Recurring costs, including, but not limited to, network access fees and other telephone charges, software, equipment, and database management, and maintenance, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider. Recurring costs shall not include personnel costs for a public safety answering point.

Costs are limited to nonrecurring and recurring costs directly attributable to the provision of 911 emergency telephone communication service. Costs do not include expenditures for any other purpose, and specifically exclude costs attributable to other emergency services or expenditures for buildings, radios, or personnel.

f. Current equipment operated by affected providers, and central office equipment and technology upgrades necessary for the provider to implement enhanced 911 service within the enhanced 911 service area on or before July 1, 1992.

g. A schedule for implementation of the plan throughout the E911 service area. The schedule may provide for phased implementation. However, a joint 911 service board may decide not to implement E911 service.

h. The number of telephone access lines in the enhanced 911 service area.

i. The total property valuation in the enhanced 911 service area.

6. "Enhanced 911 service area" means the geographic area to be serviced, or currently serviced under an enhanced 911 service plan, provided that an enhanced 911 service area must at minimum encompass one entire county. The enhanced 911 service area may encompass more than one county, and need not be restricted to county boundaries.

7. "Enhanced 911 service surcharge" is a charge set by the E911 service area operating authority and assessed on each access line which physically terminates within the E911 service area.

8. "Access line" means a local exchange access line that has the ability to access local dial tone and reach a local public safety agency.

9. "Division" means the division of disaster services, department of public defense.

10. "Public safety answering point" means a twenty-four hour local jurisdiction communications facility which receives enhanced 911 service calls and directly dispatches emergency response services or relays calls to the appropriate public or private safety agency.

11. "Local exchange service provider" means a person engaged in providing telecommunications service between points within an exchange.

Sec. 3. NEW SECTION. 477B.3 JOINT 911 SERVICE BOARD — 911 SERVICE PLAN — IMPLEMENTATION — WAIVERS.

1. **JOINT 911 SERVICE BOARDS TO SUBMIT PLANS.** The board of supervisors of each county shall establish a joint 911 service board not later than January 1, 1989. Each political subdivision of the state having a public safety agency serving territory within the county is entitled to voting membership on the joint 911 service board. Each private safety entity operating within the area is entitled to nonvoting membership on the board. The joint 911 service board shall develop an enhanced 911 service plan encompassing at minimum the entire county, unless an exemption is granted by the administrator permitting a smaller E911 service area. The administrator may grant a discretionary exemption from the single county minimum service area requirement based upon an E911 joint service board's or other E911 service plan operating authority's presentation of evidence which supports the requested exemption if the administrator finds that local conditions make adherence to the minimum standard unreasonable or technically infeasible, and that the purposes of this chapter would be furthered by granting an exemption. The minimum size requirement is intended to prevent unnecessary duplication of public safety answering points and minimize other administrative, personnel, and equipment expenses. An E911 service area must encompass a geographically contiguous area. No

exemption shall be granted from the contiguous area requirement. The administrator may order the inclusion of a specific territory in an adjoining E911 service plan area to avoid the creation by exclusion of a territory smaller than a single county not serviced by surrounding E911 service plan areas upon request of the joint 911 service board representing the territory. The E911 service plan operating authority shall submit the plan on or before March 1, 1989, to all of the following:

- a. The division.
- b. Public and private safety agencies in the enhanced 911 service area.
- c. Providers affected by the enhanced 911 service plan.

The division shall prepare a statewide summary of the plans submitted and present the summary to the legislature on or before June 1, 1989.

2. **COMPLIANCE WAIVERS AVAILABLE IN LIMITED CIRCUMSTANCES.** The administrator may extend, in whole or in part, the time for implementation of an enhanced 911 service plan beyond the scheduled plan of implementation, by issuance of a compliance waiver. The waiver shall be based upon a joint 911 service board's presentation of evidence which supports an extension if the administrator finds that local conditions make implementation financially unreasonable or technically infeasible by the originally scheduled plan of implementation. The compliance waiver shall be for a set period of time, and subject to review and renewal or denial of renewal upon its expiration. The waiver may cover all or a portion of a 911 service plan's enhanced 911 service area to facilitate phased implementation when possible. The granting of a compliance waiver does not create a presumption that the identical or similar waiver will be extended in the future. Consideration of compliance waivers shall be on a case-by-case basis.

3. **28E AGREEMENT — ALTERNATIVE TO JOINT 911 SERVICE BOARD.** A legal entity created pursuant to chapter 28E by a county or counties, other political divisions, and public or private agencies to jointly plan, implement, and operate a countywide, or larger, enhanced 911 service system may be substituted for the joint 911 service board required under subsection 1.

4. **PARTICIPATION IN JOINT E911 SERVICE BOARD REQUIRED.** A political subdivision or state agency having a public safety agency within its territory or jurisdiction shall participate in a joint E911 service board and cooperate in preparing the E911 service plan.

Sec. 4. **NEW SECTION. 477B.4 REQUIRED CONVERSION OF PAY TELEPHONES TO ALLOW 911 CALLS WITHOUT DEPOSITING COINS OR OTHER CHARGE.**

1. **CONVERSION AND NOTICE REQUIRED.** When an enhanced 911 service system becomes operational or as soon as feasible thereafter, each provider or other owner or lessee of a pay station telephone to be operated within the enhanced 911 service area shall do the following:

- a. Convert each telephone to permit a caller to dial 911 without first inserting a coin or paying any other charge.
- b. Prominently display on each pay telephone a notice advising callers to dial 911 in an emergency and that deposit of a coin is not required.

2. **CERTAIN PAY PHONES PROHIBITED WITHIN SERVICE AREA.** After commencement of enhanced 911 service in an enhanced 911 service area, a person shall not install or offer for use within the 911 service area a pay station telephone unless the telephone is capable of accepting a 911 call without prior insertion of a coin or payment of any other charge, and unless the telephone displays notice of free 911 service.

Sec. 5. **NEW SECTION. 477B.5 PRIVATE LISTING SUBSCRIBERS AND 911 SERVICE.**

Private listing subscribers in an enhanced 911 service area waive the privacy afforded by nonlisted or nonpublished numbers to the extent that the name and address associated with

the telephone number may be furnished to the enhanced 911 service system, for all routing, for automatic retrieval of location information, and for associated emergency services.

Sec. 6. NEW SECTION. 477B.5A REFERENDUM ON E911 IN PROPOSED SERVICE AREA.

1. Before a joint E911 service board may request imposition of the surcharge by the administrator, the board shall submit the following question to either voters or subscribers, as provided in subsection 2, in the proposed E911 service area, and the question shall receive a favorable vote from a simple majority of persons submitting valid ballots on the following question within the proposed E911 service area:

“Should enhanced 911 emergency telephone service be funded, in whole or in part, by a surcharge of (up to twenty-five cents) per month per telephone access line collected as part of each telephone subscriber’s monthly phone bill if provided within (description of the proposed E911 service area)?”

2. The referendum required as a condition of the surcharge imposition in subsection 1 shall be conducted using one of the following electoral mechanisms at the option of the joint E911 service board:

a. A local exchange access company providing service to subscribers within the proposed E911 service area shall provide the name and address of each subscriber to be served to the joint E911 service board proposing to provide E911 service. The names and addresses may be used by the joint E911 service board for the purpose of mailing referendum ballots. Ballots shall be returned to the subscriber’s county commissioner of elections who shall report the results to the joint E911 service board. The joint E911 service board shall compile the results if subscribers from more than one county are included within the proposed service area. The board shall announce whether a simple majority of subscribers submitting valid ballots within the proposed E911 service area approved the referendum question. A subscriber may only vote once.

b. At the request of the joint E911 service board a county commissioner of elections shall include the question on the next eligible election ballot in each electoral precinct to be served, in whole or in part, by the proposed E911 service area. The question may be included in the next election in which all of the voters in the proposed E911 service area will be eligible to vote on the same day, such as a primary, general, or school board election. The county commissioner of elections shall report the results to the joint E911 service board. The joint E911 service board shall compile the results if subscribers from more than one county are included within the proposed service area. The joint E911 service board shall announce whether a simple majority of the compiled votes reported by the commissioner approved the referendum question.

3. The secretary of state, in consultation with the administrator of the office of disaster services of the department of public defense, shall adopt rules for the conduct of joint E911 service referendums as required by and consistent with subsections 1 and 2.

Sec. 7. NEW SECTION. 477B.6 FUNDING — E911 SERVICE SURCHARGE.

When an E911 service plan is implemented, the costs of providing E911 service within an E911 service area are the responsibility of the joint E911 service board and the member political subdivisions. Costs in excess of the amount raised by imposition of the E911 service surcharge provided for under subsection 1, shall be paid by the joint E911 service board from such revenue sources allocated among the member political subdivisions as determined by the joint E911 service board. Funding is not limited to the surcharge, and surcharge revenues may be supplemented by other permissible local and state revenue sources.

1. LOCAL E911 SERVICE SURCHARGE IMPOSITION.

a. To encourage local implementation of E911 service, one source of funding for E911 emergency telephone communication systems shall come from a surcharge of twenty-five cents, per month, per access line on each access line subscriber, except as provided in subsection 5. The surcharge shall be imposed by order of the administrator as follows:

(1) The administrator shall notify a provider scheduled to provide exchange access line service to an E911 service area, that implementation of an approved E911 service plan is to begin within one hundred days.

(2) The notice shall be provided at least one hundred days before the surcharge must be billed for the first time.

b. The surcharge shall terminate at the end of twenty-four months, unless either, or both, of the following conditions is met:

(1) E911 service is initiated for all or a part of the E911 service area.

(2) An extension is granted by the administrator for good cause.

2. SURCHARGE COLLECTED BY PROVIDERS. The surcharge shall be collected as part of the access line service provider's periodic billing to a subscriber. In compensation for the costs of billing and collection, the provider may retain one percent of the gross surcharges collected. If the compensation is insufficient to fully recover a provider's costs for billing and collection of the surcharge, the deficiency shall be included in the provider's costs for ratemaking purposes to the extent it is reasonable and just under section 476.6. The surcharge shall be remitted to the E911 service operating authority for deposit into the E911 service fund quarterly by the provider. A provider is not liable for an uncollected surcharge for which the provider has billed a subscriber but not been paid. The surcharge shall appear as a single line item on a subscriber's periodic billing entitled, "E911 emergency telephone service surcharge". The E911 service surcharge is not subject to sales or use tax.

3. MAXIMUM LIMIT PER SUBSCRIBER BILLING FOR SURCHARGE. An individual subscriber shall not be required to pay on a single periodic billing the surcharge on more than one hundred access lines, or their equivalent, in an E911 service area. A subscriber shall pay the surcharge in each E911 service area in which the subscriber receives access line service.

4. E911 SERVICE FUND. Each joint E911 service board shall establish and maintain as a separate account an E911 service fund. Any funds remaining in the account at the end of each fiscal year shall not revert to the general funds of the member political subdivisions, except as provided in subsection 5, but shall remain in the E911 service fund. Moneys in an E911 service fund may only be used for nonrecurring and recurring costs of the E911 service plan as approved by the administrator, as those terms are defined by section 477B.2.

5. USE OF MONEYS IN FUND — PRIORITY AND LIMITATIONS ON EXPENDITURE. Moneys deposited in the E911 service fund shall be used for the following, in order of priority:

a. Money shall first be spent for actual recurring costs of operating the E911 service plan.

b. If money remains in the fund after fully paying for recurring costs incurred in the preceding year, the remainder may be spent to pay for nonrecurring costs, not to exceed actual nonrecurring costs as approved by the administrator.

c. If money remains in the fund after fully paying obligations under subsections 1 and 2, the remainder may be accumulated in the fund as a carryover operating surplus. If the surplus is greater than twenty-five percent of the approved annual operating budget for the next year, the administrator shall reduce the surcharge by an amount calculated to result in a surplus of no more than twenty-five percent of the planned annual operating budget. After nonrecurring costs have been paid, if the surcharge is less than twenty-five cents and the fund surplus is less than twenty-five percent of the approved annual operating budget, the administrator shall, upon application of the joint E911 service board, increase the surcharge in an amount

calculated to result in a surplus of twenty-five percent of the approved annual operating budget. In no case may the surcharge exceed twenty-five cents per month, per access line. The surcharge may only be adjusted once in a single year, upon one hundred days' prior notice to the provider.

6. **LIMITATION OF ACTIONS – PROVIDER NOT LIABLE ON CAUSE OF ACTION RELATED TO PROVISION OF 911 SERVICES.** A claim or cause of action does not exist based upon or arising out of an act or omission in connection with a provider's participation in an E911 service plan or provision of 911 or local exchange access service, unless the act or omission is determined to be willful and wanton negligence.

Sec. 8. **NEW SECTION. 477B.7 LOCAL EXCHANGE SERVICE INFORMATION.**

1. A local exchange service provider shall furnish to the E911 service provider, designated by the joint E911 service board, all names, addresses, and telephone number information concerning its subscribers which will be served by the E911 system and shall periodically update the local exchange service information. The local exchange service provider shall receive as compensation for the provision of local exchange service information charges according to its tariffs on file with and approved by the Iowa utilities board. The tariff charges shall be the same whether or not the local exchange service provider is designated as the E911 service provider by the joint E911 service board.

2. Subscriber information remains the property of the local exchange service provider.

The joint E911 service board, the designated E911 provider, and the public safety answering point, their agents, employees, and assigns shall use local exchange service information provided by the local exchange service provider solely for the purposes of providing E911 emergency telephone service, and it shall otherwise be kept confidential. A person who violates this section is guilty of a simple misdemeanor.

This chapter does not require a local exchange service provider to sell or provide its subscriber names, addresses, or telephone number information to any person other than the E911 service provider designated by the joint E911 service board.

Sec. 9. Section 613A.4, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 11. A claim based upon or arising out of an act or omission in connection with an emergency response including but not limited to acts or omissions in connection with emergency response communications services.

Sec. 10. Section 613A.4, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not expand any existing cause of action or create any new cause of action against a municipality.

Sec. 11. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 6, 1988

CHAPTER 1178**RESALE POWER GROUP OF IOWA LEGALIZING ACT***H.F. 2470*

AN ACT to legalize and validate the proceedings for the organization and operation of the Resale Power Group of Iowa and declaring it to be legally established and declaring each and all of its acts to have been legally taken and declaring each and all of the actions taken by the Resale Power Group of Iowa and by the City of Burt, City of Dike, City of Dysart, City of Long Grove, City of Maquoketa, City of Marathon, City of Panora, City of Preston, City of Sibley, City of Stanhope, City of State Center, City of Tipton, City of West Liberty, City of Whittemore, City of Anita, City of Hopkinton, City of Grand Junction, City of Ogden, City of Story City, City of Traer, City of Vinton, the Amana Society Service Company, Amana, and the Board of Directors of the Farmers Electric Cooperative, Kalona, all in Iowa, in entering into, ratifying and confirming an agreement between the Resale Power Group of Iowa and its members dated November 3, 1987 and a certain joint transmission agreement dated November 3, 1987, to have been legally taken.

WHEREAS, proceedings have been taken for the organization of the Resale Power Group of Iowa under the provisions of chapter twenty-eight E (28E) of the Code for the purpose of the purchase, generation, transmission, sale and interchange of electric energy for its members, the establishment of programs for the safety and technical training of employees of its members and to render service relative to the solution of problems relating to rates for electric energy and related items; and

WHEREAS, a copy of the Agreement to Establish the Resale Power Group of Iowa was filed with the Secretary of State of the State on August 8, 1986, has been recorded with the appropriate county recorders and the following public and private agencies operating electric utilities are current members in good standing of the organization: the City of Burt, City of Dike, City of Dysart, City of Long Grove, City of Maquoketa, City of Marathon, City of Panora, City of Preston, City of Sibley, City of Stanhope, City of State Center, City of Tipton, City of West Liberty, City of Whittemore, City of Anita, City of Hopkinton, City of Grand Junction, City of Ogden, City of Story City, City of Traer, City of Vinton, the Amana Society Service Company, Amana, and the Board of Directors of the Farmers Electric Cooperative, Kalona, all in Iowa; and

WHEREAS, the Resale Power Group of Iowa did on November 3, 1987, enter into an agreement with its participating members, which agreement relates to and forms a part of a certain joint transmission agreement (referred to as the "Joint Transmission Agreements"); and

WHEREAS, the Resale Power Group of Iowa has, on behalf of its participating members, entered into a Joint Transmission Agreement, dated November 3, 1987, with Iowa Electric Light and Power Company for the purpose of obtaining undivided ownership in certain transmission facilities thereby obtaining electric energy at reduced costs delivered through such jointly owned transmission facilities; and

WHEREAS, the Resale Power Group of Iowa and all participating members have taken action pursuant to chapters three hundred ninety (390) and twenty-three (23) of the Code as amended, to ratify and confirm the Joint Transmission Agreements pursuant to chapter three hundred ninety (390) of the Code, as amended; and

WHEREAS, the aforementioned documents together now purport to form a joint agreement pursuant to chapter three hundred ninety (390) of the Code, as amended; and

WHEREAS, the aforementioned documents are a cooperative effort between public and private utilities within the state which will result in lower cost power to consumers of electric power; and

WHEREAS, doubts have arisen concerning the validity and legal sufficiency of the proceedings taken for the organization and operation of the Resale Power Group of Iowa and the acts taken by the Resale Power Group of Iowa and its participating members in entering into, ratifying and confirming the joint agreement and it is deemed advisable and necessary to put such doubts and all others that might arise concerning same forever at rest; NOW THEREFORE,

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

Section 1. That all proceedings heretofore taken in connection with the organization and providing for the operation of the joint undertaking now known and identified as the "Resale Power Group of Iowa" and all acts heretofore taken by said Resale Power Group of Iowa and its members, be and the same are hereby legalized, validated and confirmed, and the documents together are hereby declared to form a valid joint agreement pursuant to chapter three hundred ninety (390) of the Code, as amended; and the Joint Transmission Agreements between the Resale Power Group of Iowa and Iowa Electric Light and Power Company are hereby legalized, validated and confirmed. Further, that the Resale Power Group of Iowa is hereby declared to constitute a legal joint and cooperative undertaking authorized to operate in accordance with the Agreement to Establish the Resale Power Group of Iowa and its by-laws as they now exist and in accordance with provisions of chapter twenty-eight E (28E) of the Code.

Sec. 2. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 6, 1988

CHAPTER 1179

ENERGY RESOURCE UTILIZATION AND CONSERVATION

H.F. 2437

AN ACT relating to utilization of energy resources in the state including the implementation of energy conservation measures.

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

Section 1. **NEW SECTION. 93.6 FINDINGS.**

The general assembly finds that the health, welfare, and prosperity of all Iowans require the provisions of adequate, efficient, reliable, environmentally safe, and least-cost energy at prices which accurately reflect the long-term cost of using such energy resources and which are equitable to all Iowans. The goals and objectives of this policy are to ensure the following:

1. **EFFICIENCY.** The provision of reliable energy at the least possible cost to Iowans in such manner that:

a. Physical, human, and financial resources are allocated efficiently.

b. All supply and demand options are considered and evaluated using comparable terms and methods in order to determine how best to meet consumers' demands for energy at the least cost.

2. **ENVIRONMENTAL QUALITY.** The protection of the environment from the adverse external costs of an energy resource utilization so that:

a. Environmental costs of proposed actions having a significant impact on the environment and the environmental impact of the alternatives are identified, documented, and considered in the resource development.

b. The prudently and reasonably incurred costs of environmental controls are recovered.

Sec. 2. Section 93.7, subsection 1, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

1. Deliver to the general assembly by January 15, 1990, a plan for the development, management, and efficient utilization of all energy resources in the state. The plan shall evaluate existing energy utilization with regard to energy efficiency and shall evaluate the future energy needs of the state. The plan shall include but is not limited to the following elements:

- a. The historical use and distribution of energy in Iowa.
- b. The growth rate of energy consumption in Iowa.
- c. A projection of Iowa's energy needs at a minimum of ten years into the future.
- d. The impact of meeting Iowa's energy needs on the economy of the state.
- e. The impact of meeting Iowa's energy needs on the environment of the state.
- f. An evaluation of alternative sources and uses of energy.
- g. Legislative recommendations that may be necessary as a basis for a state policy for the development and efficient utilization of energy resources.
- h. An evaluation of the ability of existing laws and regulations surrounding the utilization of energy resources.

The department shall develop the plan with the assistance of, and in consultation with, representatives of the energy industry, economic interests, the public, and other interested parties. The department shall submit a report to the general assembly concerning the status and implementation of the plan on a biennial basis.

Sec. 3. **NEW SECTION. 93.20B IMPLEMENTATION OF ENERGY CONSERVATION MEASURES — STATE BOARD OF REGENTS.**

1. The state board of regents shall cause to be performed comprehensive engineering analyses of facilities under the control of the state board of regents and shall implement the energy conservation measures identified in the analyses which are economically feasible and practical and which do not require more than an aggregate period of six years for the recoupment of the cost of construction of the improvements used to secure the implementation of the energy conservation measure. The comprehensive engineering analyses shall be completed no later than June 30, 1989.

2. The department may, pursuant to section 19.34, reduce the cost of financing for implementation of the energy conservation measures identified, through funds deposited in the state of Iowa facilities improvement corporation established by the department. In order for the state board of regents to receive financing under section 19.34, the department shall require completion of an energy management plan, including an energy audit and a comprehensive engineering analysis.

3. The state board of regents shall annually report on October 1 to the department the status of all energy conservation measures identified in their comprehensive engineering analysis, whether or not the measures have been acquired or implemented, and the results of energy usage analyses of the board's facilities.

Sec. 4. **NEW SECTION. 93.20C IMPLEMENTATION OF ENERGY CONSERVATION MEASURES — STATE DEPARTMENT OF TRANSPORTATION.**

1. The state department of transportation utilizing the services of the state of Iowa facilities improvement corporation shall cause to be performed comprehensive engineering analyses of facilities under the control of the state department of transportation and shall implement the energy conservation measures identified in the analyses which do not require more than an aggregate period of six years for the recoupment of the cost of construction of the improvements used to secure the implementation of the energy conservation measures. The comprehensive engineering analyses shall be completed no later than December 31, 1988.

2. The department may, pursuant to section 19.34, reduce the cost of financing for implementation of the energy conservation measures identified, through funds deposited in the state of Iowa facilities improvement corporation established by the department. In order for the

state department of transportation to receive financing, the department shall require completion of an energy management plan, including an energy audit and a comprehensive engineering analysis.

Sec. 5. NEW SECTION. 93.20D ANNUAL REPORT.

The department shall include in the annual report required under section 455A.4 an assessment of the progress achieved by public agencies in implementing energy life cycle cost analyses.

Sec. 6. Section 470.3, subsection 2, Code 1987, is amended to read as follows:

2. A public agency or a person preparing a life cycle cost analysis for a public agency shall consider the methods and analytical models in section 6 of the Manual of Procedures for authorized class "A" energy auditors as amended to March 31, 1979 by the engineering research institute at Iowa State University of Science and Technology in preparing a life cycle cost analysis provided by the department of natural resources and available through the state building code commissioner, which are suited to the purpose for which the project is intended. Within sixty days of final selection of a design architect or engineer, a public agency, which is also a state agency under section 19.34, shall notify the state building code commissioner and the department of natural resources of the methodology to be used to perform the life cycle cost analysis on forms provided by the department of natural resources.

Sec. 7. NEW SECTION. 470.7 LIFE CYCLE COST ANALYSIS — APPROVAL.

The public agency responsible for the new construction or renovation of a public facility shall submit a copy of the life cycle cost analysis for review by the state building code commissioner who shall consult with the department of natural resources. If the public agency is also a state agency under section 19.34, comments by the department of natural resources or the state building code commissioner, including any recommendation for changes in the analysis, shall, within thirty days of receipt of the analysis, be forwarded in writing to the public agency. If either the department or the commissioner disagrees with any aspects of the life cycle cost analysis, the public agency affected shall timely respond in writing to the state building code commissioner and the department of natural resources. The response shall indicate whether the agency intends to implement the recommendations and, if the agency does not intend to implement them, the public agency shall present its reasons. The reasons may include, but are not limited to, a description of the purpose of the facility or renovation, preservation of historical architectural features, architectural and site considerations, and health and safety concerns.

Approved May 6, 1988

CHAPTER 1180

LEASE-PURCHASE AND DISPOSAL OF PROPERTY BY THE STATE

H.F. 2464

AN ACT relating to the lease-purchase and disposal of real or personal property by the department of general services and providing a standing appropriation of proceeds previously deposited.

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

Section 1. Section 18.12, Code Supplement 1987, is amended by adding the following new subsection after subsection 9:

NEW SUBSECTION. 9A. On behalf of the department, enter into lease-purchase contracts for real or personal property, wherever located within the state, to be used for buildings, facilities, and structures, or for additions or improvements to existing buildings, facilities, and structures, to carry out the provisions of this chapter or for the proper use and benefit of the state and its state agencies on the following terms and conditions:

a. The director shall coordinate the location, design, plans and specifications, construction, and ultimate use of the real or personal property lease-purchased with the state agency for whose benefit and use the property is being obtained and the terms and conditions of the lease-purchase contract with both the state agency for whose benefit and use the property is being obtained and the treasurer of state. Upon awarding the contract for construction of a building or for site development, the director shall have sole authority to administer the contract.

b. The lease-purchase contract may provide for ultimate ownership of the property by the state. Title to all property acquired in this manner shall be taken and held in the name of the state. The state shall be the lessee or contracting party under all lease-purchase contracts entered into pursuant to this chapter. The lease-purchase contract may contain provisions similar to provisions customarily found in lease-purchase contracts between private persons, including, but not limited to, provisions prohibiting the acquisition or use by the lessee of competing property or property in substitution for the lease-purchased property, obligating the lessee to pay costs of operation, maintenance, insurance, and taxes relating to the property, and permitting the lessor to retain a security interest in the property lease-purchased, until title passes to the state, which may be assigned or pledged by the lessor. The director may contract for additional security or liquidity for a lease-purchase contract and may enter into agreements for letters of credit, lines of credit, insurance, or other forms of security with respect to rental and other payments due under a lease-purchase contract. Fees for the costs of additional security or liquidity are a cost of entering into the lease-purchase contract and may be paid from funds annually appropriated by the general assembly to the state agency for which the property is being obtained or from other funds legally available. The lease-purchase contract may include the costs of entering into the lease-purchase contract as a cost of the lease-purchased property. The provision of a lease-purchase contract which provides that a portion of the periodic rental payment be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 does not apply to lease-purchase contracts entered into pursuant to this chapter. Rental and other costs due under lease-purchase contracts entered into pursuant to this chapter shall be payable from funds annually appropriated by the general assembly to the state agency for which the property is being obtained or from other funds legally available.

c. A lease-purchase contract to which the state is a party is an obligation of a state for purposes of chapters 502 and 682, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and other fiduciaries responsible for the investment of funds.

d. The director shall not enter into lease-purchase contracts pursuant to this chapter without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor of the use, location, and maximum cost, not including interest expense, of the real or personal property to be lease-purchased. However, the director shall not enter into a lease-purchase contract for real or personal property which is to be constructed for use as a prison or prison-related facility without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor of the use, location, and maximum cost, not including interest expense, of the real or personal property to be lease-purchased and with the construction in accordance with space needs as established by an independent study of space needs authorized by the general assembly.

e. A contract for acquisition, construction, erection, demolition, alteration, or repair by a private person of real or personal property to be lease-purchased by the director pursuant to this chapter is exempt from section 18.6, subsections 1 and 9, unless the lease-purchase contract is funded in advance by a deposit of the lessor's moneys to be administered by the director under a lease-purchase contract which requires rent payments to commence upon delivery of the lessor's moneys to the lessee.

This subsection provides an alternative and independent method for carrying out projects under this chapter and for entering into lease-purchase contracts in connection therewith, without reference to any other statute, and is not an amendment of or subject to the provision of any other law. No publication of any notice, whether under section 23.12 or otherwise, and no other or further proceedings with respect to the lease-purchase contracts is required except as set forth in this chapter, any provisions of other statutes of the state to the contrary notwithstanding.

For purposes of this subsection and subsection 11, "state agency" means a board, commission, bureau, division, office, department, or branch of state government.

Sec. 2. Section 18.12, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 13. With the authorization of a constitutional majority of each house of the general assembly and approval by the governor, dispose of real property belonging to the state and its state agencies upon terms, conditions, and consideration as the director may recommend. If real estate subject to sale under this subsection has been purchased or acquired from appropriated funds, the proceeds of the sale shall be deposited with the treasurer of state and credited to the general fund of the state or other fund from which appropriated. There is appropriated from that same fund, with the prior approval of the executive council and in cooperation with the director, a sum equal to the proceeds so deposited and credited to the state agency to which the disposed property belonged or by which it was used, for purposes of the state agency.

Sec. 3. Section 18.12, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Subject to the selection procedures of section 12.30, employ financial consultants, banks, insurers, underwriters, accountants, attorneys, and other advisors or consultants necessary to implement the provisions of subsection 9A.

Approved May 7, 1988

CHAPTER 1181

DOG LICENSING

H.F. 2462

AN ACT relating to the licensing of dogs, subjecting violators to a penalty, and providing an effective date.

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

Section 1. Section 351.1, Code 1987, is amended to read as follows:

351.1 ANNUAL LICENSE.

The owners of all dogs ~~six~~ four months old or over, except dogs kept in state or federally licensed kennels and not allowed to run at large, shall annually obtain a license ~~therefor~~, as ~~herein provided~~ in this chapter.

Sec. 2. Section 351.3, Code 1987, is amended to read as follows:

351.3 APPLICATION BY OWNER.

The owner of a dog for which a license is required shall, on or before the first day of January of each year, apply to ~~the auditor of the county in which the owner resides~~ for a license for each dog owned. An owner residing in a city which licenses dogs shall apply to the city clerk. An owner not residing in a city which licenses dogs shall apply to the auditor of the county in which the owner resides.

Sec. 3. Section 351.5, unnumbered paragraph 1, Code 1987, is amended to read as follows:

~~Such~~ The application shall be in writing on blanks provided by the city clerk or county auditor and shall state the breed, sex, age, color, markings, and name, if any, of the dog, and the address of the owner, and be signed by the owner.

Sec. 4. Section 351.6, Code 1987, is amended to read as follows:

351.6 FEE.

The annual license fee shall be set by the city council or the board of supervisors, as applicable. The fee shall accompany the application.

Sec. 5. Section 351.7, Code 1987, is amended to read as follows:

351.7 TAG.

The city clerk or the county auditor shall, upon receipt of ~~said~~ the application, deliver or mail to the applicant a license which shall be in the form of a metal tag stamped as follows:

1. The year Year in which issued.
2. Name of city or county issuing it.
3. Serial number as shown by the record book in the office of the city clerk or county auditor.

Sec. 6. Section 351.11, Code 1987, is amended to read as follows:

351.11 TRANSFER ON CHANGE OF RESIDENCE.

When a dog licensed in one county is permanently transferred to another county or is permanently transferred to a city which licenses dogs, the owner shall surrender the original license tag to the auditor of the county or to the clerk of the city to which the dog is removed. When a dog licensed in a city is permanently transferred outside the city, the owner shall surrender the original license tag to the city to which the dog is removed, if the city licenses dogs, or to the auditor of the county if the dog is removed outside a city or to a city which does not license dogs. The city clerk or auditor shall preserve the surrendered tag, and, without license fee, issue a new license tag. The city clerk or auditor shall note on the license record the fact that the newly issued license tag is issued to effect a transfer of, and is in lieu of, such surrendered license tag.

Sec. 7. Section 351.14, Code 1987, is amended to read as follows:

351.14 DUPLICATE TAG.

Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of twenty-five cents. The city clerk or county auditor shall enter in the license record the new number assigned.

Sec. 8. Section 351.16, Code 1987, is amended to read as follows:

351.16 PAYMENT TO ASSESSOR.

~~If the~~ The owner of any dog required to be licensed by the county and upon which a license fee is due so desires, the owner may pay such the fee to the assessor and the assessor shall give a receipt ~~therefor for it,~~ showing the name of the owner, the number of dogs owned upon which the fee is paid, the sex of each ~~such~~ dog, and the amount of the fee for each ~~such~~ dog. The assessor shall ~~forthwith~~ promptly pay ~~said~~ the fees collected to the auditor and shall make a full report to ~~said~~ the auditor showing the name and address of the owner, the number of

dogs and the sex of each dog owned by each owner, the evidence of rabies vaccination for each dog, and the fee paid on each such dog. The auditor shall ~~forthwith~~ promptly mail to said the owner the proper license tag or tags. The auditor may also assign the license tags to the assessor who may issue and record them when license fees are collected by the assessor as provided in this section.

Sec. 9. Section 351.22, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The city clerk or county auditor shall keep a book to be known as the record of licenses which shall show:

Sec. 10. This Act takes effect January 1, 1989.

Approved May 7, 1988

CHAPTER 1182

SALE AND TAXATION OF DEGRADABLE PACKAGING PRODUCTS

H.F. 2453

AN ACT relating to the sale and use of packaging products, providing sales and use tax incentives for the use of degradable packaging products, subjecting violators to a penalty, and providing an effective date.

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

Section 1. Section 455B.301, Code Supplement 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 16. "Degradable" means capable of decomposing by biodegradation, photodegradation, or chemical process into harmless component parts after exposure to natural elements for not more than three hundred sixty-five days.

NEW SUBSECTION. 17. "Biodegradable" means degradable through a process by which fungi or bacteria secrete enzymes to convert a complex molecular structure to simple gasses and organic compounds.

NEW SUBSECTION. 18. "Photodegradable" means degradable through a process in which ultraviolet radiation in sunlight causes a chemical change in a material.

NEW SUBSECTION. 19. "Beverage" means wine as defined in section 123.3, subsection 7, alcoholic liquor as defined in section 123.3, subsection 8, beer as defined in section 123.3, subsection 10, wine cooler or drink, tea, potable water, soda water and similar carbonated soft drinks, mineral water, fruit juice, vegetable juice, or fruit or vegetable drinks, which are intended for human consumption.

NEW SUBSECTION. 20. "Beverage container" means a sealed glass, plastic, or metal bottle, can, jar, or carton containing a beverage.

Sec. 2. **NEW SECTION. 455B.314 BEVERAGE CONTAINER CONNECTORS — PROHIBITION.**

1. A distributor as defined in section 455C.1, subsection 5, shall not sell or offer to sell any beverage container if the beverage container is connected to another beverage container by a device constructed of a material which is not biodegradable or photodegradable.

2. A distributor violating subsection 1 is guilty of a serious misdemeanor.

Sec. 3. **NEW SECTION. 159.30 LABORATORY DIVISION — PACKAGING DETERMINATION — PROMOTION.**

The laboratory division of the department shall do all of the following:

1. Designate, pursuant to chapter 17A, packaging products which are degradable as defined pursuant to section 455B.301, subsection 16.
2. Promote the use at the point of sale of designated degradable, as defined pursuant to section 455B.301, subsection 16, packaging products by retailers.
3. Promote the development of markets which provide degradable, as defined pursuant to section 455B.301, subsection 16, packaging alternatives for use at the point of sale by retailers in this state.

Sec. 4. Section 422.45, subsection 19, Code Supplement 1987, is amended to read as follows:

19. The gross receipts from the sale of property which is a container, label, carton, pallet, packing case, wrapping paper, twine, bag, bottle, shipping case, or other similar article or receptacle sold to retailers or manufacturers for the purpose of packaging or facilitating the transportation of tangible personal property sold at retail or transferred in association with the maintenance or repair of fabric or clothing.

Sec. 5. Section 422.45, Code Supplement 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 19A. The gross receipts from the sale of degradable, as defined in section 455B.301, subsection 16, property which is a container, carton, packaging case, wrapping paper, bag, bottle, shipping carton, or other similar article or receptacle sold to retailers for the purpose of point-of-sale packaging or for facilitating the transportation of tangible personal property sold at retail or transferred in association with the maintenance or repair of fabric or clothing. For the purpose of this subsection and subsection 19B, "point-of-sale" means the point at which payment is exchanged for tangible personal property.

NEW SUBSECTION. 19B. The gross receipts from the sale of property which is a container, carton, packaging case, wrapping paper, bag, bottle, shipping carton, or other similar article or receptacle sold to retailers for the purpose of nonpoint-of-sale packaging.

Sec. 6. **EFFECTIVE DATE.** This Act takes effect July 1, 1989. Sections 4 and 5 take effect when the authority determines that degradable products are available to a degree which makes compliance reasonably possible. The authority shall establish the effective date by rule adopted under chapter 17A.

Approved May 7, 1988

CHAPTER 1183

DISPLAY OF VESSEL REGISTRATION AND CAPACITY NUMBERS

H.F. 2192

AN ACT exempting certain vessels from displaying registration and passenger capacity numbers.

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

Section 1. Section 106.4, Code 1987, is amended to read as follows:

106.4 OPERATION OF UNNUMBERED VESSELS PROHIBITED.

Every vessel except as provided in ~~section~~ sections 106.6 and 106.6A on the waters of this state under the jurisdiction of the commission shall be numbered. A person shall not operate,

maintain or give permission for the operation or maintenance of any vessel on such waters unless the vessel is numbered in accordance with this chapter or in accordance with applicable federal laws or in accordance with a federally approved numbering system of another state and unless the certificate of number awarded to the vessel is in full force and effect.

Sec. 2. NEW SECTION. 106.6A EXEMPTION FROM DISPLAY OF REGISTRATION AND CAPACITY NUMBERS.

The following vessels are exempt from displaying a registration number and a passenger capacity number as required in section 106.5:

1. Authentically constructed native American styled craft including birchbark canoes, dugout canoes, competitive racing shells, reed boats, and skin-covered canoes or boats.
2. Historically styled craft such as keel boats used only during historic recreations or public demonstrations.
3. A vessel which has a valid marine document issued by the United States coast guard and the vessel bears the identification required in the document.

Approved May 7, 1988

CHAPTER 1184
TAKING OF WHITE DEER
H.F. 2102

AN ACT to prohibit the taking of a predominantly white deer and providing a penalty.

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

Section 1. NEW SECTION. 109.124 TAKING PREDOMINANTLY WHITE DEER OF THE WHITETAIL SPECIES PROHIBITED.

1. A person shall not take a predominantly white deer in this state.
2. This section applies to deer of the species whitetail only.
3. A person violating subsection 1 is guilty of a simple misdemeanor.

Approved May 7, 1988

CHAPTER 1185
PROCUREMENT OF STARCH-BASED PLASTICS AND SOYBEAN-BASED INKS
S.F. 2086

AN ACT relating to the procurement of starch-based plastics and soybean-based inks by the department of general services, the state board of regents, the commission for the blind, and the state department of transportation.

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

Section 1. Section 18.18, subsections 1 through 4, Code Supplement 1987, are amended to read as follows:

1. When purchasing paper products, the department of general services shall, ~~wherever~~ whenever the price is reasonably competitive and the quality intended, purchase the recycled

product. The department of general services shall also purchase, whenever the price is reasonably competitive and the quality intended, and in keeping with the schedule established in this subsection, soybean-based inks and starch-based plastics, including but not limited to starch-based plastic garbage can liners.

a. By July 1, 1989, a minimum of fifty percent of the purchases of inks which are used for newsprint printing services performed internally or contracted for by the department of general services shall be soybean-based.

b. By July 1, 1989, a minimum of fifteen percent of the purchases of garbage can liners made by the department of general services shall be starch-based plastic garbage can liners. The percentage purchased shall increase by five percent annually until fifty percent of the purchases of garbage can liners are purchases of starch-based plastic garbage can liners.

c. The department of general services shall report to the general assembly on January 1 of each year the plastic products which are regularly purchased by the department of general services for which starch-based product alternatives are available. The report shall also include the cost of the plastic products purchased and the cost of the starch-based product alternatives.

2. The department of general services, in conjunction with the department of natural resources, shall review the procurement specifications currently used by the state to eliminate, wherever possible, discrimination against the procurement of products manufactured with recovered materials, starch-based plastics, and soybean-based inks.

3. The department of natural resources shall assist the department of general services in locating suppliers of recycled products, starch-based plastics, and soybean-based inks and collecting data on recycled content, starch-based plastics, and soybean-based inks purchases.

4. Information on recycled content shall be requested on all bids for paper products issued by the state and on other bids for products which could have recycled content such as oil, plastic products, including but not limited to starch-based plastic products, compost materials, aggregate, solvents, soybean-based inks, and rubber products.

Sec. 2. Section 262.9, subsection 4, Code Supplement 1987, is amended to read as follows:

4. Manage and control the property, both real and personal, belonging to said the institutions. The board shall purchase or require the purchase of, whenever the price is reasonably competitive and the quality intended, and in keeping with the schedule established in this subsection, soybean-based inks and starch-based plastics, including but not limited to starch-based plastic garbage can liners.

a. By July 1, 1989, a minimum of fifty percent of the purchases of inks which are used for newsprint paper for printing services performed internally or contracted for by the board shall be soybean-based.

b. By July 1, 1989, a minimum of fifteen percent of the purchases of garbage can liners made by the board shall be starch-based plastic garbage can liners. The percentage purchased shall increase by five percent annually until fifty percent of the purchases of garbage can liners are purchases of starch-based plastic garbage can liners.

c. The board shall report to the general assembly on January 1 of each year, the plastic products which are regularly purchased by the board for which starch-based product alternatives are available. The report shall also include the cost of the plastic products purchased and the cost of the starch-based product alternatives.

Sec. 3. Section 307.21, subsection 4, Code 1987, is amended to read as follows:

4. Provide centralized purchasing services for the department, in co-operation with the department of general services. The administrator shall, whenever the price is reasonably competitive and the quality intended, purchase soybean-based inks and starch-based plastics, including but not limited to starch-based garbage can liners, and shall purchase these items in accordance with the schedule established in section 18.18.

Sec. 4. Section 601K.123, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 12. Whenever the price is reasonably competitive and the quality intended, and in keeping with the schedule established in this subsection, purchase soybean-based inks and starch-based plastics, including but not limited to starch-based garbage can liners.

a. By July 1, 1989, a minimum of fifty percent of the purchases of inks which are used for newsprint paper for printing services performed internally or contracted for by the commission shall be soybean-based.

b. By July 1, 1989, a minimum of fifteen percent of the purchases of garbage can liners made by the commission shall be starch-based plastic garbage can liners. The percentage purchased shall increase by five percent annually until fifty percent of the purchases of garbage can liners are purchases of starch-based plastic garbage can liners.

c. The commission shall report to the general assembly on January 1 of each year, the plastic products which are regularly purchased by the commission for which starch-based product alternatives are available. The report shall also include the cost of the plastic products purchased and the cost of the starch-based product alternatives.

Approved May 7, 1988

CHAPTER 1186

ANIMAL CARE BY COMMERCIAL ESTABLISHMENTS

S.F. 394

AN ACT relating to care of animals in commercial establishments.

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

Section 1. Section 162.2, subsection 4, Code 1987, is amended to read as follows:

4. "Pet shop" means an establishment where any dog, cat, rabbit, rodent, nonhuman primate, fish other than live bait, bird, or other vertebrate animal is bought, sold, exchanged, or offered for sale ~~to the general public~~.

Sec. 2. Section 162.2, subsection 6, Code 1987, is amended to read as follows:

6. "Commercial kennel" means a kennel which performs grooming, boarding, or training services for dogs or cats, ~~or both, and may or may not render boarding services~~ in return for a consideration.

Sec. 3. Section 162.2, subsection 7, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

7. "Commercial breeder" means a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or less breeding males or females is not a commercial breeder.

Sec. 4. Section 162.2, subsection 8, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

8. "Vertebrate animal" means those vertebrate animals other than members of the equine, bovine, ovine, and porcine species.

Sec. 5. Section 162.3, Code 1987, is amended to read as follows:

162.3 CERTIFICATE OF REGISTRATION FOR POUND.

No A pound shall not be operated unless a certificate of registration for the pound is granted by the secretary. Application for the certificate shall be made in the manner approved by the secretary. No A fee shall be is not required for the application or certificate. Certificates of registration shall expire annually on March 1 one year from date of issue unless revoked and may be renewed upon application in the manner provided by the secretary. A registered pound may engage in the sale of dogs or cats, or both, under its control, if it obtains a license for such activity, the privilege is allowed by the department but no fee shall be charged therefor unless the registered pound is privately owned. The registration fee for a privately owned pound that sells dogs or cats is ten dollars per year.

Sec. 6. Section 162.4, Code 1987, is amended to read as follows:

162.4 CERTIFICATE OF REGISTRATION FOR ANIMAL SHELTER.

No A person shall not operate an animal shelter unless a certificate of registration for the animal shelter is granted by the secretary. Application for the certificate shall be made in the manner provided by the secretary. No A fee shall be is not required for the application or certificate. Certificates of registration shall expire annually on March 1 one year from date of issue unless revoked and may be renewed in the manner provided by the secretary. A registered animal shelter may engage in the sale of dogs or cats, or both, under its control, if it obtains a license for such activity, but no fee shall be charged therefor if the privilege is allowed by the department.

Sec. 7. Section 162.5, Code 1987, is amended to read as follows:

162.5 PET SHOP LICENSE.

No A person shall not operate a pet shop unless the person has obtained a license to operate a pet shop issued by the secretary. Application for the license shall be made in the manner provided by the secretary. The license shall expire expires annually on March 1 of each year one year from date of issue unless revoked and may be renewed in the manner provided by the secretary. The license fee shall be is forty dollars per year or ten dollars for each quarter or portion of a quarter of a year. The license may be renewed if the licensee has conformed to all statutory and regulatory requirements.

Sec. 8. Section 162.6, Code 1987, is amended to read as follows:

162.6 COMMERCIAL KENNEL OR PUBLIC AUCTION LICENSE.

No A person shall not operate a commercial kennel or public auction, as defined in section 162.2, unless the person has obtained a license to operate a commercial kennel or a public auction issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The license and the certificate shall expire annually on March 1 one year from date of issue unless revoked. The license fee shall be is twenty-five dollars per year or seven dollars for each quarter or portion of a quarter of a year and the certification fee shall be is five dollars annually. If the person has obtained a federal license, the person need only obtain a certificate. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary provided if the licensee has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary.

Sec. 9. Section 162.7, Code 1987, is amended to read as follows:

162.7 DEALER LICENSE.

No A person shall not operate as a dealer unless the person has obtained a license issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The license and certificate shall expire ~~annually on March 1~~ one year from date of issue unless revoked. The license fee shall be ~~is~~ fifty dollars per year or fifteen dollars for each quarter or portion of a quarter of a year, and the certification fee shall be is five dollars per year. The license may be renewed upon application and payment of the ~~prescribed~~ prescribed fee in the manner provided by the secretary, provided if the licensee has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the ~~prescribed~~ prescribed fee in the manner provided by the secretary.

Sec. 10. Section 162.8, Code 1987, is amended to read as follows:

162.8 COMMERCIAL BREEDER'S LICENSE.

No A person shall not operate as a commercial breeder unless the person has obtained a license issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The annual license or the certification period shall ~~commence March 1~~ of each year expires one year from date of issue. The license fee shall be ~~is~~ twenty-five dollars per year or seven dollars for each quarter or portion of a quarter of a year and the certificate fee shall be is five dollars per year. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary provided if the licensee has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary.

Sec. 11. Section 162.9, Code 1987, is amended to read as follows:

162.9 BOARDING KENNEL OPERATOR'S LICENSE.

No A person shall not operate a boarding kennel unless the person has obtained a license to operate a boarding kennel issued by the secretary. Application for the license shall be made in the manner provided by the secretary and expires one year from date of issue. The ~~annual license period shall commence March 1~~ annual license period shall commence March 1 of each year. The license fee shall be ~~is~~ fifteen dollars per year or four dollars for each quarter or portion of a quarter of a year. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary provided if the licensee has conformed to all statutory and regulatory requirements.

Sec. 12. Section 162.10, Code 1987, is amended by striking the section and inserting the following:

162.10 RESEARCH FACILITY REGISTRATION.

A person shall not operate a research facility unless the person obtains a certificate issued by the secretary. The certificate expires one year from date of issue. Application for the certificate shall be made in the manner provided by the secretary. A fee is not required for the application or certificate.

Sec. 13. Section 162.11, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 4. This chapter does not apply to a place or establishment which operates under the immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored, hospitalized, and cared for incidental to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary

medicine. However, if animals are accepted by such a place, establishment, or hospital for boarding or grooming for a consideration, the place, establishment, or hospital is subject to the licensing or registration requirements applicable to a boarding kennel or commercial kennel under this chapter and the rules adopted by the secretary.

NEW SUBSECTION. 5. This chapter does not apply to a noncommercial kennel at, in, or adjoining a private residence where dogs or cats are kept for the hobby of the householder, if the dogs or cats are used for hunting, for practice training, for exhibition at shows or field or obedience trials, or for guarding or protecting the householder's property. However, the dogs or cats must not be kept for breeding if a person receives consideration for providing the breeding.

Sec. 14. Section 162.12, Code 1987, is amended to read as follows:

162.12 DENIAL OR REVOCATION OF LICENSE OR REGISTRATION.

A certificate of registration may be denied to any pound or animal shelter and a license or certificate of registration may be denied to any public auction, boarding kennel, commercial kennel, ~~hobby kennel~~ research facility, pet shop, commercial breeder, or dealer, or, if ~~granted such an existing~~ granted certificate or license, may be revoked by the secretary if, after public hearing, it is determined that the housing facilities or primary enclosures are inadequate under the provisions of this chapter or if the feeding, watering, cleaning, and housing practices at the pound, animal shelter, public auction, pet shop, boarding kennel, commercial kennel, ~~hobby kennel~~ research facility, or those practices by the commercial breeder or dealer, are not in compliance with the provisions of this chapter or with the rules which shall be promulgated adopted pursuant to the authority of this chapter. The premises of each licensee or certificate holder shall be open for inspection during normal business hours.

Sec. 15. Section 162.13, Code 1987, is amended to read as follows:

162.13 PENALTIES.

Operation of a pound, animal shelter, pet shop, boarding kennel, commercial kennel, ~~hobby kennel~~ research facility, or public auction, as defined in section 162.2, or dealing in dogs or cats, or both, either as a dealer or a commercial breeder, without a currently valid license or a certificate of registration shall constitute is a simple misdemeanor and each day of such operation shall constitute is a separate offense.

Failure of a person licensed or registered any pound, research facility, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction, or dealer, to adequately house, feed, or water dogs, or cats, or both, vertebrate animals in the person's or facility's possession or custody or failure of an operator of a licensed pet shop to adequately house, feed, or water a vertebrate animal is a simple misdemeanor. The animals are subject to seizure and impoundment and may be sold or destroyed by euthanasia at the discretion of the secretary and the failure is also grounds for revocation or suspension of license or registration after public hearing. The commission of an act declared to be an unlawful practice under section 714.16 or chapter 717, by a person or facility licensed or registered under this chapter is grounds for revocation or suspension of the license or registration certificate. Dogs, cats, and other vertebrates upon which euthanasia is permitted by law may be destroyed by persons or facilities subject to this chapter or chapter 169, and only by euthanasia.

~~It shall be is~~ is unlawful for a dealer, as defined in section 162.2, subsection 10, to knowingly ship a diseased animal. A dealer violating the provisions of this paragraph shall be is subject to a fine not exceeding one hundred dollars. Each diseased animal shipped in violation of this paragraph shall constitute is a separate offense.

Sec. 16. Section 162.17, Code 1987, is repealed.

CHAPTER 1187

PUBLIC FUNDS INVESTMENT IN DRAINAGE DISTRICT CERTIFICATES

S.F. 69

AN ACT relating to the investment of idle public funds by authorizing investment in drainage district warrants or improvement certificates.

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

Section 1. Section 452.10, unnumbered paragraph 1, Code 1987, is amended to read as follows:

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 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 in time deposits in depositories as provided in chapter 453 and receive time certificates of deposit ~~therefor for the funds~~; or in savings accounts in depositories; or in warrants or improvement certificates of a drainage district. 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 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 is not permitted. As used in this section, "depository" means a financial institution designated as a legal depository under chapter 453.

Approved May 7, 1988

CHAPTER 1188

AGRICULTURAL DRAINAGE WELLS

S.F. 38

AN ACT relating to agricultural drainage wells.

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

Section 1. Section 159.29, subsection 1, Code Supplement 1987, is amended to read as follows:

1. An owner of an agricultural drainage well shall register the well with the department of natural resources by ~~January 1, 1988~~ September 30, 1988. The department of agriculture and land stewardship, in cooperation with the department of natural resources, shall adopt rules, pursuant to chapter 17A, which provide for an appeals process for violations of this subsection.

Sec. 2. Section 455E.11, subsection 2, paragraph b, Code Supplement 1987, is amended by adding the following new subparagraph after subparagraph (1) and renumbering the remaining subparagraphs:

NEW SUBPARAGRAPH. (2) Two hundred thousand dollars of the moneys deposited in the agriculture management account is appropriated to the department of agriculture and land

stewardship for the fiscal year beginning July 1, 1987, and ending June 30, 1988, for the demonstration projects regarding agriculture drainage wells and sinkholes. Any remaining balance of the appropriation made for the purpose of funding such demonstration projects for the fiscal year beginning July 1, 1987, and ending June 30, 1988, shall not revert to the account, notwithstanding section 8.33, but shall remain available for the purpose of funding such demonstration projects during the fiscal period beginning July 1, 1988, and ending June 30, 1990.

Sec. 3. Section 455E.11, subsection 2, paragraph b, subparagraph (2), subdivision (d), Code Supplement 1987, is amended to read as follows:

(d) Thirteen percent of the moneys is appropriated annually to the department of agriculture and land stewardship for financial incentive programs related to agricultural drainage wells and sinkholes, for studies and administrative costs relating to sinkholes and agricultural drainage wells programs, and not more than two hundred thousand dollars of the moneys is appropriated for the demonstration projects regarding agricultural drainage wells and sinkholes. Of the thirteen percent allocated for financial incentive programs, not more than fifty thousand dollars is appropriated for the fiscal year beginning July 1, 1987 and ending June 30, 1988, to the department of natural resources for grants to county conservation boards for the development and implementation of projects regarding alternative practices in the remediation of noxious weeds or other vegetation within highway rights-of-way. Any remaining balance of the appropriation made for the purpose of funding of projects regarding alternative practices in the remediation of noxious weeds or other vegetation within highway rights-of-way for the fiscal year beginning July 1, 1987, and ending June 30, 1988, shall not revert to the account, notwithstanding section 8.33, but shall remain available for the purpose of funding the projects during the fiscal period beginning July 1, 1988, and ending June 30, 1990.

Approved May 7, 1988

CHAPTER 1189

WATER PROTECTION PROJECTS AND PRACTICES

H.F. 2381

AN ACT relating to carrying out water protection projects and practices within soil and water conservation districts, and providing for a water protection fund.

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

Section 1. Section 467A.7, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 20. To enter into agreements pursuant to chapter 467F with the owner or occupier of land within the district or cooperating districts, or any other private entity or public agency, in carrying out water protection practices, including district and multidistrict projects to protect this state's groundwater and surface water from point and nonpoint sources of contamination, including but not limited to agricultural drainage wells, sinkholes, sedimentation, and chemical pollutants.

Sec. 2. **NEW SECTION. 467F.1 DEFINITIONS.**

As used or referred to in this chapter, unless a different meaning clearly appears from the context:

1. "District" means a soil and water conservation district established in chapter 467A.
2. "Department" means the department of agriculture and land stewardship.

3. "Division" means the division of soil conservation created within the department.

4. "Committee" or "state soil conservation committee" means the committee established by section 467A.4.

5. "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States.

6. "Landowner" includes any person, including a federal agency, this state or any of its political subdivisions, who holds title to land lying within a proposed district.

Sec. 3. NEW SECTION. 467F.2 WATER PROTECTION PROJECTS AND PRACTICES.

1. Each soil and water conservation district, alone and whenever practical in conjunction with other districts, shall carry out district-wide and multiple-district projects to support water protection practices in the district or districts, including projects to protect this state's groundwater and surface water from point and nonpoint sources of contamination, including but not limited to contamination by agricultural drainage wells, sinkholes, sedimentation, or chemical pollutants.

2. An owner of or occupant of land within a district may establish a water protection practice under this chapter by entering into an agreement with the district in which the owner or occupant receives financial assistance to establish water protection practices in consideration for promising to maintain the practices according to rules adopted by the division. The financial assistance may be in the form of grants, loans, or cost-sharing arrangements. An agreement shall not be binding until the assistance is specifically approved for that land and made available to the owner or occupant.

3. The division shall approve an award of financial assistance based on an application submitted by the owner or occupant of the land. The division may require a copy of the application with an evaluation of the application by the district. Each application for financial assistance shall be considered under a priority system adopted by the district for disbursement of unallocated funds. The district, under the supervision of a district technician, shall design proposed clean water practices for which financial assistance has been obligated. The district shall determine compliance with applicable design standards and specifications. The landowner shall construct and is liable for the performance of the water protection practices on the land.

4. The division shall adopt rules necessary for the administration of this chapter, including rules relating to the approval of programs and projects, designing a project or water protection practices, the estimation of costs of a project or program, and the inspection of projects or practices being placed or maintained on the land.

Sec. 4. NEW SECTION. 467F.3 COOPERATION WITH OTHER AGENCIES.

Soil and water conservation districts may enter into agreements with the United States, as provided by state law, or with the state of Iowa or any agency of the state, any other soil and water conservation district, or other political subdivision of this state, for cooperation in preventing, controlling, or attempting to prevent or control contamination of groundwater or surface water by point and nonpoint sources of pollution. Soil and water conservation districts may accept, as provided by state law, any money disbursed for water quality preservation purposes by the federal government or any agency of the federal government, and expend the money for the purposes for which it was received.

Sec. 5. NEW SECTION. 467F.4 WATER PROTECTION FUND.

A water protection fund is created within the division. The fund is composed of money appropriated by the general assembly for that purpose, and moneys available to and obtained or accepted by the state soil conservation committee from the United States or private sources for placement in the fund. The fund shall be a revolving loan fund from which moneys may be used for loans, grants, administrative costs, and cost-sharing.

In administering the fund the division may:

1. Contract, sue and be sued, and adopt rules necessary to carry out the provisions of this section, but the division or committee shall not in any manner directly or indirectly pledge the credit of this state.
2. Authorize payment from the water protection fund, from fees and from any income received by investments of money in the fund for costs, commissions, attorney fees, and other reasonable expenses related to and necessary for making and protecting direct loans under this section, and for the recovery of moneys loaned or the management of property acquired in connection with the loans.

Approved May 9, 1988

CHAPTER 1190

EMERGENCY RESPONSE AND ENVIRONMENTAL PROTECTION FUNDING

H.F. 2338

AN ACT relating to environmental quality by creating an emergency response fund and by establishing and increasing fines and penalties.

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

Section 1. Section 29C.8, subsection 3, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. Implement planning and training for emergency response teams as mandated by the federal government under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq.

Sec. 2. NEW SECTION. 29C.8A EMERGENCY RESPONSE FUND CREATED.

1. An emergency response fund is created in the state treasury. The first one hundred thousand dollars received annually by the treasurer of state for the civil penalties and fines imposed by the court pursuant to sections 455B.146, 455B.191, 455B.386, 455B.417, 455B.454, 455B.466, and 455B.477 shall be deposited in the general fund of the state. The next hundred thousand dollars shall be deposited in the emergency response fund and any additional moneys shall be deposited in the household hazardous waste account. All moneys received annually by the treasurer of the state for the fines imposed by sections 716B.2, 716B.3, and 716B.4 shall also be deposited in the emergency response fund.

2. The emergency response fund shall be administered by the disaster services division to carry out planning and training for the emergency response teams.

Sec. 3. Section 455E.11, subsection 2, paragraph c, Code Supplement 1987, is amended to read as follows:

c. A household hazardous waste account. The moneys collected pursuant to section 455F.7 shall be deposited in the household hazardous waste account. Except for the first one hundred thousand dollars received annually for deposit in the general fund, and the next one hundred thousand dollars received annually for deposit in the emergency response fund, the treasurer of state shall deposit moneys received from civil penalties and fines imposed by the court pursuant to sections 455B.146, 455B.191, 455B.386, 455B.417, 455B.454, 455B.466, and 455B.477, in the household hazardous waste account. Two thousand dollars is appropriated annually to the Iowa department of public health to carry out departmental duties under section 135.11,

subsections 20 and 21, and section 139.35, eighty thousand dollars is appropriated to the department of natural resources for city, county, or service organization project grants relative to recycling and reclamation events, and eight thousand dollars is appropriated to the department of transportation for the period of October 1, 1987 through June 30, 1989 for the purpose of conducting the used oil collection pilot project. The remainder of the account shall be used to fund Toxic Cleanup Days programs, education programs, and other activities pursuant to chapter 455F, including the administration of the household hazardous materials permit program by the department of revenue and finance.

The department shall submit to the general assembly, annually on or before January 1, an itemized report which includes but is not limited to the total amount of moneys collected and the sources of the moneys collected, the amount of moneys expended for administration of the programs funded within the account, and an itemization of any other expenditures made within the previous fiscal year.

Approved May 9, 1988

CHAPTER 1191

AGRICULTURAL PROPERTY HOLDINGS

H.F. 2283

AN ACT relating to agricultural property holdings by providing certain definitions; restricting processors; establishing family farm limited partnerships; restricting the number of acres of agricultural land that other limited partnerships may acquire or otherwise obtain or lease; restricting persons from becoming limited partners, stockholders, or beneficiaries in more than a number of certain limited partnerships, authorized farm corporations, or authorized trusts; providing certain restrictions on family trusts; and requiring reporting of certain agricultural related property and the confidentiality of certain information; and providing penalties.

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

Section 1. Section 172C.1, subsection 11, Code 1987, is amended to read as follows:

11. "Family trust" means a trust:

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 ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related; and

b. In which all the beneficiaries are natural persons, who are not acting as a trustee or in a similar capacity for a trust, as defined in subsection 10 of this section, or persons acting in a fiduciary capacity, or nonprofit corporations; and

c. If the trust is established on or after July 1, 1988, the trust must be established for the purpose of farming and sixty percent of the gross revenues of the trust over the last consecutive three-year period must come from farming.

Sec. 2. Section 172C.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 18. "Contract feeder" means a person owning in the applicable reporting year, as provided in section 172C.5B, more than two thousand five hundred hogs, or five thousand head of poultry if the hogs or poultry are subject to a contract or contracts for care and feeding by a person or persons other than the owner on land which is not owned, leased, or held by the owner.

NEW SUBSECTION. 19. "Family farm limited partnership" means a limited partnership which meets all of the following conditions:

a. The limited partnership is formed for the purpose of farming and the ownership of agricultural land in which the general partner and a majority of the partnership interest is held by and the majority of limited partners are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.

b. The general partner manages and supervises the day-to-day farming operations on the agricultural land.

c. All of the limited partners are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.

d. Sixty percent of the gross revenues of the partnership over the last consecutive three-year period come from farming.

Sec. 3. Section 172C.2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

In order to preserve free and private enterprise, prevent monopoly, and protect consumers, it is unlawful for any processor of beef or pork or limited partnership in which a processor holds partnership shares as a general partner or partnership shares as a limited partner, to own, control or operate a feedlot in Iowa in which hogs or cattle are fed for slaughter. In addition, a processor shall not directly or indirectly control the manufacturing, processing, or preparation for sale of pork products derived from swine if the processor contracted for the care and feeding of the swine in this state. However, this section does not apply to a cooperative association organized under chapter 497, 498, or 499, if the cooperative association contracts for the care and feeding of swine with a member of the cooperative association who is actively engaged in farming. This section does not apply to an association organized as a cooperative in which another cooperative association organized under chapter 497, 498, or 499 is a member, if the association contracts with a member which is a cooperative association organized under chapter 497, 498, or 499, which contracts for the care and feeding of swine with a member of the cooperative who is actively engaged in farming. This section shall not preclude a processor or limited partnership from contracting for the purchase or feeding of hogs or cattle, provided that where the contract sets a date for delivery which is more than twenty days after the making of the contract it shall:

Sec. 4. Section 172C.5, Code Supplement 1987, is amended to read as follows:

172C.5 RESTRICTIONS ON AUTHORIZED FARM CORPORATIONS, AND AUTHORIZED TRUSTS, AND LIMITED PARTNERSHIPS.

1. An authorized farm corporation or authorized trust shall not, on or after July 1, 1987, and a limited partnership other than a family farm limited partnership shall not, on or after July 1, 1988, either directly or indirectly, acquire or otherwise obtain or lease agricultural land, if the total agricultural land either directly or indirectly owned or leased by the authorized farm corporation, limited partnership, or authorized trust would then exceed one thousand five hundred acres.

a. However, the restrictions provided in this paragraph does subsection do not apply to agricultural land that is leased by an authorized farm corporation, or authorized trust, or limited partnership to the immediate prior owner of the land for the purpose of farming, as defined in section 172C.1. Upon cessation of the lease to the immediate prior owner, the authorized farm corporation, or authorized trust, or limited partnership shall, within three years following the date of the cessation, sell or otherwise dispose of the agricultural land leased to the immediate prior owner.

b. This paragraph subsection also does not apply to land that is held or acquired and maintained by an authorized farm corporation, authorized trust, or limited partnership to protect

significant elements of the state's natural open space heritage, including but not limited to significant river, lake, wetland, prairie, forest areas, other biologically significant areas, land containing significant archaeological, historical, or cultural value, or fish or wildlife habitats, as defined in rules adopted by the department of natural resources.

2. A person shall not after July 1, 1987 become a stockholder of any authorized farm corporation if the person is a stockholder of any other authorized farm corporation or a beneficiary of an authorized trust. A person shall not after July 1, 1987 become a beneficiary of an authorized trust if the person is a beneficiary of another authorized trust or a stockholder of an authorized farm corporation. A person shall not, after July 1, 1988, become a stockholder of an authorized farm corporation, a beneficiary of an authorized trust, or a limited partner in a limited partnership which owns or leases agricultural land if the person is also any of the following:

a. A stockholder of an authorized farm corporation.

b. A beneficiary of an authorized trust.

c. A limited partner in a limited partnership which owns or leases agricultural land.

However, this subsection shall not apply to limited partners in a family farm limited partnership.

3. a. Any authorized farm corporation, or authorized trust, or limited partnership violating the provisions of this section shall upon conviction, be punished by a fine of not more than fifty thousand dollars and shall divest itself of any land acquired in violation of this section within one year after conviction. A penalty of not more than one thousand dollars shall may be imposed on a person who becomes a stockholder of an authorized farm corporation, or a beneficiary of an authorized trust, or limited partner in a limited partnership in violation of this section. The person shall divest the interest held by the person in the corporation or trust corporation, trust, or limited partnership to comply with this section. The court may determine the method of divesting an interest held by a person found to be in violation of this chapter. A financial gain realized by a person who disposes of an interest held in violation of this chapter shall be forfeited to the state's general fund. All court costs and fees shall be paid by the person holding the interest in violation of this chapter.

b. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this section.

Sec. 5. NEW SECTION. 172C.5A REPORTING.

1. An annual report shall be filed by a reporting entity with the secretary of state on or before June 30 of 1989, and thereafter on or before March 31 of each year on forms adopted pursuant to chapter 17A and supplied by the secretary of state.

2. As used in this section, a "reporting entity" means any of the following:

a. A person serving as the president or other officer or authorized representative of a corporation (other than a family farm corporation) and including an authorized farm corporation, owning or leasing agricultural land or engaged in farming in this state.

b. A person acting as the general partner of a limited partnership, other than a family farm limited partnership, owning or leasing agricultural land or engaged in farming in this state.

c. A person acting in a fiduciary capacity or as a trustee on behalf of a person, including a corporation, limited partnership, or nonresident alien, who holds in a trust (other than through a family trust) including through an authorized trust, agricultural land in this state.

3. The report shall contain information for the last year regarding the reporting entity's corporation, limited partnership, or trust, and the agricultural land owned, leased, or held. However, this subsection shall not apply to a family farm corporation, a family farm limited partnership, or a family trust. The report shall contain the following information, if applicable:

a. Whether the reporting entity represents a corporation, trust, or limited partnership. If the reporting entity represents a corporation the report shall specify if the corporation is foreign or domestic, profit or nonprofit, or an authorized farm corporation. If the reporting entity represents a trust the report shall specify if the trust is an authorized trust.

b. The name of the reporting entity and the name and address of the person supervising the daily operations on the agricultural land.

c. The name, address, and citizenship if not from the United States, of each shareholder, limited partner, or beneficiary of a corporation, trust, or limited partnership.

d. The total approximate number of acres, and the approximate number of acres by named county, of agricultural land which is owned, leased, or held by the corporation, trust, or limited partnership.

e. The approximate number of acres of agricultural land which is owned and operated by the corporation or limited partnership; the approximate number of acres of agricultural land which is leased by the corporation, limited partnership, or trust as a lessee; the approximate number of acres of agricultural land which is leased from the corporation, limited partnership, or trust as a lessor; and the approximate number of acres of agricultural land which is held in fee and operated by a trust.

f. The approximate number of acres of agricultural land which the corporation, trust, or limited partnership used for the production of row crops.

g. The approximate number of livestock, including cattle, sheep, swine, or poultry, owned, contracted for, or kept by the corporation, trust, or limited partnership, and the approximate number of offspring produced from the livestock.

Sec. 6. NEW SECTION. 172C.5B REPORTING BY CONTRACTORS.

A contract feeder shall file with the secretary of state on or before March 31 of each year on forms adopted pursuant to chapter 17A and supplied by the secretary of state an annual report containing all of the following information, if applicable:

1. The name and address of the person.

2. For each county, which the contractor shall identify, the approximate total number of hogs, or head of poultry subject to a contract for feeding and care as described in section 172C.1, subsection 18.

3. The name and address of the purchaser of the hogs, or poultry.

Sec. 7. Section 172C.9, Code 1987, is amended by adding the following new subsection: NEW SUBSECTION. 5. The total number of hogs for which the processor has contracted for feeding as provided in section 172C.2.

Sec. 8. Section 172C.8, Code 1987, is amended to read as follows:

172C.8 REPORTS BY BENEFICIARIES.

1. Any limited partnership or corporation identified as a beneficiary in a report filed with the secretary of state pursuant to section 172C.7, subsection 2, 172C.5A shall file with the secretary of state on or before March 31 of each year, on forms supplied by the secretary of state, a report containing the information set forth in section 172C.6, 172C.5A with respect to land owned by a fiduciary or trustee on behalf of the limited partnership or corporation.

2. Any nonresident alien identified as a beneficiary in a report filed with the secretary of state pursuant to section 172C.7, subsection 3, 172C.5A shall file with the secretary of state on or before March 31 of each year on forms supplied by the secretary of state, a report containing the information set forth in section 567.8, with respect to land owned by a fiduciary or trustee on behalf of the nonresident alien.

Sec. 9. Section 172C.14, Code 1987, is amended to read as follows:

172C.14 DUTIES OF SECRETARY OF STATE — LEGISLATIVE USE.

The secretary of state shall do all things necessary to implement this chapter. It is the intent of this section that information shall be made available to members of the general assembly and appropriate committees of the general assembly in order to determine the extent of farming being carried out in this state by corporations and other business entities and the effect of such farming practices upon the economy of this state. The reports of corporations, limited partnerships, trusts, contractors, and processors required in section 172C.9 this chapter shall be confidential reports except as to the general assembly and appropriate committees of the general assembly whose members upon receipt of such reports treat such information as confidential and to the attorney general for review and appropriate action when necessary. The secretary of state shall assist any committee of the general assembly existing or established for the purposes of studying the effects of this chapter and the practices this chapter seeks to study and regulate.

Sec. 10. Sections 172C.6 and 172C.7, Code 1987, are repealed.

Approved May 9, 1988

CHAPTER 1192

COMMERCIAL CONCESSIONS IN STATE PARK AREAS

H.F. 2191

AN ACT relating to commercial concessions operated on certain state-owned lands.

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

Section 1. Section 111.4, unnumbered paragraph 4, Code 1987, is amended to read as follows:

No A person, association, or corporation shall not operate any a commercial concession on any state-owned lands or waters in a park, forest, fish and wildlife area, or recreation area under jurisdiction of the department without first obtaining from the commission a permit therefor entering into a written contract with the department. The contract shall state the consideration and other terms under which the concession may be operated. The commission department may issue and revoke such permits cancel or, in an emergency, suspend a concession contract for the protection of the public health, safety, morals, or welfare.

Approved May 9, 1988

CHAPTER 1193

COUNTY CONSERVATION BOARDS

H.F. 2016

AN ACT relating to county conservation boards by providing for the creation of a county conservation board in certain counties and by specifying the law enforcement authority of the director and other designated employees of a county conservation board, and by providing effective dates.

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

Section 1. Section 111A.5, Code Supplement 1987, is amended to read as follows:
111A.5 REGULATIONS — PENALTY — OFFICERS.

The county conservation board may make, alter, amend or repeal regulations for the protection, regulation and control of all museums, parks, preserves, parkways, playgrounds, recreation centers, and other property under its control. The regulations shall not be contrary to, or inconsistent with, the laws of this state. The regulations shall not take effect until ten days after their adoption by the board and after their publication as provided in section 331.305 and after a copy of the regulations has been posted near each gate or principal entrance to the public ground to which they apply. After the publication and posting, a person violating a provision of the regulations which are then in effect is guilty of a simple misdemeanor. The board may designate the director and those employees as the 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 this state and the apprehension of violators. The director and those employees of the board designated as police officers may enforce the provisions of chapters 106, 109, 110, 111, and 321G on land not under the control of the board within the county.

Sec. 2. **NEW SECTION. 111A.11 COUNTY CONSERVATION BOARDS CREATED.**

Notwithstanding the referendum specified in section 111A.2, the board of supervisors of any county in which a county conservation board has not been established as of January 1, 1989, shall create a county conservation board to become effective July 1, 1989. The membership of a county conservation board created pursuant to this section, shall be appointed during the month of January 1989, for the purposes of organizing, planning, and budgeting for the fiscal year beginning July 1, 1989. A county conservation board created as provided in this section shall become fully operational as of July 1, 1989.

Approved May 9, 1988

CHAPTER 1194

BENEFITED RECREATIONAL LAKE DISTRICTS

H.F. 678

AN ACT authorizing the establishment of a benefited recreational lake district and its dissolution, the election of trustees, the levy of a tax, and the contract of indebtedness.

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

Section 1. **NEW SECTION. 357E.1 DEFINITIONS.**

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

1. "District" means a benefited recreational lake district incorporated and organized pursuant to this chapter.

2. "Trustee" means a member of the board of trustees of a district.

3. "Board" means the board of supervisors of a county, or the joint boards of supervisors of two or more counties, in which a district has been incorporated and organized or is proposed to be incorporated and organized.

4. "Recreational facilities" includes, but is not limited to, real and personal property, water, buildings, structures, or improvements including dams or other structures permitted or exempt from regulation under chapter 455B, and equipment useful and suitable for recreation programs, including those programs customarily identified with the term "recreation" such as public sports, games, pastimes, diversions, and amusement, on land or water and including community center houses, recreation grounds, recreation buildings, juvenile playgrounds, swimming pools, recreation centers, parks, lakes, and golf courses, and the acquisition of real estate for them.

Sec. 2. NEW SECTION. 357E.2 INCORPORATION.

If an area of contiguous territory is situated so that the acquisition, construction, reconstruction, enlargement, improvement, equipping, maintenance, and operation of recreation facilities for the residents of the territory will be conducive to the public health, comfort, convenience, or welfare, the area may be incorporated as a benefited recreational lake district as set forth in this chapter. The land to be included in a district must be contiguous to the recreational lake or to other residential, agricultural, or commercial property which is contiguous to the recreational lake.

Sec. 3. NEW SECTION. 357E.3 PETITION FOR PUBLIC HEARING.

1. The supervisors shall, on the petition of twenty-five percent of the resident property owners in a proposed district if the assessed valuation of the property owned by the petitioners represents at least twenty-five percent of the total assessed value of the proposed district, hold a public hearing concerning the establishment of a proposed district. The petition shall include a statement containing the following information:

- a. The need for the district.
- b. A description of the district to be served.
- c. The approximate number of families in the district.

2. The board of supervisors may require a bond of the petitioners conditioned for the payment of all costs and expenses incurred in the proceedings in case the district is not established.

Sec. 4. NEW SECTION. 357E.4 TIME OF PUBLIC HEARING.

The public hearing required in section 357E.3 shall be held within thirty days of the presentation of the petition. Notice of hearing shall be given by publication as provided in section 331.305.

Sec. 5. NEW SECTION. 357E.5 HEARING OF PETITION — ACTION BY BOARD.

At the public hearing required in section 357E.3, the board of supervisors may consider the boundaries of a proposed district, whether the boundaries shall be as described in the petition or otherwise, and for that purpose may amend the petition and change the boundaries of the proposed district as stated in the petition. The supervisors may 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. However, the boundaries of a proposed district shall not be changed to incorporate property which is not included in the original petition.

After, and within ten days of, the hearing, the board of supervisors shall establish the district by resolution or disallow the petition.

Sec. 6. NEW SECTION. 357E.6 ENGINEER.

1. When the board establishes a district, a competent disinterested civil engineer shall be appointed, who shall prepare a preliminary plat showing:

a. The proper design in general outline of the district.

b. The lots and parcels of land within the proposed district as they appear on the county auditor's plat books with the names of the owners.

c. The assessed valuations of the lots and parcels.

2. The compensation of the engineer on the preliminary investigation shall be determined by the board. The engineer shall file a report with the county auditor within thirty days of appointment. The board may extend the time upon good cause shown.

Sec. 7. NEW SECTION. 357E.7 HEARING ON ENGINEER'S REPORT.

After the engineer's report is filed, the board shall give notice as provided in section 357E.4, of a public hearing to be held concerning the engineer's preliminary plat. After, and within ten days of, the hearing, the board shall approve or disapprove the preliminary plat. If the preliminary plat is disapproved, the board may make changes in the boundaries as deemed necessary for the board's approval of the preliminary plat.

Sec. 8. NEW SECTION. 357E.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 four dollars per thousand dollars of assessed value on all the taxable property within the district except property assessed as agricultural land, and to choose candidates for the offices of trustees of the district. A tax levy approved for the purposes of this chapter shall not be levied on property assessed as agricultural land. Notice of the election, including the time and place of holding the election, shall be given as provided in section 357E.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 when not in conflict with this chapter. Judges shall be appointed by the board from among the qualified electors of the district to be in charge of the election. The judges are not entitled to receive pay. The proposition is approved if a majority of those voting on the proposition vote in favor of it.

Sec. 9. NEW SECTION. 357E.9 TRUSTEES.

At the election, the names of at least three candidates for trustee shall be written in by the voters on blank ballots without formal nomination and the board of supervisors shall appoint three from among the five receiving the highest number of votes as trustees for the district. One trustee shall be appointed to serve for one year, one for two years, and one for three years. The trustees shall give bond in the amount required by the board, the premium of which shall be paid by the district. Vacancies shall be filled by election, but if there are no candidates for a trustee office, the vacancy may be filled by appointment by the board. The term of the succeeding trustees are for three years.

If the state owns at least four hundred acres of land contiguous to a lake within the district, the natural resources commission shall appoint two members of the board of trustees in addition to the three members provided in this section. The additional two members must be citizens of the state, not less than eighteen years of age, and property owners within the district. The two additional members have voting and other authority equal to the other members of the board and hold office at the pleasure of the natural resources commission.

Sec. 10. NEW SECTION. 357E.10 BOARD OF TRUSTEES — POWER.

The trustees are the corporate authority of the district and shall manage and control the affairs, property, and facilities of the district. The board of trustees shall elect a president,

a clerk, and a treasurer from its membership. The trustees may certify for levy an annual tax as provided in section 357E.8. The trustees may construct, reconstruct, repair, maintain, or operate a dam or other recreational facilities or structures to create or maintain an artificial or natural lake or impoundment and, for this purpose, may purchase material, employ personnel, and perform all other acts necessary to properly maintain and operate the district. The trustees are allowed necessary expenses in the discharge of their duties, but they shall not receive a salary.

Sec. 11. NEW SECTION. 357E.11 BONDS IN ANTICIPATION OF REVENUE.

A district may anticipate the collection of taxes by the levy authorized in this chapter, and to carry out the purposes of this chapter may issue bonds payable in not more than twenty equal installments with the rate of interest not exceeding that permitted by chapter 74A. An indebtedness shall not be incurred under this chapter until authorized by an election. The election shall be held and notice given in the same manner as provided in section 357E.8, and the same majority vote is necessary to authorize indebtedness. Both propositions may be submitted to the voters at the same election.

Sec. 12. NEW SECTION. 357E.12 DISSOLUTION OF DISTRICT.

Upon petition of thirty-five percent of the resident eligible electors, the board may dissolve a district and dispose of any remaining property, the proceeds of which shall first be applied against outstanding obligations and any balance shall be applied to tax credits for property owners of the district. The board shall continue to levy a tax after dissolution of a district, in an amount necessary to pay all outstanding obligations of the district as they become due, until all outstanding obligations of the district are paid.

Sec. 13. NEW SECTION. 357E.13 ADDING PROPERTY TO A DISTRICT.

The owner of any property in an area immediately contiguous to the boundaries of an established district may petition the board to be included in the district. Upon receipt of the petition, the board shall submit the request to a competent disinterested civil engineer to investigate the feasibility of adding the additional territory and to make a report to the board. If the board agrees that the property should be added to the district, the tax levy for the next year shall be applied to the property and on the first day of the next fiscal year the property shall become part of the district. If the district lies in more than one county, the joint action of the boards involved is required to add additional property.

Sec. 14. NEW SECTION. 357E.14 DETERMINATION OF FEE.

1. The owner of any property joining an established district shall pay to the trustees of the district an initial fee to be computed as follows:

a. The trustees shall first determine the fair market value of all property and improvements owned by the district, less any indebtedness.

b. The board shall then determine the assessed value of all property in the district. This shall be divided into the value determined in paragraph "a".

c. The board shall determine the assessed value of the property of each landowner joining the established district.

d. The result obtained in paragraph "b" shall be multiplied by the result obtained in paragraph "c". The result shall be the initial fee to be charged each landowner.

2. The initial fees paid to the trustees shall be used to help defray the cost and maintenance of the recreation district.

Approved May 9, 1988

CHAPTER 1195**ORGANICALLY PRODUCED FOOD***S.F. 2262*

AN ACT relating to organically produced food by providing for the establishment of standards, enforcement measures, penalties and an effective date.

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

Section 1. Section 190.1, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 68. SORGHUM SYRUP. Sorghum syrup is liquid food derived by the concentration and heat treatment of the juice of sorghum cane.

Sec. 2. NEW SECTION. 190B.1 DEFINITIONS.

1. "Advertise" means to present a commercial message in any medium, including but not limited to, print, radio, television, sign, display, label, tag, or articulation.
2. "Department" means the department of agriculture and land stewardship.
3. "Food product" means a product other than beef or pork capable of human consumption, including but not limited to fish, poultry, vegetables, fruit, honey, berries, eggs, seeds, dairy or grain products, and any product composed of one or more of those items.
4. "Label" means a commercial message in a printed medium which is affixed by any method to a receptacle including a container or package.
5. "Organic food" means a food product that satisfies the requirements of section 190B.2.
6. "Processor" means a person who processes or manufactures products containing ingredients that include a food product.
7. "Produce" means grow, raise, collect, or harvest a food product.
8. "Producer" means a person who produces a food product.
9. "Sale" or "sell" means a commercial transfer or offer for sale and distribution in any manner.
10. "Synthetic" includes, but is not limited to, a synthetic pesticide, hormone, antibiotic, growth stimulant, or arsenical.
11. "Vendor" means a person, including but not limited to, a producer or processor, who in the regular course of business, sells food products.

Sec. 3. NEW SECTION. 190B.2 STANDARDS.

1. For a food product to be organic food it must be considered to have been organically grown or produced or composed of ingredients that were all produced according to the following standards:
 - a. Without the use of a synthetic material, as established by the department.
 - b. Without the use of seeds that have been synthetically treated, unless untreated seeds are not generally available.
 - c. With the use of soil that has been free of a synthetic applied within the last year. After July 1, 1990, the soil must have been free of a synthetic applied within the last two years. After July 1, 1991, the soil must have been free of a synthetic applied within the last three years.
 - d. Stored in a regular, cold, or controlled atmosphere. If fumigation is needed, only diatomaceous earth or inert gases may be used.
2. The rules established by the department shall be based on a one-year study which shall be performed by the department in cooperation with producers, processors, and vendors.

Sec. 4. NEW SECTION. 190B.3 RECORDS.

1. A producer who advertises food products for sale as organic, organically produced, or by using a derivative of the term organic, shall maintain accurate records in a manner prescribed

by the department relating to the production of the food products. The records shall be retained for three years after the food products are sold and delivered by the producer.

2. A processor who advertises a food product as organic, organically produced, or by using a derivative of the term organic, shall maintain accurate records prescribed by the department, relating to the ingredients of the food product, the names and addresses of persons from whom the ingredients were purchased, and a copy of the sales receipt. The records shall be retained for three years after the food product is sold and delivered.

3. A vendor who advertises a food product as organic, organically produced, or by using a derivative of the term organic, shall maintain accurate records as prescribed by the department, relating to the names and addresses of persons from whom the food product or ingredients of the food product were purchased, the date and quantity of ingredients purchased, and a copy of the sales receipt. The records shall be retained for three years after the food products are sold and delivered.

Sec. 5. NEW SECTION. 190B.4 SWORN STATEMENTS.

A producer shall not sell to a vendor a food product that the producer advertises as organic, organically produced, or by using a derivative of the term organic, unless before the sale, the producer provides a sworn statement that the food product satisfies the requirements of this chapter. The vendor shall retain the statement as a record under section 190B.3.

Sec. 6. NEW SECTION. 190B.5 CERTIFICATION.

A food product or a receptacle containing a food product that is labeled as organic, organically produced, or by using a derivative of the term organic, shall not also be labeled as "certified" or "verified" unless the name of the person that provided the certification or verification is declared on the label.

Sec. 7. NEW SECTION. 190B.6 IDENTITY MARKINGS.

A food product or a receptacle containing food products that a vendor advertises as organic, organically produced, or by using a derivative of the term organic shall be marked in a manner that identifies the food product or all the food products contained in a receptacle as organic food. A food product advertised as organic, organically produced, or by using a derivative of the term organic, shall not include an ingredient unless the product or receptacle containing the product is marked in a manner that identifies the ingredient. A seal issued by the department pursuant to section 190B.7 to identify a food product as organic food and placed on the food product or on the receptacle shall be a sufficient mark for purposes of this section.

Sec. 8. NEW SECTION. 190B.7 DEPARTMENTAL AUTHORITY AND DUTIES.

1. The department shall enforce this chapter and may adopt rules, pursuant to chapter 17A that are necessary to clarify section 190B.2 and implement sections 190B.3 through 190B.6, this section, and section 190B.8.

2. The department may adopt rules providing for penalties, pursuant to section 190B.8, to be imposed on producers, processors, and vendors for a violation of this chapter or a departmental rule adopted pursuant to this chapter.

3. The department shall investigate the sale of a food product advertised as organic, organically produced, or by using a derivative of the term organic if there is good reason to believe that a provision of this chapter or of a rule adopted pursuant to this chapter has been violated.

4. The department shall adopt rules to restrain a producer, processor, or vendor from selling a food product advertised as organic, organically produced, or by using a derivative of the term organic, if there is good cause to believe that the food product does not satisfy the standards of section 190B.2.

5. The department may demand that a producer, manufacturer, or vendor provide relevant information from records required to be maintained pursuant to section 190B.3.

6. The department may inspect at reasonable times any area where food products advertised as organic, organically produced, or by a derivative of the term organic, are produced, processed, or sold.

7. The department may establish grades based on the standards described in section 190B.2 to distinguish between organic foods produced according to different departmental standards. The department may establish additional standards based on product testing.

8. The department may create a seal to identify food products as organic. The seal shall contain the following language: "Organically produced in accordance with chapter 190B, Code of Iowa". The seal shall be placed on food products or receptacles containing food products in a manner prescribed by the department.

Sec. 9. NEW SECTION. 190B.8 PENALTIES.

A person who acts in violation of this chapter shall be subject to one or more of the following:

1. A civil penalty of not more than five hundred dollars may be imposed on a producer who sells a food product advertised as organic, organically produced, or by using a derivative of the term organic, and does not provide a sworn statement, as required by section 190B.4, or provides a sworn statement that is fraudulent. A civil penalty of not more than five hundred dollars may be imposed on a vendor who purchases a food product advertised by a producer as organic, organically produced, or by using a derivative of the term organic, without obtaining a sworn statement, as required by section 190B.4 or obtaining a sworn statement that the vendor knows or has reason to know is false.

2. A civil penalty of not more than five hundred dollars may be imposed on a producer, processor, or vendor who fails to maintain accurate records required under section 190B.3.

3. A civil penalty of not more than five hundred dollars may be imposed on a vendor who sells a food product advertised by the vendor as organic, organically produced, or by using a derivative of the term organic, knowing that the product does not satisfy the standards of section 190B.2.

4. A civil penalty of not more than five hundred dollars may be imposed on a vendor who sells a food product advertised by the vendor as organic, organically produced, or by using a derivative of the term organic if the vendor fails to mark the food product or a receptacle containing food products in accordance with the requirements of section 190B.6.

5. A civil penalty of not more than five hundred dollars may be imposed on a person who labels a food product or a receptacle containing a food product as "certified" or "verified" contrary to section 190B.6.

Sec. 10. NEW SECTION. 190B.9 INJUNCTIVE REMEDY.

The department or an individual, private organization or association, county, or city may bring an action in district court to restrain a vendor from selling food products that the vendor falsely advertises as organic, organically produced, or by using a derivative of the term organic. A petitioner shall not be required to allege facts necessary to show, or tending to show, a lack of adequate remedy at law, that irreparable damage or loss will result if the action is brought at law or that unique or special circumstances exist.

Sec. 11. NEW SECTION. 190B.10 COSTS.

An individual, private organization or association, county, or city which prevails in an action to enjoin a vendor under section 190B.9 before a district court, the court of appeals, or the supreme court may be awarded court costs, the reasonable costs of investigation, and reasonable attorney fees related to the action. The department may require that a producer, processor, or vendor who has violated a provision of this chapter reimburse the department for the reasonable costs of investigating and administering the case.

Sec. 12. This Act takes effect July 1, 1989, except the study committee established under section 3 of this Act shall be established on July 1, 1988.

Approved May 9, 1988

CHAPTER 1196

FLOODWAY STRUCTURES AND STREAM STRAIGHTENING

S.F. 2126

AN ACT restricting the time period for the initiating of administrative or judicial actions to remove or eliminate certain structures, dams, obstructions, deposits, excavations, or stream straightenings to a floodway and providing for the Act's applicability.

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

Section 1. Section 455B.275, subsection 4, Code 1987, is amended to read as follows:

4. The department may maintain an action in equity to enjoin a person from erecting or making or permitting to be made a structure, dam, obstruction, deposit, or excavation other than a dam constructed and operated under the authority of chapter 469, for which a permit has not been granted. The department may also seek judicial abatement of any structure, dam, obstruction, deposit, or excavation erected or made without a permit required under this part. The abatement proceeding may be commenced to enforce an administrative determination of the department in a contested case proceeding that a public nuisance exists and should be abated. The costs of abatement shall be borne by the violator. Notwithstanding section 176B.11, a structure, dam, obstruction, deposit, or excavation on a floodway or flood plain in an agricultural area established under chapter 176B is not exempt from the sections of this part which relate to regulation of flood plains and floodways. As used in this subsection, violator includes a person contracted to erect or make a structure, dam, obstruction, deposit, or excavation in a floodway including stream straightening unless the project is authorized by a permit required under this part or the project is a dam authorized pursuant to chapter 469.

Sec. 2. Section 455B.275, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The commission or the department shall not initiate any administrative or judicial action to remove or eliminate any structure, dam, obstruction, deposit, or excavation in a floodway, or to remove or eliminate any stream straightening, or to place other restrictions on the use of land or water affected by the structure, dam, obstruction, deposit, excavation, or stream straightening if not initiated within five years after the department becomes aware of the erection or making of the structure, dam, obstruction, deposit, excavation, or stream straightening. After ten years from the completion of the erection or making of the structure, dam, obstruction, deposit, excavation, or stream straightening, the prohibition of this subsection applies to, but is not limited to, any administrative or judicial abatement or action in condemnation that the commission or department may initiate under this section unless action is required to protect the public safety, in which case this section is not intended to limit the department from taking actions otherwise authorized by law.

Sec. 3. In addition to prospective application, this Act applies to all knowledge possessed by the department of natural resources for at least five years before the effective date of this Act and to all projects completed earlier than ten years before the effective date of this Act.

Approved May 9, 1988

CHAPTER 1197

PESTICIDE APPLICATOR CERTIFICATION

S.F. 2055

AN ACT relating to the registration and use of certain pesticides, authorizing a departmental study, and providing an effective date.

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

Section 1. Section 206.2, subsections 12 and 18, Code Supplement 1987, are amended to read as follows:

12. "Commercial applicator" means ~~any~~ a person, corporation, or employee of a person or corporation who enters into a contract or an agreement for the sake of monetary payment and agrees to perform a service by applying ~~any a~~ pesticide ~~or servicing any device~~ but ~~shall~~ does not include a farmer trading work with another, a person employed by a farmer not solely as a pesticide applicator who applies pesticide as an incidental part of the person's general duties, or a person who applies pesticide as an incidental part of a custom farming operation.

18. "Certified private applicator" means a certified applicator who ~~uses or supervises the use of any pesticide which is classified for restricted use on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.~~

Sec. 2. Section 206.5, unnumbered paragraphs 2 through 4, Code Supplement 1987, are amended to read as follows:

The secretary shall adopt, by rule, requirements for the examination, re-examination, and certification of applicants.

Commercial and public applicators shall choose between one-year certification for which the applicator shall pay a ~~twenty-five~~ thirty dollar fee or three-year certification for which the applicator shall pay a seventy-five dollar fee. Public applicators ~~who are employed by a state agency~~ shall be exempt from the ~~twenty-five~~ thirty and seventy-five dollar certification fees and instead be subject to a ~~five-dollar~~ ten-dollar annual certification fee or a fifteen dollar fee for a three-year certification. The commercial, ~~or public,~~ applicator shall be tested prior to certification annually, if the applicator chooses a one-year certification or each three years if the applicator chooses three-year certification. A ~~or private~~ applicator shall be tested prior to initial certification. In addition, a commercial, public, ~~or private~~ applicator shall be reexamined every three years following initial certification before the applicator is eligible for a renewal of certification. ~~However, a commercial, public, or private applicator need not be certified to apply pesticides for a period of twenty-one days from the date of initial employment if the commercial, public, or private applicator is under the direct supervision of a certified applicator. For the purposes of this section, "under the direct supervision of" means that the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is physically present, by being in sight or hearing distance of the supervised person. A commercial applicator who applies pesticides to agricultural land may, in lieu of the requirement of direct supervision, elect to be exempt from the certification requirements for a commercial applicator for a period of twenty-one days, if the applicator meets the requirements of a private applicator.~~ The test shall include, but is not limited to, the area of safe handling of agricultural chemicals and the effects of these chemicals on groundwater. The secretary shall also adopt by rule, the criteria for the allowance of the selection of the written or oral examination by a person requiring certification. A person employed by a farmer not solely as a pesticide applicator who applies restricted use pesticides as an incidental

part of the person's general duties or a person who applies restricted use pesticides as an incidental part of a custom farming operation is required to meet the certification requirements of a private applicator.

An employee of a food processing and distribution establishment is exempt from the certification requirements of this section provided that at least one person holding a supervisory position is certified and provided that the employer provides a program, approved by the department, for training, testing, and certification of personnel who apply, as an incidental part of their duties, any pesticide on property owned or rented by the employer. The secretary shall adopt rules to administer the provisions of this paragraph.

The secretary may adopt rules to provide for license and certification adjustments, including fees, which may be necessary to provide for an equitable transition for licenses and certifications issued prior to January 1, 1989. The rules shall also include a provision for renewal of certification ~~through the administering of an approved exam~~, and a provision for a thirty-day renewal grace period. The secretary shall also adopt rules which allow for an exemption from certification for a person who uses certain services and is not solely a pesticide applicator, but who uses the services as an incidental part of the person's duties.

Sec. 3. Section 206.31, subsections 1 through 4, Code Supplement 1987, are amended to read as follows:

1. DEFINITIONS. Notwithstanding section 206.2, as used in this chapter with regard to the application of pesticides used ~~inside the home or injected into the ground around the home for structural pest control~~:

a. "Commercial applicator" means a person, or employee of a person, who enters into a contract or an agreement for the sake of monetary payment and agrees to perform a service by applying a pesticide or servicing a device but shall not include a farmer trading work with another.

b. "Public applicator" means an individual who applies pesticides as an employee of a state agency, county, municipal corporation, or other governmental agency.

c. "Structural pest control" means controlling any pests in, on, or around food handling establishments; human dwellings; institutions such as schools and hospitals; industrial establishments, including warehouses and grain elevators; and any other structures in adjacent areas.

2. ADDITIONAL CERTIFICATION REQUIREMENTS. A person shall not apply a restricted use pesticide ~~inside a home or injected into the ground around a home used for structural pest control~~ without first complying with the certification requirements of this chapter and other restrictions as determined by the secretary.

The secretary shall require applicants for certification as commercial or public applicators of pesticides applied ~~inside a home or injected into the ground around a home for structural pest control~~ to take and pass a written test.

3. EXAMINATION FOR COMMERCIAL APPLICATOR LICENSE. The secretary of agriculture shall not issue a commercial applicator license for applying pesticides ~~inside homes or injecting pesticides into ground surrounding homes for structural pest control~~ until the individual engaged in or managing the pesticide application business or employed by the business is certified by passing an examination to demonstrate to the secretary the individual's knowledge of how to apply pesticides under the classifications the individual has applied for, and the individual's knowledge of the nature and effect of pesticides the individual may apply under such classifications.

4. RENEWAL OF APPLICANT'S LICENSE. The secretary of agriculture shall renew an applicant's license for applying pesticides ~~inside homes or injecting pesticides into ground surrounding homes for structural pest control~~ under the classifications for which the applicant is licensed, provided that all of the applicant's personnel who apply pesticides ~~inside homes~~

or inject pesticides into ground surrounding homes for structural pest control have also been certified.

Sec. 4. The department of natural resources, in conjunction with the department of public health, shall conduct a study regarding the shortage, treatment, disposal, and transportation of infectious waste. The departments shall submit to the legislative council, the general assembly, and the governor a report, including recommendations for appropriate legislation, on or before January 15, 1989.

Sec. 5. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 1988

CHAPTER 1198

SOIL AND WATER RESOURCE CONSERVATION PLANS

S.F. 2051

AN ACT relating to the development of soil and water resource conservation plans by soil and water conservation districts and the division of soil conservation of the department of agriculture and land stewardship.

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

Section 1. Section 467A.4, subsection 4, paragraph b, Code Supplement 1987, is amended to read as follows:

b. To take notice of each district's long-range resource conservation plan established under section 467A.4, in order to keep the commissioners of each of the several districts informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between such districts and co-operation between them.

Sec. 2. Section 467A.4, subsection 4, paragraphs g and h, Code Supplement 1987, are amended by striking the paragraphs and inserting in lieu thereof the following:

g. To assist each soil and water conservation district in developing a district soil and water resource conservation plan as provided under section 467A.7. The plan shall be developed according to rules adopted by the division to preserve and protect the public interest in the soil and water resources of this state for future generations and for this purpose to encourage, promote, facilitate, and where such public interest requires, to mandate the conservation and proper control of and use of the soil and water resources of this state, by measures including, but not limited to, the control of floods, the control of erosion by water or by wind, the preservation of the quality of water for its optimum use for agricultural, irrigation, recreational, industrial, and domestic purposes, all of which shall be presumed to be conducive to the public health, convenience, and welfare, both present and future.

h. To file the district soil and water resource conservation plans as part of a state soil and water resource conservation plan. The state plan shall contain on a statewide basis the information required for a district plan under this section.

Sec. 3. Section 467A.7, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 20. To develop a soil and water resource conservation plan for the district.

a. The district plan shall contain a comprehensive long-range assessment of soil and surface water resources in the district consistent with rules approved by the committee under section 467A.4. In developing the plan the district may receive technical support from the United States department of agriculture's soil conservation service and the county board of supervisors in the county where the district is located. The division and the Iowa cooperative extension service in agriculture and home economics may provide technical support to the district. The support may include, but is not limited to, the following: assessing the condition of soil and surface water in the district, including an evaluation of the type, amount, and quality of soil and water, the threat of soil erosion and erosion, floodwater, and sediment damages, and necessary preventative and control measures; developing methods to maintain or improve soil and water condition; and cooperating with other state and federal agencies to carry out this support.

b. The district plan shall be filed with the recorder in the county in which the district is located and shall be filed with the division as part of the state soil and water resource conservation plan, and amended or updated as necessary, after the committee approves the district plan and after the administrator of the division signs the district plan. The commissioners shall provide notice of the filing and may provide a copy of the approved district plan to the county board of supervisors in the county where the district is located.

Approved May 9, 1988

CHAPTER 1199

PRACTICE OF PODIATRY

S.F. 299

AN ACT relating to podiatry by broadening the scope of practice of podiatry, by including podiatrists in the definition of "physician" for certain purposes, by providing for data collection and utilization review, and by providing for other properly related matters.

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

Section 1. Section 135.1, subsection 5, Code 1987, is amended to read as follows:

5. "Physician" ~~shall mean~~ means a person licensed to practice medicine and surgery, ~~osteopathy~~ osteopathic medicine and surgery, osteopathy, or chiropractic, or podiatry under the laws of this state; but a person licensed as a physician and surgeon shall be designated as a "physician" or "surgeon", a person licensed as an ~~osteopath~~ osteopathic physician and surgeon shall be designated as an "osteopathic physician" or "osteopathic surgeon", a person licensed as an osteopath shall be designated as an "osteopathic physician", and a person licensed as a chiropractor shall be designated as a "chiropractor", and a person licensed as a podiatrist shall be designated as a "podiatrist".

Sec. 2. Section 149.1, Code 1987, is amended to read as follows:

149.1 PERSONS ENGAGED IN PRACTICE — DEFINITION.

1. For the purpose of this title the following classes of persons shall be deemed to be engaged in the practice of podiatry:

‡ a. Persons who publicly profess to be podiatrists or who publicly profess to assume the duties incident to the practice of podiatry.

2. A podiatrist is one who examines or diagnoses or treats ailments of the human foot, medically or surgically.

b. Persons who diagnose, prescribe, or prescribe and furnish medicine for ailments of the human foot, or treat such ailments by medical, mechanical, or surgical treatments.

2. As used in this chapter, "human foot" means the ankle and soft tissue which insert into the foot as well as the foot.

Sec. 3. Section 149.2, subsection 1, Code 1987, is amended to read as follows:

1. Physicians and surgeons, or osteopaths, or osteopathic physicians and surgeons who are authorized to practice in this state and are not licensed podiatrists.

Sec. 4. Section 149.5, Code 1987, is amended to read as follows:

149.5 AMPUTATIONS – GENERAL ANESTHETICS.

A license to practice podiatry shall not authorize the licensee to amputate the human foot or perform any surgery on the human body at or above the ankle, or use any anesthetics other than local.

A registered licensed podiatrist may prescribe and administer drugs for the treatment of human foot ailments as provided in section 149.1.

Sec. 5. Section 149.6, Code 1987, is amended to read as follows:

149.6 TITLE OR ABBREVIATION.

Every licensee shall be designated as a registered licensed podiatrist and shall not use any title or abbreviation without the designation "practice limited to the foot," nor mislead the public in any way as to the limited field or practice.

Sec. 6. Section 514F.1, Code Supplement 1987, is amended to read as follows:

514F.1 UTILIZATION AND COST CONTROL REVIEW COMMITTEES.

The boards of examiners under chapters 148, 149, 150, 150A, 151, and 153 shall establish utilization and cost control review committees of licensees under the respective chapters, selected from licensees who have practiced in Iowa for at least the previous five years, or shall accredit and designate other utilization and cost control organizations as utilization and cost control committees under this section, for the purposes of utilization review of the appropriateness of levels of treatment and of giving opinions as to the reasonableness of charges for diagnostic or treatment services of licensees. Persons governed by the various chapters of Title XX of the Code and self-insurers for health care benefits to employees may utilize the services of the utilization and cost control review committees upon the payment of a reasonable fee for the services, to be determined by the respective boards of examiners. The respective boards of examiners under chapters 148, 149, 150, 150A, 151, and 153 shall adopt rules necessary and proper for the implementation of this section pursuant to chapter 17A. It is the intent of this general assembly that conduct of the utilization and cost control review committees authorized under this section shall be exempt from challenge under federal or state antitrust laws or other similar laws in regulation of trade or commerce.

Approved May 10, 1988

CHAPTER 1200

BEVERAGE CONTAINER REDEMPTION

S.F. 443

AN ACT defining and establishing redemption centers, dealer agents, and territory of service between dealer agents and distributors, and subjecting violators to a penalty.

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

Section 1. Section 455C.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 11. "Redemption center" means a facility at which consumers may return empty beverage containers and receive payment for the refund value of the empty beverage containers.

NEW SUBSECTION. 12. "Dealer agent" means a person who solicits or picks up empty beverage containers from a dealer for the purpose of returning the empty beverage containers to a distributor or manufacturer.

NEW SUBSECTION. 13. "Geographic territory" means the geographical area within a perimeter formed by the outermost boundaries served by a distributor.

Sec. 2. Section 455C.2, subsection 2, Code 1987, is amended to read as follows:

2. In addition to the refund value provided in subsection 1 of this section, a dealer, or person operating a redemption center, who redeems empty beverage containers or a dealer agent shall be reimbursed by the distributor required to accept the empty beverage containers an amount which is one cent per container. A dealer, dealer agent, or person operating a redemption center may compact empty metal beverage containers with the approval of the distributor required to accept such container ~~the containers~~.

Sec. 3. Section 455C.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A distributor shall accept from a dealer agent any empty beverage container of the kind, size, and brand sold by the distributor and which was picked up by the dealer agent from a dealer within the geographic territory served by the distributor and the distributor shall pay the dealer agent the refund value of the empty beverage container and the reimbursement as provided in section 455C.2.

Sec. 4. Section 455C.4, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A manufacturer or distributor may refuse to accept and to pay the refund value and reimbursement as provided in section 455C.2 on any empty beverage container that was picked up by a dealer agent from a dealer outside the geographic territory served by the manufacturer or distributor.

Approved May 10, 1988

CHAPTER 1201

COMMISSION ON THE STATUS OF BLACKS

S.F. 2316

AN ACT relating to the establishment of a division on the status of blacks within the department of human rights.

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

Section 1. NEW SECTION. 601K.131 DEFINITIONS.

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

1. "Commission" means the commission on the status of blacks.
2. "Division" means the division on the status of blacks of the department of human rights.
3. "Administrator" means the administrator of the division on the status of blacks of the department of human rights.

Sec. 2. NEW SECTION. 601K.132 ESTABLISHMENT.

There is established a commission on the status of blacks to consist of nine members, appointed by the governor, and confirmed by the senate, to staggered four-year terms. At least five members shall be individuals who are black. Members shall be appointed representing every geographical area of the state. No more than a simple majority of the commission shall be of the same political party. The members of the commission shall appoint from its membership a commission chairperson and a vice chairperson and other officers as the commission deems necessary. Vacancies on the commission shall be filled for the remainder of term of the original appointment.

Sec. 3. NEW SECTION. 601K.133 MEETINGS OF THE COMMISSION.

The commission shall meet every other month and may hold special meetings on the call of the chairperson. The commission may adopt rules pursuant to chapter 17A as it deems necessary for the conduct of its business. The members of the commission shall be reimbursed for actual expenses while engaged in their official duties. Members may also be eligible to receive compensation as provided in section 7E.6.

Sec. 4. NEW SECTION. 601K.134 OBJECTIVES OF COMMISSION.

The commission shall study the changing needs and problems of blacks in this state, and recommend new programs, policies, and constructive action to the governor and the general assembly including, but not limited to, the following areas:

1. Public and private employment policies and practices.
2. Iowa labor laws.
3. Legal treatment relating to political and civil rights.
4. Black children, youth, and families.
5. Expanded programs to assist blacks as consumers.
6. The employment of blacks and the initiation and sustaining of black businesses and black entrepreneurship.
7. Blacks as members of private and public boards, committees, and organizations.
8. Education, health, housing, social welfare, human rights, and recreation.
9. The legal system, including law enforcement, both criminal and civil.
10. Social service programs.

Sec. 5. NEW SECTION. 601K.135 EMPLOYEES AND RESPONSIBILITY.

The administrator shall be the administrative officer of the division and shall be responsible for implementing policies and programs. The administrator may employ, in accordance with chapter 19A, other persons necessary to carry out the programs of the division.

Sec. 6. NEW SECTION. 601K.136 DUTIES.

The commission shall do all of the following:

1. Serve as an information clearinghouse on programs and agencies operating to assist blacks. Clearinghouse duties shall include, but are not limited to:
 - a. Service as a referral agency to assist blacks in securing access to state agencies and programs.
 - b. Service as a liaison with federal, state, and local governmental units and private organizations on matters relating to blacks.
 - c. Service as a communications conduit to state government for black organizations in the state.
 - d. Stimulation of public awareness of the problems of blacks.
2. Conduct conferences and training programs for blacks, public and private agencies and organizations, and the general public.

3. Coordinate, assist, and cooperate with public and private agencies in efforts to expand equal rights and opportunities for blacks in the areas of: employment, economic development, education, health, housing, recreation, social welfare, social services, and the legal system.

4. Serve as the central permanent agency for the advocacy of services for blacks.

5. Provide assistance to and cooperate with individuals and public and private agencies and organizations in joint efforts to study and resolve problems relating to the improvement of the status of blacks.

6. Publish and disseminate information relating to blacks, including publicizing their accomplishments and contributions to this state.

7. Evaluate existing and proposed programs and legislation for their impact on blacks.

8. Coordinate or conduct training programs for blacks to enable them to assume leadership positions.

9. Conduct surveys of blacks to ascertain their needs.

10. Assist the department of personnel in the elimination of underutilization of blacks in the state's workforce.

11. Recommend legislation to the governor and the general assembly designed to improve the educational opportunities and the economic and social conditions of blacks in this state.

Sec. 7. NEW SECTION. 601K.137 ADDITIONAL AUTHORITY.

The commission may do any or all of the following:

1. Do all things necessary, proper, and expedient in accomplishing the duties listed in section 601K.136 and this section.

2. Hold hearings.

3. Enter into contracts, within the limit of funds made available, with individuals, organizations, and institutions for services furthering the objectives of the commission as listed in section 601K.134.

4. Seek advice and counsel of informed individuals and organizations, in the accomplishment of the objectives of the commission.

5. Apply for and accept grants of money or property from the federal government or any other source, and upon its own order use this money, property, or other resources to accomplish the objectives of the commission.

Sec. 8. NEW SECTION. 601K.138 ACCESS TO INFORMATION.

For the purpose of research and study, the commission and the administrator shall have access to all nonconfidential records, data, information, and statistics of all departments, boards, commissions, agencies, and institutions of this state.

Sec. 9. NEW SECTION. 601K.139 ANNUAL REPORT.

Not later than August 1 of each year, the commission shall file a report with the governor and the general assembly of its activities for the previous fiscal year and its programmatic priorities for the current year beginning July 1. The commission may submit with the report any recommendations pertaining to its affairs and shall submit recommendations for legislative consideration and other action it deems necessary.

Sec. 10. INITIAL APPOINTMENTS. Four of the members appointed to the initial commission shall be designated by the governor to serve two-year terms, and five shall be designated by the governor to serve four-year terms.

CHAPTER 1202**OLYMPIC SPORTS INCOME TAX CHECKOFF***S.F. 2327*

AN ACT to provide for a state individual income tax checkoff for the United States olympic committee, a portion of which shall be made available for amateur sports and special olympic programs in Iowa, and providing a retroactive effective date.

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

Section 1. NEW SECTION. 422.12A INCOME TAX REFUND CHECKOFF FOR OLYMPICS.

A person who files an individual or a joint income tax return with the department of revenue and finance under section 422.13 may designate two dollars to be paid to the olympic fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the amount designated by the taxpayer to the olympic fund, the amount designated shall be reduced to the remaining amount of refund or the remaining amount remitted with the return.

The director of revenue and finance shall draft the income tax form to allow the designation of contributions to the olympic fund on the tax return.

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

The moneys in the olympic fund are appropriated annually for the purposes specified in this section.

On or before March 1 of each year, the department of revenue and finance shall pay the moneys in the fund to the United States olympic committee on the condition that the United States olympic committee return one-half of the funds to this state to be spent in that year for local amateur sports, for which there is olympic competition, with advice of the governor's council on physical fitness and for special olympic programs.

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 finance and accounts identified as owing under section 421.17 and the political contribution allowed under section 56.18 shall be satisfied.

Sec. 2. This Act is retroactive to January 1, 1988, for tax years beginning on or after that date.

Approved May 10, 1988

CHAPTER 1203

FAILURE TO OBEY SCHOOL BUS WARNING DEVICES

H.F. 429

AN ACT relating to the investigation of a driver of a vehicle violating the warning lamps or stop arm of a school bus and requiring the issuance of a uniform citation in certain circumstances.

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

Section 1. **NEW SECTION. 321.372A PROMPT INVESTIGATION OF REPORTED VIOLATION OF FAILING TO OBEY SCHOOL BUS WARNING DEVICES.**

The driver of a school bus who observes a violation of section 321.372, subsection 3, may prepare a written report on a form provided by the department of public safety indicating that a violation has occurred. The school bus driver or a school official may deliver the report not more than twenty-four hours after the violation occurred to a peace officer of the state or a peace officer of the county or municipality in which the violation occurred. The report shall state the time and the location at which the violation occurred and shall include the registration plate number and a description of the vehicle involved in the violation.

Not more than forty-eight hours after receiving a report of a violation of section 321.372, subsection 3, from a school bus driver or a school official, the peace officer shall investigate the reported violation and contact the owner of the motor vehicle involved in the reported violation and request that the owner supply information identifying the driver in accordance with section 321.484. If, from the investigation, the peace officer is able to identify the driver and has reasonable cause to believe a violation of section 321.372, subsection 3, has occurred, the peace officer shall prepare a uniform traffic citation for the violation and shall personally serve it upon the driver of the vehicle.

Approved May 10, 1988

CHAPTER 1204

VINTAGE MOTOR VEHICLE REGISTRATION PLATES

H.F. 578

AN ACT providing for the use of vintage Iowa registration plates.

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

Section 1. Section 321.115, Code 1987, is amended to read as follows:

321.115 ANTIQUATED ANTIQUE VEHICLES.

1. Any A motor vehicle twenty-five years old, or older, whose owner desires to use said the motor vehicle exclusively for exhibition or educational purposes at state or county fairs, or other places where said the motor vehicle may be exhibited for entertainment or educational purposes, shall be given a registration for a registration fee of five dollars per annum permitting the driving of said the motor vehicle upon the public roads to and from said fair state and county fairs or other plae places of entertainment or education for a registration fee of five dollars per annum for exhibition or educational purposes and to and from service stations for the purpose of receiving necessary maintenance.

2. The sale of a motor vehicle twenty-five years old or older which is primarily of value as a collector's item and not as transportation is not subject to chapter 322 and any person may sell such a vehicle at retail or wholesale without a license as required under chapter 322.

3. The owner of a motor vehicle which is registered under subsection 1, may display a registration plate from or representing the model year of the motor vehicle, furnished by the person, in lieu of a current and valid Iowa registration plate issued to the vehicle, provided that any replaced current and valid Iowa registration plate and the registration card issued to the vehicle are simultaneously carried within the vehicle and are available for inspection to any peace officer upon the officer's request.

Approved May 10, 1988

CHAPTER 1205

AIRCRAFT AND AIRCRAFT FUEL TAXATION

H.F. 2465

AN ACT relating to taxation establishing an excise tax on motor fuel used in aircraft, establishing an excise tax on special fuel used in aircraft, eliminating the sales tax exemption for casual sales of aircraft, adding a sales and use tax exemption for the sale of certain aircraft, requiring a person first registering an aircraft to show evidence that the sales tax or use tax has been paid, prohibiting a motor fuel excise tax refund for motor fuel or special fuel taken out of the state in fuel supply tanks of aircraft or watercraft, prohibiting an income tax credit on fuel tax paid on motor fuel used in watercraft or aircraft, and providing an appropriation.

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

Section 1. Section 312.2, subsection 16, paragraph a, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

From the excise tax on motor fuel and special fuel imposed under the tax rate of section 324.3 except aviation gasoline:

Sec. 2. Section 324.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 12. "Aviation gasoline" means any gasoline which is capable of being used for propelling aircraft, which is invoiced as aviation gasoline or is received, sold, stored, or withdrawn from storage by any person for the purpose of propelling aircraft. Motor fuel capable of being used for propelling motor vehicles is not aviation gasoline.

Sec. 3. Section 324.3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of fifteen cents per gallon for the period beginning July 1, 1985 and ending December 31, 1985, and sixteen cents per gallon beginning January 1, 1986, is imposed upon the use of all motor fuel used for any purpose except aviation gasoline and except motor fuel containing at least ten percent alcohol distilled from cereal grains grown in the United States for the period beginning July 1, 1978 and ending June 30, 1992 and except as otherwise provided in this division. For the privilege of operating aircraft in this state an excise tax of eight cents per gallon beginning July 1, 1988, is imposed on the use of all aviation gasoline.

Sec. 4. Section 324.16, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A distributor, dealer or user licensed under this chapter who has received motor fuel or has paid the tax on motor fuel or special fuel ~~shall be~~ is entitled to a memorandum of credit or refund, when the fuel is used for any purpose other than as fuel for propelling motor vehicles or in watercraft or aircraft, or, while owned by the licensee, is lost or destroyed through accountable leakage or to fire, accident, lightning, flood, storm, act of war or public enemy

or other like cause. A memorandum of credit shall be allowed against subsequent liability under this chapter upon application to the department supported by such proof as the director prescribes by rule. If the licensee is no longer engaged in activity for which the license was issued, the department shall refund the appropriate amount upon receipt of an application for refund as provided by the department. Credits and refunds shall be are subject to the following conditions:

Sec. 5. Section 324.17, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Any A person other than a distributor, dealer or user licensed under this chapter who uses motor fuel or special fuel for the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck-mounted feed grinders, stationary gas engines, aircraft, for producing denatured alcohol within the state, for cleaning or dyeing or for any purpose other than in watercraft or aircraft or for propelling motor vehicles operated or intended to be operated upon the public highways, and who has paid the motor fuel or special fuel tax on the fuel either directly to the department or by having the tax added to the price of the fuel, and who has a refund permit, upon presentation to and approval by the department of a claim for refund, shall be reimbursed and repaid the amount of the tax which the claimant has paid on the gallonage so used, except that the amount of any a refund payable under this division may be applied by the department against any tax liability outstanding on the books of the department against the claimant. Every claim is subject to the following conditions:

Sec. 6. Section 324.17, subsections 4, 5, 6, and 14, Code 1987, are amended to read as follows:

4. The claim shall state the gallonage of motor fuel or special fuel that was used or will be used by the claimant other than in watercraft or aircraft or to propel motor vehicles, the manner in which the motor fuel or special fuel was used or will be used and the equipment in which it was used or will be used.

5. The claim shall also state whether or not the claimant used fuel for watercraft or aircraft or to propel motor vehicles from the same tanks or receptacles in which the claimant kept the motor fuel on which the refund is claimed.

6. A refund will shall not be paid with respect to any motor fuel or special fuel taken out of this state in fuel supply tanks of watercraft, aircraft, or motor vehicles.

14. In lieu of the refund provided in this section, a person may receive an income tax credit as provided in chapter 422, division IX, but only as to motor fuel or special fuel not used in motor vehicles, aircraft, or watercraft.

Sec. 7. Section 324.18, Code 1987, is amended to read as follows:

324.18 REFUND PERMIT.

A person shall not claim a refund under section 324.17 or section 324.21 until the person has obtained a refund permit from the department. A special permit shall be obtained by applicants claiming a refund under this chapter on account of motor fuel used ~~for the purpose of operating aircraft or used to blend gasohol~~. Application for a refund permit shall be made to the department on a form provided by the department, shall be certified by the applicant under penalty for false certificate and shall contain among other things, the name, address, and occupation of the applicant, the nature of the applicant's business, and a sufficient description for identification of the machines and equipment in which is to be used motor fuel for which refund may be claimed under the permit. Each permit shall bear a separate number and each claim for refund shall bear the number of the permit under which it is made. The department shall keep a permanent record of all permits issued and a cumulative record of the amount of refund claimed and paid under each. A refund permit shall continue in effect until it is revoked or becomes invalid.

Sec. 8. Section 324.32, Code 1987, is amended to read as follows:

324.32 PURPOSE.

The purpose of this division is to supplement division I of this chapter, by imposing an excise tax upon the receipt, delivery or placing into the fuel supply tanks of motor vehicles or aircraft which are within this state and into motor vehicle or aircraft special fuel holding tanks which are within this state, of all fuels not taxed under division I.

Sec. 9. Section 324.33, subsections 1 through 5, Code 1987, are amended to read as follows:

1. "Special fuel" means and includes fuel oils and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles or turbine-powered aircraft also any substance used for that purpose, except that it does not include motor fuel as defined in the motor fuel tax law.

2. "Use" means the receipt, delivery or placing of special fuels by a special fuel user into a supply fuel tank of a motor vehicle or aircraft while the vehicle or aircraft is in this state or delivered into a motor vehicle or aircraft special fuel holding tank, except that with respect to natural gas used as a special fuel "use" means the receipt, delivery or placing of the natural gas into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle.

3. "Special fuel dealer" means any person in the business of handling special fuel who delivers any part thereof of the special fuel into a fuel supply tank of any motor vehicle or aircraft or delivers special fuel to a motor vehicle or aircraft special fuel holding tank.

4. "Special fuel user" means the owner or other person responsible for the operation of a motor vehicle or aircraft at the time special fuel is placed in a fuel supply tank thereof of the motor vehicle or aircraft while the motor vehicle or aircraft is in this state or the owner of a motor vehicle or aircraft special fuel holding tank into which special fuel is delivered to be used for highway or aircraft use only and upon which special fuel the special fuel tax is paid upon receipt.

5. "Licensed special fuel user" means and includes any person licensed by the department who dispenses special fuel, upon which the special fuel tax has not been previously paid, for highway or aircraft use from bulk sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial motor vehicle, or aircraft owned or controlled by the person. A licensed special fuel user shall make bulk purchases of special fuel for highway or aircraft use only from a licensed special fuel distributor, except that a licensed special fuel user may purchase natural gas for highway use as a special fuel from the piped distribution system of a public utility or a pipeline company. The sale of natural gas by a public utility or a pipeline company is not a sale of special fuel requiring a special fuel distributor's license.

Sec. 10. Section 324.33, subsections 7 and 8, Code 1987, are amended to read as follows:

7. "Motor vehicle or aircraft special fuel holding tank" means a tank with a capacity of not more than one thousand fifty gallons owned by or in the possession of a special fuel user in which special fuel is contained for use by the special fuel user only in a motor vehicle for highway use or for use in aircraft.

8. "Special fuel distributor" means any person who sells special fuel in this state in bulk for highway or aircraft use. Delivery of special fuel into a motor vehicle or aircraft special fuel holding tank shall not be considered a bulk sale of special fuel.

Sec. 11. Section 324.34, Code 1987, is amended to read as follows:

324.34 TAX IMPOSED.

For the privilege of operating motor vehicles or aircraft in this state, there is imposed an excise tax on the use, as defined in section 324.33, of special fuel in a motor vehicle or aircraft. The tax rate on special fuel for diesel engines of motor vehicles is sixteen and one-half

cents per gallon for the period beginning July 1, 1985 and ending December 31, 1985, is seventeen and one-half cents per gallon for the period beginning January 1, 1986 and ending December 31, 1986, and is eighteen and one-half cents per gallon beginning January 1, 1987. The rate of tax on special fuel for aircraft is three cents per gallon beginning July 1, 1988. On all other special fuel the per gallon rate is the same as the motor fuel tax.

The tax, with respect to all special fuel delivered by a special fuel dealer for use in this state as defined by section 324.33, shall attach at the time of the delivery and shall be collected by the dealer from the special fuel user and paid over to the department as provided in this chapter. The tax, with respect to special fuel acquired by a special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle or aircraft or delivery into a motor vehicle or aircraft special fuel holding tank by a special fuel dealer or distributor, attaches at the time of the use, as defined in section 324.33, of the fuel and shall be paid over to the department by the user as provided in this chapter.

All deliveries by distributors of special fuel to be used for highway use or used in aircraft, except deliveries into a motor vehicle or aircraft special fuel holding tank, must be made into storage connected to a sealed meter pump as licensed ~~in said~~ under this section. Special fuel delivered to a motor vehicle or aircraft special fuel holding tank of a special fuel user by a distributor shall be metered upon delivery and the special fuel tax shall be collected by the distributor and paid over to the department.

The department shall make reasonable rules governing the dispensing of special fuel by distributors, special fuel dealers and licensed special fuel users. The department shall require that all pumps located at special fuel dealer locations and licensed special fuel user locations through which fuel oil or liquefied petroleum gas can be dispensed, be metered, inspected, tested for accuracy, sealed and licensed by the state department of agriculture and land stewardship, and that special fuel delivered into the fuel supply tank of any motor vehicle or aircraft or into a motor vehicle or aircraft special fuel holding tank shall be dispensed only through tested metered pumps and may be sold without temperature correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature corrected, only a temperature compensated meter shall be used.

The deliberate heating of ~~road~~ taxable motor fuel or special fuel by dealers prior to consumer sale is a simple misdemeanor.

All gallonage ~~which is not for nonhighway~~ highway or aircraft use, dispensed through metered pumps as licensed ~~above~~ under this section, on which special fuel tax is not collected, must be substantiated by ~~nonhighway~~ exemption certificates as provided by the department, signed by the purchaser, and retained by the dealer.

For the privilege of purchasing special fuel, dispensed through metered pumps as licensed above, on a basis exempt from the special fuel tax, the purchaser shall sign ~~nonhighway~~ exemption certificates for the gallonage claimed which is not for nonhighway highway or aircraft use.

The department will disallow all sales ~~said~~ of gallonage which is not to be for nonhighway highway or aircraft use unless proof is established by the retention of ~~said~~ the certificate. ~~Certificates for nonhighway use sales must~~ Exemption certificates shall be retained by the dealer for a period of three years.

For natural gas used as a special fuel the rate of tax that is equivalent to the motor fuel tax shall be thirteen cents per hundred cubic feet adjusted to a base temperature of sixty degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. The tax on natural gas shall attach at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle and shall be paid over to the department by the person operating the compressing equipment under

the applicable provisions for users or dealers. Natural gas used as a special fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship.

A person shall not deliver any special fuel into the fuel supply tank of a motor vehicle registered in Iowa on or after March 15, 1983 unless there is a special fuel user identification sticker affixed in a prominent place on the vehicle adjacent to the place where the special fuel is delivered into the tank or unless the motor vehicle is registered under chapter 326.

Except for deliveries to a licensed special fuel dealer or licensed special fuel user or deliveries on which the special fuel tax is paid at the time of delivery it is unlawful to deliver liquefied petroleum gas into any tank which has a valve or other outlet capable of transferring the liquefied petroleum gas into the fuel supply tank of a motor vehicle unless the person making the delivery receives a written statement from the recipient of the fuel which states that the recipient knows that the use of liquefied petroleum gas for highway purposes for which the special fuel tax has not been paid is unlawful.

Sec. 12. Section 324.36, subsections 1 and 2, Code 1987, are amended to read as follows:

1. **REQUIRED.** It is unlawful for a person to act as a special fuel dealer in this state unless the person holds a special fuel dealer's license issued to the person by the department, except as provided in this section. A person who holds a special fuel distributor's license may dispense special fuel into a motor vehicle or aircraft special fuel holding tank without obtaining a special fuel dealer's license. Except for special fuel which is delivered by a special fuel dealer into a fuel supply tank of a motor vehicle or aircraft or into a motor vehicle or aircraft special fuel holding tank in this state or delivered by a special fuel distributor into a motor vehicle or aircraft special fuel holding tank, the use of special fuel in this state by a person is unlawful unless the person holds a special fuel user's license issued to the person by the department. It is unlawful for a person to sell special fuel in this state in bulk for highway or aircraft use without first obtaining a special fuel distributor's license. The license shall be issued under the same procedure and subject to the same requirements and limitations as provided in section 324.4.

2. **APPLICATION.** Application for a special fuel dealer's license or a special fuel user's license shall be made to the department. A special fuel dealer's license or a special fuel user's license, whichever is applicable, shall be required for each separate place of business or location where special fuels are regularly delivered or placed into the fuel supply tank of a motor vehicle or aircraft. ~~Provided, that~~ However, if a special fuel dealer also operates one or more bulk plants from which the distribution of a special fuel is primarily by tank vehicle, the special fuel dealer need not obtain a separate license for any of these plants not provided with fixed equipment designed for fueling vehicles or aircraft. Upon written application and at the discretion of the director, a special fuel user whose business operations require mobile special fuel storage may obtain a single special fuel user's license to be issued to the user's permanent principal place of business.

Sec. 13. Section 324.37, subsection 2, Code 1987, is amended to read as follows:

2. For each location where special fuel is delivered or placed into the fuel supply tank of a motor vehicle or aircraft, the special fuel dealer or user making the delivery shall prepare and maintain for a period of three years such records as the department may reasonably require with respect to all these deliveries, and with respect to inventories, receipts, purchases, and sales or other dispositions of special fuel.

Sec. 14. Section 324.38, subsections 1, 2, 3, and 4, Code 1987, are amended to read as follows:

1. **RETURNS FOR LICENSED DEALERS AND USERS.** For the purpose of determining the amount of liability for special fuel tax each special fuel dealer and each special fuel user

shall file with the department not later than the last day of the month next following the month in which this division becomes effective and not later than the last day of each calendar month thereafter a monthly tax return certified under penalties for false certificate. The return shall show, with reference to each location at which special fuel is delivered or placed by the dealer or user into a fuel supply tank of any motor vehicle or aircraft during the next preceding calendar month, such information as the department may reasonably require for the proper administration and enforcement of this division. However, if a special fuel dealer or user is also a wholesale distributor of special fuel at a location where special fuel is delivered into the supply tank of a motor vehicle or aircraft, the monthly return to the department covering the location need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made.

2. COMPUTATION. The amount of tax due shall be computed by multiplying the appropriate tax rate per gallon by the number of gallons of special fuel delivered or placed by the special fuel dealer or user into supply tanks of motor vehicles and aircraft.

3. PAYMENTS. The return shall be accompanied by remittance in the amount of the tax due for the month in which the special fuel was placed in the fuel tanks of motor vehicles and aircraft.

4. QUARTERLY RETURNS AND TAX PAYMENT BY SPECIAL FUEL DISTRIBUTORS. For the purpose of determining the amount of the tax liability for special fuel tax, each special fuel distributor licensed under this chapter shall file with the department, not later than the last day of the month next following each calendar quarter, a quarterly tax return certified under penalties for false certificate. The return shall show the total amount of special fuel sold during the quarter, the amount of special fuel sold which was not for nonhighway highway or aircraft use, the amount of fuel sold to licensed special fuel dealers and users, the amount of special fuel delivered into motor vehicle or aircraft special fuel holding tanks, the amount of tax due, and such other pertinent information required by the department. The amount of tax due shall be computed by multiplying the appropriate tax rate per gallon by the number of gallons of special fuel delivered or placed by the special fuel distributor into the motor vehicle or aircraft special fuel holding tanks. The return shall be accompanied by a remittance in the amount of the tax due for the quarter.

Sec. 15. Section 324.38, subsection 5, paragraphs a through c, Code 1987, are amended to read as follows:

a. Special fuels purchased tax paid and delivered into the fuel supply tank of the user's motor vehicles or aircraft by licensed special fuel dealers.

b. Special fuels purchased tax paid and delivered into the user's motor vehicle or aircraft special fuel holding tanks by licensed special fuel dealers.

c. Special fuels purchased tax paid and delivered into the user's motor vehicle or aircraft special fuel holding tanks by licensed special fuel distributors.

Sec. 16. Section 324.38, subsection 6, Code 1987, is amended to read as follows:

6. PRESUMPTION. For purposes of this section there shall be a prima-facie presumption that all special fuel received by a special dealer or special fuel user into storage and dispensing equipment designed to fuel motor vehicles or aircraft is to be delivered by the special fuel dealer or special fuel user into the fuel supply tanks of motor vehicles or aircraft.

Sec. 17. Section 324.82, Code 1987, is amended to read as follows:

324.82 AVIATION GAS FUEL TAX FUND.

The portion of the moneys collected under the provisions of this chapter received on account of aviation gasoline and special fuel used in aircraft shall be deposited in a separate fund to be maintained by the treasurer. All moneys ~~reimbursed and repaid pursuant to section 324.17~~

or transferred pursuant to section 422.112 on account of motor fuel used for the purpose of operating aircraft shall be paid from said separate fund and all moneys remaining in said the separate fund after all claims for refund and the cost of administering said the fund have been paid shall be credited to the state aviation fund.

Sec. 18. Section 328.26, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When an aircraft is registered to a person for the first time the application for registration shall be accompanied by evidence that the tax imposed by section 422.43 or section 423.2 has been paid or evidence of the exemption of the aircraft from the tax imposed under section 422.43 or 423.2.

Sec. 19. Section 328.36, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 453.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the state aviation fund shall be credited to the state aviation fund.

Sec. 20. Section 422.45, subsections 6 and 11, Code Supplement 1987, are amended to read as follows:

6. The gross receipts from "casual sales". However, this exemption does not apply to aircraft.

11. The gross receipts from the sale of motor fuel and special fuel consumed for highway use or in watercraft or aircraft where the fuel tax has been imposed and paid and no refund has been or will be allowed and the gross receipts from the sales of gasohol, as defined in section 324.2.

Sec. 21. Section 422.45, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 36. The gross receipts from the sale of aircraft for use in a scheduled interstate federal aviation administration certificated air carrier operation.

Sec. 22. Section 422.110, subsection 1, Code 1987, is amended to read as follows:

1. Motor fuel as defined in section 324.2, subsection 1, used for the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck-mounted feed grinders, stationary engines, ~~aircraft~~, for producing denatured alcohol within the state, for cleaning or dyeing, or for any purpose other than in watercraft or aircraft or in motor vehicles operated or intended to be operated upon the public highways.

Sec. 23. Section 422.110, unnumbered paragraph 2, Code 1987, is amended to read as follows:

However, no credit shall be given with respect to motor fuel taken out of the state in fuel supply tanks of motor vehicles, motor fuel used in aircraft or watercraft, or motor fuel used in the performance of a contract which is paid out of state funds unless the contract for the work contains a certificate made under penalty for false certificate that the estimate, bid or price to be paid for the work includes no amount representing motor fuel tax subject to a credit. The right to a credit under this section is not assignable and the credit may be claimed only by the person or corporation that purchased the fuel.

Sec. 24. Section 422.111, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The fuel tax credit may be applied against the income tax liability of the person or corporation as determined on the tax return filed for the year in which the fuel tax was paid. ~~The fuel tax credit for tax paid on motor fuel used for the purpose of operating aircraft must be itemized separately.~~ The department shall provide forms for claiming the fuel tax credit. If the fuel tax credit would result in an overpayment of income tax, the person or corporation

may apply for a refund of the amount of overpayment or may have the overpayment credited to income tax due in subsequent years. Each person or corporation that claims a fuel tax credit shall maintain the original invoices showing the purchase of the fuel on which a credit is claimed. No invoice is acceptable in support of a claim for credit unless it is a separate serially numbered invoice covering no more than one purchase of motor fuel or special fuel, prepared by the seller on a form approved by the department, nor unless it is legibly written with no corrections or erasures and shows the date of sale, the name and address of the seller and of the purchaser, the kind of fuel, the gallonage in figures, the per gallon price of the fuel, the total purchase price including the Iowa fuel tax, and that the total purchase price has been paid. However, as to refund invoices made on a billing machine the department may waive these requirements. If an original invoice is lost or destroyed, the department may approve a credit supported by a copy identified and certified by the seller as being a true copy of the original. Each person or corporation that claims a fuel tax credit shall maintain complete records of purchases of motor fuel or special fuel on which Iowa fuel tax was paid, and for which a fuel tax credit is claimed.

Sec. 25. The excise tax imposed under this Act is effective for fuel purchased on or after July 1, 1988.

Approved May 10, 1988

CHAPTER 1206

MOTOR VEHICLE REBATE TAXATION

H.F. 2460

AN ACT relating to the treatment of rebates given on the sales of motor vehicles subject to registration for purposes of the state sales, services, and use taxes.

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

Section 1. Section 423.1, subsection 3, paragraph a, Code Supplement 1987, is amended to read as follows:

a. That cash discounts taken on sales are not included. A cash rebate which is provided by a motor vehicle manufacturer to the purchaser of a vehicle subject to registration shall not be included so long as the rebate is applied to the purchase price of the vehicle.

Approved May 11, 1988

CHAPTER 1207**ECONOMIC DEVELOPMENT FINANCE CORPORATION***H.F. 2396*

AN ACT relating to the establishment of the economic development finance corporation to assist in providing financing for small business development by providing loan guarantees, letters of credit, equity financing, underwriting for public offerings, and creating a state assistance fund.

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

Section 1. **NEW SECTION. 28.131 TITLE OF ACT.**

This division shall be known and may be cited as the "Iowa Business Development Finance Act".

Sec. 2. **NEW SECTION. 28.132 DEFINITIONS.**

As used in this division, unless the context otherwise requires, the term:

1. "Corporation" means the business development finance corporation organized pursuant to this division and for the purpose of assisting businesses in any phase of business or product development in the state of Iowa by the loaning of money to and investing money in the business, and otherwise organizing for the purposes in section 28.133.

2. "Financial institution" means a bank, trust company, savings and loan association, insurance company or related corporation, partnership, foundation or other institution licensed to do business in the state of Iowa and engaged primarily in lending or investing funds or any private or public retirement fund.

3. "Member" means a financial institution which has been accepted for membership in the corporation in accordance with section 28.137.

4. "Board" means the board of directors of the corporation constituted under section 28.143 in office from time to time.

5. "Public director" means a member of the board representing the state of Iowa.

6. "Private director" means a member of the board representing the shareholders of the corporation.

7. "Department" means the Iowa department of economic development or any agency which succeeds to the functions of the Iowa department of economic development.

8. "Business" means a business which meets the United States small business administration's definition of small business for that type of business, except a business whose primary activity is retail sales.

Sec. 3. **NEW SECTION. 28.133 PURPOSES.**

The purposes of the corporation shall be limited to those provided in this section and shall be to promote, stimulate, develop and advance business prosperity of the state of Iowa and its citizens; to encourage and assist through loans, investments, or other business transactions, the location of new businesses in the state; to rehabilitate and assist existing businesses in this state; to stimulate and assist in the expansion of any kind of business activity which would tend to promote business development and maintain the economic stability of this state, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of the citizens of this state; to co-operate and act in conjunction with other organizations, public or private, in the promotion and advancement of business development in this state; and to provide financing for the promotion, development, and conduct of all kinds of business activity in this state, in situations in which assistance would not otherwise be reasonably available from commercial sources.

This division being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.

Sec. 4. NEW SECTION. 28.134 POWERS.

The corporation shall, subject to the restrictions and limits contained in this division, have the following powers:

1. To provide letters of credit or guarantees to businesses for any phase of product or business development, not to exceed thirty percent of the total loan amount.
2. To provide equity financing to businesses for any phase of business or product development.
3. To provide loans for businesses in any phase of product or business development when serviced by an Iowa financial institution.
4. To underwrite the public offering of shares by businesses.
5. To request, as a condition of participation or assistance, royalty, equity ownership, or fees, as it determines appropriate, for its assistance.
6. To make contracts and incur liabilities for any of the purposes of the corporation.
7. To borrow money and to issue its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured, and when necessary to secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights and privileges of every kind and nature, or any part thereof or interest therein, without securing shareholder approval.
8. To do all acts and things necessary or convenient to carry out the powers expressly granted in this division and such other powers not in conflict with this division granted under chapter 496A.
9. To enter into lending arrangements with state and federal agencies or instrumentalities whereby the corporation may participate in lending operations or secure guarantees or qualify under applicable laws to further state or federal lending programs by becoming a participant therein.
10. To accept broker deposits from financial institutions.
11. To use not more than five percent of its funds for management assistance.

Sec. 5. NEW SECTION. 28.135 STOCK — LIMITATIONS.

Capital stock shall be issued only on receipt by the corporation of cash in an amount not less than the par value as may be determined by the board. A shareholder of the corporation shall not be entitled as of right to purchase or subscribe for any unissued or treasury shares of the corporation, and the shareholder shall not be entitled as of right to purchase or subscribe for any bonds, notes, certificates of indebtedness, debentures, or other obligations convertible into shares of the corporation.

Sec. 6. NEW SECTION. 28.136 STOCKHOLDERS PRIVILEGES.

Notwithstanding any rule at common law or any provision of any general or special law or any provision in their respective articles of incorporation, agreements of association, or trust indentures; a person is authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of any bond, security or other evidences of indebtedness created by, or the shares of the capital stock of, the corporation, and while owners of said shares to exercise all the rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory agency of this state.

Sec. 7. NEW SECTION. 28.137 CORPORATION MEMBERSHIP.

1. A financial institution is authorized to become a member of the corporation and to make loans to the corporation.
2. A financial institution may request membership in the corporation by making application to the board on forms and in the manner as the board may require and membership shall become effective upon acceptance of the application by the board.

3. Each financial institution which becomes a member of the corporation is authorized to acquire, purchase, hold, sell, assign, mortgage, pledge, or otherwise dispose of, bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of, the corporation, of which it is a member and while owners of such shares to exercise all rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory agency of this state. The amount of capital stock of the corporation which a member is authorized to acquire is in addition to the amount of capital stock in other corporations which the member may otherwise be authorized to acquire.

Sec. 8. NEW SECTION. 28.138 ELIGIBILITY TO PARTICIPATE.

A financial institution is not eligible to receive benefits from the corporation unless it becomes a shareholder, a member, or both. If, as determined by the president of the corporation, there is an insufficient number of eligible financial institutions to ensure reasonable access by businesses to assistance by the corporation, the board may designate additional eligible financial institutions.

Sec. 9. NEW SECTION. 28.139 LOAN TO THE CORPORATION BY MEMBERS.

Each member of the corporation may make loans to the corporation as and when called upon by the corporation to do so on terms and conditions as shall be approved from time to time by the board subject to the following:

1. All loan limits shall be established at the thousand dollar amount nearest the amount computed in accordance with this section.

2. A loan to the corporation shall not be made if immediately thereafter the total amount of the obligations of the corporation calling for the loan would exceed ten times the amount then paid in on the outstanding capital stock of the corporation.

3. The total amount outstanding at any one time on loans to the corporation made by a member of the corporation when added to the amount of the investment in the capital stock of the corporation and held by the member, shall not exceed the lesser of:

a. Twenty percent of the total amount then outstanding on loans to the corporation by all members, including in that total amount outstanding amounts validly called for loan but not yet loaned.

b. The limit, to be determined as of the time the member becomes a member, on the basis of the audited balance sheet of the member at the close of its fiscal year immediately preceding its application for membership, as follows:

(1) Banks and trust companies — five percent of the paid-in capital, surplus, and undivided profits.

(2) Savings and loan associations — two percent of the general reserve account, surplus and undivided profits.

(3) Stock life insurance companies — one percent of capital and unassigned surplus.

(4) Mutual life insurance companies — one percent of the unassigned surplus.

(5) All other insurance companies — one-tenth of one percent of the assets.

(6) Other financial institutions — such limits as may be approved by the board of the business development finance corporation.

4. Each call for loan shall be prorated among the members in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members. The adjusted loan limit of a member shall be the amount of the member's loan limit, reduced by the balance of outstanding obligations of the corporation to the member and the investment in capital stock of the corporation held by the member at the time of the call.

5. All loans to the corporation by a member shall be evidenced by registered bonds, debentures, notes, or other evidences of indebtedness of the corporation, which shall be freely transferable by the registered holder thereof on the books of the corporation.

Sec. 10. NEW SECTION. 28.140 DURATION OF MEMBERSHIP.

Membership in the corporation shall be for the duration of the corporation. However, upon written notice given to the corporation five years in advance a member may withdraw from membership in the corporation at the expiration date of the notice. A financial institution may at any time withdraw from membership without such notice in the event of its merger with another financial institution, after commencement of proceedings for voluntary or involuntary dissolution, receivership, or reorganization pursuant to or by operation of federal or state law or in the event of conversion from a state financial institution to a federal financial institution or the reverse. If there shall be a legislative amendment of this division affecting the rights and obligations of the members and shareholders or otherwise affecting the articles of incorporation of the corporation which shall not have been approved by the public and private directors within the time set forth and in the manner provided in this division, a member may immediately withdraw from membership upon giving written notice to the corporation not later than ninety days from the effective date of the amendment. A member shall not be obligated to make loans to the corporation pursuant to calls made subsequent to the withdrawal of the member from the corporation.

Sec. 11. NEW SECTION. 28.141 POWERS OF SHAREHOLDERS.

The shareholders of the corporation shall have the following powers of the corporation:

1. Those powers granted in chapter 496A which are not inconsistent with this division.
2. To elect the private directors as provided in this division.
3. To exercise other powers of the corporation as may be conferred on the shareholders by the bylaws.

As to all matters requiring action by the shareholders of the corporation, except as may be otherwise provided in this division, approval of the matters shall require the affirmative vote of a majority of the votes to which the shareholders present or represented at the meeting are entitled. Each shareholder shall have one vote, in person or by proxy, for each share of capital stock held by the shareholder.

Sec. 12. NEW SECTION. 28.142 ARTICLES AMENDED.

The articles of incorporation of the corporation may be amended by a majority vote of both the public and private directors. An amendment shall not be made which is inconsistent with this division, authorizes an additional class or classes of shares of capital stock, or eliminates or curtails the authority of the department with respect to the corporation. Without the consent of each of the members affected, an amendment shall not be made which increases the obligation of a member to make loans to the corporation; makes any change in the principal amount, interest rate, maturity date, or in the security or credit position of an outstanding loan of a member to the corporation; affects a member's right to withdraw from membership, as provided in this division; or affects a member's voting rights, if the member is a shareholder, in the corporation. Within thirty days after a meeting at which amendment of the articles has been adopted, articles of amendment signed and sworn to by the president, secretary, and majority of the directors, setting forth the amendment and the due adoption of them, shall be submitted to the director of the department who shall examine them, and if the director finds that they conform to the requirements of this division, shall certify and endorse the director's approval of them. Thereupon, the articles of amendment shall be filed in the office of the secretary of state in the manner set forth and as provided in chapter 496A and the amendment shall not take effect until the articles of amendment shall have been approved and filed

as provided in this section. Within sixty days after the effective date of a legislative amendment affecting the rights and obligations of the members and shareholders or otherwise affecting the articles of incorporation, the approval of the legislative amendment shall be voted on by the public and private directors of the corporation at a meeting duly called for that purpose. Within thirty days after any meeting at which a legislative amendment affecting the articles of incorporation of the corporation has been voted on, a certificate filed and sworn to by the secretary or other recording officer of the corporation setting forth the action taken at the meeting with respect to the amendment shall be submitted to the director of the department and upon receipt of the approval shall be filed in the office of the secretary of state.

Sec. 13. NEW SECTION. 28.143 BOARD OF DIRECTORS.

1. The board shall consist of twelve directors, seven of which represent the public and five of which represent the shareholders. The seven public directors consist of:

- a. The director of the department.
- b. The director of the Iowa finance authority.
- c. The president of the Iowa product development corporation.
- d. The superintendent of banking.
- e. The superintendent of savings and loans.
- f. The commissioner of insurance.
- g. The treasurer of state.
- h. Or the designees of the officials named in paragraphs "a" through "g".

2. The director of the department, or the director's designee, shall serve as chairperson of the board and the president of the Iowa product development corporation, or the president's designee, shall serve as vice chairperson of the board.

3. Within sixty days of the effective date of this division, the chairperson shall convene the public directors for the purpose of organizing the corporation under chapter 496A.

4. Within sixty days of the completion of the initial stock offering, the chairperson shall convene a meeting of the shareholders for the purpose of the initial election of the private directors. The private directors hold office until the next annual meeting of the corporation or special meeting held in lieu of the annual meeting after their election, and until their successors are elected and qualify unless sooner removed in accordance with the bylaws. A vacancy in the office of a director elected by the shareholders shall be filled by the other directors elected by the shareholders.

5. If stock is not issued and private directors are not elected, all powers of the board shall be exercised by the public directors.

Notwithstanding any provisions of law to the contrary, officers and directors of insurance companies and other financial institutions may be members of the board of the corporation organized for the purposes of this division to which the insurance company or other financial institution may make a loan or may make an investment.

Sec. 14. NEW SECTION. 28.144 PRESIDENT OF THE CORPORATION.

The president of the corporation shall be the director of the division of finance of the department. Administrative and staff support shall be furnished by the division of finance of the department.

Sec. 15. NEW SECTION. 28.145 APPLICATIONS FOR FINANCIAL ASSISTANCE.

1. Applications for financial assistance shall be forwarded by a business in conjunction with an eligible financial institution or by a city, county, or local community economic development corporation on behalf of a business, together with an application fee prescribed by the corporation, to the president of the corporation. The president, after preparing the necessary records for the corporation, shall forward each application to the staff of the corporation for an investigation and report concerning the advisability of approving the financial assistance for the

business and concerning any other factors found relevant by the corporation. The investigation and report shall include information as deemed necessary by the president.

2. Criteria for assistance shall be developed by the president with approval of the board and consistent with the strategic plan for state economic growth prepared by the Iowa economic development board.

3. The president shall award assistance in consultation with the board upon review and rating of each application by the staff of the corporation.

4. Appeals of the president's decisions concerning awards of assistance shall be heard by the board. However, the president's decision cannot be reversed except by a majority vote of the directors.

Sec. 16. NEW SECTION. 28.146 EARNED SURPLUS SET ASIDE.

Net earnings and surplus shall be determined by the board, after providing for the reserves as the directors deem desirable, and the directors' determination made in good faith shall be conclusive on all persons.

Sec. 17. NEW SECTION. 28.147 REPORTS TO GOVERNOR AND GENERAL ASSEMBLY.

The corporation shall submit annually a record of its operations and condition to the governor and general assembly. The department may request the superintendent of banking to examine the condition of the corporation and submit a report to the department, copies of which shall also be sent to the governor and general assembly.

Sec. 18. NEW SECTION. 28.148 STATE ASSISTANCE FUND.

There is created in the treasurer of state's office a "business development finance corporation assistance fund". The fund shall consist of all appropriations, grants, or gifts received by the treasurer specifically for assistance under this division. Moneys in this fund are appropriated to the corporation for the purposes stated in this division.

Sec. 19. The Code editor shall codify new sections 28.131 through 28.148 as a separate division of chapter 28.

Approved May 11, 1988

CHAPTER 1208**MOVEMENT OF VEHICLES OF EXCESS SIZE AND WEIGHT***H.F. 2383*

AN ACT relating to the movement of vehicles of excess size and weight, subject to penalties provided by law.

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

Section 1. Section 321.457, subsection 3, Code Supplement 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. In a combination of vehicles used principally for hauling livestock operating under this subsection and section 321.454, subsection 2, the combination of vehicles used principally for hauling livestock may depart from the designated highway system by the most direct route to points of pickup and delivery. Vehicles operating under this paragraph are not exempt from posted size and weight restrictions on highway structures.

Sec. 2. Section 321E.8, subsection 2, Code 1987, is amended to read as follows:

2. Vehicles with indivisible loads, including mobile homes and factory-built structures, having an overall width not to exceed ~~fourteen sixteen~~ feet, ~~six zero~~ inches and an overall length not to exceed ~~eighty five ninety five~~ feet, zero inches shall be restricted to trip distances not to exceed ~~fifty highway and street miles in total aggregate~~ may be moved under an annual or all-systems permit and must have a route specified by the issuing authority prior to the movement. However, vehicles with indivisible loads, including mobile homes and factory-built structures, with an overall width not exceeding fourteen feet six inches may exceed fifty miles under an annual and all-systems permit when prior approval for trip routing is obtained from the issuing authority. The vehicle and load shall not exceed the height as prescribed in section 321.456 and the total gross weight as prescribed in section 321.463.

Sec. 3. Section 321E.28, Code 1987, is amended to read as follows:

321E.28 SINGLE-TRIP AND ANNUAL PERMITS.

The department and local authorities may, upon application and with good cause shown, issue single-trip or annual permits for the movement of mobile homes or factory-built structures of widths including appurtenances exceeding twelve feet five inches subject to the following conditions:

1. ~~Single-trip permits~~ Permits issued under this section shall be limited to mobile homes and factory-built structures ~~of with widths, including appurtenances, exceeding twelve feet five inches but not exceeding sixteen feet zero inches and where the overall length of the mobile home or the factory-built structure and the power unit does not exceed ninety-five feet.~~

2. ~~Single-trip permits~~ Permits shall be issued only when the movement can be safely accomplished without causing unnecessary traffic congestion.

3. ~~Single-trip permits~~ Permits issued under the provisions of this section shall specify the route over which the mobile home or factory-built structure shall be moved, and wherever possible, the department and local authorities shall specify highways having a roadway at least twenty-four feet in width.

4. Single-trip permits may be issued by the department or local authorities contingent upon favorable road and weather conditions.

5. A ~~single-trip~~ permit may be issued to allow the movement of a mobile home or factory-built structure on a fully controlled-access, divided, multilaned highway at a speed exceeding forty miles per hour but not exceeding forty-five miles per hour.

For the purposes of this section, "factory-built structure" means any a structure which is wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site and which is temporarily moved on its own axles.

Sec. 4. NEW SECTION. 321E.32 MOVEMENT OF STRUCTURES.

The weight limits on axles used for the movement of physical structures and buildings shall be subject to the same weight limits which are placed on all other axles. However, when physical structures or buildings are moved and the axles under the load are five feet or more apart, each axle shall be considered a separate axle in determining the axle weight limitations provided by law.

Sec. 5. NEW SECTION. 321E.33 OVERSIZE PERMIT AGREEMENT.

The director of transportation may, subject to the approval of the transportation commission, enter into agreements on behalf of this state with authorized representatives of other states concerning the movement of vehicles of excess size and weight. The director of transportation may enter into and the state department of transportation may become a member of an agreement allowing other states to issue permits authorizing the movement of vehicles of excess size and weight on state primary roads, collect established permit fees on behalf of the department, and exchange appropriate information. The director of transportation may adopt rules pursuant to chapter 17A to implement an agreement.

Copies of any agreement shall be filed with the secretary of the senate and the chief clerk of the house.

Approved May 11, 1988

CHAPTER 1209

HIGHWAY RIGHT-OF-WAY AND URBAN RENEWAL RELOCATION ASSISTANCE

H.F. 2352

AN ACT relating to right-of-way and relocation assistance provided to persons displaced by highway or urban renewal projects.

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

Section 1. Section 316.9, subsection 1, Code 1987, is amended to read as follows:

1. Compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law Pub. L. No. 91-646, as amended by the Uniform Relocation Act Amendments of 1987, title IV, Pub. L. No. 100-17.

Sec. 2. Section 316.10, Code 1987, is amended to read as follows:

316.10 APPLICABLE TO OTHER THAN FEDERAL-AID HIGHWAYS.

The department or any political subdivision may provide all or a part of the programs and payments authorized under this chapter to persons displaced by any street or highway project which is financed in whole or in part by the state or a political subdivision, which is not a federal-aid project, and which requires the purchase or condemnation of private property for public use. To the extent that a program or payment is provided under this section, it shall be provided on a uniform basis to all persons so displaced. The department shall make adopt by administrative rules to assure rule reasonable standards, which need not conform to federal rules regulations and guidelines, for programs and payments provided under this section. However, the department may pay all right-of-way and relocation assistance benefits in the full amount authorized by federal standards and regulations on state projects which are not federally funded.

Sec. 3. Section 403.6, subsection 7, Code 1987, is amended to read as follows:

7. To plan for the relocation of persons, including families, business concerns and others, displaced by an urban renewal project, and to make relocation payments to or with respect

to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government. Other provisions of the Code notwithstanding, in making such payments on projects not federally funded, the municipality may pay relocation assistance benefits in the amounts authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. No. 91-646, as amended by the Uniform Relocation Act Amendments of 1987, title IV, Pub. L. No. 100-17.

Approved May 11, 1988

CHAPTER 1210

RURAL DEVELOPMENT COORDINATION

H.F. 2346

AN ACT relating to the coordination of rural development programs by creating a rural development coordinating committee and the office of rural resources coordinator.

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

Section 1. **NEW SECTION. 15.107A RURAL DEVELOPMENT COORDINATION.**

1. A rural development coordinating committee is created, consisting of the following persons: the secretary of agriculture or the secretary's designee, two persons appointed by the secretary of agriculture each of whom is a member of a private organization or association interested in agriculture, a person appointed by the president of Iowa State University of science and technology, and three members of the department of economic development board appointed by majority vote of the board. However, the board shall not appoint a legislative member or a member whose term on the board will expire while the person serves on the committee. Each member of the committee other than the secretary of agriculture shall serve a term of one year beginning May 1. The committee shall meet at least once each year and elect a chairperson. The committee shall meet at the call of the chairperson or upon the written request of three other members of the committee. Written notice of the time and place of a meeting shall be given to each member of the committee. A majority of the members constitutes a quorum. The committee shall study the needs of rural communities and residents, advise public and private agencies concerning methods to improve the effectiveness and availability of rural development programs, recommend to the general assembly rural development programs, and assist in the coordination of programs designed to foster rural development in this state.

2. The office of rural resources coordinator is created within the department of economic development and shall be staffed by an appointee of the director. The coordinator shall perform duties related to the coordination of rural development programs and shall:

a. Serve as secretary to the rural development coordinating committee and report to the committee as necessary.

b. Monitor state and federal rural development programs.

c. Evaluate the effectiveness of the administration of rural development resources by the department of economic development.

d. Implement policies and procedures designed to coordinate services under rural development programs administered by the department of economic development.

e. Cooperate with other state and federal agencies to coordinate services under rural development programs, to increase the effectiveness of the programs, and to decrease the level of duplication in services.

f. Collect information and data related to rural development programs, including information and data generated from any computer system supported by the department of economic

development, and provide referral and educational assistance to interested persons and agencies about the programs.

Approved May 11, 1988

CHAPTER 1211

RAIL LINE OPERATION AND FUNDING

H.F. 2269

AN ACT relating to the operation and funding of rail lines including funds in the special railroad facility fund and the rail assistance fund and an appropriation and providing an effective date.

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

Section 1. Section 307B.23, Code 1987, is amended to read as follows:

307B.23 SPECIAL RAILROAD FACILITY FUND.

1. 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, and other funds moneys 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 are 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 in this section. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the authority. The treasurer of state 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.

2. Any moneys credited to the special railroad facility fund under section 435.9 shall be deposited in a separate account within the special railroad facility fund. The authority may issue obligations under this chapter which are secured solely by the moneys to be deposited in that separate account and the holders or owners of any such obligations shall have no rights to payment of bond service charges from any other funds in the special railroad facility fund, including any moneys accruing to the authority from the lease, sale or other disposition, or use of railway facilities, or from payment of the principal of or interest on loans made, or from any other use of the proceeds of the sale of the obligations, and no such moneys may be used for the payment of bond service charges on any such obligations, except for accrued interest, capitalized interest, and reserves funded from proceeds received upon the sale of the obligations.

3. Moneys received from repayment from heartland rail corporation as provided in 1983 Iowa Acts, chapter 198, section 32, as amended by 1987 Iowa Acts, chapter 232, section 28, and section 6 of this Act, shall be deposited in a separate account within the special railroad facility

fund and shall be used by the authority only for debt service or rehabilitation on branch rail lines whose total projected traffic is at least fifty percent agricultural products.

Sec. 2. NEW SECTION. 307B.25 CERTIFICATION FOR RECEIPT OF USE TAX MONEYS.

The authority shall certify to the treasurer of state amounts of money necessary for payment of principal and interest by the authority on obligations issued on or after July 1, 1988, or to make payments on leases guaranteed by the authority on or after July 1, 1988. However, certification shall only be made under this section when there are insufficient moneys available to the authority for the payment from moneys credited to the special railroad facility fund or other sources available to the authority.

Certification shall only be made under this section for projects in which the authority has done all of the following:

1. Conducted a feasibility study, prior to agreeing to assist the project, which demonstrates that the proposed project has a reasonable potential to generate adequate revenues to be economically viable.

2. Obtained from participants in the project pledges to be received by the authority, which in combination with other moneys available to the authority, are sufficient to either retire obligations issued by the authority to assist the project or make all payments on leases guaranteed by the authority to assist the project, including a lien against the assets of the project and a lien against the assets of each participant in the project to the extent of that participant's pledged obligation.

Sec. 3. NEW SECTION. 307B.25 APPROPRIATION TO AUTHORITY.

Notwithstanding section 423.24 and prior to the application of section 423.24, subsection 1, paragraph "b", there is appropriated to the authority from revenues derived from the operation of section 423.7 the amounts certified by the authority under section 307B.25. However, the total amount credited to the Iowa railway finance authority under this section shall not exceed two million dollars annually. Moneys credited to the Iowa railway finance authority under this section are appropriated only for the payment of principal and interest on obligations or the payment of leases guaranteed by the authority as provided under section 307B.25. **Moneys credited to the authority under this section shall be repaid from the general fund to the road use tax fund.**

Sec. 4. Section 327H.20, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The department may enter into agreements with railroad corporations, the United States government, cities, counties, and other persons for carrying out the purposes of this chapter. Agreements entered into between the department and railroad corporations under this section may require a railroad corporation to reimburse all or part of the costs paid from the railroad assistance fund from revenue derived from all railroad cars and traffic using the main line, branch line, switching yard or sidings defined in the agreement. An agreement which does not require the repayment of railroad assistance funds used for rehabilitation projects shall require the railroad corporation to establish and maintain a separate corporation account to which an amount equal to all or part of the costs paid from the railroad assistance fund shall be credited from revenue derived from all railroad cars and traffic using the main line, branch line, switching yard or siding defined in the agreement. ~~However, one half of the funds credited to the railroad assistance fund shall be expended as nonreimbursable grants for rehabilitation programs.~~ Credits to the corporation account by the railroad corporation may be used for the restoration, conservation, improvement, and construction of the railroad corporation's main line, branch lines, switching yards and sidings within the state. The agreement shall stipulate

*Item veto; see message at end of the Act

the terms and conditions governing the use of credits to the corporation account as well as a penalty for the use of the account in a manner other than as provided in the agreement.

Sec. 5. Section 327H.24, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

Notwithstanding section 453.7, subsection 2, interest and earnings on moneys deposited in the railroad assistance fund shall be credited to the railroad assistance fund. Interest and earnings credited to the railroad assistance fund under this paragraph ~~shall~~ may be expended as loans or nonreimbursable grants.

Sec. 6. 1983 Iowa Acts, chapter 198, section 32, unnumbered paragraph 1, as amended by 1987 Iowa Acts, chapter 232, section 28, is amended to read as follows:

Notwithstanding ~~the provisions of section 423.24~~, there is transferred from revenues collected under chapter 423 during each year of the fiscal period beginning July 1, 1983 and ending June 30, 1985 from the use tax imposed on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 the sum of seven million five hundred thousand (7,500,000) dollars which shall be transferred to the special railroad facility fund to be used exclusively for the purposes provided in this section. The Iowa railway finance authority may enter into a partnership agreement as allowed under section 307B.7, subsection 7, for the purpose of acquiring the right-of-way of the Chicago, Rock Island and Pacific railroad. The funds shall be expended to supplement private investment capital obtained for that purpose by matching any private investment capital on an equal basis. The funds transferred to the special railroad facility fund under this section shall be considered an interest-free loan to be repaid to the road use tax fund from receipts credited to the special railroad facility fund under section 307B.23 except that moneys credited for repayment of the loan during the period beginning July 1, 1987 and ending June 30, ~~1989~~ 1988, shall be credited to the railroad assistance fund. The special railroad facility fund shall repay to the road use tax fund, within thirty years after receipt of each repayment from heartland rail corporation the amount of the repayment, but in the interim the Iowa railway finance authority may lend these moneys for other rail projects without any other limitations contained in this section being applicable.

Sec. 7. The legislative council may authorize an interim study to develop recommendations for the branch line rail assistance program. The membership of the study committee shall consist of three members from the senate and three members from the house of representatives and one member appointed by each of the following:

1. Iowa grain and feed association.
2. Iowa institute of cooperation.
3. Farm bureau.
4. Rail shippers association.
5. Iowa railroad association.
6. Iowa railway finance authority.
7. Iowa corn growers association.
8. Iowa soybean association.

The state department of transportation shall assist the legislative service bureau in staffing the interim study committee. The study committee shall report its findings, including proposed legislation, to the governor and the members of the general assembly by January 1, 1989.

Sec. 8. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved May 11, 1988, except the item, which I hereby disapprove and which is designated as that portion of section 3 which is bracketed in ink and initialed by me. My reasons for vetoing this item are delineated 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

Dear Madam Secretary:

I hereby transmit House File 2269, an Act relating to the operation and funding of rail lines including funds in the special railroad facility fund and the rail assistance fund and an appropriation and providing an effective date.

House File 2269 is approved with the following exception which I hereby disapprove.

I am unable to approve the item designated in Section 3 of this bill which reads as follows:

Moneys credited to the authority under this section shall be repaid from the general fund to the road use tax fund.

House File 2269 provides funding for needed rail branch line improvements in the state. The bill provides the Iowa Rail Finance Authority with the Heartland Rail Corporation's loan repayments to be used for debt service or rehabilitation of financially feasible rail branch lines in the state. However, since these repayments are not secure, the legislature authorized the Iowa Rail Finance Authority to utilize up to \$2 million of use tax funds per year to pay debt service on rail bonds in the event the Heartland Funds and shipper pledges fall short. This \$2 million security enhancement would, in turn, then be repaid with funds appropriated in this bill from the state's general fund.

I support efforts to provide appropriate funding to rehabilitate financially feasible rail branch lines. I believe this is a critical problem facing this state; the availability of good rail service has a significant impact on the ability of our state's products to compete in the world marketplace. Therefore, I have approved portions of this bill which allow the Heartland loan repayments to be secured for rail rehabilitation.

However, the provision to require the eventual use of tax dollars from the general fund raises serious constitutional and financial questions. This requirement could, in fact, obligate the general fund of the state to pay debt on railroad bonds, contradicting the debt prohibition that appropriately exists in our Constitution. Moreover, the state's general fund balance is not sufficient to absorb this additional \$2 million appropriation.

In fact, the Department of Transportation would be well advised to avoid the utilization of the use tax dollars to secure rail bonds unless absolutely necessary. The Heartland loan repayment funds would be better utilized on a grant or a revolving loan fund basis. However, I understand that additional financing tools may be necessary if an immediate rail branch line crisis should occur. Therefore, I have allowed the use tax security enhancement to remain in the bill but I cannot approve the provision that effectively pledges the state of Iowa's general fund to pay that debt service.

It is my understanding that my action should, in fact, enhance the workability of this bill by removing a significant constitutional cloud over the bill. For the future, I believe that the legislature should review other sources of financing for needed rail branch line improvements and purchases. I am deeply concerned about further efforts to rob the Road Fund for this purpose. Such action serves only to reduce our ability to complete our Transportation 2000 commercial highway network. I plan to work with a coalition of shippers, rail lines, and other interested parties this summer and fall to develop appropriate recommendations to the legislature to deal with our emerging rail problems. Significant attention should be given to reviewing ways in which rail user and fuel fees can be utilized as a method of funding.

In short, I cannot accept the item in this bill that requires that rail debt service be paid back by the general fund of the state. Obligating the general fund for that purpose could, in fact, be unconstitutional. And, in any event, it is a fiscally imprudent use of those dollars.

For the above reasons, I hereby respectfully disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2269 are hereby approved as of this date.

Sincerely,

TERRY E. BRANSTAD, *Governor*

CHAPTER 1212**TRESPASS UPON PUBLIC ROAD***H.F. 2258*

AN ACT relating to trespass upon the right-of-way of a public road or highway.

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

Section 1. Section 716.7, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 4. The term "trespass" does not mean the entering upon the right-of-way of a public road or highway.

Approved May 11, 1988

CHAPTER 1213**TAX LEVY FOR CITY LIBRARIES***H.F. 665*

AN ACT authorizing a tax levy for city libraries by petition and referendum.

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

Section 1. Section 384.12, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 20. A tax not to exceed twenty-seven cents per thousand dollars of assessed value for support of a public library, subject to petition and referendum requirements of subsection 1, except that if a majority approves the levy, it shall be imposed.

Approved May 11, 1988

CHAPTER 1214**MOTOR VEHICLE SPEEDING AND OWI VIOLATIONS***S.F. 2117*

AN ACT relating to certain motor vehicle violations and providing an effective date.

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

Section 1. Section 321A.3, subsection 4, Code Supplement 1987, is amended to read as follows:

4. The abstract of operating record provided under this section shall designate which speeding violations occurring on or after July 1, 1986, but before May 12, 1987, are for violations of ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour. For speeding violations occurring on or after May 12, 1987, the abstract provided under this section shall designate which speeding violations are for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour.

Sec. 2. Section 321J.13, subsection 4, Code Supplement 1987, is amended to read as follows:

4. A person whose motor vehicle license or operating privilege has been or is being revoked under section 321J.9 or 321J.12 may reopen a department hearing on the revocation if the person submits a petition stating that new evidence has been discovered which provides grounds for rescission of the revocation, or prevail at the hearing to rescind the revocation, if the person submits a petition stating that a criminal action on a charge of a violation of section 321J.2 filed as a result of the same circumstances which resulted in the revocation has resulted in a decision in which the court has held that the peace officer did not have reasonable grounds to believe that a violation of section 321J.2 had occurred to support a request for or to administer a chemical test or which has held the chemical test to be otherwise inadmissible or invalid. Such a decision by the court is binding on the department and the department shall rescind the revocation.

Sec. 3. Section 516B.3, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The commissioner shall require that insurance companies transacting business in this state not consider speeding violations occurring on or after July 1, 1986, but before May 12, 1987, which are for speeding violations for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit greater than thirty-five miles per hour or speeding violations occurring on or after May 12, 1987, which are for speeding violations for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour for the purpose of establishing rates for motor vehicle insurance charged by the insurer and shall require that insurance companies not cancel or refuse to renew any such policy for such violations. In any twelve-month period, this section applies only to the first two such violations which occur.

Sec. 4. The state department of transportation shall provide a report to the Seventy-third General Assembly on or before January 31, 1989, which shall describe the various operating records maintained by the department. The report shall include the director of transportation's recommendations concerning the appropriate length of time such records should be maintained by the department.

Sec. 5. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved May 11, 1988

CHAPTER 1215

MOTOR VEHICLE TITLING, REGISTRATION, AND PLATES

S.F. 2039

AN ACT allowing certain personalized vehicle registration plates to contain up to seven characters, relating to the issuance of registration plates by equalizing penalties for late renewals, relating to the issuance of registration plates by providing for the issuance of collegiate registration plates, relating to the issuance of registration plates by providing for the issuance of congressional medal of honor plates, relating to the titling and registration of motor vehicles, and by including an appropriation, and providing an effective date.

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

Section 1. Section 321.34, subsection 5, paragraph a, Code Supplement 1987, 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 or travel trailer registered in this state, personalized registration plates marked with the up to seven initials, letters, or a combination of numerals and letters requested by the owner. However, personalized registration plates for motorcycles and motorized bicycles shall be marked with no more than six initials, letters, or combinations of numerals and letters. 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. 2. Section 321.34, subsection 5, paragraph b, Code Supplement 1987, is amended to read as follows:

b. The county treasurer shall validate personalized registration plates in the same manner as regular registration plates are validated under this section at an annual fee of five dollars in addition to the regular annual registration fee. A person may renew a personalized registration plate without paying the additional registration fee under paragraph "a" unless a new series of registration plates are being issued to replace a current series. A person renewing a personalized registration plate within one month following the time requirements under section 321.40 may renew the personalized plate without paying the additional registration fee under paragraph "a" but shall pay the five-dollar fee in addition to the regular registration fee and any penalties subject to regular registration plate holders for late renewal.

Sec. 3. Section 321.34, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 10. COLLEGIATE PLATES.

a. Upon application and payment of the proper fees, the director may issue to the owner of a motor vehicle, trailer, or travel trailer registered in this state, collegiate registration plates. Upon receipt of the collegiate registration plates, the applicant shall surrender the regular registration plates to the county treasurer.

b. Collegiate registration plates shall be designed for each of the three state universities. The collegiate registration plates shall be designated as follows:

(1) The letters "ISU" followed by a four-digit number all in cardinal on a gold background for Iowa State University of science and technology.

(2) The letters "UNI" followed by a four-digit number all in purple on a gold background for the University of Northern Iowa.

(3) The letters "UI" followed by a four-digit number all in black on a gold background for the state University of Iowa.

c. The fees for a collegiate registration plate are as follows:

(1) A registration fee of twenty-five dollars.

(2) A special collegiate registration fee of twenty-five dollars.

These fees are in addition to the regular annual registration fee. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited by the treasurer of state to the road use tax fund. Notwithstanding section 423.24 and prior to the application of section 423.24, subsection 1, paragraph "b", the treasurer of state shall credit monthly from revenues derived from the operation of section 423.7, respectively, to Iowa State University of science and technology, the University of Northern Iowa, and the state University of Iowa, the amount of the special collegiate registration fees collected in the previous month for collegiate registration plates designed for the university. The moneys credited are appropriated to the respective universities to be used for scholarships for students attending the universities.

d. The county treasurer shall validate collegiate registration plates in the same manner as regular registration plates are validated under this section at an annual fee of five dollars in addition to the regular annual registration fee.

Sec. 4. Section 321.34, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 11. CONGRESSIONAL MEDAL OF HONOR 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 has been awarded the congressional medal of honor may, upon written application to the department, order special registration plates which shall be red, white, and blue in color and shall bear an emblem of the congressional medal of honor and an identifying number. Each applicant applying for special registration plates under this subsection may purchase only one set of registration plates under this subsection. The application is subject to approval by the department and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The special plates are subject to 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. The department shall not issue special registration plates until service organizations in the state have furnished the department either the special dies or the cost of the special dies necessary for the manufacture of the special registration plate.

Sec. 5. Section 321.45, subsection 3, Code Supplement 1987, is amended to read as follows:

3. Upon the transfer of any registered vehicle, the owner, except as otherwise provided in this chapter, shall endorse an assignment and warranty of title upon the certificate of title for such vehicle with a statement of all liens and encumbrances thereon, and the owner shall deliver the certificate of title to the purchaser or transferee at the time of delivering the vehicle except as otherwise provided in this chapter. ~~The owner, except as otherwise provided in this chapter, shall also sign the reverse side of the registration card issued for such vehicle indicating the name and address of indicate to the transferee and the date of the transfer the name of the county in which the vehicle was last registered and the registration expiration date.~~

Sec. 6. Section 321.46, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The transferee shall within fifteen calendar days after purchase or transfer apply for and obtain from the county treasurer of the person's residence, or if a nonresident, the county treasurer of the county where the primary users of the vehicle are located or the county where all other vehicles owned by the nonresident are registered, a new registration and a new certificate of title for the vehicle except as provided in section 321.25 or 321.48. The transferee shall present with the application the certificate of title endorsed and assigned by the previous owner and ~~the signed registration card or other evidence of current registration as required by the department shall indicate the name of the county in which the vehicle was last registered and the registration expiration date.~~ The transferee shall be required to list a motor vehicle license number as part of the application for a registration transfer and a new title. ~~The motor vehicle license number shall not be the social security number of the transferee unless requested by the transferee.~~

Sec. 7. Section 321.48, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

When the transferee of a vehicle is a dealer who holds the vehicle for resale and operates the vehicle only for purposes incident to a resale and displays a dealer plate on the vehicle or does not drive such vehicle or permit it to be driven upon the highways, such transferee shall not be required to obtain a new registration or a new certificate of title but upon transferring title or interest to another person shall execute and acknowledge an assignment and warranty of title upon the certificate of title assigned to the person and deliver the same to

the person to whom such transfer is made. The dealer shall also sign the reverse side of the registration card for such vehicle indicating the name and address of the new purchaser.

Sec. 8. Section 321.52, subsection 2, Code 1987, is amended to read as follows:

2. The purchaser or transferee of a motor vehicle for which a certificate of title is issued which is sold for scrap or junk shall surrender the certificate of title and registration receipt to the county treasurer of the county of residence of the transferee within fifteen days after assignment of the certificate of title. The county treasurer shall issue to such person without fee a junking certificate. A junking certificate shall authorize the holder to possess, transport or transfer by endorsement the ownership of the junked vehicle. A certificate of title shall not again be issued for the vehicle subsequent to the issuance of a junking certificate. The county treasurer shall cancel the record of the vehicle and forward the certificate of title to the department. The junking certificate shall be of a form to allow for the assignment of ownership of the vehicle. The junking certificate shall provide a space for the notation of the transferee of the component parts of the vehicle transferred by the owner of the vehicle.

Sec. 9. Section 321.52, subsection 3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

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 the 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. 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 certificate of title for the vehicle. After the expiration of the fourteen-day period, a county treasurer shall not issue a certificate of title for a 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.

Sec. 10. Section 321.52, subsection 4, unnumbered paragraph 1, Code 1987, 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.

Sec. 11. Section 321.166, subsection 5, Code 1987, is amended to read as follows:

5. There shall be a marked contrast between the color of the registration plates and the data which is required to be displayed on the registration plates. When a new series of registration plates is issued to replace a current series, the new registration plates shall be of a distinctively different color from the series which is replaced, except for collegiate registration plates issued under section 321.34, subsection 10.

Sec. 12. Section 1 of this Act takes effect July 1, 1990.

Approved May 11, 1988

CHAPTER 1216
TAKING OF ANIMALS
H.F. 395

AN ACT relating to the taking of animals and subjecting violators to penalties.

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

Section 1. Section 109.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 16. "Bird" means a member of the class Aves.

NEW SUBSECTION. 17. "Fish" means a member of the class Pisces.

NEW SUBSECTION. 18. "Frog" means a member of the order Anura.

NEW SUBSECTION. 19. "Amphibian" means a member of the class Amphibia.

NEW SUBSECTION. 20. "Reptile" means a member of the class Reptilia.

NEW SUBSECTION. 21. "Mussels" means the pearly fresh water mussels, clams or naiads, and their shells.

NEW SUBSECTION. 22. "Fur-bearing animals" means the following which are declared to be fur-bearing animals for the purpose of regulation and protection under the Code: beaver, badger, mink, otter, muskrat, raccoon, skunk, opossum,* spotted skunk or civet cat, weasel, coyote, bobcat, wolf, groundhog, red fox, and gray fox. This chapter does not apply to domesticated fur-bearing animals.

NEW SUBSECTION. 23. "Game" means all of the animals specified in this subsection except those designated as not protected, and includes the heads, skins, and any other parts, and the nests and eggs of birds and their plumage.

a. The Anatidae: such as swans, geese, brant, and ducks.

b. The Rallidae: such as rails, coots, mudhens, and gallinules.

c. The Limicolae: such as shorebirds, plovers, surfbirds, snipe, woodcock, sandpipers, tatters, godwits, and curlews.

d. The Gallinae: such as wild turkeys, grouse, pheasants, partridges, and quail.

e. The Columbidae: such as mourning doves and wild rock doves only.

f. The Scuridae: such as gray squirrels, fox squirrels.

g. The Leporidae: cottontail rabbits and jackrabbits only.

h. The Cervidae: such as deer and elk.

NEW SUBSECTION. 24. "Spawn" means any of the eggs of any fish, amphibian, or mussel.

NEW SUBSECTION. 25. "Turtle" means any member of the order Testudines.

*According to enrolled Act

NEW SUBSECTION. 26. "Biological balance" means that condition when the number of animals present over the long term is at or near the number of animals of a particular species that the available habitat is capable of supporting.

Sec. 2. Section 109.1, subsections 8 and 14, Code 1987, are amended to read as follows:

8. "Take" or "taking" or "attempting to take" or "hunt" is any pursuing, or any hunting, fishing, killing, trapping, snaring, netting, searching for or shooting at, stalking or lying in wait for any game, animal, bird, or fish protected by the state laws or ~~regulations~~ rules adopted by the commission whether or not such ~~game animal~~ be then subsequently captured, killed, or injured.

14. "Wild mammal" means a ~~mammal and family of mammal listed in sections 109.40 and 109.41~~ member of the class Mammalia.

Sec. 3. Section 109.12, Code 1987, is amended to read as follows:

109.12 SEIZURE OF UNLAWFUL GAME.

~~It shall be the duty of the~~ The director or any peace officer ~~to~~ shall seize with or without warrant and take possession of any fish, furs, birds, or animals, or mussels, clams, ~~and~~ or frogs, ~~except for bait~~ which have been caught, taken, or killed at a time, in a manner, or for a purpose, or had in possession or under control, or offered for shipment, or illegally transported in the state or to a point beyond the its borders thereof, contrary to the provisions of this ~~chapter~~ Code.

Sec. 4. Section 109.13, Code 1987, is amended to read as follows:

109.13 SEARCH WARRANTS.

Any court having jurisdiction of the offense, upon receiving proof of probable cause for believing that any fish, mussels, clams, frogs, birds, furs, or animals caught, taken, killed, had in possession, under control, or shipped, contrary to ~~any of the provisions of this chapter~~ the Code, or hidden or concealed in any place, shall issue a search warrant and cause a search to be made in any place therefor. The property so seized under ~~such~~ such warrant shall be safely kept under the direction of the court so long as necessary for the purpose of being used as evidence in any trial, and if ~~such~~ a trial results in a conviction the property seized shall be confiscated by the director or the director's officers.

Sec. 5. Section 109.21, Code 1987, is amended to read as follows:

109.21 BIRDS AS TARGETS.

~~No~~ A person shall not keep or use any live pigeon or other bird as a target, to be shot at for amusement or as a test of skill in marksmanship, or shoot at a bird kept or used for such purpose, or be a party to such shooting, or lease any building, room, field, or premises, or knowingly permit the use thereof, for the purpose of such shooting. ~~Nothing in this~~ This section ~~shall~~ does not prevent any person from shooting at live pigeons, sparrows, ~~erows~~ erows and starlings when used in the training of hunting dogs.

Sec. 6. Section 109.24, Code 1987, is amended to read as follows:

109.24 USE OF MOBILE TRANSMITTER PROHIBITED.

A person who is hunting shall not use a mobile radio transmitter to communicate the location or direction of game or fur-bearing animals or to co-ordinate the movement of other hunters. This section does not apply to the hunting of coyotes from January 1 through March 31.

Sec. 7. Section 109.32, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Whoever shall take, catch, kill, injure, destroy, have in possession, buy, sell, ship, or transport any frogs, fish, mussels, birds, their nests, eggs, or plumage, fowls, game, or animals or their fur or raw pelt in violation of the provisions of this chapter or of administrative rules

of the commission or whoever shall use any device, equipment, seine, trap, net, tackle, fire-arm, drug, poison, explosive, or other substance or means, the use of which is prohibited by this chapter, or use the same at a time, place, or in a manner or for a purpose prohibited, or do any other act in violation of the provisions of this chapter or of administrative rules of the commission for which no other punishment is provided, ~~shall be~~ is guilty of a simple misdemeanor and shall be assessed a minimum fine of ten dollars for each offense.

Sec. 8. Section 109.32, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person convicted of taking a deer, antelope, moose, buffalo, or elk with a prohibited weapon as defined by rules of the department, is subject to a fine of one hundred dollars for each offense committed while taking the animal with the prohibited weapon.

Sec. 9. Section 109.34, Code 1987, is amended to read as follows:

109.34 VIOLATIONS BY COMMON CARRIER.

~~Any~~ A common carrier which ~~shall violate~~ violates any of the provisions of this chapter relating to receiving, having in possession, shipping, or delivering any fish, fowls, birds, birds' nests, eggs, or plumage, fur, raw pelts, game, or animals, in violation of the provisions of ~~this chapter~~ the Code or contrary to the regulations and restrictions therein provided in this chapter, and any agent, employee, or servant of ~~such corporation~~ a common carrier violating such provisions, ~~shall be~~ is guilty of a simple misdemeanor.

Sec. 10. Section 109.37, subsection 1, Code 1987, is amended by striking the subsection.

Sec. 11. Section 109.37, subsection 4, Code 1987, is amended to read as follows:

4. Have in possession any implements, devices, equipment, or means whatever of taking fish, birds, or animals protected by ~~this chapter~~ the Code at any place where the possession or use thereof is prohibited.

Sec. 12. Section 109.38, unnumbered paragraph 1, and subsections 1 and 2, Code 1987, are amended to read as follows:

It ~~shall be~~ is unlawful for ~~any~~ a person to take, pursue, kill, trap or ensnare, buy, sell, possess, transport, or attempt to so take, pursue, kill, trap or ensnare, buy, sell, possess, or transport any game, protected nongame ~~birds~~ animals, fur-bearing animals or fur or skin of such animals, mussels, frogs, spawn or fish or any part thereof, except upon the terms, conditions, limitations, and restrictions set forth herein, and ~~administrative orders~~ rules necessary to carry out the purposes set out in section 109.39, or as provided by the Code.

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 wild mammals, ~~wild turkey, pheasant, quail~~ birds subject to section 109.48, fish, reptiles, and amphibians, if the investigation reveals that 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 means found advisable to salvage 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, further regulated, or expanded, the commission shall conduct a drawing to determine which applicants 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 forty-five day period established by the commission. At the end of the period the drawing shall be conducted. If the quota has not been filled, licenses~~

shall be issued in the order in which applications are received and shall continue to be issued until the quota has been met or until a date fifteen days prior to the opening day of the season, whichever first occurs. If the commission finds that the number of hunters licensed or the type of license issued 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 and the type of license. Applications for licenses shall be received during a period established by the commission. At the end of the period a drawing shall be conducted. The commission may establish rules to issue licenses after the established application period. 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 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 under this section and under section 110.1 are not eligible for a gun deer-hunting license under section 110.24. This subsection does not apply to the hunting of wild turkey on game breeding and shooting preserves licensed under chapter 110A.

Sec. 13. Section 109.39, Code 1987, is amended to read as follows:

109.39 BIOLOGICAL BALANCE MAINTAINED.

The open seasons, closed seasons, bag limits, size limits, catch limits, possession limits and territorial limitations set forth herein pertaining to fish, game and various species of wildlife are based upon a proper biological balance as hereinafter defined being maintained for each species or kind. The seasons, catch limits, bag limits, size limits, possession limits and territorial limitations set forth herein shall prevail and be in force and effect for each and every species of wildlife to which they pertain as long as the biological balance for each species or kind remain such as to assure the maintenance of an adequate supply of such species. The commission is designated the sole agency to determine the facts as to whether such biological balance does or does not exist. If the commission, after investigation finds that the number or the number and sex of each or any species or kind of wildlife is at variance to aforesaid condition, the The commission shall, by administrative rule, extend, shorten, open, or close seasons and set, increase, or reduce catch limits, bag limits, size limits, possession limits, or territorial limitations or further regulate taking conditions in accordance with said findings sound fish and wildlife management principles. For the purpose of this section biological balance is defined as that condition when all losses to population are compensated by natural reproductive activity or artificial replenishment,* replacement or stocking.

If the commission finds that the biological balance of deer cannot be maintained on land owned by the federal government because of hunting prohibitions on weekdays, the commission may extend the open season for deer hunting within such areas for one or more weekends beyond the regular season as established by the commission. The total number of days of deer hunting permitted in areas owned by the federal government shall not exceed the total number of days authorized for deer hunting in the state, or that part of the state in which the federal-owned land is located, as established by the commission.

Sec. 14. Section 109.52, Code 1987, is amended to read as follows:

109.52 EXHIBITING CATCH TO OFFICER.

Any A person who shall have has in possession any game bird or game animal, fish or fur or part thereof shall upon request of the director or any officer appointed by the commission department exhibit the same it to the director or officer, and a refusal to do so shall constitute is a violation of this chapter the Code.

Sec. 15. Section 109.53, Code 1987, is amended to read as follows:

*According to enrolled Act

109.53 CHASING FROM DENS.

It shall be unlawful to have in possession while hunting or to use while hunting any ferret or mechanical any device or any substance to be used for chasing animals from their dens.

Sec. 16. Section 109.55, Code 1987, is amended to read as follows:

109.55 SELLING GAME.

Except as otherwise provided, it shall be unlawful for any a person to shall not buy or sell, dead or alive, any a bird or animal or any part thereof of one which is protected by this chapter, but nothing in this section shall does not apply to fur-bearing animals, rabbits, and the skins, and plumage, and antlers of legally taken game. Deer hides shall be plainly labeled with the owner's name and address and license number prior to the sale. This name and address and license number must remain attached to the hide while such hide is within the boundaries of this state. This section does not prohibit the purchase of jackrabbits from sources outside this state. No A person shall not purchase, sell, barter, or offer to purchase, sell, or barter for millinery or ornamental use the feathers of migratory game birds; and no a person shall not purchase, sell, barter, or offer to purchase, sell, or barter mounted specimens of migratory game birds.

Sec. 17. Section 109.56, subsection 1, Code 1987, is amended to read as follows:

1. Except during the open gun season for hunting deer at which time no training of dogs is allowed, any A person having a valid hunting license may train a bird dog on any game birds and a person having a valid fur harvester license may train a coon hound, fox hound, or trailing dog on any fur-bearing animals at any time of the year including during the closed season on such birds or animals, provided. However, the animals when pursued to a tree or den shall not be further chased or removed in any manner from the tree or den. A person having a hunting license may train a dog on coyote or groundhog.

Only a pistol, revolver, or other gun shooting blank cartridges shall be used while training dogs during closed season except as provided in subsection 2 of this section.

Sec. 18. Section 109.57, Code 1987, is amended to read as follows:

109.57 POSSESSION AND STORAGE.

Any A person having lawful possession of game or fur-bearing animals or their pelts may hold same them for not to exceed ten thirty days after the close of the open season for such game or fur-bearers. A permit to hold such game for a longer period may be granted by the commission department.

Sec. 19. Section 109.60, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

109.60 RAISING GAME – RULEMAKING AUTHORITY.

A person shall not raise or sell game or fur-bearing animals of the kinds protected by this chapter without first procuring a game breeder's license as provided by law. The commission may adopt rules which ensure that all game birds, game animals, and fur-bearing animals handled and confined by licensed game breeders are provided with humane care and treatment. A violation of a rule adopted by the commission is a cause for license revocation. This section does not apply to governmental zoos and exhibits.

Sec. 20. Section 109.61, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

109.61 LICENSED GAME BREEDERS – MARKETING GAME – PENALTY.

1. Except as otherwise provided by law, a licensed game breeder whose original stock is obtained from a lawful source may possess any game bird, game animal, or fur-bearing animal,

or any of their parts. Possession and use of the game birds, game animals, or fur-bearing animals obtained from a licensed game breeder are lawful.

2. Fur-bearing animals shall not be acquired for breeding or propagating purposes from any source unless they have been pen-raised for at least two successive generations.

3. A game breeder's license is not a license to possess, breed, propagate, sell, or dispose of any species which is defined as endangered or threatened under state law unless the species is listed on the license. Its possession, breeding, propagation, sale, and disposal are subject to all applicable state and federal statutes.

4. A licensed game breeder shall not acquire protected live game animals, game birds, their eggs, or fur-bearing animals taken from the wild within this state.

5. Game birds or game animals may be sold for food only under the following conditions:

a. The licensed game breeder shall file with the commission a facsimile of a stamp of similar type to that used by the United States department of agriculture in grading meat.

b. Licensed game breeders may sell dressed game birds or game animals to markets for resale providing each game bird or game animal has affixed upon it in a conspicuous and legible manner the imprint of the game breeder's stamp.

c. The stamp shall bear the name and number of the game breeder in letters of at least twelve-point type size.

6. Markets selling stamped game shall:

a. Maintain the stamp on each game bird or game animal until the bird or animal is disposed of or sold.

b. Keep a record showing the total number of game birds or game animals sold together with the name and address of the game breeder from whom purchased and the number of game birds and animals in each purchase.

7. Markets selling stamped game, together with their records, are subject to inspection by an authorized representative of the commission at any reasonable time.

8. Violation of a provision of this section may be cause for license revocation.

Sec. 21. Section 109.62, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

109.62 RECORDS — REPORTS — INSPECTION.

1. A holder of a game breeder's license shall keep the records and make the reports required by this section on forms provided by the department. The records shall be open for inspection at any reasonable time by the department or its authorized agents.

2. At the time of every sale or conveyance of an animal, animal parts, or products, the licensee shall complete a game breeder's sales receipt on forms provided by the department. The forms shall require the following information:

a. The name, address, county, and license number assigned to the breeder.

b. The name and address of the purchaser.

c. The number, species, sex, and age of the animals or birds conveyed.

3. Licensees shall maintain business records for all species in an annual report record book. The records shall include the following information:

a. For each animal acquired other than by birth on the licensee's game farm, the sex and species, the date of acquisition, the number acquired, and the name and address of the source from which acquired.

b. For each animal born on the licensee's game farm, the sex, species, date of birth, and number of any band, tag, or tattoo subsequently attached to the animal.

c. For each animal sold or disposed of other than by death the same information required by the game breeder's sales receipt.

d. For each animal which dies, disappears, or is destroyed on the licensee's game farm, the sex, species, date of death, and the number of any band, tag, or tattoo attached to the animal.

The licensee's copies of the required sales receipts shall be kept with the record book and are considered a part of it.

Records required by this section shall be entered in the annual report record book within forty-eight hours of the event.

4. Each licensee shall file an annual report with the commission on or before January 31. The report shall detail the game breeder's operations during the preceding license year. The original report shall be forwarded to the department and a copy shall be retained in the breeder's file for a period of three years from the date of expiration of the breeder's last license issued. Failure to keep or submit the required records and report are grounds for a refusal to renew a license for the succeeding year.

5. An on-site inspection of facilities shall be conducted by an officer of the commission prior to the initial issuance of a game breeder's license. The facilities may be reinspected by an officer of the commission at any reasonable time.

6. Any officer of the commission may enter any place where any game bird, game animal, or fur-bearing animal is at the time located, or where it has been kept, or where the carcass of such animal may be, for the purpose of examining it in any way that may be necessary to determine whether it was or is infected with any contagious or infectious disease.

7. For the purpose of this section, infectious and contagious disease includes rabies, hoof and mouth disease, leptospirosis, black-head, or any other communicable disease so designated by the commission.

8. The commission may regulate or prohibit the importation into the state and exportation from the state of any species of game bird, game animal, or fur-bearing animal, domesticated or not, which in its opinion, for any reason, is determined to be detrimental to the health of animals within or without the state.

9. The commission may quarantine or destroy any game bird, game animal, or fur-bearing animal which is found to be infected with any contagious or infectious disease.

10. A licensed game breeder or other person having control of any game bird, game animal, or fur-bearing animal shall not knowingly offer for sale, sell, or barter such birds or animals which have an infectious or contagious disease, or allow those birds or animals to run at large or come in contact with any other game birds, game animals, or fur-bearing animals.

Sec. 22. Section 109.63, unnumbered paragraphs 1 and 2, Code 1987, are amended to read as follows:

Any person may be authorized to sell minnows, frogs, crayfish, salamanders, and elams mussels for fish bait upon the payment of a license fee to the commission. Minnow and bait boxes and tanks shall be open to inspection by the director and conservation officers at all times. ~~They~~ The licensee shall have tanks and bait boxes of sufficient size, with proper aeration to keep the bait alive and prevent heavy loss.

~~Such~~ Except for species listed under chapter 109A as endangered or threatened, the license shall authorize the licensee to take from the lakes and streams in the state that are not closed to the taking of minnows, frogs, crayfish, salamanders, and elams mussels, sufficient minnows, frogs, crayfish, salamanders, and elams mussels to carry on and supply the licensee's customers with bait for hook and line fishing if the licensee is present while the bait is being collected.

Sec. 23. Section 109.65, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

109.65 LICENSES.

The director may, after investigation, issue to any person a scientific collector's license, a wildlife salvage permit, educational project permit, or a wildlife rehabilitation permit. A scientific collector's license will authorize the licensee to collect for scientific purposes only, any

birds, nests, eggs, or wildlife. A wildlife salvage permit will authorize the permittee to salvage for educational purposes, any birds, nests, eggs, or animals according to the rules of the department. An educational project permit authorizes the permittee to collect, keep, or possess for educational purposes birds, fish or wildlife which are not endangered, threatened or otherwise specially managed according to the rules of the department. A wildlife rehabilitation permit will authorize the permittee to possess for rehabilitation purposes only, any orphaned or injured wildlife according to the rules of the department. A person to whom a license or permit is issued shall not dispose of any birds, nests, eggs, or wildlife or their parts except upon written permission of the director. The application for such licenses and permits shall be made upon blanks furnished by the department. Each holder of a license or permit shall, by January 31 of each year, file with the department a report showing all specimens collected or possessed under authority of the license or permit. Upon a showing of cause the department may enter and inspect the premises and collections authorized by this section. A license or permit may be revoked by the director, after due notice, at any time for cause.

Sec. 24. Section 109.67, Code 1987, is amended to read as follows:
109.67 SEASONS AND LIMITS.

It is unlawful for any a person, except as otherwise expressly provided, to take, capture, or kill fish, or frogs, or turtles except during the open season established by the commission. It is unlawful during open season to take in any one day an amount in excess of the daily catch limit designated for each variety or each locality, or have in possession any variety of fish, or frog, or turtle in excess of the possession limit, or have in possession any frog, or fish, or turtle at any time under the minimum length or weight. The open season, possession limit, daily catch limit, and the minimum length or weight for each variety of fish, or frog, or turtle shall be established by rule of the department or commission under the authority of sections 107.24, 109.38, and 109.39 and 109B.1.

Sec. 25. NEW SECTION. 109.68 FISH DESIGNATED.

The commission may adopt rules designating game fish, commercial fish, and rough fish.

Sec. 26. Section 109.72, Code 1987, is amended to read as follows:
109.72 HOOKS.

No A person shall not at any time take from the waters of the state any fish, except as otherwise provided in this chapter, except with hook, line, and bait, nor shall any a person use more than two lines nor more than two hooks on each line in still fishing or trolling, and in fly fishing not more than two flies may be used on one line, and in trolling and bait casting not more than two trolling spoons or artificial bait may be used on one line. No A person shall not leave such fish line or lines and hooks in the water unattended or take or attempt to take any fish by snagging or to purposely hook them in any other part than in the mouth by being out of visual sight of the lines and hooks. One hook shall mean means a single, double, or treble pointed hook, and all hooks attached as a part of an artificial bait or lure shall be counted as one hook.

Sec. 27. Section 109.73, Code 1987, is amended to read as follows:
109.73 TROT LINES AND TAGGED LINES.

It shall be unlawful for any person to use in In the waters of the state open to the their use, of a person shall not use more than five tagged lines set to take fish such as trotlines or throw lines, more than five trotlines or throw lines. Such trotlines or throw tagged lines shall not have in the aggregate more than fifteen hooks. Each separate line when in use shall have attached a tag plainly labeled with the owner's name and address, shall be checked at least once each twenty-four hours, and no a person shall not use such throw tagged lines or trotlines in any a stocked lake or within three hundred feet of any a dam or spillway or in any a stream or portion of stream, which is closed or posted against the use of such tackle. One

end of such ~~throw lines or trotlines~~ shall be set from the shore and be visible above the shore waterline, but no such ~~throw line or trotline~~ shall be set entirely across a stream or body of water. Any untagged or unlawful lines when found in use shall be confiscated by any officer appointed by the commission director.

Sec. 28. Section 109.76, Code 1987, is amended to read as follows:

109.76 UNLAWFUL MEANS — EXCEPTION.

It ~~shall be~~ is unlawful, except as otherwise provided, to use on or in the waters of the state any grabhook, snaghook, any kind of a net, seine, trap, firearm, dynamite, or other explosives, or poisonous or stupefying substances, lime, ashes, or electricity in the taking or attempting to take any fish, except that gaffhooks or landing nets may be used to assist in landing fish. No A person shall not take or kill, or attempt to take or kill any fish by hand fishing. However, carp, buffalo, quillback, gar, sheepshead, dogfish, and other rough fish designated by the commission may be taken by hand fishing, by snagging, by spear, by bow and arrow, day or night, and with artificial light. The snagging of paddlefish and other game fish may be permitted at such times and at such places as ~~may be determined by rule~~ rules of the commission.

Sec. 29. Section 109.82, Code 1987, is amended to read as follows:

109.82 PROHIBITED BAIT.

It ~~shall be~~ is unlawful to transport or to use or to sell or offer for bait or to ~~plae~~ introduce into any inland waters of the state or into any waters from which waters of the state may become stocked any fish of carp, quillback, gar, or dogfish, and any minnows or fish of any of these species taken shall not be returned to any such waters, but shall be destroyed. Fish of these species may be returned to the waters from which they were caught.

A person shall not possess live gizzard shad at any lake.

Sec. 30. NEW SECTION. 109.83 PROHIBITED STOCKING.

A person shall not stock or introduce into the waters of the state a live fish, except for hooked bait, without the permission of the director. This section does not apply to privately owned ponds and lakes.

Sec. 31. Section 109.87, Code 1987, is amended to read as follows:

109.87 OPEN SEASONS.

Except as otherwise provided, no a person shall not take, capture, kill, or have in possession any a fur-bearing animal or any part thereof of its parts at any time except during the open season as set by the commission under authority of section 109.39 except where such the killing, trapping, or ensnaring ~~may be~~ is for the protection of public or private property with the prior written permission of a duly appointed representative of the commission. All fur-bearing animals so taken shall be relinquished to a representative of the commission. Provided, it shall be lawful for any person to have in possession, sell, transport, or otherwise dispose of during such open season as herein provided, and for ten days thereafter, the carcass of, hide or skin of any animal named in section 109.40.

Taking or attempting to take beaver on private lands or waters without permission of the owner or tenant shall constitute a simple misdemeanor.

Sec. 32. Section 109.90, Code 1987, is amended to read as follows:

109.90 DISTURBING DENS.

It ~~shall be unlawful for any A person to~~ shall not molest or disturb, in any manner, any muskrat den, lodge, or house, beaver dam, skunk, mink, or raccoon den of a fur-bearing animal or beaver dam except by written permission of any an officer appointed by the commission director.

Provided however, that nothing in this This section shall does not prohibit the owner thereof to destroy any such a den to protect the owner's own property.

Sec. 33. Section 109.92, Code 1987, is amended to read as follows:

109.92 BOX TRAPS – DISTURBING DENS – TAGS FOR TRAPS.

Except as otherwise provided in this chapter ~~no~~ a person shall at any time, not use or attempt to use any colony traps in taking, capturing, trapping, or killing any game or fur-bearing animals. Box traps capable of capturing more than one game or fur-bearing animal at each setting are prohibited. A valid hunting license is required for box trapping cottontail rabbits and squirrels. All traps and snares used for the taking of fur-bearing animals shall have a metal tag attached plainly labeled with the ~~owner's~~ user's name and address. All traps and snares, except those which are placed entirely under water, shall be checked at least once every twenty-four hours. Officers appointed by the ~~commission~~ shall have authority to department may confiscate such traps ~~when and~~ snares found in use that are not properly labeled or checked.

~~It shall be unlawful for any person, except~~ Except as otherwise provided, to a person shall not use any chemicals, explosives, smoking devices, mechanical ferrets, wire, tool, instrument, or water to remove fur-bearing animals from their dens. Humane traps, or traps designed to kill instantly, with a jaw spread, as originally manufactured, exceeding eight inches shall be are unlawful to use except when placed entirely under water.

Conibear type traps and snares shall not be set on the right-of-way of a public road within two hundred yards of the entry to a private drive serving a residence without the permission of the occupant.

A snare when set shall not have a loop larger than eight inches in horizontal measurement except for a snare set with at least one-half of the loop underwater. A snare set on private land other than roadsides within thirty yards of a pond, lake, creek, drainage ditch, stream, or river shall not have a loop larger than eleven inches in horizontal measurement.

All snares shall have a functional deer lock which will not allow the snare loop to close smaller than two and one-half inches in diameter.

Sec. 34. Section 109.93, Code 1987, is amended to read as follows:

109.93 HUNTING BY ARTIFICIAL LIGHT.

~~It shall be unlawful to~~ A person shall not throw or cast the rays of a spotlight, headlight, or other artificial light on ~~any~~ a highway, or in ~~any~~ a field, woodland, or forest for the purpose of spotting, locating, or taking or attempting to take ~~any~~ a bird or animal, except raccoons or other fur-bearing animals when treed with the aid of dogs, while having in possession or control, either singly or as one of a group of persons, any firearm, bow, or other implement or device whereby game a bird or animal could be killed or taken.

Any person violating this section shall be guilty of a simple misdemeanor.

Sec. 35. Section 109.98, Code 1987, is amended to read as follows:

109.98 REPORTING VIOLATIONS.

~~It shall be the duty of each~~ Each fur dealer to shall report to the commission, the name of any person if known to ~~such~~ the dealer, who attempts to sell any skins or hides which appear to have been unlawfully taken, or possessed by ~~said~~ that person.

Sec. 36. Section 109.120, Code 1987, is amended to read as follows:

109.120 HUNTING FROM AIRCRAFT OR SNOWMOBILES PROHIBITED.

~~It shall be unlawful for any~~ A person to, either singly or as one of a group of persons, shall not intentionally kill or wound, attempt to kill or wound, or pursue any animal, fowl, or fish from or with an aircraft in flight or from or with any self-propelled vehicles designed for travel on snow or ice which utilize sled type runners, or skis, or an endless belt tread, or wheel or any combination thereof and which are commonly known as snowmobiles. Any person who violates the provisions of this section shall be guilty of a simple misdemeanor.

Sec. 37. Section 109.122, Code 1987, is amended to read as follows:

109.122 DEER HUNTERS' ORANGE APPAREL.

It shall be unlawful for any A person to shall not hunt deer with firearms unless the person is at the time wearing one or more of the following articles of visible, external apparel: Vest A vest, coat, jacket, sweatshirt, sweater, shirt or coveralls, hat or cap, the color of which shall be solid blaze orange and shall provide an iridescent effect.

Sec. 38. Section 109.123, Code 1987, is amended to read as follows:

109.123 PROHIBITED HUNTING NEAR BUILDINGS.

A person shall not ~~hunt~~ discharge a firearm at any game or fur-bearing animal within two hundred yards of ~~any~~ a building inhabited by people or domestic livestock unless the owner or tenant has given consent.

Sec. 39. Section 109.126, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. All transactions, tags, and specimens left in the custody of the taxidermist by another person shall be open to inspection by a conservation officer at any reasonable hour.

Sec. 40. Section 109.126, subsection 2, Code 1987, is amended to read as follows:

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

Sec. 41. Section 109.130, Code 1987, is amended to read as follows:

109.130 DAMAGES IN ADDITION TO PENALTY.

In addition to the penalties for violations of this chapter and chapters 109A, 109B, 111, and 111A, ~~any~~ a person convicted of unlawfully selling, taking, catching, killing, injuring, destroying, or having in possession any fish, game, ~~or fur-bearing animal~~, shall reimburse the state for the value of such as follows:

1. For each deer, elk, antelope, buffalo or moose, seven hundred fifty one thousand dollars.
2. For each wild turkey, two hundred dollars.
3. For each ~~game bird, fur-bearing animal or game animal~~ or the raw pelt or plumage of such ~~game bird or animal~~ for which damages are not otherwise prescribed, twenty-five to fifty dollars.
4. For each fish, five reptile, mussel, or amphibian, fifteen dollars.
5. For each beaver, mink, otter, red fox, gray fox, or raccoon, one two hundred dollars.
6. For each animal classified by the commission as an endangered or threatened species, one thousand dollars.
7. For each deer, seven hundred fifty dollars.

Sec. 42. Section 110.24, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A lessee of a camping space at a campground may fish on a private lake or pond on the premises of the campground without a license if the lease confers an exclusive right to fish in common with the rights of the owner and other lessees.

NEW UNNUMBERED PARAGRAPH. The department may issue a permit, subject to conditions established by the department, which authorizes the patients of a substance abuse facility to fish without a license as a supervised group.

Sec. 43. NEW SECTION. 110.38 LIGHTING BY LAW ENFORCEMENT VEHICLES OF CONSERVATION OFFICER.

The required usage of lighting devices set out in sections 321.384 through 321.409 and section 321.415 does not apply to official law enforcement vehicles operated by conservation officers

appointed under section 107.13, while these vehicles are being used in criminal investigations or while attempting to apprehend suspected criminals.

Sec. 44. Section 110A.3, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Pen-reared game birds, as defined in section ~~109.41~~ 109.1, released on licensed area may be taken during the shooting season provided in this chapter but not to exceed eighty percent of the total number of the species of said game birds released. Pen-reared waterfowl, two generations removed from the wild and chukar partridge may be released at any time of year for shooting purposes and one hundred percent may be harvested by shooting. The word "waterfowl" shall be defined as those birds constituting the Anatidae as listed in section ~~109.41~~ 109.1. All birds so released shall be at least twelve weeks of age before liberation date. A minimum of one hundred pen-reared birds of each species to be shot shall be released during the open season. Experimental releases of less than one hundred birds of each species shall require a special permit from the ~~commission~~ department.

Sec. 45. Section 111A.6, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Upon request of the county conservation board, the board of supervisors shall establish a reserve for county conservation land acquisition and capital improvement projects. The board of supervisors may periodically credit an amount of money to the reserve. Moneys credited to the reserve shall remain in the reserve until expended for such the projects upon warrants requisitioned by the county conservation board. The interest earned on moneys received from bequests and donations in the reserve account which are invested pursuant to section 453.1 shall be credited to the reserve account.

Sec. 46. Section 111C.2, subsection 3, Code 1987, is amended to read as follows:

3. "Recreational purpose" means the following or any combination thereof: Hunting, trapping, horseback riding, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, motorcycling, nature study, water skiing, snowmobiling, other summer and winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites while going to and from or actually engaged therein.

Sec. 47. Sections 109.40, 109.41, and 109.43 through 109.46, Code 1987, are repealed.

Approved May 11, 1988

CHAPTER 1217

COMMUNITY AND RURAL INFRASTRUCTURE, HOUSING, AND SEWAGE TREATMENT DEVELOPMENT AND FINANCING

S.F. 2092

AN ACT establishing a community and rural development loan program and a sewage treatment works financing program to assist communities in financing sewage treatment projects and in financing traditional and new infrastructure and housing for needy and elderly, authorizing the Iowa finance authority to issue bonds and notes for the program, and providing an appropriation from a revolving fund to be used for each program, and providing effective dates.

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

Section 1. NEW SECTION. 15.281 TITLE.

This part shall be known as the "Community and Rural Development Loan Program".

Sec. 2. NEW SECTION. 15.282 PURPOSE.

The purpose of this part is to assist communities and rural areas of the state with their development and governmental responsibilities by providing low interest and no-interest loans for traditional infrastructure, new infrastructure, and housing.

Sec. 3. NEW SECTION. 15.283 PROGRAM.

The department shall establish a program to effectuate the purposes of this part subject to the following guidelines:

1. General program criteria and applications are to be developed by the finance division of the department in conjunction with the Iowa finance authority, subject to approval of the boards of the department and Iowa finance authority.

2. The program shall provide for three categories of assistance. These are the traditional infrastructure category, the new infrastructure category, and the housing category.

3. All moneys available for the traditional infrastructure category and the new infrastructure category shall be administered by the department. All moneys available for the housing category shall be administered by the Iowa finance authority.

4. Moneys available under this program shall be allocated so that at least fifty-five percent of the moneys are for the traditional infrastructure category, at least fifteen percent of the moneys are for the new infrastructure category, and thirty percent of the moneys are for the housing category. If moneys allocated to the housing category are not used or dedicated by January 1, of the fiscal year, the moneys shall be reallocated to the other categories that have the most need as determined by the department. At least one-third of the moneys allocated to each category shall be set aside for cities with populations of five thousand or less. For purposes of this set aside, any city located in a county with a population in excess of three hundred thousand that is contiguous to another municipality in the county and that municipality is contiguous to the largest city in that county shall be considered as having a population in excess of twenty thousand.

Sec. 4. NEW SECTION. 15.284 TRADITIONAL INFRASTRUCTURE.

1. The traditional infrastructure category contains projects that include, but are not limited to, sewer, water, roads, bridges, airports, and other projects described in section 384.24, subsection 3.

2. Any Iowa city or county is eligible to apply for loans from this category. Along with the application, the city or county shall submit the following:

- a. A needs assessment study.
- b. A capital improvement program.
- c. Evidence of matching contribution of at least twenty-five percent of the total project cost.

3. Applications must be seeking funds to improve the physical assets of the traditional infrastructure of the political subdivision in aid of development.

4. The finance division of the department shall rank the applicants according to financial need, cost-benefit of the project, percent of match, impact, and ability to administer project.

5. The interest rate shall range from zero to five percent. The department may charge applicants an administration fee, not to exceed one percent of the principal amount of the loan, to be paid as a lump sum percent or a percent of the interest rate.

6. The department may coordinate with the department of natural resources to assist political subdivisions receiving federal or other state aid for waste water treatment facilities. However, the department shall not allocate more than fifty percent of the moneys available to this category for this purpose.

Sec. 5. NEW SECTION. 15.285 NEW INFRASTRUCTURE.

1. The new infrastructure category contains projects which are services or processes that do not currently meet the guidelines of standard public works projects. These include, but are not limited to, communication systems, day care, technology transfer adaptation, medical decision-support systems, special transportation services, physical improvements under town square and main street programs, physical improvements to historic, art, and cultural sites and attractions, emergency medical services, and other projects described in section 384.24, subsection 4.

2. Any political subdivision, or nonprofit development corporation, is eligible to apply for loans under this category.

3. Along with the application, the following shall be submitted:

- a. A needs assessment study.
- b. A capital improvement plan.
- c. Evidence of a match of at least ten percent.

4. The finance division of the department shall rank the applications according to the applicant's financial need, cost-benefit of the project, current conditions or situations, percent of private investment or contribution, and ability to administer the project.

5. The interest rate shall range from zero to five percent. The department may charge applicants an administration fee, not to exceed one percent of the principal amount of the loan, to be paid as a lump sum percent or a percent of the interest rate.

Sec. 6. NEW SECTION. 15.286 HOUSING.

1. Any Iowa city, county, housing agency, or developer shall be eligible to apply for loans under this category. Along with the application the person shall submit the following:

- a. A needs assessment for the area to be served.
- b. A demographic documentation of the housing trend.
- c. Evidence of a local commitment of at least twenty-five percent.

2. Applicants must be seeking funds to assist in meeting the area needs of low and moderate income in pursuit of decent housing or in meeting the purposes of the housing trust fund program as described in section 220.100, subsection 2.

3. For purposes of this section:

a. "Low-income" means an amount less than or equal to one hundred fifty percent of the then current poverty level as published by the federal department of health and human services in the federal register.

b. "Moderate-income" means an amount less than or equal to three hundred percent of the then current poverty level as published by the federal department of health and human services in the federal register.

4. a. The Iowa finance authority shall develop criteria to award assistance based upon the applicant's financial need, the cost-benefit of the project, the accessibility to the project by handicapped persons as defined in section 601E.1, percent of private investment, percent leveraged by other programs, assessment of local housing situation, and ability to administer the program.

b. The Iowa finance authority shall give a preference in the awarding of assistance to the following:

- (1) The assistance will be used to meet the purposes of the housing trust fund program.
- (2) The applicant is a nonprofit entity.
- (3) Programs to assist low income and the disadvantaged.

(4) A project that will qualify for the low-income housing credit under section 42 of the Internal Revenue Code.

(5) A project that will not otherwise qualify for the low-income housing credit but will provide an income mix of the residents as described in section 42(g)(1)(A) or (B) of the Internal Revenue Code.

5. Interest charged to applicants shall range from zero to five percent. The Iowa finance authority may charge applicants an administration fee, not to exceed one percent of the principal amount of the loan, to be paid as a lump sum percent, or a percent of the interest rate.

Sec. 7. NEW SECTION. 15.287 REVOLVING FUND.

The Iowa finance authority shall establish a revolving fund for the program and shall transfer to the department moneys to be administered by the department. The moneys in the revolving fund are appropriated for purposes of the program. Notwithstanding section 8.33, moneys in the fund at the end of a fiscal year shall not revert to any other fund but shall remain in the revolving fund. The fund shall consist of all appropriations, grants, or gifts received by the authority or the department specifically for use under this part; revenues designated in section 98.35 to be deposited in the fund; and all repayments of loans made under this part.

Sec. 8. NEW SECTION. 15.288 LOCAL BONDS NOT REQUIRED — INDEBTEDNESS LIMITATIONS.

A city, county, political subdivision, or other municipal corporation shall not be required to issue its bonds to secure loans under the community and rural development loan program. It is the intent of the general assembly that loans received by a city, county, political subdivision, or other municipal corporation under the loan program shall not constitute an indebtedness of that entity within the meaning of any state constitutional provision or statutory limitation.

**Sec. 9. Section 98.35, Code 1987, is amended to read as follows:*

98.35 TAX AND FEES PAID TO GENERAL FUND.

The proceeds derived from the sale of stamps and the payment of taxes, fees and penalties provided for under this chapter, and the permit fees received from all permits issued by the department, shall be credited to the general fund of the state, except as otherwise provided in this section. All permit fees provided for in this chapter and collected by cities in the issuance of permits granted by the cities shall be paid to the treasurer of the city where the permit is effective, or to another city officer as designated by the council, and credited to the general fund of the city. Permit fees so collected by counties shall be paid to the county treasurer. One and one-half cents of the first five cents received from the sale of each stamp and the payment of the tax on each pack of cigarettes or little cigars, not to exceed four million dollars in a fiscal year, shall be deposited into the revolving fund established by the Iowa finance authority under section 15.287. Deposits under this section to the revolving fund in section 15.287 shall not be made during a fiscal year for which an appropriation from other sources to the revolving fund has been made. However, if the amount of such appropriations does not equal four million dollars or has to be reduced below that amount for any reason, deposits under this section shall be made to the extent that the amount appropriated, less any reduction, is less than four million dollars.*

Sec. 10. NEW SECTION. 455B.291 DEFINITIONS.

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

1. "Authority" means the Iowa finance authority established in section 220.2.
2. "Cost" means all costs, charges, expenses, or other indebtedness incurred by a municipality and determined by the director as reasonable and necessary for carrying out all works and undertakings necessary or incidental to the accomplishment of any project.

3. "Municipality" means the city, county, sanitary district, or other governmental body or corporation empowered to provide sewage collection and treatment services, or any combination of two or more of such governmental bodies or corporations acting jointly, in connection with a project.

4. "Project" means the acquisition, construction, reconstruction, extension, equipping, improvement, or rehabilitation of any works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner including treatment works as defined in section 212 of the Clean Water Act, or the implementation and development of management programs established under sections 319 and 320 of the Clean Water Act.

5. "Clean Water Act" means the federal Water Pollution Control Act of 1972, Pub. L. No. 92-500, as amended by the Water Quality Act of 1987, Pub. L. No. 100-4, as published in 33 U.S.C. §§ 1251-1376.

6. "Sewage treatment works revolving loan fund" or "revolving loan fund" means the sewage treatment works revolving loan fund established in section 455B.295.

7. "Sewage treatment works administration fund" or "administration fund" means the sewage treatment works administration fund established in section 455B.295.

8. "Program" means the Iowa sewage treatment works financing program created pursuant to section 455B.294.

9. "Executive director" means the executive director of the Iowa finance authority.

Sec. 11. NEW SECTION. 455B.292 FINDINGS.

The general assembly finds that the proper construction, rehabilitation, operation, and maintenance of modern and efficient sewer systems and wastewater treatment works are essential to protecting and improving the state's water quality; that protecting water quality is an issue of concern to the citizens of the state; that in addition to protecting and improving the state's water quality, adequate wastewater treatment works are essential to economic growth and development; that during the last several years the amount of federal grant money available to states and local governments for assistance in constructing and improving wastewater treatment works has sharply diminished and will likely continue to diminish; and that it is proper for the state to encourage local governments to undertake wastewater treatment projects through the establishment of a state mechanism to provide loans at the lowest reasonable rates.

Sec. 12. NEW SECTION. 455B.293 POLICY.

It is the policy of the general assembly that it is in the public interest to establish a sewage treatment works financing program and a revolving loan fund and administration fund to make loans available from the state to municipalities to acquire, construct, reconstruct, extend, equip, and improve works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner.

Sec. 13. NEW SECTION. 455B.294 ESTABLISHMENT OF THE IOWA SEWAGE TREATMENT WORKS FINANCING PROGRAM.

The Iowa sewage treatment works financing program is established for the purpose of making loans available to municipalities to finance all or part of the costs of projects. The program shall be a joint and cooperative undertaking of the department and the authority. The department and the authority may enter into and provide any agreements, documents, instruments, certificates, data, or information necessary in connection with the operation, administration, and financing of the program consistent with this part, the rules of the department and the commission, the rules of the authority, and state law.

Sec. 14. NEW SECTION. 455B.295 FUNDS AND ACCOUNTS.

1. Two separate funds are established in the state treasury, to be known as the "sewage treatment works revolving loan fund", and the "sewage treatment works administration fund".

2. The revolving loan fund shall include sums appropriated to the revolving loan fund by the general assembly, sums allocated to the state expressly for the purposes of establishing a revolving loan fund under the Clean Water Act, all receipts by the revolving loan fund, and any other sums designated for deposit to the revolving loan fund from any public or private source. All moneys appropriated to and deposited in the revolving fund are appropriated and shall be used for the sole purpose of making loans to the municipalities to finance all or part of the cost of projects. The moneys appropriated to and deposited in the revolving loan fund shall not be used to pay the nonfederal share of the cost of projects receiving grants under the Clean Water Act. The moneys in the revolving loan fund are not considered as a part of the general fund of the state, are not 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 revolving loan fund to be used for its purposes. The revolving loan fund is a dedicated fund under the administration and control of the authority and subject to section 220.31. Moneys on deposit in the revolving loan fund shall be invested by the treasurer of state in cooperation with the authority, and the income from the investments shall be credited to and deposited in the revolving loan fund.

3. The sewage treatment works administration fund shall include sums appropriated to the administration fund by the general assembly, sums allocated to the state for the express purposes of administering the program authorized by the Clean Water Act, and all receipts by the administration fund from any public or private source. All moneys appropriated to and deposited in the administration fund are appropriated for and shall be used and administered by the department to pay the costs and expenses associated with the program, including administration of the program, as may be determined by the department.

4. The department and the authority may establish and maintain other funds or accounts determined to be necessary to carry out the purposes of this part and shall provide for the funding, administration, investment, restrictions, and disposition of the funds and accounts.

Sec. 15. NEW SECTION. 455B.296 INTENDED USE PLANS — CAPITALIZATION GRANTS — ACCOUNTING.

1. Each fiscal year beginning July 1, 1988, the department may prepare and deliver intended use plans and enter into capitalization grant agreements with the administrator of the United States environmental protection agency under the terms and conditions set forth in Title VI of the Clean Water Act and federal regulations adopted pursuant to the Act and may accept capitalization grants for the revolving loan fund in accordance with payment schedules established by the administrator. All payments from the administrator shall be deposited in the revolving loan fund.

2. The department and the authority shall establish fiscal controls and accounting procedures during appropriate accounting periods for payments and disbursements received and made by the revolving loan fund, the administration fund, and other funds established pursuant to section 455B.295, subsection 4, and to fund balances at the beginning and end of the accounting periods.

Sec. 16. NEW SECTION. 455B.297 LOANS TO MUNICIPALITIES.

Moneys deposited in the revolving loan fund shall be used for the sole purpose of making loans to municipalities to finance the cost of projects in accordance with the intended use plans developed by the department under section 455B.296. The municipalities to which loans are to be made, the purposes of the loan, the amount of each loan, the interest rate of the loan, and the repayment terms of the loan, shall be determined by the director, in accordance with rules adopted by the commission, in compliance with and subject to the terms and conditions of Title VI of the Clean Water Act and any resolution, agreement, indenture, or other

document of the authority, and rules adopted by the authority, relating to any bonds, notes, or other obligations issued for the program which may be applicable to the loan.

Sec. 17. NEW SECTION. 455B.298 POWERS AND DUTIES OF THE DIRECTOR.

The director shall:

1. Process and review loan applications to determine if an application meets the eligibility requirements set by the rules of the department.
2. Approve loan applications of municipalities which satisfy the rules adopted by the commission, and the intended use plan developed by the department under section 455B.296.
3. Process and review all documents relating to projects and the extending of loans.
4. Prepare and process, in coordination with the authority, documents relating to the extending of loans to municipalities, the sale and issuance of bonds, notes, or other obligations of the authority relating to the program, and the administration of the program.
5. Include in the budget prepared pursuant to section 455A.4, subsection 1, paragraph "c", an annual budget for the administration of the program and the use and disposition of amounts on deposit in the administration fund.
6. Charge each municipality receiving a loan from the revolving loan fund a loan origination fee and an annual loan servicing fee. The amount of the loan origination fees and the loan servicing fees established shall be relative to the amount of a loan made from the revolving loan fund. The director shall deposit the receipts from the loan origination fees and the loan servicing fees in the administration fund.
7. Consult with and receive the approval of the authority concerning the terms and conditions of loan agreements with municipalities as to the financial integrity of the loan.
8. Perform other acts and assume other duties and responsibilities necessary for the operation of the program.

Sec. 18. NEW SECTION. 455B.299 ADOPTION OF RULES.

The commission shall adopt rules pursuant to chapter 17A appropriate for the administration of this part.

Sec. 19. Section 220.100, subsection 7, Code Supplement 1987, is amended by striking the subsection.

Sec. 20. NEW SECTION. 220.131 IOWA SEWAGE TREATMENT WORKS FINANCING PROGRAM — DEFINITIONS — FUNDING — BONDS AND NOTES.

1. The authority shall cooperate with the department of natural resources in the creation, administration, and financing of the Iowa sewage treatment works financing program established in sections 455B.291 through 455B.299.
2. Terms used in this part have the meanings given them in sections 455B.101 and 455B.291 unless the context requires otherwise.
3. The authority may issue its bonds and notes for the purpose of funding the revolving loan fund created under section 455B.295 and defraying the costs of payment of the twenty percent state matching funds required for federal funds received for projects.
4. The authority may issue its bonds and notes for the purposes established and may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee agent designated by the authority may enter into agreements to provide for any of the following:
 - a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the authority or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority may collect, invest, and apply the amount payable under the loan agreements or any other instruments securing the debt obligations under the loan agreements.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreements or other instruments on their own behalf without the appointment or designation of a trustee. If there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the loan agreements or other instruments, the payment or performance may be enforced in accordance with the loan agreement or other instrument.

d. Other terms and conditions as deemed necessary or appropriate by the authority.

5. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 220.28, subsection 4, apply to bonds or notes issued and powers granted to the authority under this section except to the extent they are inconsistent with this section.

6. All bonds or notes issued by the authority in connection with the program are exempt from taxation by this state and the interest on the bonds or notes is exempt from state income tax.

Sec. 21. NEW SECTION. 220.132 SECURITY — RESERVE FUNDS — PLEDGES — NONLIABILITY — IRREVOCABLE CONTRACTS.

1. The authority may provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 220.131 that the principal of, premium, and interest on the bonds or notes are payable from any of the following and may pledge the same to its bonds and notes:

a. The income and receipts or other money derived from the projects financed with the proceeds of the bonds or notes.

b. The income and receipts or other money derived from designated projects whether or not the projects are financed in whole or in part with the proceeds of the bonds or notes.

c. The amounts on deposit in the revolving loan fund.

d. The amounts payable to the department by municipalities pursuant to loan agreements with municipalities.

e. Any other funds or accounts established by the authority in connection with the program or the sale and issuance of its bonds or notes.

2. The authority may establish reserve funds, to secure one or more issues of its bonds or notes. The authority may deposit in a reserve fund established under this subsection the proceeds of the sale of its bonds or notes and other money which is made available from any other source.

3. It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice of the lien. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created needs to be recorded or filed under the Iowa uniform commercial code to be valid, binding, or effective against the parties.

4. Neither the members of the authority nor persons executing the bonds or notes are liable personally on the bonds or notes or are subject to personal liability or accountability by reason of the issuance of the bonds or notes.

5. The bonds or notes issued by the authority are not an indebtedness or other liability of the state or of a political subdivision of the state within the meaning of any constitutional or statutory debt limitations but are special obligations of the authority, and are payable solely from the income and receipts or other funds or property of the department, and the amounts on deposit in the revolving loan fund, and the amounts payable to the department under its loan agreements with the municipalities to the extent that the amounts are designated in the resolution, trust agreement, or other instrument of the authority authorizing the issuance of the bonds or notes as being available as security for such bonds or notes. The authority shall not pledge the faith or credit of the state or of a political subdivision of the state to the payment of any bonds or notes. The issuance of any bonds or notes by the authority does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bonds or notes.

6. The state pledges to and agrees with the holders of bonds or notes issued under the Iowa sewage treatment works financing program, that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds or notes, together with the interest on them including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.

Sec. 22. NEW SECTION. 220.133 ADOPTION OF RULES.

The authority shall adopt rules pursuant to chapter 17A to implement sections 220.131 and 220.132.

*Sec. 23. NEW SECTION. 220.134 COMMUNITY AND RURAL DEVELOPMENT LOAN PROGRAM.

*The authority may exercise all of its powers contained in this chapter, including but not limited to, the power to issue bonds and notes, to implement and carry out the purposes of the community and rural development loan program established pursuant to sections 15.281 through 15.288. The authority shall issue its bonds and notes for the loan program consistent with the loan program and shall provide that the bonds and notes shall be payable solely from moneys in the revolving fund established pursuant to section 15.287. The authority shall not issue more than fifteen million dollars in bonds or notes in any one calendar year.**

Sec. 24. Sections 1 through 7 and 9 of this Act are effective July 1, 1988.

Sec. 25. This Act, being deemed of immediate importance takes effect upon enactment.

Approved May 11, 1988, except the items which I hereby disapprove and which are designated as section 9; and section 23. My reasons for vetoing these items are delineated 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 the Act

Dear Madam Secretary:

I hereby transmit Senate File 2092, an Act establishing a community and rural development loan program and a sewage treatment works financing program to assist communities in financing sewage treatment projects and in financing traditional and new infrastructure and housing for needy and elderly, authorizing the Iowa Finance Authority to issue bonds and notes for the program, and providing an appropriation from a revolving fund to be used for each program, and providing effective dates.

Senate File 2092, the so-called rural development financing bill contains many positive features which I am approving. Specifically, this bill would allow the Department of Economic Development to establish a low interest loan revolving fund to aid small communities in rural development projects. The Governor's Rural Development Task Force report of last summer indicated the need for the state to provide targeted financial assistance to small communities in the area of traditional infrastructure, new infrastructure, and housing. Clearly, the maintenance of sewers, water, road, bridges and airports is critical to the economic vitality of small communities. In addition, I understand the need for so-called new infrastructure services — communications systems, day care, and technology transfer — in order to support economic diversity in our smaller communities. And, in many small communities the availability of housing is a critical component of economic development efforts.

I believe state financial assistance to communities in these areas will do much to assist us to implement our rural development strategy.

However, Senate File 2092 also contains two fiscally unsound and unworkable provisions which are not approved.

I am unable to approve the item designated as Section 9 in its entirety.

This section of the bill diverts one and one-half cents of the state's cigarette tax to the community development revolving loan fund. Apparently, this \$4 million is to be used by the Iowa Finance Authority to back up to \$15 million worth of bonds to be issued per year for the purposes specified in the Act.

I cannot approve this item because it sets a bad precedent by diverting general fund dollars for debt service. While I understand that these funds will not be utilized unless the legislature does not make a specific appropriation to provide for the debt service, I believe this provision could put the state in a fiscal straitjacket by tying up portions of state general fund revenue sources to pay off bonds. It is fiscally unwise in the long term to be dedicating a portion of our general fund tax revenues for bonding.

The general fund is just now beginning to be restored to reasonable fiscal health and diverting significant revenue sources from the general fund into debt service would restrict the state's ability to respond to financial emergencies in the future and limit our ability to return the state to a sound fiscal condition.

Moreover, the use of general funds dollars for debt service raises serious constitutional questions, given the constitutional prohibition on state indebtedness.

I am unable to approve the section designated as Section 23 in its entirety.

This section of Senate File 2092 authorizes the Iowa Finance Authority to issue bonds to capitalize the community and rural development loan program. The Iowa Finance Authority is authorized to issue up to \$15 million of bonds under this provision in any one calendar year. This

provision is simply unworkable and could jeopardize the entire community and rural development loan program. It would put the state too far in debt at too high a cost.

First, sufficient funds are not provided to service up to \$15 million per year of debt. In fact, due to the fact that loans are required to be made from these funds at a zero to five percent interest rate, it is anticipated that up to \$14 million may have to be used over the life of each \$15 million bond issue just to buy-down the interest rate. And, it is anticipated that one-third to one-half of each year's available appropriations would have to be used to buy-down the interest rate to the five percent maximum allowed.

Secondly, this provision would put the state too far in debt. Indeed, each \$15 million of debt would require up to \$43 million worth of debt service. This could financially hamstring the state and prevent us from having the financial flexibility to react to changing needs in the future.

And finally, this item in Senate File 2092 does not put an overall limit on the amount of bonds that could be issued under this section. The \$15 million limit is for each calendar year. Conceivably IFA would be authorized to issue \$15 million each and every subsequent year. Clearly, if that were to be done, the one and one-half cent cigarette tax diversion which is to be used to service these bonds would be woefully inadequate. As a result, the state would be forced to dedicate a larger and larger portion of its cigarette tax revenues for debt service.

In short, I believe that the community and rural development loan program can work effectively to provide essential infrastructure and housing services to small communities through a zero to five percent revolving loan fund. This approach was successfully achieved in the community revolving loan program established in 1983. However, it is simply unworkable and fiscally unwise to require the authority to issue bonds to capitalize the fund. Moreover, given the dubious financial feasibility of these bonds the authority had not planned on making use of the bonding authority included in Senate File 2092 in the near term in any event.

For the above reasons, I hereby respectfully 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 Senate File 2092 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1218**SUPPORT PAYMENT RECEIPT AND DISBURSEMENT***H.F. 2452*

AN ACT relating to the receipt and disbursement of support payments by transferring the collection and distribution of child support payment from the department of human services collection services center to the district court clerks, by making an exception, for federal social security payments, to the statutory requirements regarding allowable payees, by providing appropriations, and by providing effective dates.

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

Section 1. Section 252B.13, subsection 1, Code Supplement 1987, is amended to read as follows:

252B.13 COLLECTION SERVICES CENTER.

1. The department shall establish within the unit a collection services center for the receipt and disbursement of all support payments as defined in section 598.1 required pursuant to an order for which the unit is providing or has provided enforcement services on or after July 1, 1988 under this chapter. For purposes of this section, child support payments do not include attorney fees or court costs. The judicial department and the department of human services shall cooperate in the establishment of the center ~~which will receive and disburse support payments transferring or directing these judgments and orders for support and payments to the collection services center.~~

Sec. 2. Section 252B.14, Code Supplement 1987, is amended by striking the section and inserting in lieu thereof the following:

252B.14 SUPPORT PAYMENTS – CLERK OF COURT – COLLECTION SERVICES CENTER.

All support payments required pursuant to orders entered under this chapter and chapter 234, 252A, 252C, 598, or 675, or any other chapter shall be directed and processed as follows:

1. In cases for which services are being provided by the unit under this chapter, payment shall be directed to the collection services center established pursuant to section 252B.13. The department of human services shall notify the clerk of the district court if payment should be directed to the collection services center and the clerk shall provide the collection services center with a copy of the order or judgment.

2. In all other cases, payment shall be directed to the clerk of the district court for the use of the person for whom payments have been awarded.

Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by such orders or judgments, except as provided for trusts and social security income in section 252D.1, 598.22, or 598.23, or for tax refunds or rebates in section 602.8102, subsection 47.

Sec. 3. Section 252B.16, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

252B.16 CONVERSION – PROCESSING OF SUPPORT PAYMENTS.

All judgments and orders for support and support payments which are currently collected and disbursed by the collection services center, other than those subject to section 252B.14, subsection 1, shall be transferred for further processing from the collection services center to the appropriate clerk of the district court on or before March 1, 1989. Support payments subject to section 252B.14, subsection 1, which are not currently collected and disbursed by the collection services center shall be transferred for further processing from each clerk of

the district court to the collection services center. The following procedure shall be used to transfer payments:

1. The judicial department and the department of human services shall mutually agree to dates to effectuate the transfer of cases. The department of human services shall cause to be published in the administrative bulletin a cumulative list of effective dates by county, once agreed upon and determined, which list shall be final and inclusive of all counties on the next date of publication subsequent to March 1, 1989.

2. In addition, for orders of support which must be transferred pursuant to this section, the department of human services shall notify the payee and the obligor as provided in subsections 3 and 4 that the obligor will be directed to pay future support payments to the clerk of the district court or to the collection services center as of the date provided in the notice. The notice under subsection 3 to the obligor is the equivalent of a court order directing the payment of the sums to the clerk of the district court or to the collection services center.

3. The notice of the change in the direction of payments shall be sent by ordinary mail to the payee's and the obligor's last known addresses or the persons shall be personally served with the notice in the manner provided for service of an original notice at least fifteen days prior to the date provided in the notice for the redirection of the payments. The notice shall include all of the following:

a. The name of the payee and, if different in whole or in part, the names of the persons to whom the obligation of support is owed by the obligor.

b. The name of the obligor.

c. The amount of the periodic support payment, the due dates of the payments, and any arrearages.

d. The beginning date for sending payments to the clerk of the district court or to the collection services center.

4. In addition to the notice required in subsection 3, the department shall provide notice to the payee and the obligor at the time of abstracting. The notice shall contain all information contained in the abstract and shall be given at least ten working days prior to any notice given pursuant to subsection 3 and shall be made in the same manner as allowed in subsection 3. A person receiving such notice shall have ten working days to file a written statement to the effect that information contained in the abstract is in whole or in part erroneous, and may request a correction of that information. The department shall provide the person with an opportunity for a review hearing to correct the information, unless the department corrects the information.

5. Any payments received after the case has been transferred under this section, shall be sent to the appropriate office within two working days of receipt of payments.

Sec. 4. Section 252D.1, subsection 3, Code 1987, is amended to read as follows:

3. If support payments ordered under section 234.39, section 252A.6, subsection 12, chapter 252C, section 598.21, or section 675.25, or under a comparable statute of a foreign jurisdiction, as certified to the child support recovery unit established in section 252B.2, are not paid to the clerk of the district court or the collection services center pursuant to section 598.22 and become delinquent in an amount equal to the payment for one month, upon application of a person entitled to receive the support payments, the child support recovery unit or the district court may enter an ex parte order notifying the person whose income is to be assigned, of the delinquent amount, of the amount of income or wages to be withheld, and of the procedure to file a motion to quash the order of assignment, and shall order an assignment of income and notify an employer, trustee, or other payor by certified mail of the order of the assignment of income requiring the withholding of specified sums to be deducted from the delinquent

person's periodic earnings, trust income, or other income sufficient to pay the support obligation and, except for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397 as provided in section 598.22, requiring the payment of such sums to the clerk of the district court or the collection services center. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the assignment of income shall require the payment of such sums to the alternate payee. 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. § 1673(b). 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 child support recovery unit or the district court, upon the application of any party, by ex parte order, may modify the assignment of income on the full payment of the delinquency or in an instance where the amount being withheld exceeds the amount specified in 15 U.S.C. § 1673(b), or may revoke the assignment of income upon the termination of parental rights, emancipation, death or majority of the child, or upon a change of custody.

Sec. 5. Section 252D.6, Code 1987, is amended to read as follows:

252D.6 ADMINISTRATION OF WAGE WITHHOLDING PROCEDURES.

The collection services center, established pursuant to section 252B.13, is and each clerk of the district court are designated as the public agency entities of the state to administer wage withholding in accordance with procedure specified for keeping adequate records to document, track and monitor support payments in accordance with Title IV-D of the United States federal Social Security Act.

Sec. 6. Section 598.22, unnumbered paragraph 1, Code 1987, is amended to read as follows:

This section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 675, or any other chapter of the Code. All orders or judgments for support entered on or before March 31, 1987, entered under chapter 234, 252A, 252C, or 675, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14 for the use of the person for whom the payments have been awarded. All orders or judgments for support entered on or after April 1, 1987, shall direct the payment of those sums to the collection services center established pursuant to section 252B.13. Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by the orders or judgments, except as provided for trusts in section 252D.1, 598.23, or this section or governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the assignment of income shall require the payment of such sums to the alternate payee in accordance with the federal Act.

Sec. 7. Section 598.22, unnumbered paragraph 3, Code 1987, is amended to read as follows:

An order or judgment entered by the court for temporary or permanent support or for an assignment shall be filed with the clerk. The orders have the same force and effect as judgments when entered in the judgment docket and lien index and are records open to the public. The clerk or the collection services center, as appropriate, shall disburse the payments received pursuant to the orders or judgments within ten two working days of the receipt of the payments. All moneys received or disbursed under this section shall be entered in a record book records kept by the clerk, or the collection services center, as appropriate, which shall

be open available to the public. The clerk or the collection services center shall not enter any moneys paid in the record book if not paid directly to the clerk or the center, as appropriate, except as provided for trusts in ~~section 252D.1, 598.23 or this section~~ or and federal social security disability payments in this section, and for tax refunds or rebates in section 602.8102, subsection 47.

Sec. 8. Section 598.22, unnumbered paragraph 5, Code 1987, is amended to read as follows:

Prompt payment of sums required to be paid under sections 598.11 and 598.21 ~~shall be~~ is the essence of such orders or judgments and the court may act pursuant to section 598.23 regardless of whether the amounts in default are paid prior to the contempt hearing.

Sec. 9. Section 598.23, subsection 2, paragraph a, Code 1987, is amended to read as follows:

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 district court where the order or judgment was granted or the collection services center, except as otherwise provided in section 598.22 for certain trust income, social security disability payments, or tax refunds or rebates for the purpose of paying the sums in default as well as the payments to be made in the future. ~~However, for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, payments shall be made to the alternate payee in accordance with the federal Act.~~ If the assignment is of salary or wages due, the amount assigned shall not exceed the amount set forth in 15 U.S.C. § 1673(b)(1982) and the assignment order is 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 the direction, the payor may deduct a sum not exceeding two dollars as a reimbursement for costs. Compliance by a payor with the court's order shall operate as a discharge of the payor's liability to the payee as to the affected portion of the payee's wages or trust income. An employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.

Sec. 10.

1. The department of human services shall actively seek to correct the credit rating of a person whose credit rating has been adversely affected due to incorrect information in the collection services center. The corrective action shall be taken by the department without charge, at the request of a person who believes they have been adversely affected. Action by the department may include personal contact with the credit reporting agency, insertion of written information into the record, and further tracking of incorrect credit information which was submitted to other parties by the credit reporting agency.

2. The center and the judicial department shall submit a report regarding the activities of the collection services center and the clerks of the district court to the fiscal committee of the legislative council, the legislative fiscal bureau, and the directors of the majority and minority legislative caucus staffs of the senate and house of representatives in each month following the enactment of this Act. The report shall contain all of the following information:

a. The progress made in verifying the data in the converted counties.

b. The time required between the time a payment is received and the time funds are distributed to a recipient.

c. The number, nature, and frequency of complaints regarding the operation of the center and the activities of the clerks of the district court including an analysis of the sources of the complaints.

3. As part of comprehensive legislative oversight, the legislative fiscal bureau, in consultation with the department of human services and the judicial department, shall submit a report to the general assembly on or before January 1, 1989, which evaluates the operation of the

center and the transition to the clerks of the district court during the period beginning May 1, 1988, and ending December 1, 1988. The report shall include all of the following:

a. An assessment of the impact of the center upon the payment of child support, including information regarding the dollar amount collected by the child support recovery unit and the dollar amount received by recipients.

b. An assessment of the effect of the center upon the percentage of payors who are making payments.

c. An assessment of the level of satisfaction with the services of the center and the clerks of the district court among payors and recipients.

d. An assessment of the cost-effectiveness of processing child support payments through the center in comparison with processing through the clerks of the district court.

e. A comparison of the collection services center and the clerks of the district court.

f. Other information relevant to the policy analysis of child support issues as requested by the legislative fiscal bureau.

Sec. 11. The judicial department, after consulting with the department of human services, shall appoint an advisory committee to advise the department of human services and the judicial department regarding modifications of the system for processing payments of support and to review complaints concerning this system. The committee shall be composed of five voting members, including one member representing the Iowa bar association, one member representing financial institutions, one member representing the title examiners, one member representing the payees, and one member representing the obligors. The judicial department and the department of human services shall also appoint one member each as ex officio nonvoting members representing the departments.

Sec. 12. Section 252B.15, Code 1987, is repealed.

Sec. 13. Any personnel in the state merit system of employment whose position is eliminated due to the deletion of positions as a result of this Act shall be placed on the outplacement list. The judicial department may provide information regarding positions available as a result of the transition from the collection services center to the judicial department.

Sec. 14. Section 252B.13, Code Supplement 1987, as amended by this Act, is repealed effective July 1, 1990.

Sec. 15. Notwithstanding the provisions of this Act to the contrary, all duties of the department of human services relating to the collection and disbursement of support payments by the collection services center shall be transferred from the collection services center to the appropriate clerk of the district court by July 1, 1990, if further action is not taken by the general assembly.

The judicial department and the department of human services shall mutually agree to dates to effectuate the transfer of cases. The department of human services shall cause to be published in the administrative bulletin a cumulative list of effective dates by county, once agreed upon and determined, which list shall be final and inclusive of all counties on the next date of publication subsequent to March 1, 1990. The court shall provide for the automated access of data and automated transfers of moneys by the child support recovery unit necessary for carrying out the unit's duties. The court shall also examine, in a plan for any computerized system, the potential for including the use of the electronic transmission of funds as a method of payment satisfying any support obligation.

Sec. 16. CHILD SUPPORT COLLECTION SERVICES FUND — APPROPRIATIONS.

1. A child support collection services fund is created in the office of the treasurer of state consisting of all revenues appropriated to the fund by the general assembly and other revenues and moneys as designated to be deposited in the fund.

2. As a condition, limitation, and qualification of the appropriations and transfers provided for in this subsection and subsections 3 and 4, there is transferred for the fiscal year beginning July 1, 1987, and ending June 30, 1988, notwithstanding sections 99D.17 and 99D.18, from funds paid to the state racing commission pursuant to section 99D.14, four hundred thousand (400,000) dollars, to be deposited in the child support collection services fund. Notwithstanding section 8.33, funds transferred pursuant to this subsection shall not revert but shall be subject to expenditure from the child support collection services fund during the fiscal year ending June 30, 1989.

3. As a condition, limitation, and qualification of the appropriations and transfers provided for in this subsection and subsections 2 and 4, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, there is appropriated from the general fund of the state, seven hundred thousand (700,000) dollars, and notwithstanding sections 99D.17 and 99D.18, there is transferred from funds paid to the state racing commission pursuant to section 99D.14, two hundred ninety-two thousand (292,000) dollars, to be deposited in the child support collection services fund.

4. As a condition, limitation, and qualification of the appropriations and transfers provided for in this subsection and subsections 2 and 3, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, there is appropriated from the child support collection services fund, five hundred one thousand (501,000) dollars, or so much thereof as is necessary, to the department of human services for the operation of the collection services center established pursuant to section 252B.13, and eight hundred ninety-one thousand (891,000) dollars, or so much thereof as is necessary, to the judicial department to be used for the receipt and disbursement of support payments as provided in chapter 252B.

5. The general assembly declares that the entire one million three hundred ninety-two thousand (1,392,000) dollars appropriated in this section shall be spent as set out in this section. If the governor attempts to execute a purported item veto pursuant to Article III, Section 16 of the Constitution of the State of Iowa, this entire section and all appropriations in this section shall be null and void. Each subsection in this section is part of a unified plan and program and the attempted removal of any subsection will destroy the whole, and each subsection is a qualification, limitation, and condition of every other subsection and of all appropriations in this section.

Sec. 17. 1988 Iowa Acts, House File 209, is repealed.

Sec. 18. Sections 16 and 17 of this Act, being deemed of immediate importance, are effective upon enactment.

Approved May 12, 1988, except the item which I hereby disapprove and which is designated as section 16, subsection 5 which is hereby bracketed in ink and initialed by me. My reasons for vetoing this item are delineated in the item veto message pertaining to this Act to the Secretary of State on this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

*Item veto; see message at end of the Act

Dear Madam Secretary:

I hereby transmit House File 2452, an act relating to the receipt and disbursement of support payments by transferring the collection and distribution of child support payment from the department of human services collection services center to the district court clerks, by making an exception, for federal social security payments, to the statutory requirements regarding allowable payees, by providing appropriations, and by providing effective dates.

House File 2452 is approved with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 16, subsection 5, in its entirety.

House File 2452 deals with child support collection services and provides that the Department of Human Services shall continue to provide for centralized child support collection services for Aid to Dependent Children (ADC) recipients with the remaining collection services to be provided by the clerks of court. While I am concerned about the additional costs of this transfer, I believe this modification is understandable and not inappropriate, given the past startup problems associated with the state centralized collection service system.

However, subsection 5 of Section 16 is an attempt by the General Assembly to statutorily delimit the Governor's constitutional line item veto authority and, as a result, cannot be approved.

This subsection includes legislative *dicta* to the effect that individual appropriations included in the bill are considered part of the unified whole and, purportedly, cannot be subject to the Governor's line item veto authority. I have some concerns about the funding mechanism used in this bill — this ongoing program is funded with one-time Racing Commission dollars that had been set aside for another purpose. Nevertheless, I understand that the legislature had no other source of funds available to finance the transfer of a portion of the child support collection services to the judicial department and I have, therefore, approved those appropriation items.

However, when the legislature attempts to define the Constitution by statute, it is clearly exceeding its authority. We have a time-honored tradition in this country of judicial review. That means the court, not the legislature, decides what is constitutional and what is not. Indeed, in a recent decision, Junkins v. Branstad, Case No. 86-1740 (filed March 16, 1988), the court strongly reaffirmed the principle that it is the court, not the legislature, that decides the meaning of the Constitution.

Therefore, in subsection 5, the legislature is clearly invading the power of the judicial branch to construe the law and the power of the executive branch to carry it out.

For the above reasons, I hereby respectfully disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2452 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1219

BRAIN INJURY

S.F. 302

AN ACT relating to the disability of brain injury.

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

Section 1. Section 225C.22, Code 1987, is amended to read as follows:

225C.22 CENTRAL REGISTRY FOR BRAIN INJURIES.

1. As used in this section and section 225C.23, "brain injury" means clinically evident brain damage resulting directly or indirectly from trauma, infection, anoxia, or vascular lesions, or spinal cord injuries not primarily related to degenerative or aging processes, which temporarily or permanently impairs a person's physical or cognitive functions.

2. The director shall establish and maintain a central registry of persons with brain injuries in order to facilitate the provision of appropriate rehabilitative services to the persons by the department and other state agencies. Hospitals and attending physicians shall report a brain injury to the director within seven days after identification of the person sustaining a brain injury. Hospitals shall report a brain injury to the director no later than forty-five days after the close of a quarter in which the patient was discharged. The report shall contain the name, age and residence of the person, the date, type, and cause of the brain injury, and additional information as the director requires, except that where available, physicians and hospitals shall report the Glasgow coma scale. The director shall consult with health care providers concerning the availability of additional relevant information. The department shall maintain the confidentiality of all information which would identify any person named in a report. However, the identifying information may be released for bona fide research purposes if the confidentiality of the identifying information is maintained by the researchers, or the identifying information may be released by the person with the brain injury or by the person's guardian or, if the person is a minor, by the person's parent or guardian.

Sec. 2. **NEW SECTION. 225C.23 BRAIN INJURY RECOGNIZED AS DISABILITY.**

The department of human services, the Iowa department of public health, the department of education and its divisions of special education and vocational rehabilitation, the department of human rights and its divisions for the blind and of persons with disabilities and all other state agencies which serve persons with brain injuries, shall recognize brain injury as a distinct disability and shall identify those persons with brain injuries among the persons served by the state agency.

Approved May 12, 1988

CHAPTER 1220

HOME FOOD PREPARATION, FOOD ESTABLISHMENTS, AND FARMERS MARKETS

S.F. 356

AN ACT relating to the regulation of home prepared foods and foods sold at farmers markets, and providing penalties.

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

Section 1. Section 170.1, subsection 2, Code 1987, is amended to read as follows:

2. "Food establishment" ~~shall mean any~~ means a place used as a bakery, confectionery, cannery, packinghouse, slaughterhouse where animals or poultry are killed or dressed for food, retail grocery, meat market, or other place in which food is kept, produced, prepared, or distributed for commercial purposes for off the premise off-the-premises consumption, except those premises covered by a current class "A" beer permit as provided in chapter 123. for the following:

- a. Premises covered by a current class "A" beer permit as provided in chapter 123.
- b. Premises which are licensed as a home food establishment as defined in section 170C.1.
- c. Premises which operate as a farmers market.
- d. Premises of a residence in which nonhazardous food is sold for consumption off-the-premises, if the food is labeled to identify the name and address of the person preparing the food and the common name of the food. As used in this paragraph, nonhazardous food means only the following:

(1) Baked goods except the following: soft pies, bakery products with custard or cream fillings, or any other potentially hazardous goods.

(2) Wholesome, fresh eggs that are kept at a temperature of sixty degrees Fahrenheit or less.

(3) Honey which is labeled with additional information as provided by departmental rule.

Sec. 2. Section 170.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. "Farmers market" means a marketplace which seasonally operates principally as a common market for fresh fruits and vegetables on a retail basis for off-the-premises consumption.

Sec. 3. **NEW SECTION. 170.6 FARMERS MARKET.**

A vendor who offers a product for sale at a farmers market shall have the sole responsibility to obtain and maintain any license required to sell or distribute such product.

Sec. 4. **NEW SECTION. 170.56 ADOPTION BY RULE.**

The director shall adopt the retail food store sanitation code by rule as part of the Iowa retail food store sanitation code with the following exception:

1.2-101 shall be amended to allow food licensed under chapter 170C or food specified under section 170.1, subsection 2, paragraph "d", to be used or offered for sale.

Sec. 5. **NEW SECTION. 170.57 EXEMPTION.**

This chapter does not apply to the premises of a residence in which food is prepared to be used or sold by churches, fraternal societies, charitable organizations, or civic organizations.

Sec. 6. Section 170A.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. 2-101 shall be amended to allow food licensed under chapter 170C and food specified under section 170.1, subsection 2, paragraph "d", to be used or offered for sale.

Sec. 7. **NEW SECTION. 170C.1 DEFINITIONS.**

As used in this chapter unless the context otherwise requires:

1. "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or sale in whole or in part for human consumption.

2. "Department" means the department of inspections and appeals.

3. "Home food establishment" means a business on the premises of a residence in which prepared food is created for sale or resale, for consumption off-the-premises, if the business has gross annual sales of prepared food of less than twenty thousand dollars. However, a home food establishment does not include a residence in which food is prepared to be used or sold by churches, fraternal societies, charitable organizations, or civic organizations.

4. "Prepared food" means soft pies, bakery products with a custard or cream filling, or any other potentially hazardous baked goods. "Prepared food" does not mean nonhazardous baked goods, including but not limited to breads, fruit pies, cakes, or other nonhazardous pastries.

Sec. 8. NEW SECTION. 170C.2 REGULATION — LICENSURE AND INSPECTION.

1. A person shall not open or operate a home food establishment until a license has been obtained from the department of inspections and appeals. The department shall collect a fee of twenty-five dollars for a license. After collection, the fees shall be deposited in the general fund of the state. A license shall expire one year from date of issue. A license is renewable.

2. A person shall not sell or distribute from a home food establishment if the home food establishment is unlicensed, the license of the home food establishment is suspended, or the food fails to meet standards adopted for such food by the department.

3. An application for a license under this chapter shall be made upon a form furnished by the department and shall contain the items required by it according to rules adopted by the department.

4. The department shall regulate, license, and inspect home food establishments according to standards adopted by rule.

5. The department shall provide for the periodic inspection of a home food establishment. The inspector may enter the home food establishment at any reasonable hour to make the inspection. The department shall inspect only those areas related to preparing food for sale.

6. The department shall regulate and inspect food prepared at a home food establishment according to standards adopted by rule. The inspection may occur at any place where the prepared food is created, transported, or stored for sale or resale.

Sec. 9. NEW SECTION. 170C.3 PENALTY.

A person who violates a provision of this chapter, including a standard adopted by departmental rule, relating to home food establishments or prepared foods created in a home food establishment, is guilty of a simple misdemeanor. Each day that the violation continues constitutes a separate offense.

Sec. 10. NEW SECTION. 170C.4 INJUNCTIVE RELIEF.

A person operating a home food establishment or selling prepared foods created at a home food establishment in violation of a provision of this chapter may be restrained by injunction from further operating that home food establishment. If an imminent health hazard exists, the home food establishment must cease operation. Operation shall not be resumed until authorized by the department.

Sec. 11. NEW SECTION. 170C.5 DUTY OF COUNTY ATTORNEY.

The county attorney in each county shall assist in the enforcement of this chapter.

Sec. 12. NEW SECTION. 170C.6 CONFLICTING STATUTES.

Provisions of this chapter, including standards for home food establishments adopted by the department, in conflict with the state building code shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

CHAPTER 1221**PHYSICAL EXERCISE CLUB REGULATION***S.F. 464*

AN ACT relating to the regulation of physical exercise clubs, providing penalties and providing effective dates.

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

Section 1. **NEW SECTION. 552.1 DEFINITIONS.**

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

1. "Contract price" means the total price paid or to be paid, including service charges or membership fees, which entitles the buyer either directly or indirectly to membership in a physical exercise club or to the use of the services or facilities of a physical exercise club.

2. "Finance charge" means "finance charge" as defined in section 537.1301, subsection 19.

3. "Physical exercise club" means a person offering services or facilities, or both, for the preservation, maintenance, encouragement, or development of physical fitness or well-being in return for the payment of a fee entitling the buyer to the use of the services or facilities. The term includes but is not limited to persons offering services and facilities known as "health clubs", "health spas", "sports and health clubs", "tennis clubs", "racquetball courts", "golf clubs", "gymnasiums", "figure salons", "health studios", "weight control studios", and persons operating establishments whose primary purpose is the teaching of a particular form of self-defense or martial arts, such as judo, karate or kung fu. "Physical exercise club" does not include:

a. A person or establishment which does not charge a membership fee and from which a buyer may only purchase or become obligated to purchase the use of services or facilities to be rendered for a period of not more than thirty days, and which does not collect more than thirty days in advance for the rendering of the services.

b. Except for purposes of sections 552.4, 552.7, 552.13, 552.14, and 552.16 a nonprofit organization organized and operating as a nonprofit organization.

c. An entity primarily engaged in physical rehabilitation activities related to an individual's injury or disease.

d. A private club owned and operated by its members.

e. Except for purposes of sections 552.4, 552.7, 552.13, and 552.14, a facility operated by the state or any of its political subdivisions.

4. "Physical exercise club contract" means an agreement by which a buyer is entitled to membership in a physical exercise club or use of the services or facilities of a physical exercise club.

5. "Prepayment" means any partial or full payment for services or the use of facilities made before the services are actually made available by the physical exercise club or the facility is fully opened for business as described in section 552.16, subsection 3.

Sec. 2. **NEW SECTION. 552.2 PURPOSE.**

The purpose of this chapter is to safeguard the public against fraud, deceit, and financial hardship and to foster and encourage competition, fair dealing, and prosperity in the field of physical exercise club operations and services by prohibiting or restricting practices by which the public has been injured in connection with contracts for and the marketing of physical exercise club services.

Sec. 3. **NEW SECTION. 552.3 UNENFORCEABLE CONTRACTS.**

A physical exercise club contract or assignment of a contract that does not comply with this chapter is unenforceable as contrary to public policy.

Sec. 4. **NEW SECTION. 552.4 CONTRACTS FOR PHYSICAL EXERCISE CLUB SERVICES — RIGHT OF CANCELLATION.**

A physical exercise club contract shall provide that the contract may be canceled within three business days after the date of receipt by the buyer of a copy of the signed contract. Cancellation shall be by written notice delivered to the seller at an address which shall be specified in the contract. Cancellation is complete upon mailing of the notice of cancellation. After receipt of the cancellation, the physical exercise club may request the return of contract forms, membership cards, and all other documents and evidence of membership previously delivered to the buyer. The buyer is entitled to a refund of the entire consideration paid for the contract, if any, less twenty dollars.

A physical exercise club contract shall in plain terms disclose whether the physical exercise club will allow the buyer to cancel the contract in the event of the death or disability of the buyer.

Sec. 5. **NEW SECTION. 552.5 CONTRACT — STATEMENT OF BUYER'S RIGHTS — FORM.**

1. A physical exercise club contract shall be in writing and signed by the buyer. The contract shall state in at least ten-point boldface type "NOTICE TO BUYER: DO NOT SIGN THIS CONTRACT UNTIL YOU READ IT. DO NOT SIGN THIS CONTRACT IF IT CONTAINS BLANK SPACES." A copy of the physical exercise club contract shall be delivered to the buyer at the time the contract is signed.

2. A physical exercise club contract shall designate the date on which the buyer actually signs the contract and shall contain a statement of the buyer's rights which complies with this subsection. The statement shall appear in the contract under the conspicuous caption "BUYER'S RIGHT TO CANCEL", and shall read as follows:

(enter date of transaction)

You may cancel this transaction within three business days from the above date.

If you cancel, any payments made by you under the contract, less twenty dollars, and any negotiable instrument executed by you will be returned within forty-five days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled. After you cancel, the physical exercise club may request the return of all contracts, membership cards, and other documents or evidence of membership.

To cancel this transaction, send, or deliver a signed and dated copy of this cancellation notice or any other written notice by certified or registered mail to _____ (name of seller), at _____ (address of seller's place of business) not later than midnight of _____ (date).

I hereby cancel this transaction.

(Date)

(Buyer's signature)

The full text of this statement shall be in ten-point boldface type.

Sec. 6. **NEW SECTION. 552.6 DELIVERY OF PHYSICAL EXERCISE CLUB RULES.**

A physical exercise club contract shall include a complete statement of the rules of the physical exercise club, or an acknowledgement in a conspicuous form that the buyer has received a copy of the rules. Physical exercise club rules shall include, but are not limited to, the hours of operation.

Sec. 7. NEW SECTION. 552.7 BUYER'S CANCELLATION.

If a buyer cancels a physical exercise club contract pursuant to the three-day cancellation provision, the physical exercise club shall send the buyer a written confirmation of cancellation, together with the buyer's refund and any negotiable instruments executed by the buyer, within forty-five days after receipt by the physical exercise club of the buyer's cancellation notice. If the physical exercise club fails to send the written confirmation to the buyer within forty-five days after receiving a timely cancellation, the physical exercise club is deemed to have accepted the cancellation.

Sec. 8. NEW SECTION. 552.8 DURATION OF CONTRACT — RENEWAL.

A physical exercise club contract shall not have a duration longer than thirty-six months. If a physical exercise club offers a contract of more than twelve-months' duration, it shall also offer a twelve-month contract. A physical exercise club contract shall not contain an automatic renewal clause.

Sec. 9. NEW SECTION. 552.9 NOTICE OF MEMBERSHIP PLANS, PRICES, AND RIGHT OF CANCELLATION.

The physical exercise club shall orally inform the buyer prior to the buyer's entering into a physical exercise club contract of the three-day cancellation provision and provide the buyer with a written list of all membership plans and their respective prices.

Sec. 10. NEW SECTION. 552.10 STATEMENT REGARDING ASSIGNABILITY OF BUYER'S OBLIGATION.

If the buyer's obligation is in a form that may be assigned, the contract shall state in bold-face type on the front page of the contract that the contract may be discounted and sold to third parties to whom the buyer will become obligated to make full payment.

Sec. 11. NEW SECTION. 552.11 BUYER'S RIGHTS UPON ASSIGNMENT.

1. A physical exercise club contract is not assignable by the physical exercise club without written notice of the assignment mailed to the buyer at the buyer's address as stated in the contract. The notice shall identify the contract, state the name and address of the assignee, the amount payable by the buyer and the number, amounts, and due dates of any payments, and shall contain a conspicuous notice to the buyer of the provisions of subsection 2.

2. If the physical exercise club assigns the buyer's obligation, the buyer has thirty days from the date of the mailing of the notice of the assignment within which to notify the assignee in writing of any claims or defenses the buyer may have against the physical exercise club. If written notification of the claims or defenses is not received by the assignee within the thirty-day period, the assignee has the right to enforce the contract free of any claims or defenses the buyer may have against the physical exercise club.

Sec. 12. NEW SECTION. 552.12 LISTING OF EQUIPMENT AND SERVICES.

A physical exercise club, which accepts prepayments as defined in section 552.1, subsection 5, shall compile a written list which shall be available to a buyer upon request showing:

1. The equipment by kind and quantity that is or will be made available.
2. Each service which the physical exercise club intends to have available for use by the buyers.

Subject to section 552.16, subsection 3, paragraph "a", a physical exercise club that accepts prepayments shall not be considered fully open for business until all of the equipment and services so listed are actually available for use by the buyers.

Sec. 13. NEW SECTION. 552.13 REMEDIES — VIOLATIONS.

1. If a physical exercise club violates a provision of this chapter, the buyer may cancel the physical exercise club contract. The buyer also has a right of action against the physical

exercise club for recovery of the amount the buyer paid to the physical exercise club under the contract. In addition to any judgment awarded to the buyer, the court may allow reasonable attorney's fees.

2. A violation of any of the provisions of this chapter shall be deemed an unlawful practice under section 714.16, subsection 2, paragraph "a".

3. Unless displaced by the particular provisions of this chapter and the principles of law and equity supplement the provisions of this chapter.

Sec. 14. NEW SECTION. 552.14 PROHIBITED ACTIVITIES.

1. It is unlawful for a physical exercise club to make any misrepresentation to current members, prospective buyers, or buyers of physical exercise club contracts regarding:

- a. Qualifications of staff.
- b. Availability, quality, or extent of facilities or services.
- c. Results obtained through exercise, dieting, or weight control programs.
- d. Membership rights.
- e. The period that a special offer or discount will be available.

2. It is unlawful for a physical exercise club to fail or refuse to:

- a. File or update the registration statement required by section 552.15.
- b. Establish the escrow account required by section 552.16.

3. It is unlawful for a physical exercise club to advertise, state, or represent that it is approved by the state or that it has complied with this chapter.

Sec. 15. NEW SECTION. 552.15 REGISTRATION.

1. A person operating or intending to open or operate a physical exercise club within this state shall file a registration statement with the attorney general's consumer protection division. The registration shall be filed at least thirty days before the use of any services or facilities is offered for sale by the physical exercise club. The registration statement shall be updated annually, on or before the anniversary date of the initial registration, and shall include the following:

- a. The name and address of the physical exercise club.
- b. The names and addresses of the officers and directors of the physical exercise club and its parent corporation, if one exists.
- c. The type of available facilities.
- d. The approximate size of the physical exercise club measured in square feet.
- e. Two copies of each type of physical exercise club contract which the physical exercise club is currently using or intends to use.

2. A physical exercise club registering pursuant to this chapter shall maintain in the files of the physical exercise club a copy of its registration statement filed pursuant to this section. This registration statement shall be made available upon request for inspection by current physical exercise club members or prospective buyers of physical exercise club services.

3. A physical exercise club that files an initial registration or update shall pay a fee in an amount determined by the attorney general to be sufficient to cover the cost of registration and administration of this chapter. The fees shall be deposited in the general fund of the state.

Sec. 16. NEW SECTION. 552.16 ESCROW.

1. A physical exercise club or its assignee or agent that accepts prepayments shall deposit all of the funds received as prepayments in an escrow account established with a financial institution located in this state whose accounts are insured by the federal deposit insurance corporation, the national credit union administration, or the federal savings and loan insurance corporation, which shall hold the funds as escrow agent for the benefit of the buyers that prepay. The physical exercise club shall deposit all prepayments received at least biweekly

and shall make the first deposit not later than the fourteenth day after the day on which the physical exercise club accepts the first prepayment. Not later than the fourteenth day after the day on which the first prepayment is received, the physical exercise club shall submit to the attorney general's consumer protection division a notarized statement that identifies the financial institution in which the prepayments are held in escrow and the name and account number in which the account is held. The prepayments shall be held in escrow until the thirtieth day after the date that the physical exercise club fully opens for business.

2. If the physical exercise club does not fully open for business before the two hundred eleventh day after the date it enters into the first physical exercise club contract or if the club does not remain fully open for thirty days, the buyers whose payments are held in escrow under this section shall receive a full refund, including the buyer's pro rata share of any interest earned thereon, from the escrow agent. Refunds pursuant to this section shall be made not later than the two hundred forty-first day after the date the first physical exercise club contract was signed. If the escrow agent fails to make a full refund as provided for in this section, the attorney general shall hold a hearing and determine whether the physical exercise club has fully opened and has remained open for thirty days, and if not, determine those persons who, as buyers, are entitled to a refund and, if appropriate, distribute the escrow proceeds. Notice shall be provided to the physical exercise club at its place of business as shown on its registration statement and to all buyers who have funds in the escrow account. All hearings held under this section shall be held in accordance with chapter 17A.

3. For the purposes of this section, the date on which a physical exercise club fully opens for business is the date on which all of the equipment and services of the physical exercise club that were advertised before the opening or promised to be made available, whether or not contained in the contract, are actually available for use by buyers. The attorney general may upon application certify that a physical exercise club is fully open for business if substantially all of the promised equipment and services are available for use, and the physical exercise club has made a diligent effort to provide the remaining equipment and services.

4. The buyer retains ownership of all moneys and interest held in escrow under this section.

5. In lieu of establishing the escrow account described in subsections 1 through 4, a physical exercise club may post a one hundred fifty thousand dollar bond with the office of the attorney general, in a form deemed acceptable by the attorney general to protect the interest of buyers. Notice of the existence of the bond must be disclosed to the buyer in the physical exercise club contract. Either the attorney general or a buyer shall be entitled to collect on the bond in the same manner and on the same terms as provided for an escrow account in subsections 1 through 4. The aggregate liability of the surety for all damages shall not exceed the amount of the bond.

Sec. 17. NEW SECTION. 552.17 CONSUMER CREDIT SALES.

A physical exercise club contract where a finance charge is made or where payment is required or permitted by agreement to be made in more than four periodic payments, excluding a down payment, is a consumer credit sale within the meaning of section 537.1301, subsection 12, and is subject to chapter 537. If any periodic payment, other than the down payment under an agreement requiring or permitting two or more periodic payments, is more than twice the amount of any other periodic payment other than the down payment, a transaction is "payable in installments" within the meaning of section 537.1301, subsection 30.

The provisions of this chapter providing rights and protections to buyers are in addition to the provisions of chapter 537.

Sec. 18. NEW SECTION. 552.18 WAIVER OF PROVISIONS.

A waiver by the buyer of any of the provisions of this chapter is void as contrary to public policy.

Sec. 19. NEW SECTION. 552.19 IMMUNITY.

Notwithstanding chapter 25A, there is no liability on behalf of the state of Iowa, the attorney general, or the employees of the attorney general, for damages for failure to execute, or for negligently executing, the duties or authority conferred upon them by this chapter, or the rules adopted pursuant to this chapter.

Sec. 20. NEW SECTION. 552.20 RULES.

The attorney general may adopt rules in accordance with chapter 17A to carry out the provisions of this chapter.

Sec. 21. NEW SECTION. 552.21 CONSTRUCTION OF CHAPTER.

This chapter does not limit the power or authority of the attorney general to seek administrative, legal, or equitable relief as provided by other statutes or at common law.

Sec. 22. NEW SECTION. 552.22 APPLICABILITY.

This chapter applies to all physical exercise club contracts entered into in this state on or after July 1, 1988, concerning physical exercise club facilities located, or services to be provided, in this state.

Sec. 23. This Act takes effect July 1, 1988, but a person operating a physical exercise club on the effective date of this Act has ninety days in which to file a registration statement as required by section 15 of this Act.

Approved May 12, 1988

CHAPTER 1222

HANDICAPPED PARKING

S.F. 2017

AN ACT relating to handicapped parking and the use, issuance, and display of handicapped identification devices, stickers, signs, and plates, providing a penalty and making penalties applicable; and providing an effective date.

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

Section 1. Section 321.34, subsection 7, Code Supplement 1987, is amended to read as follows:

7. **HANDICAPPED PLATES.** The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, light delivery truck, panel delivery truck, or pickup, who is a handicapped person as defined in section 601E.1, may, upon written application to the department, order special registration plates designed by the department bearing the international symbol of accessibility. The special registration plates shall only be issued if the application is accompanied with a statement from a physician licensed under chapter 148, 150, or 150A, written on the physician's stationery, stating the nature of the applicant's handicap and such additional information as required by rules adopted by the department. ~~The~~ If the application ~~shall be~~ is approved by the department ~~and~~ the special registration plates shall be issued to the applicant in exchange for the previous registration plates issued to the person. The fee for the special plates shall be is five dollars which ~~shall be~~ is in addition to the regular annual registration fee. 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. However, the special plates shall not be renewed without the applicant furnishing evidence to the department that the owner of the motor vehicle is still a handicapped ~~or~~

paraplegic person as defined in section 601E.1, unless the applicant has previously provided satisfactory evidence to the department that the owner of the vehicle is permanently handicapped in which case the furnishing of additional evidence shall not be required for renewal. The special registration plates shall be surrendered in exchange for regular registration plates when the owner of the motor vehicle no longer qualifies as a handicapped or paraplegic person as defined in section 601E.1.

Sec. 2. Section 601E.1, Code 1987, is amended by adding the following new subsection: NEW SUBSECTION. 7. "Handicapped parking sign" means a sign which bears the international symbol of accessibility.

Sec. 3. Section 601E.6, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A handicapped identification device may be displayed in a motor vehicle being used by a handicapped person, either as operator or passenger. The devices shall be of uniform design and fabricated of durable material, suitable for display from within the passenger compartment of a motor vehicle, and readily transferable from one vehicle to another. They shall be acquired by the department and sold at cost, not to exceed five dollars, to handicapped persons upon application on forms prescribed by the department. Before delivering a handicapped identification device to a purchaser, the department shall permanently affix to the device a unique number which may be used by the department to identify that individual purchaser. A temporary handicapped identification device shall have the expiration date permanently affixed to the device. Expiration dates and identification numbers affixed to handicapped identification devices shall be of sufficient size to be readable from outside the vehicle.

Sec. 4. Section 601E.6, subsection 1, unnumbered paragraph 4, Code Supplement 1987, is amended to read as follows:

A handicapped identification device or sticker shall only be issued if the applicant files with the department. A person desiring a handicapped identification device or sticker shall apply to the department upon an application form furnished by the department providing the applicant's name, address, and date of birth, and shall also provide a statement from a physician licensed under chapter 148, 150, or 150A, written on the physician's stationery, stating the nature of the applicant's handicap and such additional information as required by rules adopted by the department under subsection 3. This paragraph does not apply to handicapped identification devices issued to nonhandicapped individuals, government agencies, or private organizations under subsection 3, paragraph "d".

Sec. 5. Section 601E.6, subsection 2, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A city or other political subdivision which provides on-street parking areas or off-street parking facilities shall set aside at least six-tenths of one percent of the metered parking spaces and six-tenths of one percent of the marked parking spaces as handicapped parking spaces. Any other person may also set aside handicapped parking spaces on the person's property provided each parking space is clearly and prominently designated as a handicapped parking space. The use of a handicapped parking space, located on either public or private property, by a motor vehicle not displaying a handicapped identification device, or by a motor vehicle displaying such a device but not being used by a handicapped person, as operator or passenger, or by a motor vehicle in violation of the rules adopted by the department under subsection 3, paragraph "e", is a misdemeanor for which a fine may be imposed upon the owner, operator, or lessee of the motor vehicle. The fine for each violation is fifteen twenty-five dollars. Proof of conviction of three or more violations involving improper use of the same a handicapped identification device, handicapped registration plate issued under section 321.34, subsection

7, or a handicapped identification sticker affixed to a registration plate is grounds for revocation by the department of the holder's privilege to use the device.

Sec. 6. Section 601E.6, subsection 3, paragraph a, Code Supplement 1987, is amended to read as follows:

a. Establishing procedure for applying to the department for issuance of a permanent or temporary handicapped identification device and handicapped identification stickers under this section. Temporary handicapped identification devices and stickers shall be of a distinctively different color from permanent handicapped identification devices and stickers.

Sec. 7. Section 601E.6, subsection 3, paragraph b, Code Supplement 1987, is amended to read as follows:

b. Requiring persons who seek permanent handicapped identification devices or handicapped identification stickers to furnish evidence upon initial application that they are permanently handicapped; and requiring persons who seek temporary handicapped identification devices to furnish evidence upon initial application that they are physically handicapped and, in addition, to furnish evidence at three-month intervals that they remain physically handicapped. A person who has provided satisfactory evidence to the department that the person is permanently handicapped shall not be required to furnish evidence of being handicapped at a later date.

Sec. 8. Section 601E.6, subsection 3, Code Supplement 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. e. The rules shall require that the handicapped identification device be displayed only while the vehicle is parked or in transit in connection with a trip providing transportation service for handicapped persons. This paragraph does not apply to handicapped identification stickers attached to registration plates issued to disabled veterans under section 321.166, subsection 6, or handicapped registration plates.

Sec. 9. Section 601E.9, Code 1987, is amended to read as follows:

601E.9 HANDICAPPED PARKING SIGN.

The handicapped parking sign shall bear the international symbol of accessibility. If a person who owns or leases real property in a city is required to provide handicapped parking spaces, the city shall provide the signs for the person. If a person who owns or leases real property outside the corporate limits of a city is required to provide handicapped parking spaces, the county in which the property is located shall provide the signs for the person. The signs shall be provided upon request at cost.

Sec. 10. Section 601E.10, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A handicapped parking sign shall be displayed designating the handicapped parking space. The handicapped parking sign shall be affixed to a pole or affixed vertically on another object so that it is readily visible to a driver of a motor vehicle approaching the handicapped parking space. A handicapped parking space designated only by the international symbol of accessibility being painted or otherwise placed horizontally on the parking space does not meet the requirements of this subsection.

Sec. 11. Section 805.8, subsection 2, paragraph s, Code Supplement 1987, is amended to read as follows:

s. For a violation of section 601E.6, regulating the use of handicapped parking spaces, the scheduled fine is fifteen twenty-five dollars.

Sec. 12. Section 3 and section 6 of this Act apply to handicapped identification devices issued on or after January 1, 1989.

Approved May 12, 1988

CHAPTER 1223

FOSTER HOME INSURANCE FUND

S.F. 2107

AN ACT relating to the creation of a foster home insurance fund.

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

Section 1. NEW SECTION. 237.13 FOSTER HOME INSURANCE FUND.

1. For the purposes of this section, "foster home" means either of the following:

a. An individual, as defined in section 237.1, subsection 7, who is licensed to provide child foster care and shall also be known as a "licensed foster home".

b. A guardian appointed on a voluntary petition of a ward pursuant to section 633.557, or a conservator appointed on a voluntary petition of a ward pursuant to section 633.572, provided the ward has an income that does not exceed one hundred fifty percent of the current federal office of management and budget poverty guidelines and who does not have resources in excess of the criteria for resources under the federal supplemental security income program. However, the ward's ownership of one residence and one vehicle shall not be considered in determining resources.

2. The foster home insurance fund is created within the office of the treasurer of state to be administered by the department of human services. The fund consists of all moneys appropriated by the general assembly for deposit in the fund. The general fund of the state is not liable for claims presented against the fund. The department may contract with another state agency, or private organization, to perform the administrative functions necessary to carry out this section.

3. Except as provided in this section, the fund shall pay, on behalf of each licensed foster home, any valid and approved claim of foster children, their parents, guardians, or guardians ad litem, for damages arising from the foster care relationship and the provision of foster care services. The fund shall also reimburse licensed foster homes for property damage or bodily injury, as a result of the activities of the foster child, and reasonable and necessary legal fees incurred in defense of civil claims filed pursuant to subsection 7, paragraph "d", and any judgments awarded as a result of such claims.

4. The fund is not liable for any of the following:

a. A loss arising out of a foster parent's dishonest, fraudulent, criminal, or intentional act.

b. An occurrence which does not arise from the foster care relationship.

c. A bodily injury arising out of the operation or use of a motor vehicle, aircraft, recreational vehicle, or watercraft owned, operated by, rented, leased, or loaned to, a foster parent.

d. A loss arising out of a foster parent's lascivious acts, indecent contact, or sexual activity, as defined in chapters 702 and 709. Notwithstanding any definition to the contrary in chapters 702 and 709, for purposes of this subsection a child is a person under the age of eighteen.

e. A loss or damage arising out of occurrences prior to July 1, 1988.

f. Exemplary or punitive damages.

g. Any claim for which compensation has been provided by, or is available from, any other source including the child's own funds.

h. The liability of a foster parent due solely to the foster parent's failure to obtain automobile or homeowner's insurance.

i. A loss or damage arising out of conduct which is in violation of administrative rules.

5. Except as provided in this section, the fund shall pay, on behalf of a guardian or conservator, the reasonable and necessary legal costs incurred in defending against a suit filed by a ward or the ward's representative and the damages awarded as a result of the suit, so long as it is determined that the guardian or conservator acted in good faith in the performance of their duties. A payment shall not be made if there is evidence of intentional misconduct or a knowing violation of the law by the guardian or conservator, including, but not limited to, failure to carry out the responsibilities required under sections 633.633 through 633.635 and 633.641 through 633.651.

6. The fund is not liable for the first one hundred fifty dollars of any claim based on a single occurrence. Claims may not be aggregated or accumulated to avoid payment of this deductible. The fund is not liable for damages in excess of three hundred thousand dollars for a single foster home for all claims arising out of one or more occurrences during a calendar year.

7. Procedures for claims against the fund:

a. A claim against the fund shall be filed in accordance with the claims procedures and on forms prescribed by the department of human services.

b. A claim shall be submitted to the fund within the applicable period of limitations for the appropriate civil action underlying the claim. If a claim is not submitted to the fund within the applicable time, the claim shall be rejected.

c. The department shall issue a decision on a claim within one hundred eighty days of its presentation.

d. A person shall not bring a civil action against a foster parent for which the fund may be liable unless that person has first filed a claim against the fund and the claim has been rejected, or the claim has been filed, approved, and paid in part, and damages in excess of the payment are claimed.

8. All processing of decisions and reports, payment of claims, and other administrative actions relating to the fund shall be conducted by the department of human services.

9. The department of human services shall adopt rules, pursuant to chapter 17A, to carry out the provisions of this section.

Approved May 12, 1988

CHAPTER 1224

COMPREHENSIVE AIDS PREVENTION AND INTERVENTION PLAN

S.F. 2157

AN ACT relating to a comprehensive acquired immune deficiency syndrome (AIDS) prevention and intervention plan.

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

Section 1. **ACQUIRED IMMUNE DEFICIENCY SYNDROME-RELATED CONDITIONS — FINDINGS.**

The general assembly finds and declares that acquired immune deficiency syndrome (AIDS)-related conditions present a significant challenge to the nation and to this state. The nation and this state are presented with the challenge of compensating society for the loss of many

young, productive citizens. The state is also challenged with protecting the public health while maintaining individual liberties.

Iowans will experience the impact of AIDS-related conditions for some time and expect the establishment of a proactive, effective policy based upon reason and medical evidence, not a reactive, ineffective policy based upon fear and prejudice.

An effective, comprehensive policy includes many elements. The general assembly finds and declares that the state comprehensive plan for the prevention of and intervention in AIDS-related conditions includes the following elements: public and professional health education; testing and counseling, including contact counseling; and the increased availability of public information. Other elements, including protection of individual rights, confidentiality, and provision of care, are parts of a comprehensive approach to prevention of and intervention in AIDS-related conditions.

Sec. 2. NEW SECTION. 135H.1 LEAD AGENCY.

The Iowa department of public health is designated as the lead agency in the coordination and implementation of the state comprehensive acquired immune deficiency syndrome (AIDS)-related conditions prevention and intervention plan. As used in this chapter, "acquired immune deficiency syndrome-related conditions" or "AIDS-related conditions" means human immunodeficiency virus, acquired immune deficiency syndrome, acquired immune deficiency syndrome-related complex, or any other condition resulting from the human immunodeficiency virus infection.

Sec. 3. NEW SECTION. 135H.2 COMPREHENSIVE ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)-RELATED CONDITIONS PREVENTION AND INTERVENTION PLAN.

1. The Iowa department of public health shall implement the various components of the comprehensive AIDS prevention and intervention plan in accordance with the following prioritized schedule:

- a. Public and professional health education.
- b. Testing and counseling.
- c. Contact counseling.
- d. Public information.

2. All federal and state moneys appropriated to the Iowa department of public health for AIDS-related activities shall be allocated in accordance with the prioritized schedule, and grants shall be awarded to the maximum extent feasible to community-based organizations.

Sec. 4. NEW SECTION. 135H.3 PUBLIC AND PROFESSIONAL EDUCATION.

1. The Iowa department of public health shall, in cooperation with the department of education and other agencies, organizations, coalitions, and local health departments, develop and implement a program of public and professional AIDS-related education.

2. The program of public and professional AIDS-related education shall include the following components:

- a. Pertinent AIDS-related conditions information directed toward individuals who are at risk for an AIDS-related condition.
- b. Pertinent AIDS-related conditions information directed toward all providers of health care.
- c. Pertinent AIDS-related conditions information directed toward the general public.

Sec. 5. NEW SECTION. 135H.4 TESTING AND COUNSELING.

Testing and counseling shall be offered to the following:

1. All persons seeking treatment for a sexually transmitted disease.
2. All persons seeking treatment for intravenous drug abuse or having a history of intravenous drug abuse.

3. All persons who consider themselves at risk for the human immunodeficiency virus infection.

4. Male and female prostitutes.

Counseling and testing shall be provided at alternative testing and counseling sites and at sexually transmitted disease clinics. The Iowa department of public health shall assist local boards of health in the development of programs which provide free anonymous testing to the public.

Sec. 6. NEW SECTION. 135H.5 PUBLIC INFORMATION CAMPAIGNS.

The Iowa department of public health shall develop, in cooperation with other agencies, organizations, coalitions, and local health departments, through incorporation of the efforts of print, wire, and air media, public information campaigns to increase the distribution of information to the public. Public information campaign activities shall include the following:

1. The conducting of informational campaigns designed to increase the understanding of AIDS-related conditions in all segments of the population to alleviate unfounded fear and anxiety.

2. The stimulation of individual and community actions to develop AIDS public service activities.

3. The encouragement of the use of AIDS public service announcements.

Sec. 7. NEW SECTION. 135H.6 PARTNER NOTIFICATION PROGRAM — HUMAN IMMUNODEFICIENCY VIRUS (HIV).

1. The Iowa department of public health shall implement, as a part of the comprehensive AIDS prevention and intervention plan, a partner notification program for persons known to have tested positive for the human immunodeficiency virus infection, beginning September 1, 1988.

2. The Iowa department of public health shall initiate the program at alternative testing and counseling sites and at sexually transmitted disease clinics.

3. In administering the program, the Iowa department of public health shall provide for the following:

a. A person who tests positive for the human immunodeficiency virus infection shall receive posttest counseling, during which time the person shall be encouraged on a strictly confidential basis to refer for counseling and human immunodeficiency virus testing any person with whom the person has had sexual relations or has shared intravenous equipment.

b. If, following counseling, a person who tests positive for the human immunodeficiency virus infection chooses to disclose the identity of any sexual partners or persons with whom the person has shared intravenous equipment, the physician or health practitioner attending the person shall obtain written consent which acknowledges that the person is making the disclosure voluntarily.

c. The physician or health practitioner attending the person shall forward any written consent forms to the Iowa department of public health.

4. In making contact the Iowa department of public health shall not disclose the identity of the person who provided the names of the persons to be contacted and shall protect the confidentiality of persons contacted.

5. The Iowa department of public health may delegate its partner notification duties under this section to local health authorities unless the local authority refuses or neglects to conduct the contact tracing program in a manner deemed to be effective by the Iowa department of public health.

6. A person who violates a confidentiality requirement of subsection 1, 2, 3, 4, or 5 is guilty of a class "D" felony.

Sec. 8. NEW SECTION. 135H.7 ACCREDITATION OF HUMAN IMMUNODEFICIENCY VIRUS TESTING LABORATORIES.

1. For the purpose of this section unless the context otherwise requires:

a. "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or assessment of a medical condition.

b. "Blood bank" means a facility for the collection, processing, or storage of human blood or blood derivatives, or from which or by means of which human blood or blood derivatives are distributed or otherwise made available.

c. "Laboratory" includes a clinical laboratory and a blood bank.

2. Beginning July 1, 1988, human immunodeficiency virus screening and confirmatory testing shall be performed only by laboratories certified on an annual basis pursuant to this section.

3. The director of public health shall adopt rules establishing standards for the accreditation of laboratories to perform human immunodeficiency virus screening and confirmatory testing. The rules shall include but are not limited to standards relating to proficiency testing, record maintenance, adequate staffing, and confirmatory testing. The rules shall provide for acceptance of accreditation programs which are in conformance with the standards established by the rules.

4. The Iowa department of public health shall provide application forms for certification of a laboratory. The director shall prescribe by rule the information to be included on the application form.

5. A laboratory shall not be certified unless the laboratory meets all standards established by the Iowa department of public health.

6. The Iowa department of public health may conduct periodic inspections of laboratory facilities, methods, procedures, materials, staff, and equipment for compliance with the standards established pursuant to this section. The department may delegate this authority to the state hygienic laboratory.

7. A laboratory's certification may be revoked, suspended, or limited, if at any time the laboratory is found to be in violation of any of the standards adopted by the department pursuant to this section.

Sec. 9. NEW SECTION. 135H.8 ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)-RELATED CONDITIONS — SCREENING, TESTING, AND REPORTING.

1. Prior to withdrawing blood for the purpose of performing a human immunodeficiency virus-related test, the physician or other practitioner shall inform the subject of the test that the test is voluntary and may be performed anonymously if requested. Within seven days after the testing of a person with a test result indicating human immunodeficiency virus infection which has been confirmed as positive according to prevailing medical technology, the physician or other practitioner at whose request the test was performed shall make a report to the Iowa department of public health on a form provided by the department. Prior to making the required report, the physician or other practitioner shall provide written information regarding the partner notification program and shall inquire if the person wishes to initiate participation in the program by agreeing to have identifying information reported to the department on a confidential basis.

2. Within seven days of diagnosing a person as having an AIDS-related condition, the diagnosing physician shall make a report to the Iowa department of public health on a form provided by the department.

3. Within seven days of the death of a person resulting from an AIDS-related condition, the attending physician shall make a report to the Iowa department of public health on a form provided by the department.

4. Within seven days of the testing of a person with a test result indicating human immunodeficiency virus infection which has been confirmed as positive according to prevailing medical technology, the director of a blood plasma center or blood bank shall make a report to the Iowa department of public health on a form provided by the department.

5. Within seven days of the testing of a person with a test result indicating human immunodeficiency virus infection which has been confirmed as positive according to prevailing medical technology, the director of a clinical laboratory shall make a report to the Iowa department of public health stating the person's name or a confidential form of identification known only to the physician or other health practitioner requesting the test and the name and address of the physician or other health care practitioner requesting the test.

6. The forms provided by the department pursuant to subsections 2 and 3 shall contain the name, date of birth, sex, and address of the subject of the report and the name and address of the physician or other person making the report. The forms provided by the department pursuant to subsections 1, 4, and 5 may include the subject's age, race, marital status, or other information deemed necessary by the department for epidemiological purposes, but shall not include the subject's name or address without the written authorization of the subject.

The subject shall be provided with information regarding the confidentiality measures followed by the department and may request that the department maintain the subject's confidential file for the purposes of partner notification, or for the inclusion of the subject in research or treatment programs.

Sec. 10. NEW SECTION. 135H.9 DUTIES OF PUBLIC HEALTH OFFICIALS.

1. State and local health officers shall investigate sources of human immunodeficiency virus infection and shall use every appropriate means to prevent the spread of the disease.

2. The Iowa department of public health shall do all of the following:

a. Provide consultation to agencies and organizations regarding appropriate policies for testing, education, confidentiality, and infection control.

b. Conduct health information programs for the public relating to human immunodeficiency virus infection, including information about how the infection is transmitted and can be prevented. The department shall prepare, for free distribution, printed information relating to human immunodeficiency virus infection and prevention.

c. Provide educational programs concerning human immunodeficiency virus infection in the workplace.

d. Develop and implement human immunodeficiency virus education risk-reduction programs for specific populations at high risk for infection.

e. In cooperation with the department of education, develop and update a medically correct acquired immune deficiency syndrome prevention curriculum for use at the discretion of secondary and middle schools.

School districts shall provide every elementary and secondary school student, with parental consent, education concerning human immunodeficiency virus infection and acquired immune deficiency syndrome and its prevention.

Sec. 11. NEW SECTION. 135H.10 CONFIDENTIAL REPORTS AND IMMUNITIES.

1. Reports, information, and records submitted and maintained pursuant to this chapter are strictly confidential medical information. The information shall not be released, shared with an agency or institution, or made public upon subpoena, search warrant, discovery proceedings, or by any other means except under any of the following circumstances:

a. Release may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified.

b. Release may be made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related rules concerning the treatment, control, and investigation of human immunodeficiency virus infection by public health officials.

c. Release may be made of medical or epidemiological information to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party.

2. An officer or employee of the state or local department of health or a person making a report pursuant to this chapter shall not be examined in any judicial, executive, legislative, or other proceeding as to the existence or content of an individual report made pursuant to this chapter.

3. Reports, information, and records which contain the identity of persons except reports, information, and records necessary to honor the requests made pursuant to section 135H.8 shall be destroyed immediately after the extraction of statistical data and completion of contact identification or in no event longer than six months from the date the report, information, or record was received.

4. A person making a report in good faith pursuant to this chapter is immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of the report.

5. For purposes of this section, "good faith" means objectively reasonable, and not in violation of clearly established statutory rights or other rights of a person which a reasonable person would know or should have known.

Sec. 12. Section 135.11, Code Supplement 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 22. Adopt rules which require personnel of a licensed hospice, of a homemaker-home health aide provider agency which receives state homemaker-home health aide funds, or of an agency which provides respite care services and receives funds to complete a minimum of two hours of training concerning acquired immune deficiency syndrome-related conditions through a program approved by the department. The rules shall require that new employees complete the training within six months of initial employment and existing employees complete the training on or before January 1, 1989.

NEW SUBSECTION. 23. Adopt rules which require all emergency medical services personnel, firefighters, and law enforcement personnel to complete a minimum of two hours of training concerning acquired immune deficiency syndrome-related conditions and the prevention of human immunodeficiency virus infection.

Sec. 13. **WAIVER PROCESS INITIATION.**

The department of human services shall initiate the application process in order to obtain a waiver from the health care financing administration of the United States department of health and human services for the provision of alternative services to persons with acquired immune deficiency syndrome or a related condition.

Sec. 14. Sections 139.41 and 139.42, Code Supplement 1987, are repealed.

Approved May 12, 1988

CHAPTER 1225**PHYSICIAN ASSISTANTS' REGULATION***S.F. 2169*

AN ACT relating to physician assistants, establishing a board of physician assistant examiners, providing for the registration and licensure of physician assistants, making penalties applicable, providing properly related matters, and providing an effective date.

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

Section 1. Section 136C.3, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Establish minimum training standards including continuing education requirements, and administer examinations and disciplinary procedures 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, or certification as a physician's assistant as defined in section 148C.1, subsection 6 licensure as a physician assistant pursuant to chapter 148C, or certification by the board of dental examiners in dental radiography, or enrollment in a program or course of study approved by the Iowa department of public health which includes the application of radiation to humans satisfies the minimum training standards for operation of radiation machines only.

Sec. 2. Section 147.1, subsections 2 and 3, Code Supplement 1987, are amended to read as follows:

2. "Licensed" or "certified" when applied to a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, physician assistant, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, occupational therapist, practitioner of cosmetology, practitioner of barbering, funeral director, dietitian, or social worker means a person licensed under this title.

3. "Profession" means medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, cosmetology, barbering, mortuary science, social work or dietetics.

Sec. 3. Section 147.2, Code 1987, is amended to read as follows:

147.2 LICENSE REQUIRED.

~~No~~ A person shall ~~not~~ engage in the practice of medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, occupational therapy, pharmacy, cosmetology, barbering, dietetics, or mortuary science or shall not practice as a physician assistant as defined in the following chapters of this title, unless the person has obtained from the department a license for that purpose.

Sec. 4. Section 147.3, Code 1987, 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. A board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of medicine, podiatry, osteopathy, osteopathic medicine and surgery, chiropractic, nursing, psychology, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, cosmetology, barbering, mortuary science, social work or dietetics the profession 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. 5. Section 147.13, Code 1987, is amended to read as follows:

147.13 DESIGNATION OF BOARDS.

The examining boards provided in section 147.12 shall be designated as follows:

1. For medicine and surgery, and osteopathy, and osteopathic medicine and surgery, medical examiners; for.
2. For physician assistants, board of physician assistant examiners.
3. For psychology, psychology examiners; for.
4. For podiatry, podiatry examiners; for.
5. For chiropractic, chiropractic examiners; for.
6. For physical therapists and occupational therapists, physical and occupational therapy examiners; for.
7. For nursing, board of nursing; for.
8. For dentistry and dental hygiene, dental examiners; for.
9. For optometry, optometry examiners; for.
10. For speech pathology and audiology, speech pathology and audiology examiners; for.
11. For cosmetology, cosmetology examiners; for.
12. For barbering, barber examiners; for.
13. For pharmacy, pharmacy examiners; for.
14. For mortuary science, mortuary science examiners; for.
15. For social workers, social work examiners; for.
16. For dietetics, dietetic examiners.

Sec. 6. Section 147.14, subsection 2, Code 1987, is amended to read as follows:

2. For medical examiners, five members licensed to practice medicine and surgery, two members licensed to practice osteopathic medicine and surgery, ~~one member approved as a physician's assistant,~~ and two members not licensed to practice either medicine and surgery or osteopathic medicine and surgery, ~~or approved as a physician's assistant,~~ and who shall represent the general public. ~~The physician's assistant shall have all the rights and privileges of a board member but may vote only on matters relating to discipline of physicians' assistants, education of physicians' assistants and rules or policies directly affecting physicians' assistants.~~ A majority of members of the board constitutes a quorum.

Sec. 7. Section 147.14, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 12. For the board of physician assistant examiners, three members licensed to practice as physician assistants, at least two of whom practice in counties with a population of less than fifty thousand, one member licensed to practice medicine and surgery who supervises a physician assistant, one member licensed to practice osteopathic medicine and surgery who supervises a physician assistant, and two members who are not licensed to practice either medicine and surgery or osteopathic medicine and surgery or licensed as a physician assistant and who shall represent the general public. At least one of the physician members shall be in practice in a county with a population of less than fifty thousand. A majority of members of the board constitutes a quorum.

Sec. 8. Section 147.16, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, each licensed physician assistant member of the board of physician assistant examiners shall be actively engaged in practice as a physician assistant and shall have been so engaged for a period of three years just preceding the member's appointment, the last year of which shall be in this state.

Sec. 9. Section 147.25, unnumbered paragraph 4, Code 1987, 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, veterinary medicine, or dietetics a profession, which fee shall be based on the annual cost of collecting information for use by the department in the administration of the system of health personnel 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. 10. Section 147.74, Code Supplement 1987, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 11:

NEW UNNUMBERED PARAGRAPH. A physician assistant registered or licensed under chapter 148C may use the words "physician assistant" after the person's name or to signify the same by the use of the letters "P.A." after the person's name.

Sec. 11. Section 147.80, Code 1987, is amended by adding the following new subsection after subsection 4 and renumbering the subsequent subsections:

NEW SUBSECTION. 5. Application for a license to practice as a physician assistant, issuance of a license to practice as a physician assistant issued upon the basis of an examination given or approved by the board of physician assistant examiners, issuance of a license to practice as a physician assistant issued under a reciprocal agreement, renewal of a license to practice as a physician assistant, temporary license to practice as a physician assistant, registration of a physician assistant, temporary registration of a physician assistant, renewal of a registration of a physician assistant.

Sec. 12. Section 147.103, Code 1987, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. The board of physician assistant examiners may appoint investigators, who shall not be members of the examining board, to administer and aid in the enforcement of the provisions of law relating to physician assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 19A.

Sec. 13. Section 147.103, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Investigators authorized by the board of medical examiners and the board of physician assistant examiners have the powers and status of peace officers when enforcing this chapter and chapters 147A, 148, 148C, 150, 150A, and 258A.

Sec. 14. NEW SECTION. 148.13 AUTHORITY OF BOARD AS TO SUPERVISING PHYSICIANS AND REVIEW OF CONTESTED CASES UNDER CHAPTER 148C.

1. The board of medical examiners shall adopt rules setting forth in detail its criteria and procedures for determining the ineligibility of a physician to serve as a supervising physician under chapter 148C. The rules shall be adopted as soon as possible after the effective date of this Act and in no event later than December 31, 1988.

2. The board of medical examiners shall establish by rule specific procedures for consulting with and considering the advice of the board of physician assistant examiners in determining whether to initiate a disciplinary proceeding under chapter 17A against a licensed physician in a matter involving the supervision of a physician assistant.

3. In exercising their respective authorities, the board of medical examiners and the board of physician assistant examiners shall cooperate with the goal of encouraging the utilization

of physician assistants in a manner that is consistent with the provision of quality health care and medical services for the citizens of Iowa.

4. A decision of the board of physician assistant examiners in a contested case involving discipline of a person licensed as a physician assistant under chapter 148C may be appealed to the board of medical examiners as provided in section 148C.6A.

Sec. 15. Section 148C.1, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

148C.1 DEFINITIONS.

1. "Approved program" means a program for the education of physician assistants which has been formally approved by the board in accordance with rules adopted pursuant to this chapter.

2. "Board" means the board of physician assistant examiners.

3. "Department" means the Iowa department of public health.

4. "Licensed physician assistant" means a person who is licensed by the board to practice as a physician assistant under the supervision of one or more physicians specified in the license. "Supervision" does not require the personal presence of the supervising physician at the place where medical services are rendered except insofar as the personal presence is expressly required by this chapter or required by rules of the board adopted pursuant to this chapter.

5. "Physician" means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy.

6. "Physician assistant" means a person who has successfully completed an approved program and passed an examination approved by the board or is otherwise found by the board to be qualified to perform medical services under the supervision of a physician.

7. "Review group" means the physician assistant rules review group established in section 148C.7.

8. "Trainee" means a person who is currently enrolled in an approved program.

Sec. 16. Section 148C.2, Code 1987, is amended to read as follows:

148C.2 APPROVED PROGRAMS.

The department shall issue certificates of approval for programs for the education and training of ~~physician's~~ physician assistants which meet board standards. In developing criteria for program approval, the board shall give consideration to and encourage the utilization of equivalency and proficiency testing and other mechanisms whereby full credit is given to trainees for past education and experience in health fields. ~~The board shall adopt and publish Rules shall be adopted pursuant to this chapter setting forth standards to insure that such programs operate in a manner which does not endanger the health and welfare of patients who receive services within the scope of the program. The board shall review the quality of curriculum, faculty, and the facilities of such programs and shall issue approve the issuance of certificates of approval. The board may adopt such regulations as are reasonably necessary to carry out the purposes of this chapter.~~

~~If the board determines that a person has sufficient knowledge and experience to qualify as a physician's assistant, the board may approve an application to supervise such person as a physician's assistant without requiring the completion of an approved program.~~

~~Rules shall be adopted pursuant to this chapter setting forth the fees to be charged in connection with the application for and issuance of certificates of approval under this section.~~

Sec. 17. Section 148C.3, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

148C.3 REGISTRATION – LICENSURE.

1. The board shall formulate guidelines and adopt rules, pursuant to section 148C.7, to govern the registration of persons who qualify as physician assistants. An applicant for registration shall submit the fee prescribed by the board and shall meet the requirements established by the board with respect to all of the following:

a. Academic qualifications, including evidence of graduation from an approved program. However, if the board determines that a person has sufficient knowledge and experience to qualify as a physician assistant, the board may approve an application for registration without requiring the completion of an approved program.

b. Examination grades and evidence of passing the national commission on certification of physician assistants examination or an equivalent examination which the board approves.

c. Hours of continuing medical education necessary to remain licensed or eligible for licensure.

2. The board may issue a temporary registration under special circumstances and upon conditions prescribed by the board. A temporary registration shall not exceed one year in duration and shall not be renewed more than once.

3. A person who is registered as a physician assistant is not authorized to practice as a physician assistant unless the person is also a licensed physician assistant.

4. The board shall formulate guidelines and adopt rules, pursuant to section 148C.7, for the consideration of applications from persons seeking to become licensed physician assistants. An applicant for a license to practice as a physician assistant shall submit the fee prescribed by the board and evidence of the applicant's current registration with the board as a physician assistant. In conjunction with the physician assistant submission, the applicant's supervising physician or physicians shall submit evidence of eligibility, as determined by the board of medical examiners, to serve as a supervising physician, information with respect to the supervising physician's professional background and specialty, scope of practice, and a plan for supervision of the physician assistant. In addition the physician assistant applicant and the supervising physician or physicians shall submit a description of how the physician assistant is to function within the scope of practice.

5. The board may issue a temporary license under special circumstances and upon conditions prescribed by the board. A temporary license shall not exceed one year in duration and shall not be renewed more than once.

6. The board may modify the proposed functioning of a physician assistant and then approve the application for licensure as modified.

7. The board shall not approve an application for licensure which would result in a physician supervising more than two physician assistants at one time.

8. A licensed physician assistant shall perform only those services for which the licensed physician assistant is qualified by training, and shall not perform a service that is not permitted by the board.

9. Rules shall be adopted pursuant to this chapter which will permit qualified practicing physicians to supervise licensed physician assistants at a free medical clinic on a temporary basis.

Sec. 18. Section 148C.4, Code 1987, is amended to read as follows:

148C.4 SERVICES PERFORMED BY ASSISTANTS.

A ~~physician's~~ physician assistant may perform medical ~~service~~ services when ~~such~~ the ~~services~~ are rendered under the supervision of a ~~licensed~~ the ~~physician~~ or physicians specified in the physician assistant license approved by the board. A trainee may perform medical ~~services~~ when ~~such~~ the services are rendered within the scope of an approved program.

Sec. 19. NEW SECTION. 148C.5A INITIATING DISCIPLINARY PROCEEDINGS — ADVICE FROM BOARD OF MEDICAL EXAMINERS.

Rules shall be adopted pursuant to section 148C.7 to establish specific procedures for consulting with and considering the advice of the board of medical examiners in determining whether to initiate a disciplinary proceeding under chapter 17A against a licensed physician assistant.

Sec. 20. NEW SECTION. 148C.6A APPEAL TO BOARD OF MEDICAL EXAMINERS IN CONTESTED CASES INVOLVING DISCIPLINE.

Pursuant to section 17A.15, a decision of the board in a contested case involving discipline of a person licensed as a physician assistant may be appealed to the board of medical examiners.

Sec. 21. Section 148C.7, Code 1987, is amended to read as follows:

148C.7 REGULATIONS RULES — REVIEW GROUP.

1. A physician assistant rules review group is established consisting of one physician assistant member, one supervising physician member, and one public member from the board of physician assistant examiners and two members from the board of medical examiners who are licensed to practice medicine and surgery or osteopathic medicine and surgery. The respective boards shall select their members to serve on the physician assistant rules review group. The review group shall select its own chairperson.

The review group shall review and approve or disapprove rules proposed for adoption by the board of physician assistant examiners. Approval shall be a simple majority of the members of the group. A rule shall not become effective without the approval of the review group.

2. Regulations adopted by the board to implement the provisions of this chapter The board may adopt rules reasonably necessary to carry out the purposes of this chapter. Proposed rules must be submitted to the review group for prior review and approval. The rules shall be designed to encourage the utilization of physicians' physician assistants in a manner that is consistent with the provision of quality health care and medical services for the citizens of Iowa through better utilization of available physicians and the development of sound programs for the education and training of skilled physicians' physician assistants well qualified to assist physicians in providing health care and medical services.

Sec. 22. Section 148C.8, Code 1987, is amended to read as follows:

148C.8 RIGHT TO DELEGATE.

Nothing in this chapter shall affect or limit affects or limits a physician's existing right to delegate various medical tasks to aides, assistants or others acting under the physician's supervision or direction, including orthopedic physician's assistant technologists. Aides Such aides, assistants, or orthopedic physician's assistant technologists, and others who perform only those tasks which can be so delegated shall not be required to qualify as physicians' physician assistants hereunder under this chapter.

Sec. 23. Section 148C.9, Code 1987, is amended to read as follows:

148C.9 EYE EXAMINATION RESTRICTED.

No physician's A physician assistant shall not be permitted to prescribe lenses, prisms, or contact lenses for the aid, relief, or correction of human vision. No physician's A physician assistant shall not be permitted to measure the visual power and visual efficiency of the human eye, as distinguished from routine visual screening, except in the personal presence of a supervising physician at the place where such services are rendered.

Sec. 24. Section 148C.11, Code 1987, is amended to read as follows:
148C.11 PROHIBITIONS.

A person not certified registered and licensed as required by this chapter who practices as a ~~physician's~~ physician assistant without having obtained the appropriate approval under this chapter, is guilty of a serious misdemeanor.

Sec. 25. Section 258A.1, subsection 1, Code Supplement 1987, is amended by adding the following new paragraph after paragraph l and renumbering the subsequent paragraphs:
NEW PARAGRAPH. m. The board of physician assistant examiners.

Sec. 26. Section 321J.11, unnumbered paragraph 1, Code 1987, is amended to read as follows:
Only a licensed physician, ~~physician's~~ licensed physician assistant as defined in section 148C.1, ~~subsection 6,~~ medical technologist, or registered nurse, acting at the request of a peace officer, may withdraw a specimen of blood for the purpose of determining the 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 alcohol concentration or the presence of drugs. Only new equipment kept under strictly sanitary and sterile conditions shall be used for drawing blood.

Sec. 27. REPEAL. Sections 148C.5 and 148C.6, Code 1987, are repealed.

Sec. 28. TRANSITION — RULES — NEW MEMBERS OF BOARD.

1. The term of the physician assistant currently serving as a member of the board of medical examiners expires on July 1, 1988.

2. The rules of the board of medical examiners existing on the effective date of this Act with respect to physician assistants shall continue in effect as rules of the board of physician assistant examiners until modified by rules of the board of physician assistant examiners adopted pursuant to section 148C.7, as amended by this Act.

3. Notwithstanding section 147.19, for the initial terms of the members of the board of physician assistant examiners, the governor shall appoint two members to serve terms of one year, two members to serve terms of two years, and three members to serve terms of three years. The initial appointees' successors shall be appointed for terms of three years each, except that a person chosen to fill a vacancy shall be appointed only for the unexpired term of the board member replaced.

In making the initial appointments to represent physician assistants on the board of physician assistant examiners, the governor shall appoint persons who have been engaged in practice as physician assistants with the approval of the board of medical examiners for a period of three years just preceding the appointment.

4. The board of medical examiners and the professional licensure division of the Iowa department of public health in conjunction with the board of physician assistant examiners shall enter into an agreement with respect to the distribution of funds on a proportionate basis and other financial arrangements to facilitate the transition under this Act.

Sec. 29. EFFECTIVE DATE.

1. This section, being deemed of immediate importance, takes effect upon enactment.

2. The other provisions of this Act, being deemed of immediate importance, take effect upon enactment for transition purposes, including the appointment of board members, preliminary work on the development of rules, and agreements with respect to financial arrangements, and on July 1, 1988, for all other purposes.

Approved May 12, 1988

CHAPTER 1226**MENTAL HEALTH INFORMATION DISCLOSURE***S.F. 2284*

AN ACT relating to the disclosure of mental health information and providing a penalty.

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

Section 1. NEW SECTION. 228.7 DISCLOSURES FOR CLAIMS ADMINISTRATION AND PEER REVIEW — SAFEGUARDS — PENALTY.

1. Mental health information may be disclosed, in accordance with the prior written consent of the patient or the patient's legal representative, by a mental health professional, data collector, or employee or agent of a mental health professional, a data collector, or a mental health facility to a third-party payor or to a peer review organization if the third-party payor or the peer review organization has filed a written statement with the commissioner of insurance in which the filer agrees to:

a. Instruct its employees and agents to maintain the confidentiality of mental health information and of the penalty for unauthorized disclosure.

b. Comply with the limitations on use and disclosure of the information specified in subsection 2 of this section.

c. Destroy the information when it is no longer needed for the purposes specified in subsection 2 of this section.

2. An employee or agent of a third-party payor or of a peer review organization shall not use mental health information or disclose mental health information to any person, except to the extent necessary to administer claims submitted or to be submitted for payment to the third-party payor, to conduct a utilization and quality control review of mental health care services provided or proposed to be provided, to conduct an audit of claims paid, or as otherwise authorized by law.

Employees of a self-insured employer, and agents of a self-insured employer which have not filed a statement with the commissioner of insurance pursuant to subsection 1, shall not be granted routine or ongoing access to mental health information unless the employees or agents have signed a statement indicating that they are aware that the information shall not be used or disclosed except as provided in this subsection and that they are aware of the penalty for unauthorized disclosure.

3. An employee or agent of a third-party payor or a peer review organization who willfully uses or discloses mental health information in violation of subsection 2 of this section is guilty of a serious misdemeanor, and, notwithstanding section 903.1, the sentence for a person convicted under this subsection is a fine not to exceed five hundred dollars in the case of a first offense, and not to exceed five thousand dollars in the case of each subsequent offense.

Sec. 2. Section 228.1, subsections 1 and 8, Code 1987, are amended to read as follows:

1. "Administrative information" means an individual's name, identifying number, age, sex, address, dates and character of professional services provided to the individual, and fees for the professional services, third-party payor number of a patient, if known, name and location of the facility where treatment is received, the date of the individual's admission to the facility, and the name of the individual's attending physician or attending mental health professional.

8. "Third-party payor" means a person which provides accident and health benefits or medical, surgical, or hospital benefits, whether on an indemnity, reimbursement, service, or prepaid basis, including but not limited to, insurers, nonprofit health service corporations, health maintenance organizations, governmental agencies, and self-insured employers.

Sec. 3. Section 228.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 9. "Peer review organization" means a utilization and quality control peer review organization that has a contract with the federal secretary of health and human services pursuant to Title XI, part B, of the federal Social Security Act to review health care services paid for in whole or in part under the Medicare program established by Title XVIII of the federal Social Security Act, or another organization of licensed health care professionals performing utilization and quality control review functions.

NEW SUBSECTION. 10. "Self-insured employer" means a person which provides accident and health benefits or medical, surgical, or hospital benefits on a self-insured basis to its own employees or to employees of an affiliated company or companies and which does not otherwise provide accident and health benefits or medical, surgical, or hospital benefits.

Sec. 4. Section 228.2, Code 1987, is amended to read as follows:

228.2 MENTAL HEALTH INFORMATION DISCLOSURE PROHIBITED – EXCEPTIONS – RECORD OF DISCLOSURE.

1. Except as specifically authorized in section 228.3, 228.5, ~~or~~ 228.6, or 228.7, a mental health professional, data collector, or employee or agent of a mental health professional, of a data collector, or of or for a mental health facility shall not disclose or permit the disclosure of mental health information.

2. Upon disclosure of mental health information pursuant to section 228.3, 228.5, ~~or~~ 228.6, or 228.7, the person disclosing the mental health information shall enter a notation on and maintain the notation with the individual's record of mental health information, stating the date of the disclosure and the name of the recipient of mental health information. The notation shall include all of the following:

- a. ~~The date of the disclosure.~~
- b. ~~The name of the recipient of the mental health information.~~
- c. ~~A description of the contents of the disclosure.~~

The person disclosing the mental health information shall give the recipient of the information a statement which informs the recipient that disclosures may only be made pursuant to the written authorization of an individual or an individual's legal representative, or as otherwise provided in this chapter, that the unauthorized disclosure of mental health information is unlawful, and that civil damages and criminal penalties may be applicable to the unauthorized disclosure of mental health information.

3. A recipient of mental health information shall not disclose the information received, except as specifically authorized for initial disclosure in section 228.3, 228.5, ~~or~~ 228.6, or 228.7.

Sec. 5. Section 228.2, subsection 3, Code 1987, is amended to read as follows:

3. A recipient of mental health information shall not disclose the information received, except as specifically authorized for initial disclosure in section 228.3, 228.5, or 228.6. However, mental health information may be transferred at any time to another facility, physician, or mental health professional in cases of a medical emergency or if the individual or the individual's legal representative requests the transfer in writing for the purposes of receipt of medical or mental health professional services, at which time the requirements of section 228.2, subsection 2, shall be followed.

Sec. 6. Section 228.3, subsection 1, paragraph d, Code 1987, is amended to read as follows:

d. Specify the length of time for which the authorization is valid ~~and whether the authorization is renewable.~~

Sec. 7. Section 228.3, subsection 2, Code 1987, is amended to read as follows:

2. A copy of the authorization shall:

a. Be provided to the individual ~~and~~ or to the person legal representative of the individual authorizing the disclosure.

b. Accompany all disclosures.

e b. Be included in the individual's record of mental health information.

Sec. 8. Section 228.5, subsections 1 and 3, Code 1987, are amended to read as follows:

1. An individual or an individual's legal representative shall be informed that mental health information relating to the individual may be disclosed to employees or agents of or for the same mental health facility if and to the extent necessary to facilitate the provision of administrative and professional services to the individual.

3. A mental health professional or an employee of or agent for a mental health facility may disclose mental health information if necessary for the purpose of conducting scientific and data research, management audits, or program evaluations of the mental health professional or mental health facility, to persons who have demonstrated and provided written assurances of their ability to ensure compliance with the requirements of this chapter. The persons shall not identify, directly or indirectly, an individual in any report of the research, audits, or evaluations, or otherwise disclose individual identities in any manner. A disclosure under this section is not subject to the requirements of section 228.2, subsection 2, with the exception that a person receiving mental health information under this section shall be provided a statement prohibiting redisclosure of information unless otherwise authorized by this chapter.

Sec. 9. Section 228.3, subsection 3, Code 1987, is amended by striking the subsection.

Approved May 12, 1988

CHAPTER 1227

POLYGRAPH EXAMINATION PROHIBITION

H.F. 102

AN ACT relating to the prohibition of polygraph examinations as a condition of employment, and providing a penalty.

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

Section 1. Section 730.4, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

730.4 POLYGRAPH EXAMINATION PROHIBITED.

1. As used in this section, "polygraph examination" means any procedure which involves the use of instrumentation or a mechanical or electrical device to enable or assist the detection of deception, the verification of truthfulness, or the rendering of a diagnostic opinion regarding either of these, and includes a lie detector or similar test.

2. An employer shall not as a condition of employment, promotion, or change in status of employment, or as an express or implied condition of a benefit or privilege of employment, knowingly do any of the following:

a. Request or require that an employee or applicant for employment take or submit to a polygraph examination.

b. Administer, cause to be administered, threaten to administer, or attempt to administer a polygraph examination to an employee or applicant for employment.

c. Request or require that an employee or applicant for employment give an express or implied waiver of a practice prohibited by this section.

3. Subsection 2 does not apply to the state or a political subdivision of the state when in the process of selecting a candidate for employment as a peace officer or a corrections officer.

4. An employee who acted in good faith shall not be discharged, disciplined, or discriminated against in any manner for filing a complaint or testifying in any proceeding or action involving violations of this section. An employee discharged, disciplined, or otherwise discriminated against in violation of this section shall be compensated by the employer in the amount of any loss of wages and benefits arising out of the discrimination and shall be restored to the employee's previous position of employment.

5. This section may be enforced through a civil action.

a. A person who violates this section or who aids in the violation of this section is liable to an aggrieved employee or applicant for employment for affirmative relief including reinstatement or hiring, with or without back pay, or any other equitable relief as the court deems appropriate including attorney fees and court costs.

b. When a person commits, is committing, or proposes to commit, an act in violation of this section, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee or applicant for employment, the county attorney, or the attorney general.

A person who in good faith brings an action under this subsection alleging that an employer has required or requested a polygraph examination in violation of this section shall establish that sufficient evidence exists upon which a reasonable person could find that a violation has occurred. Upon proof that sufficient evidence exists upon which a finding could be made that a violation has occurred as required under this paragraph, the employer has the burden of proving that the requirements of this section were met.

6. A person who violates this section commits a serious misdemeanor.

Approved May 12, 1988

CHAPTER 1228

TAX ASSESSOR APPOINTMENTS

H.F. 105

AN ACT relating to the appointment of assessors and deputy assessors and providing an effective date.

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

Section 1. Section 441.5, unnumbered paragraph 6, Code 1987, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Following the administration of the examination, the director of revenue and finance shall establish a register containing the names, in alphabetical order, of all individuals who are eligible for appointment as assessor. The test scores of individuals on the register shall be given to a city or county conference board upon request. All eligible individuals shall remain on the register for a period of two years following the date of certification granted by the director.

Incumbent assessors who have served six consecutive years shall be placed on the register of individuals eligible for appointment as assessor. In order to be appointed to the position of assessor, the assessor shall comply with the continuing education requirements. The number of credits required for certification as eligible for appointment as assessor in a jurisdiction other than where the assessor is currently serving shall be prorated according to the percentage of the assessor's term which is covered by the continuing education requirements of section 441.8. The credit necessary for certification for appointment is the product of one hundred fifty multiplied by the quotient of the number of months served of an assessor's term covered

by the continuing education requirements of section 441.8 divided by seventy-two. If the number of credits necessary for certification for appointment as determined under this paragraph results in a partial credit hour, the credit hour shall be rounded to the nearest whole number.

Sec. 2. Section 441.10, Code 1987, is amended by inserting after unnumbered paragraph 1 the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Following the administration of the examination, the director of revenue and finance shall establish a register containing the names, in alphabetical order, of all individuals who are eligible for appointment as a deputy assessor. The test scores of individuals on the register shall be given to a city or county conference board upon request. All eligible individuals shall remain on the register for a period of two years following the date of certification granted by the director.

NEW UNNUMBERED PARAGRAPH. Incumbent deputy assessors who have served six consecutive years shall be placed on the register of individuals eligible for appointment as assessor or deputy assessor. In order to be appointed to the position of deputy assessor, the deputy assessor shall comply with the continuing education requirements. The number of credits required for certification as eligible for appointment as a deputy assessor in a jurisdiction other than where the deputy assessor is currently serving shall be prorated according to the percentage of the deputy assessor's term which is covered by the continuing education requirements of section 441.8. The credit necessary for certification for appointment is the product of ninety multiplied by the quotient of the number of months served of a deputy assessor's term covered by the continuing education requirements of section 441.8 divided by seventy-two. If the number of credits necessary for certification for appointment as determined under this paragraph results in a partial credit hour, the credit hour shall be rounded to the nearest whole number.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 12, 1988

CHAPTER 1229

LOCAL GOVERNMENT REORGANIZATION

H.F. 278

AN ACT authorizing a city to establish an administrative agency to manage and control a city airport, and authorizing local government reorganization by the establishment of an alternative form of county government or city-county government, or by consolidating county governments, and making corresponding amendments to the Code.

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

Section 1. NEW SECTION. 330.23 NO RESTRICTION ON ADMINISTRATIVE AGENCIES.

This chapter does not prohibit a city from establishing an administrative agency pursuant to chapter 392 to manage and control all or part of its airport in lieu of an airport commission under this chapter. A city may abolish an airport commission and provide for the management and control of its airport by an administrative agency.

Sec. 2. Section 331.101, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 16. "Commission" means a body of eligible electors authorized to study, review, analyze, and recommend an alternative form of county government.

NEW SUBSECTION. 17. "Charter" means a formal document establishing the functions, powers, organization, structure, privileges, rights, and duties of county government not inconsistent with state law.

Sec. 3. NEW SECTION. 331.217 ALTERNATIVE FORMS OF COUNTY GOVERNMENT.
The alternative forms of county government are as follows:

1. Board of supervisor form as provided in division II.
2. Board-elected executive form as provided in section 331.225.
3. Board-manager form as provided in section 331.227.
4. Charter government form as provided in section 331.232.
5. City-county consolidated form as provided in section 331.233.
6. County-county consolidated form as provided in section 331.239.

Sec. 4. NEW SECTION. 331.218 PLAN FOR AN ALTERNATIVE FORM OF GOVERNMENT.

1. A charter to change a form of county government may be submitted to the electors of a county only by a commission established by resolution of the board upon petition of the number of eligible electors of the county equal to at least twenty-five percent of the votes cast in the county for the office of president of the United States or governor at the preceding general election or the signatures of at least ten thousand eligible electors of the county, whichever number is fewer.

2. An alternative form of county government shall be submitted to the county electorate by the commission in the form of a charter or charter amendment.

Sec. 5. NEW SECTION. 331.219 APPOINTMENT OF COMMISSION MEMBERS.

1. Within forty-five days after the adoption of the resolution creating the commission, the members of the commission shall be appointed as follows:

a. Two members shall be appointed by each of the following officers:

- (1) County auditor.
- (2) County recorder.
- (3) County treasurer.
- (4) County sheriff.
- (5) County attorney.

b. Two members shall be appointed by each member of the board.

c. Two members shall be appointed by each state representative whose legislative district is located in the county if a majority of the constituents of that legislative district resides in the county. However, if a county does not have a state representative's legislative district which has a majority of a state representative's constituency residing in the county, the state representative having the largest plurality of constituents residing in the county shall appoint two members.

2. The membership shall be bipartisan. In counties having multiple state legislative districts, the districts shall be represented as equally as possible. Only eligible electors of the county not holding a city, county, or state office shall be members of the commission. A vacancy on the commission shall be filled by appointment in the same manner as the original appointment. The county auditor shall notify the appropriate appointing authority of a vacancy.

Sec. 6. NEW SECTION. 331.220 ORGANIZATION AND EXPENSES.

1. Within thirty days after the appointment of the members of the commission, the county auditor shall give written notice of the date, time, and location of the first meeting of the commission. At the first meeting the commission shall organize by electing a chairperson, vice

chairperson, and other officers as necessary. The commission shall adopt rules governing the conduct of its meetings, subject to chapter 21.

2. The members of the commission shall serve without compensation, but they are entitled to travel and other necessary expenses relating to their duties of office.

3. The board shall provide office space, rooms, supplies, and equipment for the commission and shall pay the necessary expenses of the commission including compensation for secretarial, clerical, professional, and consultant services. The total expenses shall not exceed one hundred thousand dollars. The commission may employ staff as necessary.

4. The expenses of the commission may be paid from the general fund of the county or from any combination of public or private funds available for that purpose.

Sec. 7. NEW SECTION. 331.221 COMMISSION PROCEDURES AND REPORTS.

1. Within sixty days after its organization, the commission shall hold at least one public hearing for the purpose of receiving information and material which will assist in the drafting of a charter. Notice of the date, time, and place of the hearing shall be given as provided in chapter 21.

2. Within nine months after the organization of the commission, the commission shall submit a preliminary report to the board, which report may include the text of the proposed charter. If a proposed charter is included in the preliminary report, the report shall also include an analysis of the fiscal impact of the proposed charter. Sufficient copies of the report shall be made available for distribution to residents of the county who request a copy. The commission shall hold at least one public hearing after submission of the preliminary report to obtain public comment.

3. Within fifteen months after organization, the commission shall submit the final report to the board. If the commission recommends a charter including a form of government other than the existing form of government, the final report shall include the full text and an explanation of the proposed charter, an analysis of the fiscal impact of the proposed charter, any comments deemed desirable by the commission, a written opinion by the attorney general stating that the proposed charter is not in conflict with constitutional or statutory law, and any minority reports. The final report may recommend no change to the existing form of government and that no charter be submitted to the electorate. The final report shall be made available to the residents of the county upon request. A summary of the final report shall be published in the official newspaper of the county. If a charter is not recommended, the commission is dissolved upon submission of its final report to the board.

4. The commission is dissolved on the date of the general election at which the proposed charter is submitted to the electorate. If a charter is not recommended, the commission is dissolved upon submission of its final report to the board.

Sec. 8. NEW SECTION. 331.222 BALLOT REQUIREMENTS.

The existing form of government shall be printed as the first item on the ballot and the proposed alternative form following in the same order on all ballots.

1. The question of adopting the proposed alternative form of government shall be submitted to the electors in substantially the following form:

Vote for one:

_____ For (the existing form of government).

_____ For adoption of the (charter or amendment to the existing form of county government) proposed for (insert name of local government).

2. If an existing office is affected by the proposed alternative form of government, a separate vote for each affected office shall be included on the ballot. The separate vote on the affected office becomes effective only if the proposed alternative form of government is adopted.

_____ For election.

_____ For appointment.

3. If consolidation is proposed, the affected county or city shall be separately listed as provided in section 331.238 or 331.241 as appropriate.

Sec. 9. NEW SECTION. 331.223 REFERENDUM — EFFECTIVE DATE.

1. If a proposed charter for county government is received not later than sixty days before the next general election, the board shall direct the county commissioner of elections to submit to the qualified electors of the county at the next general election the question of whether the proposed charter shall be adopted. If a majority of the votes cast on the question is in favor of the proposal, the proposal is adopted.

2. If a proposed charter for county government is adopted:

a. The adopted charter shall take effect July 1 following the general election at which it is approved unless the charter provides a later effective date. If the adopted charter calls for a change in the form of government, a special election shall be called to elect the new elective officers. If the adopted charter provides for a special election, the board shall direct the county commissioner of elections to conduct the election.

b. The adoption of the alternative form of county government does not alter any right or liability of the county in effect at the time of the election at which the charter was adopted.

c. All departments and agencies shall continue to operate until replaced.

d. All ordinances or resolutions in effect remain effective until amended or repealed, unless they are irreconcilable with the adopted charter.

e. Upon the effective date of the adopted charter, the county shall adopt the alternative form by ordinance, and shall file a copy with the secretary of state, and maintain available copies for public inspection.

3. If a charter is submitted to the electorate, another charter shall not be submitted to the electorate for six years.

Sec. 10. NEW SECTION. 331.224 LIMITATIONS TO ALTERNATIVE FORMS OF COUNTY GOVERNMENT.

1. A county may adopt or amend an alternative form of county government subject to the requirements and limitations provided in this section.

2. An alternative form of county government shall provide for the exercise of home rule power and authority not inconsistent with state law and may include provisions for any of the following:

a. A board of an odd number of members which may exceed the number of members specified in sections 331.201, 331.203, and 331.204.

b. A supervisor representation plan for the county which may differ from the supervisor representation plans as provided in division II.

c. The initial compensation for members of the board which, thereafter, shall be determined as provided in section 331.215.

d. The method of selecting officers of the board and fixing their terms of office which may differ from the requirements of sections 331.208 through 331.211.

e. Determining meetings of the board and rules of procedure which may differ from the requirements of section 331.213, except the meetings shall be scheduled and conducted in compliance with chapter 21.

f. The combining of duties of elected county officials which may differ from the requirements of section 331.323.

g. The organization of county departments, agencies, or boards. The organization plan may provide for the abolition or consolidation of a board or a commission and the assumption of its powers and duties by the board of supervisors or another officer. This paragraph does not apply to the board of trustees of a county hospital.

h. In lieu of the election or appointment of township trustees, a method providing for the exercise of their powers and duties by the board of supervisors or other governing body of the county or another office.

i. Consolidating city-county government or government functions.

j. Consolidating county-county government or government functions.

k. A charter or charter amendment shall not contain a provision which relates to the method of conducting nominations or elections pursuant to chapters 43 and 49.

BOARD-ELECTED EXECUTIVE FORM

Sec. 11. NEW SECTION. 331.225 BOARD-ELECTED EXECUTIVE FORM.

The board-elected executive form consists of an elected board of an odd number with staggered terms of office and one elected executive whose term shall be the same as that of a member of the board. If the administrative offices of the county, excluding the county executive, are appointive under the plan, the board shall have at least five members. The board shall have a chairperson who shall be elected by the members of the board from their own number for a term established by ordinance, and who shall vote as a member of the board. The elected executive may veto ordinances and resolutions, subject to an override by a two-thirds vote of the board.

Sec. 12. NEW SECTION. 331.226 DUTIES OF EXECUTIVE.

The executive shall:

1. Enforce laws, ordinances, and resolutions of the county.
2. Perform duties required by law, ordinance, or resolution of the county.
3. Administer affairs of the county government.
4. Carry out policies established by the board.
5. Recommend measures to the board.
6. Report to the board on the affairs and financial condition of the county government.
7. Execute bonds, notes, contracts, and written obligations of the board, subject to the approval of the board.
8. Report to the board as the board may require.
9. Attend board meetings and take part in discussion, but shall not vote.
10. Prepare and execute the budget adopted by the board.
11. Appoint, with the consent of the board, all members of county boards, except the executive may appoint without the consent of the board temporary advisory committees established by the executive.
12. Appoint and remove all employees.

BOARD-MANAGER GOVERNMENT

Sec. 13. NEW SECTION. 331.227 BOARD-MANAGER FORM.

The board-manager form consists of an elected board and a manager appointed by the board, who shall be the chief administrative officer of the county government. The board shall have staggered terms of office. The chairperson shall be elected by the members of the board from their own number for a term established by ordinance and shall vote as a member of the board. If the administrative offices of the county are appointive under the plan, the board shall have at least five members.

The manager shall be appointed by the board and removed only by a majority vote of the membership of the board. The manager shall be responsible to the board for the administration of all county government affairs placed in the manager's charge by law, ordinance, or resolution.

Sec. 14. NEW SECTION. 331.228 DUTIES OF MANAGER.

The manager shall:

1. Enforce laws, ordinances, and resolutions.
2. Perform the duties required of the manager by law, ordinance, or resolution.
3. Administer the affairs of the county government.
4. Direct, supervise, and administer all departments, agencies, and offices of the county government unit except as otherwise provided by law or ordinance.
5. Carry out policies established by the board.
6. Prepare the board agenda.
7. Recommend measures to the board.
8. Report to the board on the affairs and financial condition of the county government.
9. Execute bonds, notes, contracts, and written obligations of the board, subject to the approval of the board.
10. Report to the board as the board may require.
11. Attend board meetings and take part in the discussion, but shall not vote.
12. Prepare and present the budget to the board for its approval and execute the budget adopted by the board.
13. Appoint, suspend, and remove all employees of the county government except as otherwise provided by law or ordinance.
14. Appoint members of temporary advisory committees.

Sec. 15. NEW SECTION. 331.229 EMPLOYEES OF BOARD-MANAGER GOVERNMENT.

1. Employees appointed by the manager or subordinates shall be administratively responsible to the manager.
2. The board or its members shall not dictate the appointment or removal of any employee appointed by the manager or any subordinate of the manager.
3. Except for the purpose of inquiry or investigation, the board or its members shall deal with the county employees who are subject to the direction and supervision of the manager solely through the manager, and the board or its members shall not give orders to an employee under the manager's direction or supervision.

AMENDMENT TO COUNTY GOVERNMENT

Sec. 16. NEW SECTION. 331.230 AMENDMENT TO COUNTY GOVERNMENT.

1. An amendment to county government organization shall only be made by submitting the question of amendment to the electors of the county government pursuant to section 331.222. To become effective, a proposed amendment must receive an affirmative vote of a majority of the electors voting on the question. An amendment approved by the electors becomes effective pursuant to section 331.223.
2. An amendment to a county government organization may be proposed by initiative upon petition of the number of eligible electors of the county equal to at least ten percent of the votes cast at the preceding election for the office of president of the United States or governor, or by resolution adopted by the governing body. The question on amendment of county government organization shall be submitted to the electors as soon as possible after the submission of a petition or adoption of a resolution, either at a general election or at a special election.

Sec. 17. NEW SECTION. 331.231 LIMITATIONS ON AMENDMENTS TO COUNTY GOVERNMENT.

The electors of a county who have adopted an amendment to county government may not vote on the question of amending the county government for two years. An amendment shall not include an alternative form of county government.

CHARTER FORM

Sec. 18. NEW SECTION. 331.232 CHARTER FORM OF GOVERNMENT.

The charter form of government shall be specified in a proposed charter written by a charter committee. The proposed charter shall establish an elected legislative body. The charter shall specify the number of members and term of office pursuant to section 331.224. If the administrative offices of the county, excluding an elected county executive, are appointive under the charter, the board shall have at least five members. The charter may establish legislative or administrative organizational structure. The charter may include the provisions necessary to permit an orderly transition to the charter form of government. However, the provisions shall be limited in scope consistent with the intent of, and in accordance with, section 331.224.

CITY-COUNTY CONSOLIDATION

Sec. 19. NEW SECTION. 331.233 CITY-COUNTY CONSOLIDATION FORM.

1. A county and one or more cities within the county may unite to form a single unit of local government in accordance with this part.

2. An alternative form of government, including a charter form, for a consolidated unit of government may be submitted to the voters only by a commission established under this chapter and one or more commissions established by the affected cities under section 372.9 that have cooperated in the formulation of the charter. A majority vote by each of the affected county charter commission and city charter commission is required for the submission of an alternative form of government for a consolidated unit of local government. The affected county charter commission and city charter commission submitting a consolidated form shall issue a single joint report and proposal.

3. An alternative form of government for a consolidated unit of local government does not need to include more than one city. A city shall not be included unless the charter commission of the affected city participates in the cooperative study, its commission by a majority vote approves the proposed charter for consolidated government, and a majority of the electors of the affected city voting approves the proposed charter for the consolidated government.

4. If an alternative form of government for a consolidated unit of local government is proposed, approval of the consolidation charter shall be a separate ballot issue from approval of the alternative form of government in those cities proposed to be included in the consolidation. The consolidation charter shall be effective in regard to a city government only if a majority of the voters of the city voting on the question voted for participation in the consolidation charter.

Sec. 20. NEW SECTION. 331.234 CHARTER OF CONSOLIDATION.

1. The affected county charter commission and city charter commission proposing consolidation shall prepare, adopt, and submit to the voters a consolidation charter including an alternative form of government.

2. The consolidation charter shall:

a. Provide for adjustment of existing bonded indebtedness and other obligations in a manner which will provide for a fair and equitable burden of taxation for debt service.

b. Provide for establishment of service areas.

c. Provide for the transfer or other disposition of property and other rights, claims, assets, and franchises of local governments consolidated under the alternative form.

d. Provide the official name of the consolidated unit of local government.

e. Provide for the transfer, reorganization, abolition, absorption, and adjustment of boundaries of all existing boards, bureaus, commissions, agencies, special districts, and political subdivisions of the consolidated government.

f. Include other provisions which the county charter commission and the city charter commission elect to include and which are not inconsistent with state law.

3. The charter may grant the legislative body of the consolidated government the authority to transfer, reorganize, and provide a method for adjusting the boundaries of the entities within the consolidated government.

Sec. 21. NEW SECTION. 331.235 EFFECT OF CONSOLIDATION.

1. As a political subdivision of the state, the consolidated unit of local government shall have the status of a county and a city for all purposes and shall replace and be the successor of the county and the affected city.

2. On its effective date, the alternative form of government and consolidation charter operate to dissolve county and city governments within the area of consolidation in accordance with its provisions. On the effective date, the separate corporate existence of the county and of each participating city shall be consolidated into one local government unit under the name selected, designated, and adopted. The consolidated local government shall succeed to, possess, and own all of the property and assets of every kind and description and shall, except as otherwise provided, become responsible for all the obligations and liabilities of the county and cities so consolidated.

3. All provisions of law authorizing contributions of any kind, in money or otherwise, from the state or federal government to counties and cities shall remain in full force with respect to a consolidated local government.

Sec. 22. NEW SECTION. 331.236 GENERAL POWERS OF CONSOLIDATED LOCAL GOVERNMENTS.

A consolidated local government shall have and may exercise all powers that are conferred on counties and cities by the constitution and laws of the state. The consolidated local government may levy all taxes which counties and cities are authorized to levy except that city taxes shall be levied only within areas of the consolidated local government designated as urban service areas.

Sec. 23. NEW SECTION. 331.237 RULES, ORDINANCES, AND RESOLUTIONS OF CONSOLIDATED UNIT.

Within two years after ratification of the consolidation, the governing body of the consolidated unit of local government shall revise, repeal, or reaffirm all rules, ordinances, and resolutions in force within the participating county and cities at the time of consolidation. Each rule, ordinance, or resolution in force at the time of consolidation shall remain in force within the former geographic jurisdiction until superseded by action of the new governing body. Ordinances and resolutions relating to public improvements to be paid for in whole or in part by special assessments shall remain in effect until paid in full.

Sec. 24. NEW SECTION. 331.238 FORM OF BALLOT.

Pursuant to section 331.222, the question of county-city consolidation shall be submitted to the electors in substantially the following form:

_____ For (the existing forms of government).

_____ For the consolidation of the corporate existence and governments of the county of _____ and the cities of _____ and _____ into one joint county-municipal corporation government.

If section 331.233, subsection 4, applies, the following question shall be placed on the ballot of each participating city:

- _____ For participating in the consolidation charter.
 _____ Against participating in the consolidation charter.

COUNTY-COUNTY CONSOLIDATION

Sec. 25. NEW SECTION. 331.239 REQUIREMENTS FOR COUNTY-COUNTY GOVERNMENT CONSOLIDATION.

1. Consolidation may be placed on the ballot only by a joint report by contiguous counties.
2. A final report must contain a consolidation charter if county-county consolidation is recommended. The consolidation charter must conform to the provisions and requirements in accordance with this part.

Sec. 26. NEW SECTION. 331.240 CHARTER OF CONSOLIDATION.

When county consolidation is recommended, a petition must contain a consolidation charter which provides for:

1. Adjustment of existing bonded indebtedness and other obligations in a manner which assures a fair and equitable burden of taxation for debt service.
2. Establishment of subordinate service districts.
3. The transfer or other disposition of property and other rights, claims, assets, and franchises of the counties consolidated under the charter.
4. The official name of the consolidated county.
5. The transfer, reorganization, abolition, adjustment of boundaries, or absorption of existing boards, subordinate service districts, local improvement districts, and agencies of the consolidated counties.

The consolidation charter may include other provisions that are not inconsistent with state law.

Sec. 27. NEW SECTION. 331.241 FORM OF BALLOT.

Pursuant to section 331.222, the question of county-county consolidation shall be submitted to the electors in substantially the following form:

- _____ For (the existing forms of government).
 _____ For the consolidation of the corporate existence and governments of the county of _____ and the county of _____ into one county corporation and government.

Sec. 28. CODIFICATION. The Code editor shall codify new sections 331.217 through 331.241 as a new part or parts of division II of chapter 331.

Approved May 12, 1988

CHAPTER 1230**GOVERNMENTAL COMPETITION WITH AND PURCHASING
FROM PRIVATE ENTERPRISE***H.F. 529*

AN ACT relating to governmental competition with and purchase of goods and services from private enterprise.

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

Section 1. NEW SECTION. 23A.1 DEFINITIONS.

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

1. "Political subdivision" means a city, county, or school corporation.
2. "Private enterprise" means an individual, firm, partnership, joint venture, corporation, association, or other legal entity engaging in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or advertising of goods or services for profit.
3. "State agency" includes a state department, board, commission, or other unit of state government regardless of whether moneys are appropriated to the agency.

Sec. 2. NEW SECTION. 23A.2 STATE AGENCIES AND POLITICAL SUBDIVISIONS NOT TO COMPETE WITH PRIVATE ENTERPRISE.

1. A state agency or political subdivision shall not, unless specifically authorized by statute, rule, ordinance, or regulation:

a. Engage in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or advertising of goods or services to the public which are also offered by private enterprise unless such goods or services are for use or consumption exclusively by the state agency or political subdivision.

b. Offer or provide goods or services to the public for or through another state agency or political subdivision, by intergovernmental agreement or otherwise, in violation of this chapter.

2. The state board of regents or a school corporation may, by rule, provide for exemption from the application of this chapter for the following activities:

a. Goods and services that are directly and reasonably related to the educational mission of an institution or school.

b. Goods and services offered only to students, employees, or guests of the institution or school and which cannot be provided by private enterprise at the same or lower cost.

c. Use of vehicles owned by the institution or school for charter trips offered to the public, full or part-time, or temporary students.

d. Durable medical equipment or devices sold or leased for use off premises of an institution, school or University of Iowa hospitals or clinics.

e. Goods or services which are not otherwise available in the quantity or quality required by the institution or school.

f. Telecommunications other than radio or television stations.

g. Sponsoring or providing facilities for fitness and recreation.

h. Food service and sales.

i. Sale of books, records, tapes, software, educational equipment, and supplies.

3. After the effective date of this Act, before a state agency is permitted to continue to engage in an existing practice specified in subsection 1, that state agency must prepare for public examination documentation showing that the state agency can provide the goods or services at a competitive price. The documentation required by this subsection shall be in accordance with that required by generally accepted accounting principles.

4. If a state agency is authorized by statute to compete with private enterprise, or seeks to gain authorization to compete, the state agency shall prepare for public inspection documentation of all actual costs of the project as required by generally accepted accounting principles.

5. Subsections 1 and 3 do not apply to activities of community action agencies under community action programs, as both are defined in section 601K.91.

6. The director of the department of corrections, with the advice of the state prison industries advisory board, may, by rule, provide for exemptions from this chapter.

7. However, this chapter shall not be construed to impair cooperative agreements between Iowa state industries and private enterprise.

8. The director of the department of corrections, with the advice of the board of corrections, may by rule, provide for exemption from this chapter for vocational-educational programs and farm operations of the department.

9. The state department of transportation may, in accordance with chapter 17A, provide for exemption from the application of subsection 1 for the activities related to highway maintenance, highway design and construction, publication and distribution of transportation maps, state aircraft pool operations, inventory sales to other state agencies and political subdivisions, equipment management and disposal, vehicle maintenance and repair services for other state agencies, and other similar essential operations.

10. This chapter does not apply to any of the following:

a. The operation of a city enterprise, as defined in section 384.24, subsection 2.

b. The performance of an activity that is an essential corporate purpose of a city, as defined in section 384.24, subsection 3, or which carries out the essential corporate purpose, or which is a general corporate purpose of a city as defined in section 384.24, subsection 4, or which carries out the general corporate purposes.

c. The operation of a city utility, as defined by section 390.1, subsection 2.

d. The performance of an activity by a city that is intended to assist in economic development or tourism.

e. The operation of a county enterprise, as defined in section 331.461, subsection 1, or 331.461, subsection 2.

f. The performance of an activity that is an essential county purpose, as defined in section 331.441, subsection 2, or which carries out the essential county purpose, or which is a general county purpose as defined in section 331.441, subsection 2, or which carries out the general county purpose.

g. The performance of an activity listed as a duty relating to a county service in section 331.381.

h. The performance of an activity listed in section 331.424, as a service for which a supplemental levy may be certified.

i. The performance of an activity by a county that is intended to assist in economic development or tourism.

j. The operation of a public transit system, as defined in chapter 601J, except that charter services, outside of a public transit system's normal service area, shall be conducted in Iowa intrastate commerce under the same conditions, restrictions, and obligations as those contained in 49 C.F.R., Part 604. For purposes of this chapter, the definition and conduct of charter services shall be the same as those contained in 49 C.F.R., Part 604.

k. The following on-campus activities of an institution or school under the control of the state board of regents or a school corporation:

(1) Residence halls.

(2) Student transportation, except as specifically listed in subsection 2, paragraph "c".

(3) Overnight accommodations for participants in programs of the institution or school, visitors to the institution or school, parents, and alumni.

(4) Sponsoring or providing facilities for cultural and athletic events.

- (5) Items displaying the emblem, mascot, or logo of the institution or school, or that otherwise promotes the identity of the institution or school and its programs.
- (6) Souvenirs and programs relating to events sponsored by or at the institution or school.
- (7) Radio and television stations.
- (8) Services to patients and visitors at the University of Iowa hospitals and clinics, except as specifically listed in subsection 2, paragraph "d".
- (9) Goods, products, or professional services which are produced, created, or sold incidental to the schools' teaching, research, and extension missions.
- (10) Services to the public at the Iowa State University college of veterinary medicine.

Sec. 3. NEW SECTION. 23A.3 LOCAL PURCHASES.

A city, county, area education agency, or school district shall adopt a policy for purchasing goods or services from private enterprise which requires consideration of purchasing these goods or services from a locally owned business located within the city, county, area education agency, or school district which offers these goods or services if the cost and other considerations are relatively equal. Nothing in this section shall be construed to prevent or prohibit the giving of a preference to businesses owned or operated by minorities or females as may be provided in any other provision of law.

Sec. 4. NEW SECTION. RELIEF FOR AGGRIEVED PERSONS.

Any aggrieved person may, after pursuing remedies offered by chapter 17A, seek injunctive relief for violations of this chapter by filing an action in the district court for the county in which the aggrieved business is located.

A state agency or political subdivision found to be in violation of this chapter shall be assessed and shall pay to the aggrieved person fees and other expenses, as defined in section 625.28.

Chapter 17A and this section are the exclusive remedy for violations of this chapter. However, the office of the citizens' aide may review violations of this chapter and make recommendations as provided in chapter 601G.

Sec. 5. NEW SECTION. 246.815 SALE OF PRODUCTS.

1. Iowa state industries may produce and sell products to any tax-supported institution or governmental subdivision in any level of government which includes the state, county, city, or school corporation. Iowa state industries may sell products to employees of those entities.

2. Iowa state industries may sell products to nonprofit organizations including parochial schools, churches, or fraternal organizations.

3. Iowa state industries may sell products to nonprofit health care facilities serving Medicaid or social security patients.

Approved May 12, 1988

CHAPTER 1231

AIDS HOME TESTING

H.F. 2106

AN ACT prohibiting the advertisement or sale in this state of home testing kits for human immunodeficiency virus antibody or antigen testing, and providing penalties.

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

Section 1. NEW SECTION. 203A.21 HUMAN IMMUNODEFICIENCY VIRUS HOME TESTING KITS — PROHIBITION.

1. A person shall not advertise for sale, offer for sale, or sell in this state a home testing kit for human immunodeficiency virus antibody or antigen testing.

2. A person who violates this section is guilty of a class "D" felony.

3. The board may seek relief pursuant to section 203A.4 restraining any person from violating the provisions of this section. In addition to granting a temporary or permanent injunction, the court may impose a civil penalty not to exceed forty thousand dollars per violation of this section.

4. In addition to other remedies provided for in this chapter, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under authority of this section.

5. The board may refer available evidence concerning a possible violation of this section to the attorney general. The attorney general, with or without such a referral, may institute appropriate criminal proceedings or may refer the case to the appropriate county attorney.

6. This section does not apply to a newspaper or other print medium in which the advertisement appears, or to a broadcast station or other electronic medium which disseminates the advertisement unless the medium knowingly violates this section. A person who sells home testing kits for human immunodeficiency virus antibody or antigen testing shall not cause advertising of the kits to appear in this state from a location outside this state where such advertising is not prohibited without prominently indicating in the advertisement that the sale of the kits is void in this state.

Approved May 12, 1988

CHAPTER 1232

PRESCRIPTION DRUG DISPENSING

H.F. 2113

AN ACT relating to the dispensing of prescription drugs.

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

Section 1. Section 147.107, subsection 2, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A physician, dentist, or podiatrist who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall annually register the fact that they dispense prescription drugs with the practitioner's respective examining board.

NEW UNNUMBERED PARAGRAPH. A physician, dentist, or podiatrist who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall offer to provide the patient with a written prescription that may be dispensed from a pharmacy of the patient's choice or offer to transmit the prescription to a pharmacy of the patient's choice.

Sec. 2. Section 155A.3, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. "Drug sample" means a drug that is distributed without consideration to a pharmacist or practitioner.

Sec. 3. **NEW SECTION. 155A.38 DISPENSING DRUG SAMPLES.**

A person authorized pursuant to this chapter to dispense shall, when dispensing drug samples, do so without additional charge to the patient.

Approved May 12, 1988

CHAPTER 1233**FOSTER CARE REVIEW***H.F. 2170*

AN ACT relating to foster care review, providing for the continued existence of the state and local foster care review boards, providing for the establishment of local foster care review boards throughout the state, providing for review in cases of children involuntarily hospitalized for mental illness, revising provisions relating to confidentiality and access to certain information, providing additional requirements for case permanency plans, providing other procedural revisions, and providing properly related matters.

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

Section 1. Section 237.15, subsection 3, Code 1987, is amended to read as follows:

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, or who has been involuntarily hospitalized for mental illness pursuant to chapter 229.~~

Sec. 2. Section 237.15, subsection 6, Code 1987, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. The efforts to place the child with a relative.

NEW PARAGRAPH. f. The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out-of-state.

NEW PARAGRAPH. g. Time frames to meet the stated permanency goal and short-term objectives.

Sec. 3. Section 237.16, unnumbered paragraphs 2 and 3, Code 1987, are amended to read as follows:

The members of the state board shall annually select a chairperson, vice chairperson, and other officers the members deem necessary. The members are entitled to receive reimbursement for actual and necessary expenses incurred in the performance of their duties. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. The state board shall meet at least twice a year.

An employee of the department or of the department of inspections and appeals, 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. 4. Section 237.17, Code 1987, is amended to read as follows:

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~~ five 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 or two days after the dispositional hearing 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. 5. Section 237.18, subsection 2, paragraph a, Code 1987, is amended to read as follows:

a. Establish a central recordkeeping facility system for the files of local review boards including individual case reviews.

Sec. 6. Section 237.18, subsection 2, paragraph b, subparagraph (4), Code 1987, is amended by striking the subparagraph.

Sec. 7. Section 237.18, subsection 3, Code 1987, is amended to read as follows:

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.

Sec. 8. Section 237.18, unnumbered paragraph 2, Code 1987, is amended to read as follows:

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, identification of systemic problems in the foster care and the juvenile justice systems, specific proposals for improvements that assist the systems in being more cost-effective and better able to protect the best interests of children, and necessary changes relating to the data collected and the annual report made under subsection 2, paragraph "b".

Sec. 9. Section 237.19, subsection 1, Code 1987, is amended to read as follows:

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 as local 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 department of inspections and appeals, 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.

Sec. 10. Section 237.20, subsection 1, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The review shall include issues pertaining to the permanency plan and shall not include issues that do not pertain to the permanency plan. 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. Local board questions shall pertain to the permanency plan and shall not include issues that do not pertain to the permanency plan.

Sec. 11. Section 237.20, subsection 1, Code 1987, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 3:

NEW UNNUMBERED PARAGRAPH. A person who gives oral testimony has the right to representation by counsel at the review.

Sec. 12. Section 237.20, subsection 1, unnumbered paragraph 5, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 13. Section 237.20, subsection 2, Code 1987, is amended to read as follows:

2. Submit to the appropriate court within ~~ten~~ fifteen days after the review under subsection 1, the findings and recommendations of the review. The report to the court shall include information regarding the permanency plan and the progress in attaining the permanency goals. The report shall not include issues that do not pertain to the permanency plan. 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.

Sec. 14. Section 237.20, subsection 4, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The notice shall include a statement that the person notified has the right to representation by counsel at the review.

Sec. 15. Section 237.20, subsection 4, paragraphs d and e, Code 1987, are amended to read as follows:

d. The child receiving foster care if the child is fourteen years of age or older. The child shall be informed of the review's purpose and procedure, and of the right to have a guardian ad litem present.

e. The guardian ad litem of the foster child. The guardian ad litem shall be eligible for compensation through section 232.141, subsection 1, paragraph "b".

Sec. 16. Section 237.21, subsection 2, Code Supplement 1987, is amended to read as follows:

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. If confidential information and records are distributed to individual members in advance of a meeting of the state board or a local board, the information and records shall be clearly identified as confidential and the members shall take appropriate steps to prevent unauthorized disclosure.

Sec. 17. Section 237.21, subsection 3, Code Supplement 1987, is amended to read as follows:

3. Members of the state board and local boards and the employees of the department and the department of inspections and appeals are subject to standards of confidentiality pursuant to sections 217.30, 228.6, subsection 1, 235A.15, and 600.16. Members of the state and local boards and employees of the department and the department of inspections and appeals who disclose information or records of the board or department, other than as provided in subsection 2, are guilty of a simple misdemeanor.

Sec. 18. Section 237.22, Code 1987, is amended by adding the following new subsection after subsection 1, and renumbering the subsequent subsections:

NEW SUBSECTION. 2. Time frames to meet the stated permanency goal and short-term objectives;

Sec. 19. Section 237.22, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The efforts to place the child with a relative.

NEW SUBSECTION. 7. The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out-of-state.

Sec. 20. 1984 Iowa Acts, chapter 1279, section 44, is amended to read as follows:

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. 21. TIME SCHEDULE FOR ADDITIONAL LOCAL BOARDS. The state foster care review board, in establishing local foster care review boards throughout the state as required by this Act, shall establish local boards in additional judicial districts as moneys become available for that purpose.

Approved May 12, 1988

CHAPTER 1234

AIDS TESTING

H.F. 2294

AN ACT relating to testing for and confidentiality of human immunodeficiency virus-related matters and providing penalties.

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

Section 1. **NEW SECTION. 135I.1 DEFINITIONS.**

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

1. "AIDS" means acquired immune deficiency syndrome as defined by the centers for disease control of the United States department of health and human services.
2. "ARC" means an AIDS-related complex as defined by the centers for disease control of the United States department of health and human services.
3. "Department" means the Iowa department of public health.
4. "Health care provider" means a person providing health care services of any kind.
5. "Health facility" means a hospital, health care facility, clinic, blood bank, blood center, sperm bank, laboratory organ transplant centers and procurement agencies, or other health care institution.
6. "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.
7. "HIV-related test" means a test for the antibody or antigen to HIV.
8. "Legal guardian" means a person appointed by a court pursuant to chapter 633. In the case of a minor, "legal guardian" also means a parent or other person responsible for the care of the minor.
9. "Release of test results" means a written authorization for disclosure of HIV-related test results which is signed and dated, and which specifies to whom disclosure is authorized and the time period during which the release is to be effective.

Sec. 2. **NEW SECTION. 135I.2 TESTING.**

1. Prior to withdrawing blood for the purpose of performing an HIV-related test, the subject of the test or the subject's legal guardian, except when the provisions of section 135I.2, subsection 6, apply, shall be provided with preliminary counseling which shall include but is not limited to the following:

- a. An explanation of the test, including the test's purposes, potential uses, limitations, and the meaning of both positive and negative results.
- b. An explanation of the nature of AIDS and ARC, including the relationship between the test results and the diseases.

c. An explanation of the procedures to be followed, including the fact that the test is entirely voluntary and can be performed anonymously if requested.

d. Information concerning behavioral patterns known to expose a person to the possibility of contracting AIDS and methods for minimizing the risk of exposure.

2. A person seeking an HIV-related test shall have the right to remain anonymous. A health care provider shall provide for the anonymous administration of the test at the subject's request or shall confidentially refer the subject to a site which provides anonymous testing.

3. At any time that a subject is informed of test results, counseling concerning the emotional and physical health effects shall be initiated. Particular attention shall be given to explaining the need for the precautions necessary to avoid transmitting the virus. The subject shall be given information concerning additional counseling. Any additional testing that is advisable shall be explained to the subject and arrangements for the testing shall be made.

4. Prior to withdrawing blood for the purpose of performing an HIV-related test, the subject shall be given written notice of the provisions of this section.

5. Notwithstanding subsections 1 through 4, the provisions of this section do not apply to any of the following:

a. The performance by a health care provider or health facility of an HIV-related test when the health care provider or health facility procures, processes, distributes, or uses a human body part donated for a purpose specified under the Uniform Anatomical Gift Act, or semen provided prior to July 1, 1988, for the purpose of artificial insemination, or donations of blood, and such test is necessary to assure medical acceptability of such gift or semen for the purposes intended.

b. The performance of an HIV-related test by licensed medical personnel in medical emergencies when the subject of the test is unable to grant or withhold consent, and the test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment, except that posttest counseling shall be required.

c. A person engaged in the business of insurance who is subject to section 505.16.

6. A person may apply for voluntary treatment, contraceptive services, or screening or treatment for AIDS and other sexually transmitted diseases, directly to a licensed physician and surgeon, an osteopathic physician and surgeon, or a family planning clinic. Notwithstanding any other provision of law, if the person seeking the treatment is a minor who has personally made application for services, screening, or treatment, the fact that the minor sought services or is receiving services, screening, or treatment shall not be reported or disclosed, except for statistical purposes. Notwithstanding any other provision of law, however, the minor shall be informed prior to testing that upon confirmation according to prevailing medical technology of a positive test result the minor's legal guardian is required to be informed by the testing facility. Testing facilities where minors are tested shall have available a program to assist minors and legal guardians with the notification process which emphasizes the need for family support and assists in making available the resources necessary to accomplish that goal. However, a testing facility which is precluded by federal statute, regulation, or center for disease control guidelines, from informing the legal guardian is exempt from the notification requirement, but not from the requirement for an assistance program. The minor shall give written consent to these procedures and to receive the services, screening, or treatment. Such consent is not subject to later disaffirmance by reason of minority.

Sec. 3. NEW SECTION. 135I.3 CONFIDENTIALITY OF RECORDS.

1. A person possessing information regulated by this chapter shall not disclose the identity of any other person upon whom an HIV-related test is performed or the results of such a test in a manner which would permit identification of another person and a person shall not be compelled to disclose the identity of any person upon whom an HIV-related test is performed,

or the results of the test in a manner which permits identification of the subject of the test, except to any of the following persons:

a. The subject of the test or the subject's legal guardian subject to the provisions of section 135I.2, subsection 6, when applicable.

b. Any person who secures a written release of test results executed by the subject of the test or the subject's legal guardian.

c. An authorized agent or employee of a health facility or health care provider if the health facility or health care provider ordered or participated in the testing or is otherwise authorized to obtain the test results, the agent or employee provides patient care or handles or processes specimens of body fluids or tissues, and the agent or employee has a medical need to know such information.

d. Licensed medical personnel providing care to the subject of the test, when knowledge of the test results is necessary to provide care or treatment.

e. The department in accordance with reporting requirements for an HIV-related condition.

f. A health facility or health care provider which procures, processes, distributes, or uses a human body part from a deceased person with respect to medical information regarding that person, or semen provided prior to July 1, 1988, for the purpose of artificial insemination.

g. A person allowed access to a record by a court order which is issued in compliance with the following provisions:

(1) There is a court finding that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure due to its deterrent effect on future testing or due to its effect in leading to discrimination.

(2) Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court.

(3) Before granting an order, the court shall provide the person whose test results are in question with notice and a reasonable opportunity to participate in the proceedings if the person is not already a party.

(4) Court proceedings as to disclosure of test results shall be conducted in camera unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(5) Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may gain access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

h. An employer, if the test is authorized to be required under any other provision of law.

2. A person to whom the results of an HIV-related test have been disclosed pursuant to subsection 1 shall not disclose the test results to another person except as authorized by subsection 1, or by a court order issued pursuant to subsection 1.

3. If disclosure is made pursuant to this section, the disclosure shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of the information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. A general authorization for the release of medical or other information is not sufficient for this purpose." An oral disclosure shall be accompanied or followed by such a notice within ten days.

Sec. 4. NEW SECTION. 135I.4 REMEDIES AND PENALTIES.

1. A person who violates a provision of section 135I.2 or 135I.3, is subject to a civil penalty not to exceed one thousand dollars for each violation. Civil penalties collected pursuant to this subsection shall be forwarded to the treasurer of the state for deposit in the general fund of the state.

2. A person aggrieved by a violation of this chapter shall have a right of action for damages in district court.

3. An action under this chapter is barred unless the action is commenced within two years after the cause of action accrues.

4. The attorney general may maintain a civil action to enforce this chapter.

5. This chapter does not limit the rights of the subject of an HIV-related test to recover damages or other relief under any other applicable law.

6. This chapter shall not be construed to impose civil liability or criminal sanction for disclosure of HIV-related test results in accordance with any reporting requirement for a diagnosed case of AIDS or a related condition by the department or the centers for disease control of the United States public health service.

Sec. 5. NEW SECTION. 135I.5 RULES ADOPTED.

The department shall adopt rules pursuant to chapter 17A to implement and enforce this chapter. The rules may include procedures for taking appropriate action with regard to health facilities or health care providers which violate this chapter or the rules adopted pursuant to this chapter.

The department shall adopt rules pursuant to chapter 17A which require that if a health care provider attending a person prior to the person's death determines that the person suffered from or was suspected of suffering from a contagious or infectious disease, the health care provider shall place with the remains written notification of the condition for the information of any person handling the body of the deceased person subsequent to the person's death.

The department, in cooperation with the department of public safety, and persons who represent those who attend dead bodies shall establish for all emergency medical providers including paramedics, ambulance personnel, physicians, nurses, hospital personnel, first responders, peace officers, or firefighters, who provide emergency care services to a person, and shall establish for all persons who attend dead bodies, protocol, and procedures for the use of universal precautions to prevent the transmission of contagious and infectious diseases.

Sec. 6. NEW SECTION. 246.515 HUMAN IMMUNODEFICIENCY VIRUS-RELATED MATTERS — EXEMPTION.

The provision of chapters 135H and 135I relating to knowledge and consent do not apply to persons committed to the custody of the department. The department may provide for medically acceptable procedures to inform employees, visitors, and persons committed to the department of possible infection and to protect them from possible infection.

Sec. 7. NEW SECTION. 505.16 APPLICATIONS FOR INSURANCE — TEST RESTRICTIONS — DUTIES OF COMMISSIONER.

1. A person engaged in the business of insurance shall not require a test of an individual in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the individual provides a written release on a form approved by the insurance commissioner. The form shall include information regarding the purpose, content, use, and meaning of the test, disclosure of test results including information explaining the effect of releasing the information to a person engaged in the business of insurance, the purpose of which the test results may be used, and other information approved by the insurance commissioner. The form shall also authorize the person performing the test to provide

the results of the test to the insurance company subject to rules of confidentiality, consistent with section 135L.3, approved by the insurance commissioner. As used in this section, "a person engaged in the business of insurance" includes hospital service corporations organized under chapter 514 and health maintenance organizations subject to chapter 514B.

2. The insurance commissioner shall approve rules for carrying out this section including rules relating to the preparation of information to be provided before and after a test and the protection of confidentiality of personal and medical records of insurance applicants and policyholders.

Sec. 8. The Code editor shall, as appropriate, codify the provisions of this Act, with the exception of section 7 of this Act, and Senate File 2157 and other appropriate Acts approved by the general assembly into one chapter relating to acquired immune deficiency syndrome and shall provide appropriate divisions within that chapter.

Sec. 9. Section 135C.23, subsection 2, Code Supplement 1987, is amended to read as follows:

2. A health care facility shall not knowingly admit or retain a resident:

- a. Who is dangerous to the resident or other residents.
- b. Who is in an acute stage of alcoholism, drug addiction, or mental illness, ~~or an active state of communicable disease.~~
- c. Whose condition or conduct is such that the resident would be unduly disturbing to other residents.
- d. Who is in need of medical procedures, as determined by a physician, or services which cannot be or are not being carried out in the facility.

This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an intermediate care facility, skilled nursing facility, or county care facility when the intermediate care facility, skilled nursing facility, or county care facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility, skilled nursing facility, or county care facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility, skilled nursing facility, or county care facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and mental retardation commission, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities, skilled nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

The denial of admission of a person to a health care facility shall not be based upon the patient's condition, which is the existence of a specific disease in the patient, but the decision to accept or deny admission of a patient with a specific disease shall be based solely upon the ability of the health care facility to provide the level of care required by the patient.

Approved May 12, 1988

CHAPTER 1235**STATE EMPLOYEE GRIEVANCES AND DISCIPLINE***H.F. 2339*

AN ACT relating to grievances and discipline resolution for certain employees of the state.

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

Section 1. Section 19A.14, Code Supplement 1987, is amended by striking the section and inserting in lieu thereof the following:

19A.14 GRIEVANCES AND DISCIPLINE RESOLUTION.

1. **GRIEVANCES.** An employee, except an employee covered by a collective bargaining agreement which provides otherwise, who has exhausted the available agency steps in the uniform grievance procedure provided for in the department of personnel rules may, within seven calendar days following the date a decision was received or should have been received at the second step of the grievance procedure, file the grievance at the third step with the director. The director shall respond within thirty calendar days following receipt of the third step grievance.

If not satisfied, the employee may, within thirty calendar days following the director's response, file an appeal with the public employment relations board. The hearing shall be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act. Decisions rendered shall be based upon a standard of substantial compliance with this chapter and the rules of the department of personnel. Decisions by the public employment relations board constitute final agency action.

For purposes of this subsection, "uniform grievance procedure" does not include procedures for discipline and discharge.

2. **DISCIPLINE RESOLUTION.** A merit system employee, except an employee covered by a collective bargaining agreement, who is discharged, suspended, demoted, or otherwise reduced in pay, except during the employee's probationary period, may bypass steps one and two of the grievance procedure and appeal the disciplinary action to the director within seven calendar days following the effective date of the action. The director shall respond within thirty calendar days following receipt of the appeal.

If not satisfied, the employee may, within thirty calendar days following the director's response, file an appeal with the public employment relations board. The employee has the right to a hearing closed to the public, unless a public hearing is requested by the employee. The hearing shall otherwise be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act. If the public employment relations board finds that the action taken by the appointing authority was for political, religious, racial, national origin, sex, age, or other reasons not constituting just cause, the employee may be reinstated without loss of pay or benefits for the elapsed period, or the public employment relations board may provide other appropriate remedies. Decisions by the public employment relations board constitute final agency action.

Sec. 2. Section 80.15, Code 1987, is amended to read as follows:

80.15 EXAMINATION — OATH — PROBATION — DISMISSAL.

An applicant for membership in the department of public safety, except clerical workers and special agents appointed under section 80.7, shall not be appointed as a member until the applicant has passed a satisfactory physical and mental examination. In addition, the applicant must be a citizen of the United States, of good moral character, and be not less than twenty-two years of age. The mental examination shall be conducted under the direction or supervision of the director of public safety and may be oral or written or both. Each applicant shall take an oath on becoming a member of the force, to uphold the laws and Constitution of the

United States and of the state of Iowa. During the period of twelve months after appointment, any member of the department of public safety, except members of the present Iowa highway safety patrol who have served more than six months, is subject to dismissal at the will of the director. After the twelve months' service, a member of the department, who was appointed after having passed the examinations, is not subject to dismissal, suspension, disciplinary demotion, or other disciplinary action resulting in the loss of pay unless charges have been filed with the department of inspections and appeals and a hearing held by the employment appeal board created by section 10A.601, if requested by the member, at which the member has an opportunity to present a defense to the charges. The decision of the appeal board is final, subject to the right of judicial review in accordance with the terms of the Iowa administrative procedure Act. However, these procedures as to dismissal, suspension, demotion, or other discipline do not apply to a member who is covered by a collective bargaining agreement which provides otherwise nor to the demotion of a division head to the rank which the division head held at the time of appointment as division head, if any. A division head who is demoted has the right to return to the rank which the division head held at the time of appointment as division head, if any. All rules, except employment provisions negotiated pursuant to chapter 20, regarding the enlistment, appointment, and employment affecting the personnel of the department shall be established by the director in consultation with the director of the department of personnel, subject to approval by the governor.

Approved May 12, 1988

CHAPTER 1236

CIVIL RIGHTS OF PERSONS WITH AIDS

H.F. 2344

AN ACT relating to the civil rights of persons with a condition relating to acquired immune deficiency syndrome, by prohibiting the testing, with respect to the employment of persons, for a condition related to acquired immune deficiency syndrome, and by making remedial provisions of the civil rights law applicable and amending the definition of disability.

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

Section 1. Section 601A.2, subsection 11, Code 1987, is amended to read as follows:

11. "Disability" means the physical or mental condition of a person which constitutes a substantial handicap, and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome-related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test result in the meaning of "disability" under the provisions of this chapter does not preclude the application of the provisions of this chapter to conditions resulting from other contagious or infectious diseases. In reference to employment, under this chapter, "disability" also means the physical or mental condition of a person which constitutes a substantial handicap, but is unrelated to such person's ability to engage in a particular occupation.

Sec. 2. Section 601A.6, subsection 1, Code Supplement 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Person to solicit or require as a condition of employment of any employee or prospective employee a test for the presence of the antibody to the human

immunodeficiency virus or to affect the terms, conditions, or privileges of employment or terminate the employment of any employee solely as a result of the employee obtaining a test for the presence of the antibody to the human immunodeficiency virus. An agreement between an employer, employment agency, labor organization, or their employees, agents, or members and an employee or prospective employee concerning employment, pay, or benefits to an employee or prospective employee in return for taking a test for the presence of the antibody to the human immunodeficiency virus, is prohibited. The prohibitions of this paragraph do not apply if the state epidemiologist determines and the director of public health declares through the utilization of guidelines established by the center for disease control of the United States department of health and human services, that a person with a condition related to acquired immune deficiency syndrome poses a significant risk of transmission of the human immunodeficiency virus to other persons in a specific occupation.

Approved May 12, 1988

CHAPTER 1237

RADON TESTING AND REPORTING

H.F. 2354

AN ACT relating to radon testing and providing a penalty.

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

Section 1. NEW SECTION. 136E.1 RADON TESTING PROGRAM.

1. As used in this chapter, unless the context otherwise requires, "department" means the Iowa department of public health.
2. The department shall establish a program and adopt rules for the certification of persons who test for the presence of radon gas and radon progeny in building.
3. Following the establishment of the certification program by the department, a person who is not certified, as appropriate, shall not test for the presence of radon gas and radon progeny. This section does not apply to a person performing the testing on a building which the person owns, or to a person performing testing without compensation.
4. For the purposes of this section, radon abatement systems shall be classified as mechanical ventilation systems.

Sec. 2. NEW SECTION. 136E.2 RADON TESTING INFORMATION.

1. A person shall not disclose to any other person, except to the department, the address or owner of a nonpublic building that the person tested for the presence of radon gas and radon progeny, unless the owner of the building waives, in writing, this right of confidentiality. Any test results disclosed shall be results of a test performed within the five years prior to the date of the disclosure.

Notwithstanding the requirements of this section, disclosure to any person of the results of a test performed on a nonpublic building for the presence of radon gas and radon progeny is not required if the results do not exceed the currently established United States environmental protection agency action guidelines.

A person who tests a nonpublic building which the person owns is not required to disclose to any person the results of a test for the presence of radon gas or progeny if the test is performed by the person who owns the nonpublic building.

2. A person certified pursuant to section 136E.1 shall, within thirty days of the provision of any radon testing services or at the request of the department prior to testing, disclose

to the department the address or location of the building, the name of the owner of the building where the services were or will be provided, and the results of any tests performed.

Sec. 3. NEW SECTION. 136E.3 TESTING AND REPORTING OF RADON LEVEL.

The department shall from time to time perform inspections and testing of the premises of a property to determine the level at which it is contaminated with radon gas or radon progeny as a spot-check of the validity of measurements performed by persons certified under section 136E.1. Following testing the department shall provide the owner of the property with a written report of its results including the concentration of radon gas or radon progeny contamination present, an interpretation of the results, and recommendation of appropriate action. A person certified under section 136E.1 shall also be advised of the department's results, discrepancies revealed by the spot-check, actions required of the person, and actions the department intends to take with respect to the person's continued certification.

Sec. 4. NEW SECTION. 136E.4 ADMINISTRATION OF THE RADON PROGRAM.

The department shall establish a fee schedule to defray the costs of the certification program established pursuant to section 136E.1 and the testing conducted and the written reports provided pursuant to section 136E.3.

The department shall adopt rules, pursuant to chapter 17A, to implement this chapter.

Sec. 5. NEW SECTION. 136E.5 PENALTY FOR VIOLATION.

A person who violates a provision of this division is guilty of a serious misdemeanor.

Approved May 12, 1988

CHAPTER 1238

TRAINING FOR MANDATORY REPORTERS OF ABUSE

H.F. 2367

AN ACT relating to training for mandatory reporters of dependent adult abuse and child abuse.

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

Section 1. Section 232.69, subsection 3, Code Supplement 1987, is amended to read as follows:

3. A person required to make a report under subsection 1, other than a physician whose professional practice does not regularly involve providing primary health care to children, shall complete two hours of training relating to the identification and reporting of child abuse within ~~one year~~ six months of initial employment or self-employment involving the examination, attending, counseling, or treatment of children on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional child abuse identification and reporting training every five years. If the person is an employee of a hospital or similar institution, or of a public or private institution, agency, or facility, the employer shall be responsible for providing the child abuse identification and reporting training. If the person is self-employed, the person shall be responsible for obtaining the child abuse identification and reporting training. The person may complete the initial or additional training as part of a continuing education program required under chapter 258A or may complete the training as part of a training program offered by the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, or a similar public agency.

Sec. 2. Section 235B.1, Code Supplement 1987, is amended by adding the following new subsection and renumbering as necessary:

NEW SUBSECTION. 5. "Individual employed as an outreach person" means a natural person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

Sec. 3. Section 235B.2, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A person required to report cases of dependent adult abuse pursuant to section 235B.1, subsection 6, other than a physician whose professional practice does not regularly involve providing primary health care to adults, shall complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment or self-employment which involves the examination, attending, counseling, or treatment of adults on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional dependent adult abuse identification and reporting training every five years.

If the person is an employee of a hospital or similar institution, or of a public or private institution, agency, or facility, the employer shall be responsible for providing the training. To the extent that the employer provides approved training on the employer's premises, the hours of training completed by employees shall be included in the calculation of nursing or service hours required to be provided to a patient or resident per day. If the person is self-employed, the person shall be responsible for obtaining the training.

The person may complete the initial or additional training as a part of a continuing education program required under chapter 258A or may complete the training as a part of a training program offered by the department of human services, the department of elder affairs, the department of inspections and appeals, the Iowa law enforcement academy, or a similar public agency.

A person required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program which combines child abuse and dependent adult abuse curricula and thereby meet the training requirements of both this subsection and section 232.69 simultaneously.

Approved May 12, 1988

CHAPTER 1239

RESIDENTIAL CARE FACILITIES

H.F. 2466

AN ACT relating to residential care facilities by requiring the inclusion of certain residential care facilities in a demonstration project and the extension of the exclusion of a residential care facility from certificate of need requirements.

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

Section 1. 1986 Iowa Acts, chapter 1150, sections 2 and 3, are amended to read as follows:
SEC. 2. The state department of health shall monitor the effects of this Act's exclusion of residential care facilities from the requirements of section 135.63 in terms of availability,

cost, and quality of residential care. The department shall report its findings and recommendations regarding continued exclusion to the governor and the general assembly by January 11, 1988 15, 1990.

SEC. 3. Section 1 of this Act is repealed July 1, 1988 1990.

Sec. 2. RESIDENTIAL CARE FACILITIES WAIVER. The department of inspections and appeals shall include residential care facilities, which serve elderly persons age sixty or older, in the demonstration waiver project conducted beginning July 1, 1987, and ending June 30, 1989, for residential care facilities serving persons with mental retardation, chronic mental illness, and other developmental disabilities, and having five or fewer residents.

Approved May 12, 1988

CHAPTER 1240

PERSONAL PROPERTY TAX CANCELLATION

S.F. 452

AN ACT to cancel all personal property taxes not collected by July 1, 1988, including the removal of tax liens against personal property.

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

Section 1. Section 445.8, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Effective July 1, 1988, outstanding personal property taxes are canceled and all personal property tax liens are rescinded. The county treasurer shall take all administrative actions necessary to remove personal property tax liens filed in the office of the county recorder and to provide notice to the office of the county auditor.

Approved May 13, 1988

CHAPTER 1241

ALCOHOLIC BEVERAGE SALE REGULATION

H.F. 393

AN ACT relating to the regulation of the sale of alcoholic beverages by amending the definition of licensed premises, by requiring the division of alcoholic beverages to place its system of purchase of alcoholic liquor on a bailment system, by providing for service of notice of nonpayment and penalty by the division to a class "E" license by certified mail, by limiting the areas of licensed premises which may be searched without a warrant, by providing that separate licensed premises, one under a class "E" liquor control license and the other under another retail liquor control license or a retail wine or beer permit, may share a common entrance, by providing an exemption to the licensing requirements for a class "E" liquor control license in counties under nine thousand five hundred in population, by providing for the assessment of a civil penalty in lieu of a license suspension for an offense by a licensee, by allowing a person holding a special permit for the purchase of sacramental wine to purchase from a class "A" wine permittee, and relating to liquor control licenses and wine and beer permits by providing for adjustment of fees for certain businesses and permittees and by requiring all class "A" wine permit premises and class "A" beer permit premises to be located within the state.

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

Section 1. Section 123.3, Code 1987, is amended by adding the following new subsections:
NEW SUBSECTION. 36. "City" means a municipal corporation but not including a county, township, school district, or any special purpose district or authority.

NEW SUBSECTION. 37. "Unincorporated town" means a compactly populated area recognized as a distinct place with a distinct place-name which is not itself incorporated or within the corporate limits of a city.

Sec. 2. Section 123.14, subsection 2, Code 1987, is amended to read as follows:

2. The other law enforcement divisions of the department of public safety, the county attorney, the county sheriff and the sheriff's deputies, and the police department of every city, ~~including the day and night marshal of any city and the department of inspections and appeals,~~ shall be supplementary aids to the division of beer and liquor law enforcement. Any neglect, misfeasance, or malfeasance shown by any peace officer included in this section shall be sufficient cause for the peace officer's removal as provided by law. Nothing in this section shall be construed to affect the duties and responsibilities of any county attorney or peace officer with respect to law enforcement.

Sec. 3. Section 123.20, subsection 1, Code Supplement 1987, is amended to read as follows:

1. To ~~purchase~~ receive alcoholic liquors and wine on a bailment system for resale by the division in the manner set forth in this chapter.

Sec. 4. Section 123.22, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The division has the exclusive right of importation into the state of all forms of alcoholic liquor, except as otherwise provided in this chapter, and a person shall not import alcoholic liquor, except that an individual of legal age may import and have in the individual's possession an amount of alcoholic liquor not exceeding one quart or, in the case of alcoholic liquor personally obtained outside the United States, one gallon for personal consumption only in a private home or other private accommodation. ~~No~~ A distillery shall not sell alcoholic liquor within the state to any person but only to the division, except as otherwise provided in this chapter. This section vests in the division exclusive control within the state as purchaser of all alcoholic liquor sold by distilleries within the state or imported, except beer and wine, and

except as otherwise provided in this chapter. The division shall receive alcoholic liquor on a bailment system for resale by the division in the manner set forth in this chapter. The division shall act as the sole wholesaler of alcoholic liquor to class "E" liquor control licensees.

Sec. 5. Section 123.24, subsection 2, paragraph a, Code Supplement 1987, is amended to read as follows:

a. The division may accept from a class "E" liquor control licensee a cashier's check which shows the licensee is the remitter or a check issued by the licensee in payment of alcoholic liquor. If a check is subsequently dishonored, the division shall cause a notice of nonpayment and penalty to be served upon the class "E" liquor control licensee or upon any person in charge of the licensed premises. The notice shall state that if payment or satisfaction for the dishonored check is not made within ten days of the service of notice, the licensee's liquor control license shall be suspended under section 123.39. The notice of nonpayment and penalty shall be in a form prescribed by the administrator, and shall be served by a peace officer sent by certified mail.

Sec. 6. Section 123.30, subsection 1, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

As a further condition for issuance of a liquor control license or wine or beer permit, the applicant must give consent to members of the fire, police and health departments and the building inspector of cities; the county sheriff, deputy sheriff, and state agents members of the department of public safety, representatives of the department of inspections and appeals, and certified police officers, and any official county health officer to enter upon areas of the premises where alcoholic beverages are stored, served, or sold, without a warrant during business hours of the licensee or permittee to inspect for violations of the provisions of this chapter or ordinances and regulations that cities and boards of supervisors may adopt. However, a subpoena issued under section 421.17 or a warrant is required for inspection of private records, a private business office, or attached living quarters. Persons who are not certified peace officers shall limit the scope of their inspections of licensed premises to the regulatory authority under which the inspection is conducted. All persons who enter upon a licensed premise to conduct an inspection shall present appropriate identification to the owner of the establishment or the person who appears to be in charge of the establishment prior to commencing an inspection; however, this provision does not apply to undercover criminal investigations conducted by peace officers.

Sec. 7. Section 123.30, subsection 3, paragraph e, Code Supplement 1987, is amended to read as follows:

e. CLASS "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premise and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other retail liquor control licenses or retail wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license.

The division may issue a class "E" liquor control license for premises covered by a liquor control license or wine or beer permit for on-premise consumption, if the premises are in a county having a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and no other application for a class "E" license has been made within the previous twelve consecutive months.

Sec. 8. Section 123.33, Code 1987, is amended to read as follows:

123.33 RECORDS.

Every holder of a liquor control license shall keep a daily record of the gross receipts of the holder's business. The records required and the premises of the licensee shall be open to agents of the division of beer and liquor law enforcement of the department of public safety inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee.

Sec. 9. Section 123.36, subsection 3, paragraph d, Code Supplement 1987, is amended to read as follows:

d. Hotels and motels located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if a hotel or motel is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 10. Section 123.36, subsection 4, paragraph d, Code Supplement 1987, is amended to read as follows:

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the license fee which is the larger shall prevail. However, if a commercial establishment is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 11. Section 123.36, subsection 7, paragraph d, Code Supplement 1987, is amended to read as follows:

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the license fee which is the larger shall prevail. However, if a commercial establishment is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 12. Section 123.39, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the cause for suspension is a first offense violation of section 123.49, subsection 2, paragraph "h", and the violation occurred on or after January 1, 1988, the administrator or local authority shall impose a civil penalty in the amount of three hundred dollars in lieu of suspension of the license or permit. Local authorities shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the local authority. The division shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the administrator of the division. If the matter is appealed to the division's hearing board, the hearing board shall not reduce the amount of the civil penalty imposed under this paragraph if a violation of section 123.49, subsection 2, paragraph "h" is found.

Sec. 13. Section 123.45, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages, wine, or beer, or any jobber ~~representative, broker, employee, or agent~~ of such person, shall not directly or indirectly supply, furnish, give, or pay for any furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of business of a licensee or permittee authorized under this chapter

to sell at retail; nor shall the person directly or indirectly extend any credit for alcoholic beverages or beer or pay for any such license or permit, nor directly or indirectly be interested in the ownership, conduct, or operation of the business of another licensee or permittee authorized under this chapter to sell at retail, nor hold a retail liquor control license or retail wine or beer permit, except that a person engaged in the business of manufacturing beer may sell beer at retail for consumption on or off the premises of the manufacturing facility and, notwithstanding any other provision of this chapter or the fact that such a person may be the holder of a class "A" beer permit, may be granted not more than one class "B" permit as defined in section 123.124 for such purpose. Any licensee or permittee who permits or assents to or is a party in any way to any such violation or infringement of this section is guilty of a violation of this section.

Sec. 14. Section 123.50, subsection 3, paragraph a, Code 1987, is amended to read as follows:

a. Upon a first conviction, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of fourteen days. However, if the conviction is for a violation of section 123.49, subsection 2, paragraph "h", which occurred on or after January 1, 1988, the violator's liquor control license or wine or beer permit shall not be suspended, but the violator shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under section 123.39 or this subsection will result in automatic suspension of the license or permit for a period of fourteen days.

Sec. 15. Section 123.124, Code 1987, is amended to read as follows:

123.124 PERMITS — CLASSES.

Permits for the manufacture and sale, or sale of beer shall be divided into three classes, and shall be known as either class "A", "B", or "C" permits. A class "A" permit shall allow the holder to manufacture and sell beer at wholesale. The holder of a class "A" permit may manufacture beer of more than five percent of alcohol by weight for shipment outside this state only. However, a class "A" permit does not grant authority to manufacture wine as defined in section 123.3, subsection 7. A class "B" permit shall allow the holder to sell beer at retail for consumption on or off the premises. A class "C" permit shall allow the holder to sell beer at retail for consumption off the premises.

Sec. 16. Section 123.127, subsection 4, Code 1987, is amended to read as follows:

4. Gives consent to members of the fire, police and health departments and the building inspector of cities; the county sheriff, deputy sheriff, and state agents, and any official county health officer a person, pursuant to section 123.30, subsection 1, to enter upon the premises without a warrant during the business hours of the permittee to inspect for violations of the provisions of this chapter or ordinances and regulations that local authorities may adopt.

Sec. 17. Section 123.128, subsection 4, Code 1987, is amended to read as follows:

4. Consents to inspection as required in section ~~123.127~~ 123.30, subsection 4 1.

Sec. 18. Section 123.129, subsection 4, Code 1987, is amended to read as follows:

4. Consents to inspection as required in section ~~123.127~~ 123.30, subsection 4 1.

Sec. 19. Section 123.130, Code 1987, is amended to read as follows:

123.130 AUTHORITY UNDER CLASS "A" PERMIT.

Any person holding a class "A" permit issued by the division shall be authorized to manufacture and sell, or sell at wholesale, beer for consumption off the premises, such sales within the state to be made only to persons holding subsisting class "A", "B" or "C" permits, or liquor control licenses issued in accordance with the provisions of this chapter. The holder of

a class "A" permit may manufacture beer of more than five percent alcohol by weight for shipment outside this state only. However, a class "A" permit does not grant authority to manufacture wine as defined in section 123.3, subsection 7.

All class "A" premises shall be located within the state. All beer received by the holder of a class "A" permit from the holder of a certificate of compliance before being resold must first come to rest on the premises licensed by the class "A" permit holder, must be inventoried, and is subject to the barrel tax when resold as provided in section 123.136. A class "A" permittee shall not store beer overnight except on premises licensed under a class "A" permit.

Sec. 20. Section 123.134, subsection 2, paragraph d, Code Supplement 1987, is amended to read as follows:

d. For premises located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be operated under the permit, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the permit fee which is the largest shall prevail. However, if the premises are located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 21. Section 123.138, Code 1987, is amended to read as follows:

123.138 BOOKS OF ACCOUNT REQUIRED.

Each class "A" permittee shall keep proper books of account and records showing the amount of beer sold by the permittee, which books of account shall be at all times open to inspection by the administrator and to other persons pursuant to section 123.30, subsection 1. Each class "B" and class "C" permittee shall keep proper books of account and records showing each purchase of beer made by the permittee, and the date and the amount of each purchase and the name of the person from whom each purchase was made, which books of account and records shall be open to inspection by the administrator and agents of the division of beer and liquor law enforcement of the department of public safety pursuant to section 123.30, subsection 1, during normal business hours of the permittee.

Sec. 22. Section 123.173, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine as defined in section 123.3, subsection 7. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen percent by weight for shipment outside this state or for sale to the division. All class "A" premises shall be located within the state. A class "B" wine permit allows the holder to sell wine at retail for consumption off the premises.

Sec. 23. Section 123.175, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Consents to inspection as required in section 123.30, subsection 1.

Sec. 24. Section 123.176, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Consents to inspection as required in section 123.30, subsection 1.

Sec. 25. Section 123.177, subsection 1, Code 1987, is amended to read as follows:

1. A person holding a class "A" wine permit may manufacture and sell, or sell at wholesale, wine for consumption off the premises. Sales within the state may be made only to ~~the division or to~~ persons holding a class "A" or "B" wine permit, and to persons holding a class "A", "B", "C" or "D" liquor control license, and to persons holding a special permit issued under section 123.29, subsection 3. A class "A" wine permittee having more than one place of business shall obtain a separate permit for each place of business where wine is to be stored, warehoused, or sold.

Sec. 26. Section 123.185, Code 1987, is amended to read as follows:

123.185 RECORDS REQUIRED.

Each class "A" wine permittee shall keep books of account and records showing each sale of wine, which shall be at all times open to inspection by the administrator and agents of the division pursuant to section 123.30, subsection 1. Each class "B" wine permittee shall keep proper books of account and records showing each purchase of wine and the date and the amount of each purchase and the name of the person from whom each purchase was made, which shall be open to inspection by the administrator and agents of the division pursuant to section 123.30, subsection 1, during normal business hours of the permittee.

Approved May 13, 1988

CHAPTER 1242

PUBLIC RETIREMENT ADMINISTRATION AND BENEFITS

H.F. 2405

AN ACT relating to the administration and benefits for certain public retirement systems, making appropriations, providing an effective date, and providing retroactive applicability.

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

Section 1. Section 12.8, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The treasurer of state, following with the approval by of the investment board of the Iowa public employees' retirement system, may implement and engage in conduct a program of lending securities in the Iowa public employees' retirement system portfolio, except the lending of common stocks shall not be allowed. When securities are loaned as provided by this paragraph, the treasurer, in order to secure the loan and as a condition thereof, shall obtain from the borrower federal securities of at least equal to one hundred three percent of market value, and the relative value of the collateral to the loan shall be maintained shall act in the manner provided for investment of moneys in the Iowa public employees' retirement fund under section 97B.7. The treasurer of state shall include in the reports required by sections 12.17 and 17.3, a review of the program including the fiscal impact of the program report at least annually to the investment board of the Iowa public employees' retirement system on the program and shall provide additional information on the program upon the request of the investment board or the employees of the Iowa public employees' retirement system division of the department of personnel.

Sec. 2. Section 97A.1, subsection 2, Code 1987, is amended to read as follows:

2. "Peace officer" or "peace officers" shall mean all members of the divisions of highway safety and uniformed force and criminal investigation and bureau of identification in the department of public safety, except clerical workers, who have passed a satisfactory physical and mental examination and have been duly appointed as members of the state department of public safety in accordance with the provisions of section 80.15, and the division of drug law enforcement, and arson investigators in the department of public safety hired prior to July 1, 1988, except clerical workers, and the division of beer and liquor law enforcement of the department of public safety, except clerical workers.

Sec. 3. Section 97A.6, subsection 8, paragraph b, unnumbered paragraph 1, Code 1987, is amended to read as follows:

In lieu of the payment specified in paragraph "a," a beneficiary meeting the qualifications of paragraph "c" may elect to receive a monthly pension equal to one-twelfth of forty percent of the average final compensation of the member, but not less than fifty dollars an amount equal to twenty percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the Iowa highway safety patrol if the member was in service at the time of death. For a member not in service at the time of death, the pension shall be reduced as provided in subsection 1, paragraph "b".

Sec. 4. Section 97A.6, subsection 8, paragraph c, subparagraphs (1) and (2), Code 1987, are amended to read as follows:

(1) ~~The spouse, to continue so long as the spouse remains unmarried.~~

(2) If there is no spouse, or if the spouse dies ~~or remarries~~ and there is a child of a member, then the guardian of the member's child or children, divided as the board of trustees determines, to continue as a joint and survivor pension until every child of the member dies or attains the age of eighteen, or twenty-two if applicable.

Sec. 5. Section 97A.6, subsection 12, paragraph a, Code 1987, is amended to read as follows:

a. ~~To the member's surviving spouse to continue so long as said party remains unmarried,~~ equal to one-half the amount received by ~~such the~~ deceased beneficiary, but in no instance less than fifty dollars per month an amount equal to twenty percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the Iowa highway safety patrol, and in addition ~~thereto~~ a monthly pension equal to the monthly pension payable under subsection 9, paragraph "c," of this section for each child under eighteen years of age or twenty-two years of age if applicable; or

Sec. 6. Section 97A.6, subsection 14, paragraph a, subparagraph (2), Code 1987, 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, and effective July 1, 1988, for members who retire on or after July 1, 1988, twenty-five percent shall be used for members who are receiving an ordinary disability retirement allowance.

Sec. 7. Section 97A.9, Code 1987, is amended to read as follows:

97A.9 MILITARY SERVICE EXCEPTIONS.

~~Any~~ A member who is absent from duty as a peace officer while serving in the armed services of the United States or its allies and is discharged or separated ~~therefrom~~ from service in the armed forces under honorable conditions shall have ~~any such the period or periods of absence while serving in such the armed services on other than a voluntary basis and one such period of absence, not in excess of four years, while serving in such the armed forces on a voluntary basis, included as part of the member's period of service in the department. Such The member shall is not be required to continue the contributions required of the member under section 97A.8, during such the period of military service, provided that if the member shall, within six months one year after the member has been discharged or separated under honorable conditions from such military service return returns, and resume resumes the member's duties in the department, and provided further, that such if the member shall be is declared physically capable of resuming such to resume those duties upon examination by the medical board.~~

Sec. 8. Section 97B.2, Code 1987, is amended to read as follows:

97B.2 PURPOSE OF CHAPTER.

The purpose of this chapter is to promote economy and efficiency in the public service by providing an orderly means whereby for employees who become superannuated may, without hardship or prejudice, be replaced by more capable employees, and to that end providing to have a retirement system which will provide for the payment of annuities to public employees, thereby enabling the employees to care for themselves in retirement, and which by its provisions will improve public employment within the state, reduce excessive personnel turnover, and offer suitable attraction to high-grade men and women to enter public service in the state.

Sec. 9. Section 97B.4, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The department, members of the investment board, and the treasurer of state are not personally liable for actions or omissions, under this chapter that do not involve malicious or wanton misconduct even if those actions or omissions violate the standards established in section 97B.7.

Sec. 10. Section 97B.4, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In the administration of the investment of moneys in the fund, employees of the department and members of the board may travel outside the state for the purpose of meeting with investment firms and consultants and attending conferences and meetings to fulfill their fiduciary responsibilities. This travel is not subject to section 421.38, subsection 2.

Sec. 11. Section 97B.7, subsection 2, paragraph b, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Invest, subject to chapter 12A, the portion of the retirement fund which in the judgment of the department is not needed for current payment of benefits under this chapter. The department shall execute the disposition and investment of moneys in the retirement fund in accordance with the investment policy and goal statement established by the investment board. In the investment of the fund, the department and investment board shall exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs as provided in section 633.123, subsection 1, not for the purpose of speculation, but with regard to the permanent disposition of the funds, considering the probable income, as well as the probable safety, of their capital. Within the limitations of the standard prescribed in this section, a fiduciary may acquire and retain every kind of property and every kind of investment which persons of prudence, discretion, and intelligence acquire or retain for their own account.

Sec. 12. Section 97B.7, subsection 2, paragraph b, unnumbered paragraph 4, Code 1987, is amended to read as follows:

Consistent with this paragraph, investments made under this paragraph shall be made in a manner that will enhance the economy of this state, and in particular, will result in increased employment of the residents of this state. Investments of moneys in the fund are not subject to sections 73.15 through 73.21.

Sec. 13. Section 97B.7, subsection 2, paragraph b, unnumbered paragraph 5, Code 1987, is amended to read as follows:

If Except as provided in section 97B.4, if there is loss on the redemption or sale of securities, where invested as prescribed by law, neither to the fund, the treasurer, nor the department is, and the board are not personally liable, but and the loss shall be charged against the retirement fund, and there There is appropriated from the retirement fund an the amount

as required for the to cover a 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 appropriated from the retirement fund ~~an~~ the amount as required for the expenses incurred. Investment management expenses shall be charged to the investment income of the retirement fund, and there is appropriated from the retirement fund ~~an~~ the 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. A person who has signed a contract with the department for investment management purposes shall meet the requirements for doing business in Iowa sufficient to be subject to tax under rules of the department of revenue and finance.

Sec. 14. Section 97B.8, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The members who are executives of a domestic life insurance company, a state or national bank, and a major industrial corporation, and the member who is a retired member of the system, shall be paid their actual expenses incurred in performance of their duties and shall receive in addition the sum of forty dollars for each day of service not exceeding forty days per year. Legislative members shall receive forty dollars for each day of service and their actual expenses incurred in the performance of their duties. The per diem and expenses of the legislative members shall be paid from funds appropriated under section 2.12. The members who are active members of the system and the director of the department shall be paid their actual expenses incurred in the performance of their duties as members of the board and performance of their duties as members of the board shall not affect their salaries, ~~vacation~~ vacations, or leaves of absence for sickness or injury. The appointive terms of the members appointed by the governor are for a period of six years beginning and ending as provided in section 69.19. If there is a vacancy in the membership of the board, the governor has the power of appointment. Appointees to this board are subject to confirmation by the senate.

Sec. 15. Section 97B.9, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Contributions unpaid on the date on which they are due and payable as prescribed by the department, shall bear interest at the combined interest and dividend rate of one-half of one per centum per month from and after such date until payment plus accrued interest is received by the department required under section 97B.70 for the applicable calendar year, provided that the department may prescribe fair and reasonable regulations pursuant to which ~~such~~ the interest shall not accrue with respect to contributions required. Interest collected pursuant to this section shall be paid into the Iowa public employees' retirement fund.

Sec. 16. Section 97B.11, Code 1987, is amended to read as follows:

97B.11 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEE.

Each employer shall deduct from the wages of each member of the system a contribution in the amount of three and six-tenths percent of the covered wages paid by the employer through June 30, 1979, and commencing July 1, 1979 in the amount of three and seven-tenths percent of the covered wages paid by the employer, until the ~~first of the month in which the member attains the age of seventy years or the member's termination or retirement from employment, whichever is earlier.~~ The contributions of the employer shall be in the amount of three and one-half percent of the covered wages of the member for service through December 31, 1975, and in the amount of five and twenty-five hundredths percent of the covered wages of the

member for service commencing July 1, 1977, through June 30, 1979, and in the amount of five and seventy-five hundredths percent of the covered wages of the member for service commencing July 1, 1979.

Sec. 17. Section 97B.15, Code 1987, is amended to read as follows:

97B.15 RULES.

The department shall have full power and authority to may make rules under chapter 17A and to establish procedures, not inconsistent with the provisions of this chapter, which are necessary or appropriate to carry out such provisions implement this chapter and shall adopt reasonable and proper rules to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same proofs and evidence in order to establish the right to benefits hereunder under this chapter. The department may adopt rules to conform the requirements for receipt of retirement benefits under this chapter to the mandates of applicable federal statutes and regulations governing age discrimination or the taxation of distributions.

Sec. 18. Section 97B.16, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

97B.16 PROCEDURE OF DEPARTMENT.

The department shall make decisions as to the rights of an individual applying for a payment under this chapter. When requested by an individual, or a person who makes a showing in writing that the individual's or person's rights may be prejudiced by a decision the department has made, a hearing shall be scheduled under the Iowa administrative procedures Act, chapter 17A. If a hearing is held, the decision shall, on the basis of evidence adduced at the hearing, be affirmed, modified, or reversed under chapter 17A.

Sec. 19. Section 97B.17, Code 1987, is amended to read as follows:

97B.17 RECORDS MAINTAINED.

The department shall establish and maintain records of each member, including but not limited to the amount of wages of each member, the contribution of each member with interest, and interest dividends credited thereon, and such these records shall be are the basis for the compilation of the retirement benefits provided under this chapter. Such The following records maintained under this chapter containing personal identifiable information are not public records for the purposes of chapter 22:

1. Records containing social security numbers.
2. Records listing designated beneficiaries.
3. Records specifying amounts accumulated in members' active accounts.
4. Records containing names, addresses, and amounts of monthly benefits to which members or their beneficiaries are entitled.
5. Records containing names, addresses, and amounts of lump sum refund payments to terminated members or their beneficiaries.

Summary information concerning the demographics of the members and general statistical information concerning the system is subject to chapter 22, as well as aggregate information by category.

However, the department's records shall be are evidence for the purpose of proceedings before the department or any court of the amounts of such wages and the periods in which they were paid, and the absence of an entry as to an individual's a member's wages in such the records for any period shall be is evidence that no wages were not paid such individual that member in such the period.

Sec. 20. Section 97B.37, Code 1987, is amended to read as follows:

97B.37 RECOGNITION OF AGENTS.

The department may prescribe rules governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the department, and may require of such the agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such the claimants valuable service, and otherwise competent to advise and assist such the claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the district or supreme court of the state, shall be entitled to represent claimants before the department upon filing with the department a certificate of the attorney's right to so practice from the presiding judge or clerk of any such court. Claimants may be represented by counsel at their own expense.

Sec. 21. Section 97B.41, subsection 1, paragraph a, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

"Wages" means all remuneration for employment, including the cash value of remuneration paid in a medium other than cash, but not including the cash value of remuneration paid in a medium other than cash necessitated by the convenience of the employer. The amount agreed upon by the employer and employee for remuneration paid in a medium other than cash shall be reported to the department by the employer and is conclusive of the value of the remuneration. However, remuneration which does not equal or exceed the sum of three hundred dollars in a calendar quarter shall be excluded. "Wages" does not include special lump sum payments made as payment for accrued sick leave or accrued vacation or payments made as an incentive for early retirement or as payments made upon dismissal, severance, or a special bonus payment. Wages for an elected official means the salary received by an elected official, exclusive of expense and travel allowances.

Sec. 22. Section 97B.41, subsection 1, paragraph b, subparagraph (8), Code Supplement 1987, is amended to read as follows:

(8) For each the calendar year from beginning January 1, 1988, and thereafter, except as provided in subparagraph (9) and ending December 31, 1988, wages not in excess of twenty-four thousand dollars.

Sec. 23. Section 97B.41, subsection 1, paragraph b, subparagraph (9), Code Supplement 1987, is amended to read as follows:

(9) For Commencing January 1, 1989, for each calendar year thereafter, the department shall increase the covered wages limitation from the previous calendar year by one two thousand dollars if the annual actuarial valuation of the assets and liabilities of the retirement system indicates that the cost of the increase in covered wages can be absorbed within the employer and employee contribution rates in effect under section 97B.11. However, covered wages shall not exceed forty thousand dollars for a calendar year.

Sec. 24. Section 97B.41, subsection 1, paragraph b, subparagraph (10), Code Supplement 1987, is amended to read as follows:

(10) Effective July 1, 1978 1988, covered wages shall does not include wages to a member on or after the first of the month in which the member attains the age of seventy years, or after the effective date of the member's retirement unless the member is re-employed reemployed, as provided under section 97B.48, subsection 3.

Sec. 25. Section 97B.41, subsection 3, paragraph a, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

If an interstate agency is established under chapter 28E and similar enabling legislation in an adjoining state, and a city an employer had made contributions to the system for employees performing functions which are transferred to the interstate agency, the employees of the interstate agency who perform those functions shall be considered to be employees of the city employer for the sole purpose of membership in the system, although the employer contributions for those employees are made by the interstate agency.

Sec. 26. Section 97B.41, subsection 3, paragraph b, subparagraph (1), Code Supplement 1987, is amended to read as follows:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions, graduate medical students while serving as interns or resident doctors in training at any hospital, or county medical examiners and deputy county medical examiners under chapter 331, division V, part 7 8. However, a county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or a part-time basis.

Sec. 27. Section 97B.41, subsection 3, paragraph b, Code Supplement 1987, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (14) Employees of the Iowa peace institute, established in chapter 38, unless an employee files an application with the department to be covered under this chapter.

Sec. 28. Section 97B.41, subsection 10, Code Supplement 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. On or after July 1, 1988, an inactive member who had accumulated, as of the date of the member's last termination of employment, years of membership service equal to or exceeding the years of membership service specified in this subsection for qualifying as a vested member on that date of termination.

Sec. 29. Section 97B.41, subsection 13, paragraph a, Code Supplement 1987, is amended to read as follows:

a. Service in the armed forces of the United States during a period of war or national emergency, ~~provided if~~ the employee was employed by the employer immediately prior to entry into ~~such~~ the armed forces, and ~~further provided if~~ the employee was released from ~~such~~ service and returns to employment with the employer within ~~ninety days~~ twelve months of the date on which the employee ~~shall have~~ has the right of release from ~~such~~ service or within ~~such~~ a longer period as ~~may be~~ provided by the applicable laws of the United States ~~applicable thereto~~.

Sec. 30. Section 97B.41, subsection 17, Code Supplement 1987, is amended to read as follows:

17. "Membership service" means service rendered by a member after July 4, 1953, and ~~prior to the first of the month in which the member attains the age of seventy years~~. Years of membership service shall be counted to the complete quarter calendar year.

Sec. 31. Section 97B.43, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Effective July 1, 1988, a member eligible for an increased retirement allowance because of the repayment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice was submitted to the department.

Sec. 32. Section 97B.45, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The first of any month in which a member meets the membership service and age requirements to retire under section 97B.49, subsection 15.

Sec. 33. Section 97B.46, subsection 1, Code Supplement 1987, is amended to read as follows:

1. A member who is an employee of the state and not an active member of any other retirement system in the state which is maintained in whole or in part by public contributions may remain in service beyond the date the member attains the age of sixty-five. The employee shall retire on the first day of the month after the last day of service. The employer shall not consider age as a factor in determining the continuation of the member's service.

Sec. 34. Section 97B.46, subsection 2, Code Supplement 1987, is amended by striking the subsection.

Sec. 35. Section 97B.48, subsection 3, Code 1987, is amended to read as follows:

3. If, after the first day of the month in which the member attains the age of fifty-five years and until the member's sixty-fifth birthday, a member who is retired under this chapter is in regular full-time employment, the member's retirement allowance shall be suspended for as long as the member remains in employment. However, effective January 1, 1989, employment shall not be regarded as is not full-time employment until the member receives remuneration in an amount in excess of ~~two~~ six thousand one hundred twenty dollars for a calendar year. Effective the first of the month in which a member attains the age of sixty-five years, a retired member may receive a retirement allowance after return to covered employment regardless of the amount of remuneration received. As of the first of the month in which the member attains the age of seventy years, the member may receive a retirement allowance determined under section 97B.49, regardless of the amount of remuneration received. Upon a retirement after ~~re-employment~~ reemployment, a retired member may have the retired member's retirement allowance redetermined under this section or section 97B.49 or 97B.50, whichever is applicable, based upon the addition of credit for the years of membership service of the employee after ~~re-employment~~ reemployment, the covered wage during reemployment, and the age of the employee after reemployment. The retired member shall not receive a retirement allowance based upon more than a total of thirty years of service.

Sec. 36. Section 97B.49, subsection 7, paragraph a, Code Supplement 1987, is amended to read as follows:

a. Notwithstanding other provisions of this chapter, a member who is or has been employed as a conservation peace officer under section 107.13 and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a conservation peace officer, may elect to receive, in lieu of the receipt of any benefits under subsection 5 of this section, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a conservation peace officer, with benefits payable during the member's lifetime.

Sec. 37. Section 97B.49, subsection 7, paragraph b, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A conservation peace officer who retires on or after July 1, 1986, and before July 1, 1988, 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 of the member's three-year average covered wage as a conservation peace officer multiplied by a fraction of years of service as a conservation 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 conservation peace officer, divided by twenty-five

years. On or after July 1, 1986, if the conservation 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 conservation peace officer's retirement precedes the date on which the conservation peace officer attains sixty years of age.

Sec. 38. Section 97B.49, subsection 8, paragraph a, unnumbered paragraphs 1 and 2, Code Supplement 1987, are amended to read as follows:

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, 1986, and before July 1, 1988, 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 peace officer, may elect to receive, in lieu of the benefits under subsection 5 of this section, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-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, 1986, and before July 1, 1988, 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 of the member's three-year average covered wage as a peace officer multiplied by the 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.

Sec. 39. Section 97B.49, subsection 10, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

Notwithstanding sections of this chapter relating to eligibility for and determination of retirement benefits, a vested member who is or has been employed as a correctional officer by the Iowa department of corrections and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least thirty years of membership service as a correctional officer, may elect to receive, in lieu of the receipt of benefits under subsection 5 of this section, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a correctional officer, with benefits payable during the member's lifetime.

Sec. 40. Section 97B.49, subsection 13, paragraphs a and b, Code Supplement 1987, are amended to read as follows:

a. ~~Each~~ A 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 ~~1986~~ 1988 and the November ~~1987~~ 1989 monthly benefit payments a retirement dividend equal to ~~fifty~~ eighty 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 ~~1986~~ 1988 and the November ~~1987~~ 1989 monthly benefit payments a retirement dividend equal to ~~seventy-five~~ one hundred twenty 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. 41. Section 97B.49, subsection 13, Code Supplement 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. If the member dies on or after July 1 of the dividend year but before the payment date, the full amount of the retirement dividend for that year shall be paid to the designated beneficiary.

Sec. 42. Section 97B.49, subsection 14, unnumbered paragraphs 1 and 2, Code Supplement 1987, are amended to read as follows:

Notwithstanding other provisions of this chapter, a member who is or has been employed by the office of disaster services as an airport firefighter who retires on or after July 1, 1986, and before July 1, 1988, 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 an airport firefighter, may elect to receive, in lieu of the receipt of any benefits under subsection 5 of this section, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as an airport firefighter, with benefits payable during the member's lifetime.

An airport firefighter who retires on or after July 1, 1986, and before July 1, 1988, 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 of the member's three-year average covered wage as an airport firefighter multiplied by a fraction of years of service as an airport firefighter. 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 an airport firefighter, divided by twenty-five years. On or after July 1, 1986, if the airport firefighter 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 airport firefighter's retirement precedes the date on which the airport firefighter attains sixty years of age.

Sec. 43. Section 97B.49, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 15. In lieu of the monthly benefit computed under subsections 1 and 3 as applicable, or subsection 5, for each active member retiring on or after July 1, 1988, who is at least fifty-five years of age and has completed at least thirty years of membership service and prior service, and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety-two, a monthly benefit shall be computed which is equal to fifty percent of the three-year average covered wage of the member.

Sec. 44. Section 97B.49, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 16. a. Notwithstanding other provisions of this chapter, a member who is or has been employed in a protection occupation who retires on or after July 1, 1988, and at the time of retirement is at least fifty-five years of age and has completed at least twenty-five years of membership service in a protection occupation, may elect to receive in lieu of the receipt of any benefits under subsection 5 or 15, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a member who has been employed in a protection occupation, with benefits payable during the member's lifetime.

b. Notwithstanding other provisions of this chapter, a member who retires from employment as a county sheriff or deputy sheriff who retires on or after July 1, 1988, and at the time of retirement is at least fifty-five years of age and has completed at least twenty-two years of membership service, may elect to receive in lieu of the receipt of any benefits under subsection 5 or 15, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a member with benefits payable during the

member's lifetime. The years of membership service required under this paragraph shall include membership service as a sheriff or deputy sheriff and membership service under employment in a protection occupation included in paragraph "d", subparagraph (2).

For the purposes of this subsection, sheriff means a county sheriff as defined in section 39.17 and deputy sheriff means a deputy sheriff appointed pursuant to section 341.1 prior to July 1, 1981, or section 331.903 on or after July 1, 1981.

c. A member covered under this subsection who retires on or after July 1, 1988, and has not completed the twenty-five years of membership service required under paragraph "a", or twenty-two years of membership service required under paragraph "b", is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a member employed in a protection occupation, or as a sheriff or deputy sheriff, multiplied by a fraction of years of service. 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 for a member retiring in a protection occupation, divided by twenty-five years, or the sum of the years of membership service for a member retiring as a sheriff or deputy sheriff divided by twenty-two years.

d. For the purposes of this subsection, "a member employed in a protection occupation" includes all of the following:

- (1) A conservation peace officer* employed under section 107.13.
- (2) A marshal or police officer in a city not covered under chapter 400.
- (3) A correctional officer employed by the Iowa department of corrections in an applicable job classification. The department of corrections and the department of personnel shall jointly determine the applicable merit system job classifications of correctional officers.
- (4) An airport firefighter employed by the disaster services division of the department of public defense.
- (5) An airport safety officer employed under chapter 400 by an airport commission in a city of one hundred thousand population or more.
- (6) An arson investigator who commenced employment as an arson investigator of the department of public safety on or after July 1, 1988.

e. Annually, the department of personnel shall actuarially determine the cost of the additional benefits provided for members covered under paragraph "a" and the cost of the additional benefits provided for members covered under paragraph "b" as percents of the covered wages of the employees covered by this subsection. Sixty percent of the cost shall be paid by the employers of employees covered under this subsection and forty percent of the cost shall be paid by the employees. The employer and employee contributions required under this paragraph are in addition to the contributions paid under section 97B.11.

f. For the fiscal year commencing July 1, 1988, and each succeeding fiscal year, there is appropriated from the state fish and game protection fund to the department of personnel the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under paragraph "d", subparagraph (1).

g. Annually, during each fiscal year commencing with the fiscal year beginning July 1, 1988, each applicable city shall pay to the department of personnel the amount necessary to pay the employer share of the cost of the additional benefits provided to employees of that city covered under paragraph "d", subparagraphs (2) and (5).

h. Annually, during each fiscal year commencing with the fiscal year beginning July 1, 1988, each county shall pay to the department of personnel the amount necessary to pay the employer share of the cost of the additional benefits provided to sheriffs and deputy sheriffs.

i. For the fiscal year commencing July 1, 1988, and each succeeding fiscal year, the department of corrections shall pay to the department of personnel from funds appropriated to the

*According to enrolled Act

Iowa department of corrections, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under paragraph "d", subparagraph (3).

j. For the fiscal year commencing July 1, 1988, and each succeeding fiscal year, there is appropriated from the general fund of the state to the department of personnel, from funds not otherwise appropriated, an amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under paragraph "d", subparagraphs (4) and (6).

Sec. 45. Section 97B.50, subsection 1, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:

1. Except as otherwise provided in this section, a member, upon retirement prior to the normal retirement date, is entitled to receive a monthly retirement allowance determined in the same manner as provided for normal retirement in subsections 1, 4, and 5 of section 97B.49 reduced as follows:

a. For a member who is less than sixty-two years of age, by twenty-five hundredths of one percent per month for each month that the early retirement date precedes the normal retirement date.

b. For a member who is at least sixty-two years of age and who has not completed thirty 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. 46. Section 97B.50, subsection 3, Code Supplement 1987, is amended to read as follows:

3. A member who is at least sixty-two years of age and less than sixty-five years of age, and who has completed thirty 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. For a member who is at least fifty-nine but less than sixty-two years of age who has completed at least thirty years of service, the monthly retirement allowance shall be reduced by twenty-five hundredths percent per month for each month that the member's retirement date precedes the member's sixty-second birthday. For a member who is at least fifty-five years of age and less than fifty-nine years of age who has completed thirty years of membership service, the monthly retirement allowance shall be reduced by five-tenths percent per month for each month that the member's retirement date precedes the member's normal retirement date.

Sec. 47. Section 97B.50, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A member eligible for a retirement allowance adjusted under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice of retirement was submitted to the department.

Sec. 48. Section 97B.68, subsection 1, Code 1987, is amended to read as follows:

1. ~~From and after July 4, 1959~~ Effective July 1, 1988, any a person who is a member of the federal civil service retirement program ~~shall or the federal employee's retirement system is not be eligible for membership in the Iowa public employees' retirement system, and the provisions of this chapter shall does not apply to such that employee. Any An~~ employee whose membership in the federal civil service retirement program ~~or the federal employee's retirement system~~ is subsequently terminated shall immediately notify the employee's employer and the department of personnel of ~~such that fact~~, and the employee shall become subject to the ~~provisions of this chapter~~ on the date the notification is received by the department.

Sec. 49. Section 97B.72A, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

97B.72A LEGISLATIVE MEMBERS.

1. An active or vested member of the system who was a member of the general assembly prior to July 1, 1988, may make contributions to the system for all or a portion of the period of service in the general assembly. The contributions made by the member shall be equal to the accumulated contributions as defined in section 97B.42,* subsection 12, which would have been made if the member of the general assembly had been a member of the system during the period of service in the general assembly. The member of the system shall submit proof to the department of membership in the general assembly. The department shall credit the member with the period of membership service for which contributions are made.

There is appropriated from the general fund of the state to the department an amount sufficient to pay the contributions of the employer based on the period of service of members of the general assembly for which the member paid accumulated contributions under this section. The amount appropriated is equal to the employer contributions which would have been made if the members of the system who made employee contributions had been members of the system during the period for which they made employee contributions plus two percent interest plus the interest dividend rate applicable for each year compounded annually.

2. A former member of the general assembly who has six or more years of service as a member of the general assembly or who has a total of six or more years of service as a member of the general assembly and as an employee under this chapter may make contributions to the system for all or a portion of the period of service as a member of the general assembly. The contributions made by the former member shall be equal to the accumulated contributions plus the employer contributions that would have been made if the former member had been a member of the system during the period of service elected. The employer contributions shall be equal to the contributions that would have been made by the employer if the former member had been a member of the system during the period of service elected plus the interest on the contributions equal to two percent plus the interest dividend rate applicable for each year compounded annually. The former member shall submit proof to the department of membership in the general assembly. The department shall credit the former member with the period of membership service for which contributions are made.

Sec. 50. Section 97B.73, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Effective July 1, 1988, a member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice was submitted to the department.

Sec. 51. Section 97B.73A, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Effective July 1, 1988, a member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice was submitted to the department.

Sec. 52. Section 97B.74, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Effective July 1, 1988, a member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice was submitted to the department.

*97B.41 probably intended

Sec. 53. Section 97B.75, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Effective July 1, 1988, a member eligible for an increased retirement allowance under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice was submitted to the department.

Sec. 54. NEW SECTION. 97B.80 VETERAN'S CREDIT.

An active member in service on July 1, 1988, who at any time served on active duty in the armed forces of the United States, upon submitting verification of the dates of the active duty service in the armed forces to the department, may make employer and employee contributions to the system based upon the member's covered wages for the calendar year beginning January 1, 1987, at the rates in effect under section 97B.11 on January 1, 1987, for the period of time of the active duty service, not to exceed four years, and receive credit for membership service and prior service for the period of time for which the contributions are made. Verification of active duty service and payment of contributions shall be made to the department. However, a member is not eligible to make contributions under this section if the member is receiving or is eligible to receive retirement pay from the United States government for active duty in the armed forces.

Sec. 55. Section 411.6, subsection 5, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Should a member in service or the chief of the police or fire departments become incapacitated for duty as a natural or proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time or place or while acting, pursuant to order, outside the city by which the member is regularly employed, the member shall, upon being found to be temporarily incapacitated following an examination by the board of trustees, be entitled to receive the member's full pay and allowances from the city's general fund until re-examined by said the board and found to be fully recovered or permanently disabled.

Sec. 56. Section 411.6, subsection 8, paragraph b, unnumbered paragraph 1, Code 1987, is amended to read as follows:

In lieu of the payment specified in paragraph "a", a beneficiary meeting the qualifications of paragraph "c" may elect to receive a monthly pension equal to one-twelfth of forty percent of the average final compensation of the member, but not less than seventy-five dollars twenty percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of firefighter, for a beneficiary of a deceased member of a fire department, or the highest grade in the rank of police patrol officer, for a beneficiary of a deceased member of a police department, if the member was in service at the time of death. For a member not in service at the time of death, the pension shall be reduced as provided in subsection 1, paragraph "b".

Sec. 57. Section 411.6, subsection 8, paragraph c, subparagraphs (1) and (2), Code 1987, are amended to read as follows:

(1) The spouse, ~~to continue so long as the spouse remains unmarried.~~

(2) If there is no spouse, or if the spouse dies or remarries and there is a child of a member, then the guardian of the member's child or children, divided as the board of trustees determines, to continue as a joint and survivor pension until every child of the member dies or attains the age of eighteen, or twenty-two if applicable.

Sec. 58. Section 411.6, subsection 11, paragraph a, Code 1987, is amended to read as follows:

a. To the spouse to continue so long as said partner remains unmarried, equal to one-half the amount received by such ~~the~~ deceased beneficiary, but in no instance less than ~~seventy-five dollars per month~~ twenty percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of firefighter, for a beneficiary of a deceased member of the fire department, or the highest grade in the rank of police patrol officer, for a beneficiary of a deceased member of a police department, and in addition thereto a monthly pension equal to the monthly pension payable under subsection 9 of this section for each child under eighteen years of age or twenty-two years of age if applicable; or

Sec. 59. Section 411.6, subsection 12, paragraph a, subparagraph (2), Code 1987, 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, and effective July 1, 1988, for members who retire on or after July 1, 1988, twenty-five percent shall be used for members who are receiving an ordinary disability allowance.

Sec. 60. Section 411.9, Code 1987, is amended to read as follows:

411.9 MILITARY SERVICE EXCEPTIONS.

A member who is absent while serving in the armed services of the United States or its allies and is discharged or separated from the armed services under honorable conditions shall have the period or periods of absence while serving in the armed services, not in excess of four years unless any period in excess of four years is at the request and for the convenience of the federal government, included as part of the member's period of service in the department. The member shall not continue the contributions required of the member under section 411.8 during the period of military service, if the member, within ~~six months~~ one year after the member has been discharged or separated under honorable conditions from military service, returns and resumes duties in the department, and if the member is declared physically capable of resuming duties upon examination by the medical board. A period of absence may exceed four years at the request and for the convenience of the federal government.

Sec. 61. Section 421.38, subsection 2, Code 1987, is amended to read as follows:

2. CONVENTION EXPENSES. ~~No claims~~ Claims for expenses in attending conventions, meetings, conferences, or gatherings of members of ~~any~~ an association or society organized and existing as a quasi-public association or society outside the state of Iowa shall ~~not~~ be allowed at public expense, unless authorized by the executive council; and claims for ~~such~~ these expenses outside of the state shall not be allowed unless the voucher is accompanied by ~~so much~~ the portion of the minutes of the executive council, certified to by its secretary, showing that the expense was authorized by the council. This section does not apply to claims in favor of the governor, attorney general, utilities board members, or to trips referred to in ~~section~~ sections 97B.4 and 217.20.

Sec. 62. The department of personnel shall identify job classifications within state government for which the current level of compensation is inadequate to recruit and retain qualified persons and leads or could lead to contracting for the services rather than providing those services directly. The department shall adjust compensation ranges in those areas of employment where the department determined that providing the adjustment would enable the state to limit contracting for services and provide for a less costly means to deliver services. The department of personnel shall review the compensation structure for employees within the Iowa public employees retirement division who are involved in managing the investments. After seeking the input from the Iowa public employees' retirement system investment board, the

department shall adjust compensation ranges for those positions where it is determined necessary in order to recruit and retain personnel with the requisite skills to maintain the fiduciary responsibilities of the fund.

Sec. 63. Section 97B.67, Code 1987, is repealed.

Sec. 64. Sections 3, 5, 56, and 58 of this Act apply, beginning on the effective date of those sections, to persons who are beneficiaries on that date as well as those who become beneficiaries on or after that date.

The portions of sections 5 and 58 of this Act that relate to the definition of child are retroactive to January 1, 1987.

Sec. 65. Section 27 of this Act, being deemed of immediate importance, takes effect upon its enactment.

Sec. 66. Sections 16, 17, 24, 30, and 35 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 67. Sections 16, 17, 24, 30, and 35 of this Act are retroactive to January 1, 1988.

Sec. 68. Employees of the Iowa peace institute covered under chapter 97B on the effective date of section 27 of this Act who do not file an application with the department of personnel to be covered under chapter 97B shall receive a refund of the accumulated contributions of the employee made under chapter 97B for service as an employee of the Iowa peace institute.

Approved May 13, 1988

CHAPTER 1243

STATE TAXATION

H.F. 2477

AN ACT relating to certain state taxes by providing for the statute of limitations for state individual and corporate tax purposes, the definition of investment counseling for state sales, services, and use tax purposes, the allowance of the military service tax credit for mobile homes, for the exemption from or the refund of state sales, services, and use taxes on the gross receipts from sales or rentals of replacement parts for farm machinery, equipment, and implements and to the issuance of fuel exemption certificates for state sales, services and use tax purposes for the purchase of fuel used in farm implements, and providing a retroactive applicability and effective dates.

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

Section 1. Section 99D.8, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

99D.8 HORSE OR DOG RACING LICENSES — APPLICATIONS.

A qualifying organization, as defined in section 513(d)(2)(C) of the Internal Revenue Code, as defined in section 422.3, exempt from federal income taxation under sections 501(c)(3), 501(c)(4), or 501(c)(5) of the Internal Revenue Code, which is organized to promote those purposes enumerated in section 99B.7, subsection 3, paragraph "b", and which regularly conducts, as one of its substantial exempt purposes, an agricultural and educational fair or exposition for the promotion of the horse, dog, or other livestock breeding industries of the state, or an agency, instrumentality, or political subdivision of the state, may apply to the commission for a license

to conduct horse or dog racing. The application shall be filed with the administrator of the commission at least sixty days before the first day of the horse race or dog race meeting which the organization proposes to conduct, shall specify the day or days when and the exact location where it proposes to conduct racing, and shall be in a form and contain information as the commission prescribes.

If any part of the net income of a licensee is determined to be unrelated business taxable income as defined in sections 511 through 514 of the Internal Revenue Code, the qualifying organization shall be required to distribute the amount of net unrelated business taxable income to political subdivisions in the state and organizations described in section 501(c)(3) of the Internal Revenue Code in the county in which it operates. Distributions to these organizations made during the year in which the unrelated business income was earned shall be treated as included in the required distributions for this purpose.

An organization which meets the requirements of this section, as amended, on or before July 1, 1988, shall be considered to have met the requirements of this section on the date that its initial application was originally filed.

Sec. 2. Section 422.45, subsection 22, Code Supplement 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Community health centers as defined in 42 U.S.C.A. § 254c and migrant health centers as defined in 42 U.S.C.A. § 254b.

Sec. 3. Section 422.45, subsection 26, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The gross receipts from the sale or rental, ~~on or after July 1, 1987,~~ of farm machinery and equipment, including replacement parts ~~which are depreciable for state and federal income tax purposes,~~ if the following conditions are met:

Sec. 4. Section 422.45, subsection 26, Code Supplement 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in the production of agricultural products.

Sec. 5. Section 422.45, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 36. The gross receipts from the sale or rental of farm machinery and equipment, including replacement parts, if all of the following conditions are met:

a. The implement, machinery, or equipment is directly and primarily used in livestock or dairy production.

b. The implement is not a self-propelled implement or implement customarily drawn or attached to self-propelled implements.

c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in livestock or dairy production.

Sec. 6. Section 422.45, Code Supplement 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 36. Gross receipts from the sale of tangible personal property to a nonprofit organization which was organized for the purpose of lending the tangible personal property to the general public for use by them for nonprofit purposes.

NEW SUBSECTION. 37. The gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to nonprofit legal aid organizations.

Sec. 7. Section 422.47, subsection 4, paragraph f, Code Supplement 1987, is amended to read as follows:

f. In this section, "fuel" includes gas, electricity, water, heat, steam, and any other tangible personal property consumed in creating heat, power, or steam. In this section, "fuel consumed in processing" means fuel used or disposed of for processing including grain drying, for providing heat or cooling for livestock buildings or for generating electric current, or consumed in self-propelled implements of husbandry engaged in agricultural production. In this subsection, "fuel exemption certificate" means an exemption certificate given by the purchaser under penalty of perjury to assist retailers in properly accounting for nontaxable sales of fuel consumed in processing. In this subsection, "substantial change" means a change in the use or disposition of tangible personal property and services by the purchaser such that the purchaser pays less than ninety percent of the purchaser's actual sales tax liability. A change includes a misstatement of facts in an application made pursuant to paragraph "c" or in a fuel exemption certificate.

Sec. 8. Section 422.47C, subsection 1, Code Supplement 1987, is amended to read as follows:

1. Sales, services, and use taxes paid on repairs to implements or on the purchase or rental of farm machinery or equipment, including replacement parts which are depreciable for state and federal income tax purposes, shall be refunded to the owner, purchaser, or renter provided all of the following conditions are met:

a. The repairs, purchase, or rental was made ~~on or after~~ between July 1, 1987, and June 30, 1988.

b. The tax was paid to the retailer or timely paid to the department by the user if section 423.14 is applicable.

c. The claim is filed on forms provided by the department and is filed between July 1, 1988, and September 1 ~~for the previous calendar year,~~ 1988.

d. The implements, machinery or equipment is directly and primarily used in livestock or dairy production.

e. The implement is not a self-propelled implement or an implement customarily drawn or attached to a self-propelled implement, and the machinery or equipment is not a grain dryer, subject to an exemption under section 422.45.

f. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's, equipment's, or implement's exempt use in livestock or dairy production.

Sec. 9. Section 422.70, subsection 1, Code 1987, is amended to read as follows:

1. The director, for the purpose of ascertaining the correctness of ~~any~~ a return or for the purpose of making an estimate of the taxable income or receipts of ~~any a~~ taxpayer, ~~shall have~~ has power: To examine or cause to be examined by ~~any an~~ agent or representative designated by the director, books, papers, records, or memoranda, ~~such an examination not to include any transaction completed five years or more prior to such an examination, provided, however, that the director may, by rules, provide for a limitation of time of any number of years less than five; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths, to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records, and documents relating to any matter which the director shall have~~ has the authority to investigate or determine.

Sec. 10. Section 427.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. For the purpose of determining a military tax exemption under this section, property includes a mobile home as defined in section 135D.1.

Sec. 11. Section 7 of this Act applies retroactively to January 1, 1988.

Approved May 13, 1988

CHAPTER 1244**UNDERGROUND STORAGE TANK REGULATION***H.F. 2441*

AN ACT relating to underground storage tanks, establishing certain fees, providing penalties, and providing an effective date.

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

**Section 1. Section 455B.471, subsection 5, Code 1987, is amended to read as follows:*

*5. "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a regulated substance, including petroleum, from an underground storage tank into groundwater, surface water, or subsurface soils.**

**Sec. 2. Section 455B.471, Code 1987, is amended by adding the following new subsections:*

NEW SUBSECTION. 8. *"Corrective action" means an action taken to minimize, eliminate, or cleanup a release to protect the public health and welfare or the environment. Corrective action includes, but is not limited to, excavation of an underground storage tank for the purpose of repairing a leak or removal of the tank, removal of contaminated soil, disposal or processing of contaminated soil, and cleansing of groundwaters or surface waters. Corrective action does not include replacement of an underground storage tank. Corrective action specifically excludes third-party liability.*

NEW SUBSECTION. 9. *"Fund" means the Iowa comprehensive petroleum underground storage tank fund established in section 455B.479B.*

NEW SUBSECTION. 10. *"Board" means the Iowa comprehensive petroleum underground storage tank fund board established in section 455B.479C.*

NEW SUBSECTION. 11. *"Distributor" means a person who first receives petroleum within this state or a person who dispenses petroleum into an underground storage tank subject to the fee charged in section 455B.479 not owned or operated by the distributor.*

NEW SUBSECTION. 12. *"Third-party liability" means liability owed by an owner or operator to a person other than the fund for death, bodily injury, or property damage, but excludes corrective action, even if corrective action compensates a third party, in whole or in part, for injury or damage. Third-party liability is specifically excluded from fund coverage, and a third-party liability claim against an owner or operator covered by the fund is reduced to the extent that corrective action has already compensated the third party.**

Sec. 3. NEW SECTION. 455B.473A PETROLEUM UNDERGROUND STORAGE TANK REGISTRATION AMNESTY PROGRAM.

A petroleum underground storage tank required to be registered under section 455B.473, which has not been registered prior to July 1, 1988, may be registered under the following conditions:

1. The tank registration fee under section 455B.473, subsection 5, shall accompany the registration.

2. The storage tank management fee of fifteen dollars per tank under section 455B.479 shall be paid for past years in which the tank should have been registered.

3. **The owner or operator shall demonstrate financial responsibility as required by section 455B.479A.**

If a tank is registered under this section on or prior to October 1, 1989, penalties under section 455B.477 shall be waived.

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Sec. 4. Section 455B.474, subsection 1, paragraph d, Code Supplement 1987, is amended to read as follows:

d. Taking corrective action in response to a release or threatened release from an underground storage tank including appropriate testing of drinking water which may be contaminated by the release. The corrective action rules shall enable the director to order an owner or operator to immediately take all corrective actions deemed reasonable and necessary by the director.

Sec. 5. Section 455B.474, subsection 1, paragraph e, Code Supplement 1987, is amended to read as follows:

e. The closure of tanks to prevent any future release of a regulated substance into the environment. If consistent with federal environmental protection agency technical standard regulations, state tank closure rules shall include, at the tank owner's election, an option to fill the tank with an inert material. Removal of a tank shall not be required if the tank is filled with an inert material pursuant to department of natural resources rules. A tank closed, or to be closed and which is actually closed, within one year of the effective date of this Act, shall be required to complete monitoring or testing as required by the department to ensure that the tank did not leak prior to closure, but shall not be required to have a monitoring system installed.

Sec. 6. Section 455B.474, subsection 1, paragraph f, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

Specifying an adequate monitoring system to detect the presence of a leaking underground storage tank and to provide for protection of the groundwater resources for regulated tanks installed prior to May 1, 1986 January 14, 1987. The commission shall adopt these rules not later than April 1, 1986; however, the effective date of the rules adopted shall be May 1, 1988 January 14, 1989. In the event that federal regulations are adopted by the United States environmental protection agency after the commission has adopted state standards pursuant to this subsection, the commission shall immediately proceed to adopt rules consistent with those federal regulations adopted. Unless the federal environmental protection agency adopts final rules to the contrary, rules adopted pursuant to this section shall not apply to hydraulic lift reservoirs, such as for automobile hoists and elevators, containing hydraulic oil.

Sec. 7. Section 455B.474, subsection 1, paragraph f, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may issue a variance, which includes an enforceable compliance schedule, from the mandatory monitoring requirement for an owner or operator who demonstrates plans for tank removal, replacement, or filling with an inert material pursuant to a department approved variance. A variance may be renewed for just cause.

**Sec. 8. Section 455B.474, subsection 2, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:*

*The maintenance of evidence of financial responsibility as the director determines to be feasible and necessary for taking corrective action and for compensating third parties for bodily injury and property damage caused by release of a regulated substance from an underground storage tank, except an underground storage tank containing petroleum.**

Sec. 9. Section 455B.474, subsection 3, paragraph d, Code Supplement 1987, is amended to read as follows:

*Item veto; see message at end of the Act

d. Rules adopted by the commission shall specify adequate monitoring systems to detect the presence of a leaking underground storage tank and to provide for protection of the groundwater resources from regulated tanks installed after ~~May 1, 1986~~ January 14, 1987. ~~The commission shall adopt these rules not later than January 1, 1986, however, the effective date of the rules adopted shall be May 1, 1986.~~ In the event that federal regulations are adopted by the United States environmental protection agency after the commission has adopted state standards pursuant to this subsection, the commission shall immediately proceed to adopt rules consistent with those federal regulations adopted. Tanks installed on or after January 14, 1987, shall continue to be considered new tanks for purposes of this chapter and are subject to state monitoring requirements unless federal requirements are more restrictive.

Sec. 10. Section 455B.477, Code 1987, is amended by adding the following new subsections:

***NEW SUBSECTION. 6.** *The civil penalties recovered by the state or the fund in connection with a petroleum underground storage tank under this part of this division shall be credited to the fund.**

NEW SUBSECTION. 7. The penalty for intentional failure of an owner or operator to register a petroleum underground storage tank under section 455B.473 shall be a minimum of seven thousand five hundred dollars up to a maximum of ten thousand dollars after October 1, 1989.

***Sec. 11. NEW SECTION. 455B.479A PETROLEUM UNDERGROUND STORAGE TANK FUND.**

1. MINIMUM FINANCIAL RESPONSIBILITY, THE "DEDUCTIBLE". *The owner or operator shall demonstrate to the board evidence of financial responsibility in the amount of not less than twenty thousand dollars to cover corrective action costs through the use of one or more of the following financial assurance mechanisms:*

- a. *Self-insurance.*
- b. *Guarantee.*
- c. *Indemnity contract.*
- d. *Insurance.*
- e. *Risk retention group coverage.*
- f. *Letter of credit.*
- g. *The Iowa comprehensive petroleum underground storage tank fund.*
- h. *Governmental risk pool.*

i. Status as a city, county, or school district, or other political subdivision empowered to enter into insurance agreements obligating the entity to make payments beyond its current budget year to procure or provide for a policy of insurance, a self-insurance program, or a local government risk pool. For the purposes of sections 296.7, 331.301, subsection 11, 364.4, 384.12, subsection 18, and 613A.7, coverage under the fund is an "insurance agreement", the fund deductible is a "self-insurance program", and alternative proof of aggregate financial responsibility pursuant to section 455B.479A, subsection 8, is a "self-insurance program".

The state of Iowa, its agencies, departments, and other administrative subdivisions, are not exempt from this division. The state may purchase coverage from the fund, or the state may prove both minimum financial responsibility and aggregate financial responsibility by its status as a governmental entity capable of self-insuring by reliance upon its taxing powers to satisfy future incurred obligations.

The board shall provide by rule that the deductible or minimum financial responsibility requirement of this subsection shall be on the same basis as provided for under subsection 1.

2. APPLICATION TO BOARD FOR FUND COVERAGE. *An owner or operator may apply to the board for fund coverage of a tank on the form provided by the board.*

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3. **APPLICATION TO BOARD FOR FUND COVERAGE OF THE DEDUCTIBLE.** *The owner or operator may apply to the board to have the fund provide coverage of the deductible only if all of the following requirements are met:*

a. *The owner or operator demonstrates that it has been unable to establish the minimum financial responsibility required by subsection 1 and has made every reasonable attempt to secure coverage from at least two of the financial assurance mechanisms in subsection 1.*

b. *The owner or operator meets the guidelines for health, safety, and the public welfare required by law.*

c. *The owner or operator cooperates fully with the board during the application and investigation process and provide all documentation and records requested by the board.*

d. *The owner or operator consents to on-site inspection of the underground storage tank sought to be covered. The owner or operator shall pay the reasonable expenses of an on-site inspection under this paragraph.*

e. *The owner or operator is not insolvent and would not become insolvent by being required to pay the minimum amount of financial responsibility required by subsection 1.*

f. *Any other reasonable requirements set by the board.*

4. **THE BOARD MAY REFUSE FUND COVERAGE.** *The board reserves the right to refuse fund coverage, whether in combination with any other financial assurance mechanism or as the sole financial assurance mechanism to those owners or operators who fail to meet statutory standards and rules adopted by the board.*

a. *The board shall only extend fund coverage to an owner or operator for a petroleum underground storage tank which has an adequate monitoring system. However, the board may extend fund coverage for a petroleum underground storage tank without an adequate monitoring system, if the applicable one of the following conditions is satisfied:*

(1) **TANKS INSTALLED PRIOR TO JANUARY 14, 1967.** *The owner or operator of an underground storage tank has been granted a variance by the department which includes an enforceable compliance schedule pursuant to section 455B.474, subsection 1, paragraph "f". However, if an adequate monitoring system is not installed before the later of January 1, 1989, or the expiration of a variance issued by the department, the fund shall not provide further coverage to the owner or operator of the tank unless the monitoring system has been installed.*

(2) **TANKS INSTALLED BETWEEN JANUARY 14, 1967, AND JANUARY 13, 1987.** *The owner or operator of an underground storage tank installed between January 14, 1967, and January 13, 1987, has been granted a waiver by the board. Waivers shall include an enforceable schedule for installation of a monitoring system satisfactory to the board. A waiver may allow for a delay in the installation of a monitoring system until either November 1, 1989, or until six months from the date on which insurance is provided, whichever is later. A waiver shall be granted to an owner who demonstrates plans for tank removal, replacement, or filling with an inert material pursuant to a department approved variance, or significant tank upgrades or improvements. Waivers may be renewed or extended for just cause within the times set out above, but after the deadline or expiration of a waiver, the fund shall not provide further coverage to the owner or operator of the tank unless the monitoring system is installed.*

b. *For purposes of this section, "an adequate monitoring system" means a system complying with mandatory monitoring rules issued by the department of natural resources or monitoring wells satisfactory to the board, except the board shall not accept the manual inventory method as a satisfactory monitoring system and the board shall not accept a monitoring system less stringent than department rules require, or published rules will require when effective, for the tank.*

5. **LIMITS OF FUND COVERAGE.** *The board may approve coverage up to a maximum of five hundred thousand dollars for corrective action per occurrence.*

6. **FUND PREMIUMS AND DEDUCTIBLES.** *Fund coverage shall be offered based upon the following deductible and premium combinations, at the insured's option:*

- a. *Ten thousand dollar deductible for a four hundred dollar premium.*
- b. *Twenty thousand dollar deductible for a three hundred twenty-five dollar premium.*
- c. *Thirty thousand dollar deductible for a two hundred fifty dollar premium.*

Premiums for fund coverage are per tank, per year, or the prorated portion of the premium for a portion of a year before the effective date of the federal environmental protection agency petroleum underground storage tank financial responsibility regulations. Any excess premium payment shall be credited to future premiums or refunded to the owner or operator.

*The board in its discretion may require all new installations applying for fund coverage to be state-of-the-art installations.**

***Sec. 12. NEW SECTION. 455B.479B IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND.**

The Iowa comprehensive petroleum underground storage tank fund is established as a financial assurance mechanism to assist in corrective action resulting from the accidental release of petroleum from underground storage tanks. The fund is established as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund.

*The state is not liable for claims presented against the comprehensive petroleum underground storage tank fund. All expenses incurred in carrying out section 455B.479A, this section, and sections 455B.479C through 455B.479H shall be payable solely from the comprehensive petroleum underground storage tank fund and no liability or obligation shall be imposed upon the state beyond this amount.**

***Sec. 13. NEW SECTION. 455B.479C GOVERNING BOARD.**

1. **MEMBERS OF THE BOARD.** *The Iowa comprehensive petroleum underground storage tank fund board is established consisting of the following members:*

- a. *The director of the department of natural resources, or the director's designee.*
- b. *The treasurer of state, or the treasurer's designee.*
- c. *The commissioner of insurance, or the commissioner's designee.*
- d. *Two public members with financial or insurance industry expertise appointed by the governor and confirmed by the senate to staggered four-year terms.*

The filling of positions reserved for public representatives, vacancies, membership terms, payment of compensation and expenses, and removal of members are governed by chapter 69. The members shall elect a chairperson of the board.

2. **DEPARTMENT OF NATURAL RESOURCES COOPERATION WITH BOARD.** *The director of the department of natural resources shall cooperate with the board in the implementation of this part so as to minimize unnecessary duplication of effort or paperwork and maximize environmental protection.*

3. **REQUIRED RULES AND EMERGENCY RULES.**

a. *The board shall adopt rules regarding its practice and procedures, the form and procedure for application for financial responsibility certification, administration and collection of the comprehensive petroleum underground storage tank fee, procedures for investigating and settling claims, and establishment of guidelines outlining coverage available from the fund. The board in cooperation with the department shall require the reporting of the following information from owners and operators of tanks subject to the fee charged in section 455B.479:*

- (1) *Actual cost of corrective action performed, whether or not paid for by the fund.*

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(2) *The number of tanks owned by each owner, and their location, size, age, and amount of petroleum flowing through each site annually, to the extent each item is known or knowable.*

(3) *The number of tanks operated by each operator, and their location, size, age, and amount of petroleum flowing through each site annually, to the extent each item is known or knowable.*

(4) *Any other information, including prior loss experience, which the board or department requests relevant to an actuarial description of the tank population.*

This information shall be organized and submitted to the general assembly prior to February 14, 1989. Information submitted by an individual owner or operator shall be confidential and not subject to disclosure under chapter 21 or 22, except as the information is submitted to the general assembly in the aggregate. The board and the division of insurance shall prepare a report on the fund, its project loss experience, the then current federal rules, and other matters relating to the solvency and future operations of the fund and submit the report to the general assembly on or before February 14, 1989.

b. *The board may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this subsection for one year after the effective date of this section.*

c. *Rules necessary for the implementation and collection of the comprehensive petroleum underground storage tank fee, under section 455B.479E, shall be adopted on or before June 1, 1988.*

d. *Rules for the implementation of sections 455B.479A through 455B.479I, shall be adopted prior to October 1, 1988.*

4. **PROFESSIONAL ADMINISTRATOR OF FUND.** *The board shall employ a professional administrator to manage the fund as an independent contractor. The professional administrator must have had insurance or actuarial experience and must demonstrate management abilities consistent with the responsibility of managing the fund.**

***Sec. 14. NEW SECTION. 455B.479D FUND'S REVENUE SOURCES.**

Revenue from the following sources shall be deposited in the state treasury and credited to the fund:

1. *Premiums collected for coverage provided by the fund.*

2. *The proceeds from the fee imposed in section 455B.479E.*

3. *Money recovered under sections 455B.477 and 455B.479G, including administrative expenses, civil penalties, and money paid under an agreement, stipulation, or settlement.*

4. *Interest attributable to investment of money in the fund.*

5. *Money received by the board and department in the form of a gift, bequest, donation, federal grant, grant other than a federal grant, reimbursement, or appropriation from any source intended to be used for the purposes of the fund.**

***Sec. 15. NEW SECTION. 455B.479E PETROLEUM TANK FEE.**

The legislature hereby declares that the storage fees imposed by this section do not constitute a tax and are not collected for purposes of increasing state revenues pursuant to section 30 of Article III or section 8 of Article VII of the Iowa Constitution.

1. **GUARANTEE OF FUND'S SOLVENCY.**

a. *The board shall do the following when the unexpended balance in the fund falls below two million dollars:*

Increase the premium established pursuant to section 455B.479A, subsection 6, by an amount reasonably calculated to restore the fund balance to greater than two million dollars except a premium shall not be surcharged more than twenty-five percent in any one year of continuous coverage. The surcharge shall be applied as an immediate surcharge due within thirty days after mailed notice. Failure to pay the surcharge terminates fund coverage for the owner

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or operator as of thirty days after mailed notice. An owner or operator failing to make payment within the allotted time must reapply for fund coverage to be effective upon the date of application and conditioned upon payment of the annual premium plus any applicable surcharge then in effect.

2. **IMPOSITION OF COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FEE.** A comprehensive petroleum underground storage tank fee is imposed on the use of underground storage tanks containing petroleum subject to the fee charged in section 455B.479. The petroleum tank fee shall be collected at the distributor level. A distributor shall pay the fee on petroleum which is dispensed by the distributor into an underground storage tank subject to the fee charged in section 455B.479 not owned or operated by the distributor. Every distributor shall, as required by law, pay to the director of revenue and finance, or to a depository designated by the director, an amount equal to the rate provided under this section. A distributor which initially receives petroleum from out-of-state shall pay the fee on any petroleum deposited into an underground storage tank subject to the fee charged in section 455B.479 owned or operated by the distributor. The fee shall be paid only the first time that petroleum is deposited or dispensed into an underground storage tank subject to the fee charged in section 455B.479. A distributor shall receive a credit for the fee paid on petroleum transported and dispensed out-of-state by the distributor. The board shall adopt rules and forms to be used for the collection of the fee. The fee shall be imposed, as required under section 455B.479I, at a rate of twenty dollars per one thousand gallons of petroleum, which is a regulated substance as defined in section 455B.471, subsection 4, rounded to the nearest one thousand gallons. A distributor who fails to pay the fee imposed under this section is subject to the penalties provided in section 455B.477.

3. **UNEXPENDED BALANCE RETAINED IN THE FUND.** Any unexpended balance in the fund at the end of the fiscal year shall be retained in the fund.

4. **FEE COLLECTION.** For the purpose of determining the amount of liability for the comprehensive petroleum underground storage tank fee for each distributor, a distributor shall file with the department of revenue and finance, not later than the last day of the month following the month in which the fee is imposed, a monthly fee statement certified under penalties for false certificate. The statement shall show, with reference to each location at which petroleum is subject to the fee, the amount of petroleum deposited into an underground storage tank, the amount of the fee collected in the preceding calendar month, and such information as the department may reasonably require for the proper administration and enforcement of the fee.

5. **PAYMENTS.** The statement shall be accompanied by remittance in the amount of the fee due for the month in which the comprehensive petroleum underground storage tank fee was imposed.

6. **DEDUCTIONS AND CREDITS.** The statement shall show the amount of deductions or credits claimed by the distributor as authorized in this division in such detail and with such supporting evidence as is prescribed by the department of revenue and finance and as may be required for administration of this division.

7. **OTHER INFORMATION.** Such other information as the department of natural resources, the board, or the department of revenue and finance may require for the enforcement and administration of this chapter.

8. **ENFORCEMENT.** Enforcement of fee collection is the responsibility of the department of revenue and finance.*

***Sec. 16. NEW SECTION. 455B.479F DISBURSEMENTS.**

Money in the fund may only be expended for the following purposes:

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1. To administer the comprehensive petroleum underground storage tank program established in this part of this division, including but not limited to, payment of the professional administrator on an independent contract basis. The department of revenue and finance shall be compensated for the actual costs incurred for acting as the depository of the comprehensive petroleum underground storage tank fee.

2. To take corrective action for a release of petroleum into the environment from an underground storage tank for which coverage has been extended by the fund, up to the amount of coverage extended, but in no case to exceed five hundred thousand dollars for corrective action, per occurrence.

3. For the cost of corrective action up to five hundred thousand dollars per occurrence for a release of petroleum into the environment from an underground storage tank if one of the following requirements is met:

a. The owner or operator cannot be identified by the board within ninety days of report of the release to the department.

b. The owner or operator is incapable, in the judgment of the board, of carrying out the reasonable and required corrective action.

4. To fund the petroleum underground storage tank financing account established pursuant to chapter 455D.*

***Sec. 17. NEW SECTION. 455B.479G COST RECOVERY ENFORCEMENT.**

1. **GENERAL RULE, RECOVERY SOUGHT FROM OWNER OR OPERATOR.** The board shall seek recovery from the owner or operator of the underground storage tank which released the petroleum and which is the subject of the corrective action for all costs or moneys expended from the fund under section 455B.479F.

2. **OWNER'S EXCESS LIABILITY.** A person asserting a claim against an owner or operator shall proceed directly against the owner or operator. An owner or operator purchasing fund coverage is liable for the deductible, third-party liability, and any corrective action liability above fund coverage limits.

3. **OWNER OR OPERATOR NOT IN COMPLIANCE WITH MINIMUM FINANCIAL RESPONSIBILITY REQUIREMENTS SUBJECT TO FULL AND TOTAL COST UNDER GENERAL RULE.** Notwithstanding subsection 2, the liability of an owner or operator shall be the full and total costs of corrective action and for bodily injury or property damage to third parties specified in subsection 1 if the owner or operator has not complied with the requirements of section 455B.479A.

4. **TREBLE PUNITIVE DAMAGES FOR CERTAIN VIOLATIONS.** Notwithstanding subsection 2, the owner or operator, or both, of an underground storage tank may be liable to the fund for punitive damages in an amount equal to three times the amount of any cost incurred or moneys expended by the fund as a result of a release of petroleum from the underground storage tank if the owner or operator did one of the following:

a. Failed, without sufficient cause, to respond to a release of petroleum from the underground storage tank upon, or in accordance with, a notice issued by the director.

b. After the effective date of this section failed to perform any of the following:

(1) Failed to register the underground storage tank, which was known to exist or reasonably should have been known to exist.

(2) Intentionally failed to report a known release.

The punitive damages imposed under this subsection shall be in addition to any costs or expenditures recovered from the owner or operator pursuant to this section and in addition to any other penalty or relief provided by this part or any other law.

However, the state, a city, county, or other political subdivision shall not be liable for punitive damages.

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5. **JOINDER OF PARTIES.** Upon motion and sufficient showing by a party, the court or the department shall join to the action any person who may be liable for costs and expenditures of the type recoverable pursuant to this section.

6. **EXCEPTION TO RULE OF JOINT AND SEVERAL LIABILITY.** A party found liable for any costs or expenditures recoverable under this section, who establishes by a preponderance of the evidence that only a portion of those costs or expenditures is attributable to that party's actions, shall pay only for that portion.

7. **APPLICATION OF EQUITABLE PRINCIPLES IF INSUFFICIENT PROOF TO APPORTION COSTS OR EXPENDITURES.** If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection 6, the court shall apportion those costs or expenditures among the defendants, to the extent practicable, according to equitable principles.

8. **PAYMENT OF COSTS OR EXPENDITURES ABOVE AMOUNT APPORTIONED.** The fund shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under subsection 6 or subsection 7.

9. **STRICT LIABILITY.** The standard of liability for any costs recoverable pursuant to this part of this division is strict liability.

10. **THIRD-PARTY CONTRACTS NOT BINDING ON BOARD, PROCEEDINGS AGAINST RESPONSIBLE PARTY.** No insurance, indemnification, hold harmless, conveyance, or similar risk-sharing or risk-shifting agreement shall be effective to transfer any liability for costs recoverable under this section. The fund may proceed directly against the owner or operator or other allegedly responsible party. This section does not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs or expenditures under this chapter, and does not modify rights between the parties to an agreement.

11. **LATER PROCEEDINGS PERMITTED AGAINST OTHER PARTIES.** The entry of judgment against a party to the action does not bar a future action by the board against another person who is later alleged to be or discovered to be liable for costs and expenditures paid from the fund. Subsequent successful proceedings against another party shall not modify or reduce the liability of a party against whom judgment has been previously entered.

12. **UPON PAYMENT OF CLAIM, BOARD ACQUIRES SUBROGATION RIGHTS.** Payment of a claim by the fund pursuant to this part of this chapter shall be conditioned upon the board acquiring by subrogation the rights of the claimant to recover those costs and expenditures for corrective action for which the fund has compensated the claimant, from the person responsible or liable for the unauthorized release. A claimant is precluded from receiving double compensation for the same injury.

13. **EXCLUSION OF PUNITIVE DAMAGES.** The fund shall not be liable in any case for punitive damages.*

***Sec. 18. NEW SECTION. 455B.479H FUND NOT PART OF THE IOWA INSURANCE GUARANTY ASSOCIATION.**

Notwithstanding any other provisions of law to the contrary, the Iowa comprehensive underground storage tank fund shall not be considered an insurance company or insurer under the laws of this state and shall not be a member of nor be entitled to claim against the Iowa insurance guaranty association created under chapter 515B.*

***Sec. 19. NEW SECTION. 455B.479I INITIAL FUNDING FOR COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND.**

To provide the initial funding for the comprehensive petroleum underground storage tank fund, the director of revenue and finance shall impose the fee established in section 455B.479E, subsection 2, in the month of August 1988. The fee shall be paid to the department of revenue and finance no later than September 30, 1988.

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*Fund coverage shall be provided to eligible applicants no later than January 14, 1989. The board may, in its discretion, extend coverage earlier. Provided, however, that fund coverage may be provided upon approval of an application, retroactive to the effective date of this Act, if the applicant has a monitoring system installed on the insured tank in compliance with department of natural resources published rules, then effective, or to become effective, for that tank.**

***Sec. 20. NEW SECTION. 455D.1 LOANS FOR REPAIR OR REPLACEMENT OF PETROLEUM UNDERGROUND STORAGE TANKS.**

*This chapter shall be titled, "Loans for Repair or Replacement of Petroleum Underground Storage Tanks."**

***Sec. 21. NEW SECTION. 455D.2 LEGISLATIVE FINDINGS — NECESSITY FOR LOAN FUND TO ACCOMPLISH ENVIRONMENTAL GOALS WHILE PROTECTING SMALL BUSINESSES.**

The legislature finds the following:

1. *It is necessary and essential that the state use all practical means to control or eliminate pollution hazards posed by leaking petroleum underground storage tanks.*

2. *Small businesses in this state do not always have the financial means necessary to repair and upgrade existing underground storage tanks to reduce the probability that unauthorized releases of petroleum may occur.*

3. *The public health and safety of the state will benefit from providing new methods to finance the capital outlays required to repair and upgrade petroleum underground storage tanks by small business owners of such tanks.**

***Sec. 22. NEW SECTION. 455D.3 DEFINITIONS.**

1. *"Account" means the petroleum underground storage tank financing account established under section 455D.4, subsection 2.*

2. *"Authority" means the Iowa petroleum underground storage tank financing authority.*

3. *"Small business" means a business that meets all the following requirements:*

a. *Is independently owned and operated.*

b. *Owens one, but no more than ten petroleum underground storage tanks at no more than two different sites.*

4. *"Participating party" means a small business within this state which requires financing pursuant to the terms of this section to aid and assist in the repair, upgrading, or replacement of an existing petroleum underground storage tank.**

***Sec. 23. NEW SECTION. 455D.4 IOWA PETROLEUM UNDERGROUND STORAGE TANK FINANCING ACCOUNT.**

1. *The governing board of the Iowa comprehensive petroleum underground storage tank fund established pursuant to section 455B.479C shall constitute the Iowa petroleum underground storage tank financing authority. The authority shall adopt rules to provide loans, guarantees, or interest buy-downs to financially qualified small businesses for the purposes of repairing, upgrading, or replacing petroleum underground storage tanks to meet applicable state or federal standards. Financial assistance from the account, whether in the form of a loan, guarantee, or interest buy-down, is conditioned upon the repair, upgrade, or installation for which assistance is provided and must result in state-of-the-art tank and monitoring systems. The board shall take appropriate steps to publicize the existence of the loan program. Maintenance of the financing account and loan program are the responsibility of the treasurer of state. All expenses incurred in carrying out this section shall be payable solely from the petroleum underground storage tank financing account and no liability or obligation shall be imposed upon the state beyond this amount.*

*Item veto; see message at end of the Act

2. *The Iowa petroleum underground storage tank financing account is established as a separate fund in the state treasury, and any funds remaining in the account at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa petroleum underground storage tank financing account.**

***Sec. 24. NEW SECTION. 455D.5 PROOF OF FINANCIAL NEED.**

*As a condition of eligibility for financial assistance under this chapter, a participating party shall attempt to obtain financing from private lending sources. If two financial institutions are unwilling to make the loan, the participating party shall determine if the institution would make the loan in participation with the authority as a guarantor.**

***Sec. 25. NEW SECTION. 455D.6 LENGTH OF LOAN.**

*The maturity for each loan made by the authority pursuant to this chapter shall be the shortest feasible term commensurate with the repayment ability of the borrower. However, the maturity date of a loan shall not exceed ten years.**

***Sec. 26. NEW SECTION. 455D.7 MAXIMUM LOAN AND LOW COST INTEREST.**

*A loan made pursuant to this chapter shall not exceed fifty thousand dollars. The interest charged on a tank loan shall equal the cost of borrowing money by the state on the first day of the calendar quarter during which the loan is approved.**

***Sec. 27. NEW SECTION. 455D.8 SOURCE OF REVENUES.**

The source of funds for the Iowa petroleum underground storage tank financing account shall be from the following:

1. *The Iowa comprehensive petroleum underground storage tank fund in the amount of two percent of fees collected pursuant to section 455B.479E.*
2. *Interest payments received by the authority from outstanding loans.*
3. *Any money appropriated by the federal government or general assembly and made available to the account.**

***Sec. 28. NEW SECTION. 455D.9 FUTURE REPEAL.**

*This chapter is repealed effective July 1, 1998. Any moneys remaining in or due the account shall revert to the Iowa comprehensive petroleum underground storage tank fund.**

***Sec. 29. NEW SECTION. 455B.490 AUTOMATIC REPEAL OF IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND.**

1. *Sections 455B.477 through 455B.479I are repealed effective July 1, 2003.*
2. *The repeal of the sections listed in subsection 1 shall not terminate the following obligations or authorities necessary to administer the obligations until these obligations are satisfied:*
 - a. *The payment of claims filed prior to July 1, 2003, against the Iowa comprehensive petroleum underground storage tank fund pursuant to section 455B.479F, until moneys in the fund are exhausted. Upon exhaustion of the fund, any remaining claims shall be invalid. If following satisfaction of the obligations pursuant to this section, moneys remain in the fund, all remaining moneys and moneys due the fund shall be prorated to premium payers on an equitable basis determined by the board.*
 - b. *The resolution of a cost recovery action filed prior to July 1, 2003.**

***Sec. 30. INSTALLER'S FUND STUDY.** *The board shall perform a study of the feasibility of creating a separate fund to provide coverage to installers of petroleum underground storage tanks. An installer's fund would provide coverage to premium paying insureds on an actuarially sound basis and be managed by the board in conjunction with the comprehensive*

*Item veto; see message at end of the Act

petroleum underground storage tank fund. Installer's coverage would be limited to environmental hazard coverage for both corrective action and third-party liability for petroleum underground storage tanks installed in Iowa after the creation of the fund. The study shall include, but is not limited to, the following topics:

- 1. Actuarial estimate of the per-tank premium necessary to provide actuarially sound coverage to tank installers.*
- 2. Need for licensing or other precondition to providing coverage to a specific petroleum underground storage tank installer.*
- 3. The cost and availability of private insurance for installers.*
- 4. The number of installers doing business in the state.*
- 5. Loss data from past or existing claims against installers for both corrective action and third-party liability.*
- 6. Suggested limits of coverage, amount of the deductible, and other fund features.*
- 7. The board's recommendation to the general assembly concerning provision of coverage to installers.*

*The results of the study shall be submitted to the general assembly on or before December 1, 1988.**

Sec. 31. 1987 Iowa Acts, chapter 225, section 602, is repealed.

Sec. 32. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 13, 1988, except the items which I hereby disapprove and which are designated as sections 1 and 2; section 3, the first paragraph of subsection 3; section 8; section 10, new subsection 6; and sections 11 through 30. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State on this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

*Item veto; see message at end of the Act

Dear Madam Secretary:

I hereby transmit House File 2441, an Act relating to underground storage tanks, establishing certain fees, providing penalties, and providing an effective date.

House File 2441 is approved with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as: Sections 1 and 2 in their entirety; the first paragraph of Section 3, subsection 3; Section 8 in its entirety; Section 10, new subsection 6, in its entirety, and Sections 11 through 30 in their entirety.

House File 2441 establishes a state operated underground storage tank insurance fund. The fund would provide coverage up to \$500,000 per occurrence for leaks from underground storage tanks. This state insurance system is funded by tank fees assessed to owners of underground storage tanks which will raise approximately \$6 million per year. In addition, the legislation requires the imposition of a two cent per gallon tax on all petroleum products stored in the state in August of 1988. This tax increase is expected to raise approximately \$3 million this year.

In addition, House File 2441 includes provisions which delay the state rules requiring monitoring wells around existing tanks from May 1 of this year to January 14 of 1989 and provides additional enforcement tools to the Department of Natural Resources in this area.

I believe that a delay in the implementation of the state rules requiring costly monitoring of wells is in order, given the fact the federal government has yet to issue its rules governing these tanks. In addition, I approve of the additional enforcement tools which are provided to the Department of Natural Resources to deal with leaky underground storage tanks.

However, I cannot approve the items in this bill which:

- put the state in the insurance business by creating the state underground storage tank insurance fund;
- raise taxes; and
- appropriate tax revenues to the fund.

I believe this complicated tax increase and public insurance system sets the state on a fiscally hazardous course. Moreover, it excessively increases the gas and petroleum taxes for Iowans and prematurely leapfrogs federal regulations which have not yet been issued in this area.

First, some background is probably in order. The Congress has passed a law requiring the Environmental Protection Agency (EPA) to establish standards to deal with underground storage tanks. The EPA has been struggling with those standards for over two years. Proposed rules were issued once and then withdrawn after considerable public comment and protest. The key elements of the rules are likely to be monitoring cleanup and financial responsibility standards. In the interim, the Iowa Legislature mandated that the state require expensive monitoring wells to be constructed around each existing underground storage tank by May 1 of this year. Most owners of underground storage tanks were simply unable to comply with this mandate. Moreover, many owners of underground storage tanks were unable to obtain insurance necessary to provide funds to clean up underground storage tank leaks if they are found.

This bill is an attempt by the General Assembly to provide state insurance to pay for clean-up without knowing what the federal rules which will govern the financial liability of tank owners will require.

My concerns about that action by the state of Iowa are threefold:

- The underfunded insurance effectively exposes the state to considerable liability;
- The taxes on petroleum products should not be raised again and used for this purpose;
- State action of this import should not be taken until the federal rules are issued.

I have deep philosophical concerns about involving the state in the insurance business. I generally believe that insurance is best left to the private sector. I do understand that most underground storage tank owners find it difficult, if not impossible, to locate private insurers, however. Nevertheless, House File 2441 establishes an insurance fund, that according to actuarial estimates, will be insolvent by \$10-\$20 million. This \$10-\$20 million unfunded liability would have to be picked up by either tank owners or, in all probability, by the state. Since tank owners do not have the financial ability to pick up those additional costs, it is quite likely that this \$10-\$20 million of unfunded liability will eventually fall on the state's taxpayers. I am reluctant to commit the state to fund such a substantial liability.

In addition, I am deeply concerned about the method that is used in this legislation to provide public funds for this insurance system. Public funds are provided by a two cent increase in all petroleum products stored in August of this year. We have already adjusted the motor fuel user fee to pay for the Transportation 2000 commercial highway network and to replace lost federal funds needed to repair and maintain our highways. I believe that adjustment is enough. We should not shove another two cent per gallon tax increase in August on to the state's petroleum users.

Moreover, I am concerned about the precedent this legislation sets in using a petroleum tax for purposes other than maintaining our transportation system. Our Constitution appropriately requires that motor fuel user fees be dedicated towards the maintenance of our roadways. This legislation attempts to evade that constitutional provision by taxing petroleum fuels while they are still in the distributor storage tanks and then using them for an insurance fund. Thus, the bill raises serious constitutional questions and, in any event, sets a bad precedent for road funding decisions in the future.

Finally, I believe that House File 2441 attempts to solve a problem that has not yet been defined. The financial responsibility requirements to be placed on owners of underground storage tanks will be established by the rules reportedly due out anywhere from October of this year to the spring of next year. In addition, the preliminary reports indicate that there may be changes in the financial responsibility requirements for tank owners in those rules. And, there are some reports that the effective date of the financial responsibility requirements in the rules could be delayed until 1990 or 1991.

Frankly, until the rules are finally issued, we do not know what type of financial responsibility system should be established to deal with leaky underground storage tanks. The likely size of the problem will probably necessitate some sort of state role in the cleanup process and I am certainly willing to consider options to do that, given the important environmental need to maintain clean groundwater. However, I believe it would be premature and ill advised to put in place a two cent per gallon petroleum tax, and a state operated insurance fund with a \$10-\$20 million unfunded liability until we receive clear indications of just what the federal government will require. We should have a much better idea of what those requirements will be at the time of the commencement of the next General Assembly. Once the final federal rules are issued, I will work closely with the affected parties to develop an appropriate state response to this important environmental issue.

In short, I cannot approve those items in House File 2441 which potentially obligate the state to considerable financial liability, raise the petroleum tax by two cents per gallon on Iowans, and appropriate to and establish the state underground storage insurance fund. I believe it would be premature and fiscally unwise for the state to take this step at this time.

For the above reasons, I hereby respectfully 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 2441 are hereby approved as of this date.

Sincerely,

TERRY E. BRANSTAD, *Governor*

CHAPTER 1245

SERVICES FOR PERSONS WITH MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES, AND MENTAL ILLNESS

S.F. 2330

AN ACT relating to the provision of certain services to persons with mental retardation, a developmental disability, or mental illness.

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

Section 1. Section 225C.6, subsection 1, Code 1987, is amended by adding the following new paragraphs:

NEW PARAGRAPH. m. Establish standards for the provision of individual case management services.

NEW PARAGRAPH. n. Establish standards for the structure of a service coordination system which ensures a linkage between the service coordination system and individual case management services.

Sec. 2. Section 225C.18, subsection 1, Code 1987, is amended to read as follows:

1. A county board of supervisors, independently or in conjunction with one or more other county boards of supervisors, shall either establish a county or ~~joint county~~ multicounty mental health, ~~and mental retardation, and developmental disabilities co-ordinating board~~ or constitute the board or the ~~joint multicounty~~ boards of supervisors as the ex officio county mental health, ~~and mental retardation, and developmental disabilities co-ordinating board~~. If a separate county mental health, ~~and mental retardation, and developmental disabilities co-ordinating board~~ is established, it shall be composed of persons who have demonstrated a concern for mental health, ~~and mental retardation, and developmental disabilities services~~ and its size shall be determined by the board or ~~joint multicounty~~ boards of supervisors. ~~One~~ Each county board of supervisors shall designate one or more county supervisors ~~may be named to serve on a separate county mental health, and mental retardation, and developmental disabilities co-ordinating board. If the board or joint boards of supervisors serve ex officio as the county mental health and mental retardation co-ordinating board, it shall establish an advisory board composed of persons who have demonstrated a concern for mental health and mental retardation services, and who are not governmental officials, to advise the co-ordinating board with respect to the co-ordinating board's functions under subsection 2. The chairperson of the county mental health, mental retardation, and developmental disabilities advisory committee established under section 225C.18A shall serve on the county or multicounty co-ordinating board. The vice chairperson of the county mental health, mental retardation, and developmental disabilities advisory committee shall serve on the county or multicounty co-ordinating board if ten or more county supervisors are members of the board.~~

Sec. 3. Section 225C.18, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A county or ~~joint county~~ multicounty mental health, ~~and mental retardation, and developmental disabilities co-ordinating board~~ shall:

Sec. 4. Section 225C.18, subsection 2, paragraph a, Code 1987, is amended to read as follows:

a. Develop a plan for the provision of mental health, ~~and mental retardation, and developmental disabilities services~~ in the county or counties represented by the membership of the board, consistent with the state mental health, ~~and mental retardation plans, and developmental disabilities plan~~; however, the plan shall only be valid if approved by the county board or boards of supervisors.

Sec. 5. Section 225C.18, subsection 2, Code 1987, is amended by adding the following new paragraph after paragraph a and relettering the subsequent paragraphs:

NEW PARAGRAPH. b. Develop a plan, subject to annual state appropriations, county budgets, and other sources of funding, to provide individual case management services through the county, through a contract with a private provider, or through the department. However, the plan shall only be valid if approved by the county board or boards of supervisors.

Sec. 6. NEW SECTION. 225C.18A MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ADVISORY COMMITTEE.

1. The mental health, mental retardation, and developmental disabilities coordinating board shall establish an advisory committee composed of consumers, advocates, funding providers, service providers, program monitors, and other persons who have demonstrated a concern for mental health, mental retardation, or developmental disabilities. The board shall assure a balance of representation in the membership of the committee among the persons listed above and the service populations for whom the board has responsibility. Each county shall appoint to the committee one or more persons who have demonstrated a concern for persons with mental illness, one or more persons who have demonstrated a concern for persons with mental retardation, and one or more persons who have demonstrated a concern for persons with a developmental disability.

2. A county or multicounty mental health, mental retardation, and developmental disabilities advisory committee shall do all of the following:

a. Advise the mental health, mental retardation, and developmental disabilities coordinating board regarding board functions under section 225C.18, subsection 2.

b. Submit an annual plan to the mental health, mental retardation, and developmental disabilities coordinating board which includes recommendations regarding service development, expansion, modifications, and an estimate of the cost of implementing the plan.

c. Review and evaluate the appropriateness, effectiveness, and efficiency of services being provided to persons with mental retardation, a developmental disability, or mental illness in the county or multicounty area.

d. Perform duties assigned by the mental health, mental retardation, and developmental disabilities coordinating board.

e. Study and evaluate the needs of persons with mental retardation, a developmental disability, or mental illness in the county or multicounty area.

Sec. 7. NEW SECTION. 225C.18B RESPONSIBILITIES OF COUNTIES FOR INDIVIDUAL CASE MANAGEMENT SERVICES.

Individual case management services shall be provided by the department except when a county or a consortium of counties contracts with the department to provide the services. A county or consortium of counties may contract to be the provider at any time and the department shall agree to the contract so long as the contract meets the standards for case management adopted by the department. The county or consortium of counties may subcontract for the provision of case management services so long as the subcontract meets the same standards. A mental health, mental retardation, and developmental disabilities coordinating board which intends to change the provider of individual case management services shall provide written notification of a proposed change to the department on or before August fifteenth and written notification of an approved change on or before October fifteenth in the fiscal year which precedes the fiscal year in which the change will take effect.

Sec. 8. NEW SECTION. 225C.32 PLAN APPEALS PROCESS.

The department shall establish an appeals process by which a mental health, mental retardation, and developmental disabilities coordinating board or an affected party may appeal a decision of the department or of the coordinating board.

CHAPTER 1246**CITY GOVERNMENT CODE CORRECTIONS***H.F. 2348*

AN ACT relating to certain ambiguities and inconsistencies of the Code as they relate to city government.

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

Section 1. Section 44.4, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

Nominations made ~~under the provisions of~~ pursuant to this chapter and chapter 45 which are required to be filed in the office of the state commissioner shall be filed in that office not more than eighty-five days nor later than five o'clock p.m. on the sixty-seventh day prior to the date of the general election to be held in November; and those nominations made for a special election called pursuant to section 69.14 shall be filed not less than twenty days prior to the date of an election called upon at least forty days' notice and not less than seven days prior to the date of an election called upon at least ten days' notice. Nominations made pursuant to this chapter and chapter 45 which are required to be filed in the office of the commissioner shall be filed in that office not later than five o'clock p.m. on the fifty-fifth day prior to the date of the general election. Nominations made ~~under~~ pursuant to this chapter or chapter 45 for city office shall be filed not more than ~~sixty-five~~ seventy-two days nor later than five o'clock p.m. on the ~~fortieth~~ forty-seventh day prior to the city election with the city clerk, who shall process them as provided by law.

Sec. 2. Section 362.5, subsection 5, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:

5. Contracts in which a city officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 9, or both, if the contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.

Sec. 3. Section 362.5, subsection 10, Code Supplement 1987, is amended by striking the subsection.

Sec. 4. Section 372.13, subsection 5, Code Supplement 1987, is amended to read as follows:

5. The council shall determine its own rules and maintain records of its proceedings. City records and documents, or accurate reproductions, shall be kept for at least five years, ~~except that~~ However, ordinances, resolutions, council proceedings, and records and documents relating to real property transactions or bond issues or accurate reproductions of those ordinances, resolutions, council proceedings, and records and documents relating to real property transactions or bond issues, shall be maintained permanently.

Sec. 5. Section 380.3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A proposed ordinance or amendment must be considered and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than three-fourths of the council members. If a proposed ordinance or amendment fails to receive sufficient votes for passage at any consideration, the proposed ordinance or amendment shall be considered defeated.

Sec. 6. Section 384.84, subsection 1, Code Supplement 1987, 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, water, solid waste disposal, or any of these, if not paid as provided by ordinance of the council, or resolution of the 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 However, 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 treasurer and collected in the same manner as taxes, and is not divested by a judicial sale.

Sec. 7. Section 386.3, subsection 2, paragraph f, Code 1987, is amended to read as follows:

f. A statement that taxes levied for the self-supported improvement district operation fund shall be used for the purpose of paying maintenance expenses of improvements or self-liquidating improvements ~~financed pursuant to this chapter~~ for a specified length of time, along with any options to renew, if ~~such~~ the taxes are to be used for this maintenance purpose.

Sec. 8. Section 414.5, Code 1987, is amended to read as follows:

414.5 CHANGES — PROTEST.

The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. Notwithstanding section 414.2, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, a council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the city clerk and signed by the owners of twenty percent or more of the area of the lots included in the proposed change or repeal, or 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 protest, if filed, must be filed before or at the public hearing. The provisions of section 414.4 relative to public hearings and official notice apply equally to all changes or amendments.

Approved May 14, 1988

CHAPTER 1247**CITIZENS' AIDE ACCESS TO CONFIDENTIAL RECORDS***H.F. 2406*

AN ACT relating to access by the citizens' aide to confidential records and proceedings.

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

Section 1. Section 601G.9, subsection 3, Code 1987, is amended to read as follows:

3. Request and receive from each agency assistance and information as necessary in the performance of the duties of the office. The Notwithstanding section 22.7, pursuant to an investigation the citizens' aide may examine the any and all records and documents of any agency unless its custodian demonstrates that the examination would violate federal law or result in the denial of federal funds to the agency. If the document sought is required by law to be kept confidential, the agency may refuse access until the citizens' aide demonstrates that the document is relevant or material to an investigation authorized under subsection 1. Confidential documents provided to the citizens' aide by other agencies shall continue to maintain their confidential status. If the citizens' aide is provided access to the confidential document, the The citizens' aide is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the agency. The citizens' aide may enter and inspect premises within any agency's control and may observe proceedings and attend hearings, with the consent of the interested party, including those held under a provision of confidentiality, conducted by any agency unless the agency demonstrates that the attendance or observation would violate federal law or result in the denial of federal funds to that agency. This subsection does not permit the examination of records or access to hearings and proceedings which are the work product of an attorney under section 22.7, subsection 4, or which are privileged communications under section 622.10.

Approved May 14, 1988

CHAPTER 1248**ATHLETE AGENTS' REGISTRATION***H.F. 2432*

AN ACT relating to the registration and regulation of persons seeking to represent a student athlete for compensation in negotiations intended to result in employment with a professional sports team, prohibiting certain actions relating to student athletes and their families, and providing penalties.

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

Section 1. NEW SECTION. 9A.1 TITLE.

This chapter shall be known as the "Registration of Athlete Agents Act".

Sec. 2. NEW SECTION. 9A.2 DEFINITIONS.

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

1. "Athlete agent" means a person representing a student athlete for compensation or any person who, directly or indirectly, recruits or solicits a student athlete to enter into an agent contract or professional sports services contract with the person, or who for a fee procures, offers, promises, or attempts to obtain employment for a student athlete with a professional

sports team. "Athlete agent" does not include an individual licensed to practice as an attorney in this state when the individual is acting as a representative for a student athlete, unless the attorney also represents the student athlete in negotiations for an agent contract.

2. "Student athlete" means an individual enrolled at an institution of higher education who is eligible to participate in intercollegiate sports contests as a member of a sports team of an institution of higher education, or who is receiving partial or full financial assistance by way of an athletic scholarship and may in the future be eligible to participate in intercollegiate sports contests as a member of a sports team of an institution of higher education.

3. "Institution of higher education" means a public or private college or university in this state.

Sec. 3. NEW SECTION. 9A.3 REGISTRATION REQUIREMENTS FOR ATHLETE AGENTS.

1. An athlete agent shall register with, and obtain a certificate of registration from, the secretary of state before contacting, either directly or indirectly, a student athlete concerning the possibility of the athlete agent's representing the student athlete. The athlete agent may apply for a certificate of registration by submitting the forms provided for that purpose and must provide all the information required by the secretary of state, including all of the following:

- a. Name of the applicant and the address of the applicant's principal place of business.
- b. Business or occupation engaged in by the applicant for the five years immediately preceding the date of application.
- c. The athlete agent's educational background, training, and experience relating to being an athlete agent.
- d. Names and addresses of all persons, except bona fide employees on stated salaries, who are financially interested as partners, associates, or profit sharers in the operation of the business of the athlete agent.
- e. Record of all felony charges and convictions, and all misdemeanor charges and convictions of the athlete agent.
- f. Record of all felony charges and convictions, and misdemeanor charges and convictions of all persons, except bona fide employees, who are financially interested as partners, associates, or profit sharers in the operation of the business of the athlete agent.
- g. Record of all sanctions issued to or disciplinary actions taken against the athlete agent or against any student athlete or any institution of higher education in connection with any transaction or occurrence involving the athlete agent.
- h. Additional information as deemed appropriate by the secretary of state.

2. In addition to the requirements of subsection 1, an athlete agent who is not a resident of this state must file with the secretary of state an irrevocable consent to service of process on a form prescribed by the secretary. The consent to service shall be signed by the athlete agent, or by an authorized representative of the athlete agent, and notarized. If the athlete agent is a corporation, the consent to service shall be accompanied by a copy of the corporation's authorization to do business in this state and a copy of the resolution of the corporation authorizing the consent to service. The consent to service shall indicate that service upon the secretary of state is sufficient service upon the athlete agent, if the plaintiff forwards by certified mail one copy of the service to the business address of the athlete agent on file at the office of the secretary of state.

3. A certificate of registration issued under this section is valid for one year from the date of issuance. A registered athlete agent may renew the certificate by filing a renewal application in the form prescribed by the secretary of state, accompanied by any applicable renewal fee.

4. The secretary of state shall:

- a. Establish a reasonable registration fee sufficient to offset expenses incurred in the administration of this chapter.

b. Adopt rules necessary for the implementation and administration of this chapter.

Sec. 4. NEW SECTION. 9A.3A RESIDENT AGENT REQUIRED.

A person registered under this chapter as an athlete agent who is not a resident of this state, or does not have a principal place of business in this state, shall not engage in any activity as an athlete agent in this state unless that person has entered into an agreement with a person who is a resident of this state or whose principal place of business is in this state, who is licensed pursuant to section 602.10101, and who is registered under this chapter as an athlete agent, to act on behalf of the nonresident athlete agent. The agreement shall provide that the resident athlete agent shall act as attorney in fact, on whom all process in any action involving the nonresident athlete agent may be served, as well as any other duties as negotiated by the nonresident and resident athlete agent. The agreement shall be filed with the secretary of state and shall include the name and address of the resident athlete agent.

Sec. 5. NEW SECTION. 9A.4 DENIAL OF CERTIFICATE OF REGISTRATION.

The secretary of state may deny, suspend, or revoke an athlete agent's certificate of registration, following a hearing where a determination is made that the athlete agent has engaged in any of the following activities:

1. Made false or misleading statements of a material nature in the athlete agent's application for a certificate of registration or renewal of a certificate of registration.
2. Misappropriated funds, or engaged in other specific acts such as embezzlement, theft, or fraud, which in the judgment of the secretary of state would render the athlete agent unfit to serve in a fiduciary capacity.
3. Engaged in other conduct, including, but not limited to, conduct contributing to sanctions or disciplinary action against any student athlete or institution of higher education, whether within this state or not, which in the judgment of the secretary of state relates to the athlete agent's fitness to serve in a fiduciary capacity.
4. Engaged in a material violation of this chapter or a rule adopted pursuant to this chapter, as shown by a preponderance of the evidence. The suspension or revocation of an agent's registration may be reviewed pursuant to chapter 17A.

Sec. 6. NEW SECTION. 9A.5 BOND REQUIRED FROM ATHLETE AGENT.

1. An athlete agent shall have on file with the secretary of state before the issuance or renewal of a registration certificate, a surety bond executed by a surety company authorized to do business in this state in the sum of twenty-five thousand dollars, which bond shall be continuous in nature until canceled by the surety. A surety shall provide at least thirty days notice in writing to the agent and to the secretary of state indicating the surety's intent to cancel the bond and the effective date of the cancellation. The surety bond shall be for the benefit of the citizens of this state and shall be conditioned upon the athlete agent's willingness to comply with this chapter, pay all amounts due to any individual or group of individuals when due, and pay all damages caused to any student athlete or institution of higher education by reason of intentional misstatement, misrepresentation, fraud, deceit or any unlawful or negligent acts or omissions by the registered athlete agent or the athlete agent's representative or employee while acting within the scope of employment. This section shall not limit the recovery of damages to the amount of the surety bond.

2. The bond shall be made in a form prescribed by the secretary of state and written by a company authorized by the secretary of state to do business within the state.

Sec. 7. NEW SECTION. 9A.5A AGENT CONTRACT.

1. An agent contract to be entered into by a registered athlete agent and a student athlete who has not previously signed a contract of employment with a professional sports team shall be on a form approved by the secretary of state. Approval of the form shall not be withheld unless the proposed form is unfair, unjust, or oppressive to the student athlete. If the form

of the contract is in compliance with any players association form contract, the contract shall be approved by the secretary of state.

2. The agent contract shall have printed on the face of the contract in bold print the following: "The athlete agent is registered with the secretary of state. Registration does not imply approval or endorsement by the secretary of state of the specific terms and conditions of this contract or competence of the athlete agent. You have the right to terminate this contract within five calendar days after it is signed. You may jeopardize your standing as a student athlete by entering into this contract under the rules for eligibility established by or adhered to by your institution of higher education."

3. A registered athlete agent shall file with the secretary of state a schedule of fees chargeable and collectible from a student athlete who has not previously signed a contract of employment with a professional sports team and shall file a description of the various professional services to be rendered in return for each fee. The athlete agent may impose charges only in accordance with the fee schedule. Changes in the fee schedule may be made from time to time, except that a change shall not become effective until the seventh day after the date the change is filed with the secretary of state.

Sec. 8. NEW SECTION. 9A.6 PROHIBITED ACTIVITIES.

A person shall not do any of the following:

1. Act or offer to act as an athlete agent unless registered pursuant to this chapter.
2. Engage in conduct which violates, or causes or contributes to causing a student or institution of higher education to violate, any rule or regulation adopted by the national collegiate athletic association governing student athletes and their relationship with athlete agents and institutions of higher education.
3. Except as provided in subsection 5, enter into a written or oral agreement by which the athlete agent will represent a student athlete, or give anything of value to a student athlete, until after completion of the student athlete's last intercollegiate athletic contest including any postseason contest.
4. Enter into an agreement before the student athlete's last intercollegiate contest that purports to take effect at a time after that contest is completed.
5. Enter into an agreement where the athlete agent gives, offers, or promises anything of value to an employee or student of an institution of higher education in return for the referral of a student athlete by the employee or student.
6. Interfere with, impede, or obstruct the administration and enforcement of this chapter.

Sec. 9. NEW SECTION. 9A.7 ON-CAMPUS ATHLETE AGENT INTERVIEWS.

If an institution of higher education located in this state elects to permit athlete agent interviews on its campus during a student athlete's final year as a student athlete, a registered athlete agent may interview the student athlete to discuss the registered athlete agent's representation of the student athlete in the marketing of the student athlete's athletic ability and reputation. The registered athlete agent shall strictly adhere to the conditions imposed by each institution with regard to the time, place, manner, and duration of the interviews.

Sec. 10. NEW SECTION. 9A.8 CONTRACT VOID.

An agent contract negotiated by an athlete agent who has failed to comply with the provisions of this chapter is void. If the contract is void pursuant to this section, the athlete agent does not have a right of repayment of anything of value received by the student athlete as an inducement to enter into an agent contract or received by a student athlete before completion of the student athlete's last intercollegiate contest, and the athlete agent shall refund any consideration paid to the athlete agent by the student athlete or on the student athlete's behalf.

Sec. 11. NEW SECTION. 9A.9 PENALTIES — ENFORCEMENT.

1. The attorney may institute a legal proceeding against an athlete agent on behalf of the state, and shall institute legal proceedings at the request of the secretary of state, to enforce this chapter.

2. A person who knowingly and willfully violates a provision of this chapter is subject to a civil penalty in an amount not to exceed ten thousand dollars.

3. A person who violates a provision of section 9A.6 commits a serious misdemeanor.

Sec. 12. NEW SECTION. 9A.10 COSTS.

A student athlete and an institution of higher education are entitled to recover reasonable attorney's fees and court costs against an athlete agent found to be in violation of this chapter.

Sec. 13. NEW SECTION. 722.11 STUDENT ATHLETE PROHIBITIONS.

1. DEFINITIONS. As used in this section:

a. "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or guardian of a person named in this paragraph.

b. "Institution of higher education" means an institution of higher education under the control of the state board of regents, a merged area school, or a private college or university located in this state.

c. "Student athlete" means a person who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program. The term includes a person who has applied, is eligible to apply, or who may be eligible to apply in the future to an institution of higher education.

2. PROHIBITIONS.

a. Except as provided in paragraphs "c" and "d", a person shall not give, offer, promise, or attempt to give any money or other thing of value to a student athlete or immediate family member of a student athlete for either of the following purposes:

(1) To induce, encourage, or reward the student athlete's application, enrollment, or attendance at an institution of higher education in order to have the student athlete participate in intercollegiate sporting events, contests, exhibitions, or programs at that institution.

(2) To induce, encourage, or reward the student athlete's participation in an intercollegiate sporting event, contest, exhibition, or program.

b. A person shall not aid or abet an act described in paragraph "a".

c. As used in this subsection, "person" does not include any of the following:

(1) An institution of higher education or any of its officers or employees if the institution, officer, or employee is acting in accordance with an official written policy of the institution.

(2) An immediate family member of the student athlete.

d. An intercollegiate athletic award approved or administered by the institution of higher education that the student athlete attends is not an inducement, encouragement or reward under paragraph "a".

e. A person who engages in conduct knowing or having reason to know that the conduct violates this subsection commits an aggravated misdemeanor.

3. PROHIBITIONS FOR STUDENT ATHLETES.

a. Except as provided in paragraph "b", a student athlete or immediate family member of the student athlete, shall not solicit or accept money or anything of value for any of the purposes described in subsection 2, paragraph "a". A person shall not aid or abet an act described in this paragraph.

b. This subsection does not apply to money or other things of value that a student athlete receives from any of the following:

(1) An institution of higher education, its officers, or employees if the institution, officer, or employee offered money or other thing of value in accordance with an official written policy

of the institution or if the thing of value is an intercollegiate athletic award approved or administered by that institution.

(2) An immediate family member of the student athlete.

c. A person who engages in conduct knowing or having reason to know that the conduct violates this subsection commits a serious misdemeanor.

Approved May 14, 1988

CHAPTER 1249

HUMAN SERVICES PROGRAMS

H.F. 2456

AN ACT relating to programs for which appropriations to the department of human services are required, providing an effective date, and providing penalties.

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

Section 1. Section 135B.9, Code 1987, is amended to read as follows:

135B.9 INSPECTIONS AND CONSULTATIONS — PROTECTION AND ADVOCACY AGENCY INVESTIGATIONS.

The department of inspections and appeals shall make or cause to be made such inspections as it may deem necessary. The state Iowa department of public health shall, with the advice of the hospital licensing board, prescribe by regulations that any licensee or applicant for license desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall before commencing such alteration, addition or new construction, submit plans and specifications therefor to the department of inspections and appeals for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

In the state hospital-schools and state mental health institutes operated by the department of human services, the designated protection and advocacy agency as provided in section 135C.2, subsection 4, shall have the authority to investigate all complaints of abuse and neglect of persons with developmental disabilities or mental illnesses if the complaints are reported to the protection and advocacy agency or if there is probable cause to believe that the abuse has occurred. Such authority shall include the examination of all records pertaining to the care provided to the residents and contact or interview with any resident, employee, or any other person who might have knowledge about the operation of the institution.

Sec. 2. Section 135B.12, Code 1987, is amended to read as follows:

135B.12 INFORMATION CONFIDENTIAL.

Information received by the department of inspections and appeals and the protection and advocacy agency through filed reports, inspection, or as otherwise authorized under this chapter, shall not be disclosed publicly in such manner as to identify individuals or hospitals, except in a proceeding involving the question of licensure or the denial, suspension or revocation of a license or civil suit or administrative action by or on behalf of a patient.

Sec. 3. Section 135C.2, subsection 4, Code Supplement 1987, is amended to read as follows:

4. The protection and advocacy agency designated in the state, under Pub. L. No. 98-527, the developmental disabilities Act of 1984, and Pub. L. No. 99-319, the protection and advocacy for mentally ill individuals Act of 1986, and Pub. L. No. 100-146, the federal Developmental

Disabilities Assistance and Bill of Rights Act Amendments of 1987, is recognized as an agency legally authorized and constituted to ensure the implementation of the purposes of this chapter for populations under its authority and in the manner designated by Pub. L. No. 98-527, and Pub. L. No. 99-319, and Pub. L. No. 100-146 and in the assurances of the governor of the state.

Sec. 4. Section 217.20, Code 1987, is amended to read as follows:
217.20 TRIPS TO OTHER STATES.

No authority shall be granted to any person to travel to another state except by approval of the commissioner ~~and~~ under guidelines established by the executive council.

Sec. 5. Section 218.78, subsection 1, Code 1987, is amended to read as follows:

1. All institutional receipts of the department of human services, including funds received from client participation at the state hospital-schools under section 222.78 and at the state mental health institutes under section 230.20, shall be deposited in the general fund except for reimbursements for services provided to another institution or state agency, for receipts deposited in the revolving fund under section 246.706, for deposits into the medical assistance fund under section 249A.11, and rentals charged to employees or others for room, apartment, or house and meals, which shall be available to the institutions.

Sec. 6. Section 222.73, subsection 2, Code 1987, is amended to read as follows:

2. The superintendent shall certify to the director of revenue and finance the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and outpatient treatment charges computed pursuant to subsection 1, and the number of inpatient days and outpatient treatment service units chargeable to the county. ~~The county billing for a patient shall be reduced by an amount received for the patient's care from any source other than state appropriated funds.~~ The billings to a county of legal settlement are subject to adjustment for all of the following circumstances:

a. The county billing for a patient shall be reduced by the amount received for the patient's care from a source other than state appropriated funds.

b. If more than twenty percent of the cost of a patient's care is initially paid from a source other than state appropriated funds, the amount paid shall be subtracted from the average per-patient-per-day cost of that patient's care and the patient's county shall be billed for the full balance of the cost so computed.

c. The county of a patient who is eligible for reimbursement under the medical assistance program shall be responsible for the costs which are not reimbursed by the medical assistance program, regardless of the level of care provided to the patient.

d. A county shall be responsible for eighty percent of the cost of care of a patient who is not eligible for reimbursement under the medical assistance program.

e. The billings for counties shall be credited with one hundred percent of the client participation for patients eligible for medical assistance in the calculation of the per diem rate for patients.

The per diem costs billed to each county shall not exceed the per diem costs in effect on July 1, 1988. However, the per diem costs may be adjusted annually to the extent of the adjustment in the consumer price index published annually in the federal register by the federal department of labor, bureau of labor statistics.

Sec. 7. Section 225C.10, subsection 2, paragraph a, subparagraph (1), Code 1987, is amended to read as follows:

(1) Indicates that the services for which the county or counties intend to use general allocation money are comprehensive services or other services mandated or authorized by law, and in accordance with rules adopted by the commission, are offered by accredited or licensed

providers where accreditation or licensure standards are applicable, and do not include major maintenance or capital expenditure projects.

Sec. 8. Section 225C.10, subsection 3, Code 1987, 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 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 at least annually at the time and in the manner prescribed by the director.

Sec. 9. Section 230.20, subsection 1, paragraph a, Code Supplement 1987, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (4) The costs of the psychiatric residency program.

NEW SUBPARAGRAPH. (5) The costs of the chaplain intern program.

Sec. 10. Section 232.21, subsection 2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Placement shall be made in the least restrictive facility available consistent with the best interests and special needs of the child. Foster family care shall be used for a child unless the child has problems requiring specialized service or supervision which cannot be provided in a family living arrangement.

Sec. 11. Section 232.21, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A child twelve years of age or younger shall not be placed in a group shelter care home, unless there have been reasonable but unsuccessful efforts to place the child in an emergency foster family home which is able to meet the needs of the child. The efforts shall be documented at the shelter care hearing.

Sec. 12. Section 232.52, subsection 2, paragraph d, subparagraph (3), Code 1987, is amended to read as follows:

(3) The department of human services for purposes of foster care and prescribing the type of placement which will serve the best interests of the child and the means by which the placement shall be monitored by the court. The court shall consider ordering placement in family foster care as an alternative to group foster care.

Sec. 13. Section 232.52, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If the court orders the transfer of the custody of the child to the department of human services or to another agency for placement in foster group care, the department or agency shall make every reasonable effort to place the child within the state, in the least restrictive setting available and in close proximity to the parents' home, consistent with the child's best interests and special needs.

Sec. 14. Section 232.102, subsection 6, Code Supplement 1987, is amended to read as follows:

6. 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 and shall make every effort to return the child to the child's home as quickly as possible consistent with the best interest of the child. 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. If the court orders the transfer of custody to the department of human services or to another agency for placement in foster group care, the department or agency shall make every reasonable effort to place the child within Iowa, in the least restrictive setting available, and in close proximity to the parents' home, consistent with the child's best interests and special needs.

Sec. 15. NEW SECTION. 232.167 PENALTY.

A person or agency which violates or aids and abets in the violation of any of the provisions of sections 232.158 through 232.166 commits a fraudulent practice.

Sec. 16. NEW SECTION. 239.21 TRANSITIONAL CHILD CARE ASSISTANCE.

A recipient who loses eligibility for assistance under this chapter because of an increase in earned income is eligible to receive transitional child care assistance for a period of twelve months following the loss of assistance. The department shall deliver the transitional child care assistance through a vendor voucher payment or purchase of service system which requires the recipient to contribute to the cost of the assistance in accordance with a sliding-scale fee established by rule.

Sec. 17. NEW SECTION. 249A.17 TRANSITIONAL MEDICAL ASSISTANCE.

The department shall provide transitional medical coverage comparable to medical assistance provided under this chapter, for twelve months or for the maximum period permitted under federal regulations, whichever is greater, for the family of a recipient who has lost eligibility for public assistance under aid to families with dependent children pursuant to chapter 239 because of an increase in earned income.

Sec. 18. NEW SECTION. 249C.18 EDUCATIONAL INCENTIVES.

A person who receives assistance under chapter 239 may participate or cooperate in a program to attain a certificate of general educational development, high school diploma, or adult basic literacy where the person has not previously received such certification. The department shall provide incentives to encourage such participation.

Sec. 19. Section 692.2, subsection 1, paragraph c, Code Supplement 1987, is amended to read as follows:

c. The department of human services for the purposes of section 237.8, subsection 2, and section 237A.5, and section 600.8, subsections 1 and 2.

Sec. 20. Section 692.3, subsection 2, Code Supplement 1987, is amended to read as follows:

2. Notwithstanding subsection 1, paragraph "a", the department of human services ~~shall~~ may disseminate criminal history data obtained pursuant to section 692.2, subsection 1, paragraph "c", to persons licensed, ~~or registered, or certified~~ under chapters 237, ~~and 237A, 238 and 600~~ for the purposes of section 237.8, subsection 2 and section 237A.5. ~~Licensees and registrants under either chapter 237 or chapter 237A~~ A person who receives information pursuant to this subsection shall not use the information other than for purposes of section 237.8, subsection 2, or section 237A.5, or section 600.8, subsections 1 and 2. A licensee or registrant person who receives criminal history data pursuant to this subsection who uses the information for other purposes other than those permitted by this subsection or who communicates the information to another person except for the purposes of section 237.8, subsection 2 or section 237A.5 permitted by this subsection is guilty of an aggravated misdemeanor.

Sec. 21. Beginning July 1, 1988, the department of inspections and appeals shall issue provisional licenses to specialized psychiatric hospitals for children and adolescents for those facilities which are providing residential psychiatric services to children and adolescents, which are accredited by the joint commission on the accreditation of health care organizations, which are in compliance with all applicable state rules and standards regarding the operation of comprehensive residential facilities for children, and which have been awarded a certificate of need. Each applicant shall submit a copy of the applicant's accreditation, a copy of the certificate of need, and a statement of approval from the state fire marshal to the department of inspections and appeals. Notwithstanding the provisions of section 237.1, subsection 3, paragraph "e", care furnished by these facilities shall continue to be considered foster care.

The department of inspections and appeals, with the approval of the state board of health, shall adopt permanent standards for the licensure, of specialized psychiatric hospitals for children and adolescents under chapter 135B. The rules shall take effect no later than July 1, 1989.

The department of human services shall adopt rules to expand coverage under the medical assistance program to include services provided by specialized psychiatric hospitals for children and adolescents which are licensed by the department of inspections and appeals. The rules shall take effect no later than July 1, 1988, contingent upon the facilities meeting the federal requirements for a hospital as outlined in 42 C.F.R., subpart D. Initially, the rules shall provide that the medical assistance reimbursement rate for the specialized hospitals shall be one hundred twenty dollars per day or the actual audited costs, whichever are less. The department shall develop a permanent reimbursement methodology for the specialized hospitals to be effective on or before July 1, 1989.

The health facilities council shall expedite the process by ruling on a certificate of need application under this section within seventy-five days of the application and shall give primary consideration in this expedited process to those issues related to meeting the conditions set out in this section, provided that either of the following conditions apply:

a. The hospital was accredited by the joint commission on the accreditation of health care organizations prior to the effective date of this Act and has been providing psychiatric treatment services for adolescents and children as a licensed foster care facility prior to the effective date of this Act and the provisional license will not increase the capacity of the facility.

b. The hospital had sought accreditation by the joint commission on the accreditation of health care organizations prior to January 1, 1988, and has been providing psychiatric treatment services for adolescents and children as a licensed foster care facility prior to the effective date of this Act and the provisional license will not increase the capacity of the facility.

Sec. 22. EFFECTIVE DATE. Section 21 of this Act takes effect upon enactment.

Approved May 14, 1988

CHAPTER 1250**STATE FUND ALLOCATIONS TO LOCAL GOVERNMENT***H.F. 2457*

AN ACT relating to payments for local school districts, area schools, counties, cities, local conference boards, county hospitals, and county agricultural extension councils.

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

Section 1. NEW SECTION. 405A.1 DEFINITIONS.

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

1. "Personal property replacement base" means the personal property tax replacement base as described in section 427A.12, subsection 2, paragraph "c".
2. "Political subdivision" means a city, county, local conference board established pursuant to chapter 441, county hospital established pursuant to chapter 347 or 347A, or county agricultural extension council elected pursuant to chapter 176A.
3. "Local government" means a school district, area school, city, county, local conference board established pursuant to chapter 441, county hospital established pursuant to chapter 347 or 347A, or county agricultural extension council elected pursuant to chapter 176A.

Sec. 2. NEW SECTION. 405A.2 GENERAL ALLOCATION.

The general allocation for each local government is equal to the product of the following for all of the taxing districts comprising the local government: The ratio of sixty-five million to the total personal property replacement base in the state multiplied by the personal property replacement base of the taxing district, and the product multiplied by the ratio of the tax rate of the local government for taxes payable in the fiscal year ending June 30, 1987, to the consolidated tax rate of the taxing district for taxes payable in the fiscal year ending June 30, 1987.

Sec. 3. NEW SECTION. 405A.3 CITY ALLOCATIONS.

1. For the fiscal year beginning July 1, 1988, and each subsequent fiscal year, the amount due to each city in the state is equal to the sum of the following:
 - a. The general allocation as determined pursuant to section 405A.2.
 - b. The ratio of the population of each city to the total population of all cities in the state, multiplied by twenty-seven million three hundred thousand dollars. The population of each city shall be determined by the latest available federal census. A city may have one special federal census taken each decade, and the population figure obtained shall be used in apportioning amounts under this subsection beginning the calendar year following the year in which the special census is certified to the secretary of state. If a city has annexed territory since the last regular or special federal census, the mayor and council shall certify to the treasurer of state the actual population of the annexed territory as determined by the last certified federal census of the territory and the apportionment of funds under this subsection shall be based upon the population of the city as modified by the certification of the population of the annexed territory until the next regular or special federal census enumeration.
 - c. The amount of moneys and credits replacement received by the city under section 422.100 for the fiscal year ending June 30, 1988.
2. A city shall not receive an apportionment of funds under this section after its dissolution. After the dissolution of a city, its general allocation as determined under section 405A.2 and the allocation as determined under subsection 1, paragraph "c" of this section shall be paid to the county in which the dissolved city was located. If two or more cities have consolidated, the apportionment of funds under this section shall be determined by adding the apportionment of the consolidating cities.

Sec. 4. NEW SECTION. 405A.4 COUNTY ALLOCATIONS.

1. For the fiscal year beginning July 1, 1988, and each subsequent fiscal year, the amount due to each county in the state is equal to the sum of the following:

a. The general allocation as determined pursuant to section 405A.2.

b. The ratio of the population of each county residing in the unincorporated area of the county to the total population residing in the unincorporated areas of all the counties, multiplied by five million four hundred thousand dollars. The population of each county shall be determined by the latest available federal census.

c. The ratio of the personal property replacement base of the county to the total personal property replacement base of all counties in the state, multiplied by four hundred forty-seven thousand dollars.

2. The allocation of a county as determined under subsection 1 may be credited to the general, rural services, secondary road, or other special revenue fund of the county.

Sec. 5. NEW SECTION. 405A.5 LOCAL CONFERENCE BOARD ALLOCATIONS.

1. For the fiscal year beginning July 1, 1988, and each subsequent fiscal year, the amount due to each local conference board in the state is equal to the general allocation of the local conference board as determined in section 405A.2.

2. When the office of city assessor is discontinued, the amounts that would otherwise be due to the city conference board under this section shall be paid to the county conference board.

Sec. 6. NEW SECTION. 405A.6 COUNTY HOSPITAL ALLOCATIONS.

1. For the fiscal year beginning July 1, 1988, and each subsequent fiscal year, the amount due to each county hospital in the state is equal to the general allocation of the county hospital as determined in section 405A.2.

2. When a county hospital is discontinued or organized pursuant to chapter 37, the amounts that would otherwise be due to the hospital under this section shall be paid to the county.

Sec. 7. NEW SECTION. 405A.7 AGRICULTURAL EXTENSION COUNCIL ALLOCATIONS.

For the fiscal year beginning July 1, 1988, and each subsequent fiscal year, the amount due to each county agricultural extension council in the state is equal to the general allocation of the county agricultural extension council as determined in section 405A.2.

Sec. 8. NEW SECTION. 405A.8 APPROPRIATIONS.

1. There are appropriated from the general fund of the state to the department of revenue and finance the following sums to carry out the provisions of this chapter: For the fiscal year beginning July 1, 1988, and each subsequent fiscal year, sixty-seven million seven hundred thirty-seven thousand (67,737,000) dollars.

2. If, for any fiscal year the amount appropriated is insufficient to pay in full the amounts due to all political subdivisions, then the amount of each payment shall be reduced by the same percentage, so that the aggregate payments to all political subdivisions are equal to the amount appropriated for such payments. If, for any fiscal year the amount appropriated is in excess of the amounts due to all political subdivisions, then the amount of each payment shall be increased by the same percentage, so that the aggregate payments to all political subdivisions are equal to the amount appropriated for such payments.

Sec. 9. NEW SECTION. 405A.9 PAYMENT SCHEDULE.

The amounts due each political subdivision for each fiscal year shall be paid in the form of warrants payable to the treasurers of the respective political subdivisions by the department of revenue and finance according to the following schedule:

1. One-half of the amount due for a fiscal year shall be paid on December 15 of that fiscal year.

2. One-half of the amount due for a fiscal year shall be paid on March 15 of that fiscal year.

Sec. 10. Section 123.53, subsections 3, 4, 5, and 6, Code 1987, are amended by striking the subsections.

Sec. 11. Section 286A.11, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 4. An amount equal to the general allocation of the area school as determined under section 405A.2.

Sec. 12. Section 331.429, subsection 1, paragraphs a and b, Code Supplement 1987, are 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 multiplied by the ratio of current taxes actually collected and apportioned for the general basic levy to the total general basic levy for the current year, and an amount equivalent to the moneys derived by the general fund from military service tax credits under chapter 426A, mobile home taxes under section 135D.22, ~~the personal property tax replacement fund under section 427A.12, subsection 6,~~ and delinquent taxes for prior years collected and apportioned to the general basic fund in the current year, multiplied by the ratio of sixteen and seven-eighths cents to three dollars and fifty cents.

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 multiplied by the ratio of current taxes actually collected and apportioned for the rural services basic levy to the total rural services basic levy for the current year 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, mobile home taxes under section 135D.22, ~~the personal property tax replacement fund under section 427A.12, subsection 6,~~ and delinquent taxes for prior years collected and apportioned to the rural services basic fund in the current year, multiplied by the ratio of three dollars and three-eighths cents to three dollars and ninety-five cents.

Sec. 13. Section 411.20, subsection 1, Code 1987, is amended to read as follows:

1. There is appropriated from the general fund of the state ~~to the municipal assistance fund established in chapter 405~~ for each fiscal year an amount necessary to be distributed to cities which have established fire and police retirement systems under the provisions of this chapter. Funds shall be used to finance the costs of benefits provided in this chapter by amendments of the Acts of the Sixty-sixth General Assembly, chapter 1089.

Sec. 14. Section 427A.12, subsection 6, Code 1987, is amended by striking the subsection.

Sec. 15. Section 427A.13, Code 1987, is amended to read as follows:
427A.13 APPROPRIATION.

There is appropriated from the general fund of the state 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. 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 this increased appropriation shall continue for each succeeding fiscal year. For the fiscal year beginning July 1, 1987, the total appropriation shall be fifty-nine million five hundred thousand dollars. For the fiscal year beginning July 1, 1988, and for each succeeding fiscal year, the total appropriation shall be sixty-eight million five hundred thousand dollars per year. For the fiscal year beginning July 1, 1989, and for each succeeding fiscal year, the total appropriation shall be zero.

Sec. 16. Section 442.2, subsections 2 and 3, Code 1987, are amended by striking the subsections.

Sec. 17. Section 442.3, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For school years beginning July 1, 1988, and subsequent school years, the state foundation base shall be increased by the sum of the following amounts:

1. The amount included in the district's budget for the fiscal year beginning July 1, 1986, for the additional portion of the livestock tax credit pursuant to section 442.2, subsection 2 as it appeared in the 1987 Code.

2. The difference between the following amounts:

a. The general allocation of the school district as determined under section 405A.2.

b. The foundation property tax rate multiplied by the total actual value of all personal property assessed for valuation in the school district as of January 1, 1973, excluding livestock.

Sec. 18. Section 442.26, Code 1987, is amended to read as follows:

442.26 APPROPRIATIONS.

There is hereby appropriated each year from the general fund of the state an amount necessary to pay the state school foundation aid.

All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on June 15 of the budget year and the installments shall be as nearly equal as possible as determined by the department of management, taking into consideration the relative budget and cash position of the state resources. However, an amount of state school foundation aid equal to the general allocation of the school district as determined under section 405A.2 and the amount for the tax credit for livestock pursuant to section 442.2, subsection 2 as it appeared in the 1987 Code, shall be paid to the school district on July 15 of the subsequent fiscal year, and the appropriation for this amount shall be made for the fiscal year during which the payment is made. However, the state aids paid to school districts under section 442.28 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year and state aids paid to school districts under section 442.38 shall be paid in monthly installments beginning on February 15 and ending on June 15 of a budget year.

All moneys received by a school district from the state under the provisions of this chapter shall be deposited in the general fund of the school district, and may be used for any school general fund purpose.

Sec. 19. Section 444.3, unnumbered paragraphs 2, 3, 4, and 5, Code 1987, are amended by striking the unnumbered paragraphs.

Sec. 20. For the fiscal year beginning July 1, 1987, and ending June 30, 1988, the payments are scheduled to be made on January 1, 1988, and July 1, 1988. It is the intent of the general assembly that the July 1, 1988, payment shall be made pursuant to section 123.53, subsections 3, 4, 5, and 6.

Sec. 21. Section 422.100, Code 1987, is repealed. Section 427.17, Code Supplement 1987, is repealed.

Sec. 22. Chapters 334A and 405, Code 1987, are repealed.

Approved May 14, 1988

CHAPTER 1251

PROPERTY TAX CHALLENGES

H.F. 2476

AN ACT relating to administrative procedures to challenge the identification, classification, and exemption of property for taxation purposes.

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

Section 1. Section 421.1, subsection 4, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

Advise and counsel with the director of revenue and finance concerning the tax laws and the rules adopted pursuant to the law; and, upon its own motion or upon appeal by any affected taxpayer, review the record evidence and the decisions of, and any orders or directive issued by, the director of revenue and finance for the identification of taxable property, classification of property as real or personal, or for assessment and collection of taxes by the department, or an order to reassess or to raise assessments to any local assessor and shall affirm, modify, reverse, or remand them within sixty days from the date the case is submitted to the board for decision. For an appeal to the board to be valid, written notice must be given to the department within thirty days of the rendering of the decision, order, or directive from which the appeal is taken. The director shall certify to the board the record, documents, reports, audits, and all other information pertinent to the decision, order, or directive from which the appeal is taken.

Sec. 2. Section 441.37, subsection 1, paragraph c, Code 1987, is amended to read as follows:

c. That the property is not assessable, is exempt from taxes, or is misclassified and stating the reasons therefor for the protest.

Approved May 14, 1988

CHAPTER 1252**CHILD ABUSE AND CRIMES AGAINST CHILDREN***S.F. 2075*

AN ACT relating to child abuse by providing for examination of a child, by providing for filing complaints of alleged child sexual abuse, by requiring departmental coordination in cases of child abuse, by providing for the application of a penalty to persons who improperly use criminal history information obtained in the course of an investigation, by allowing the department of public safety the use of certain revenues generated by fees, and by expanding the definition of indecent contact with a child.

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

Section 1. Section 232.71, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 16. The department may request criminal history data from the department of public safety on any person believed to be responsible for an injury to a child which, if confirmed, would constitute child abuse. The department shall establish procedures for determining when a criminal history records check under this subsection is necessary.

Sec. 2. **NEW SECTION. 232.83 CHILD SEXUAL ABUSE INVOLVING A PERSON NOT RESPONSIBLE FOR THE CARE OF THE CHILD.**

1. A complaint related to circumstances involving a child who is alleged to be a victim of an offense defined in chapter 709, 726, or 728 and an alleged offender who is not a person responsible for the care of the child shall be handled pursuant to section 232.81.

2. Anyone authorized to conduct a preliminary investigation in response to a complaint may apply for, or the court on its own motion may enter an ex parte order authorizing a physician or hospital to conduct an outpatient physical examination or authorizing a physician, a psychologist certified under section 154B.7, or a community mental health center accredited pursuant to chapter 230A to conduct an outpatient mental examination of a child if necessary to identify the nature, extent, and causes of any injuries, emotional damage, or other such needs of a child as specified in section 232.2, subsection 6, paragraph "c", "e", or "f", provided that all of the following apply:

- a. The parent, guardian, or legal custodian is absent, or though present, was asked and refused to authorize the examination.
- b. There is not enough time to file a petition and hold a hearing under this chapter.
- c. The parent, guardian, or legal custodian has not provided care and treatment related to their child's alleged victimization.

Sec. 3. Section 692.2, subsection 1, paragraph c, Code Supplement 1987, is amended to read as follows:

c. The department of human services for the purposes of section 232.71, subsection 16, section 237.8, subsection 2, and section 237A.5, and section 600.8, subsections 1 and 2.

Sec. 4. Section 709.12, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The provisions of this section shall also apply to a person sixteen or seventeen years of age who commits any of the enumerated acts with a child who is at least five years the person's junior, in which case the juvenile court shall have jurisdiction under chapter 232.

Sec. 5. **NEW SECTION. 709.13 CHILD IN NEED OF ASSISTANCE COMPLAINTS.**

During or following an investigation into allegations of violations of this chapter or of chapter 726 or 728 involving an alleged victim under the age of eighteen and an alleged offender

who is not a person responsible for the care of the child, anyone with knowledge of the alleged offense may file a complaint pursuant to section 232.83 alleging the child to be a child in need of assistance. In all cases, the complaint shall be filed by any peace officer with knowledge of the investigation when the peace officer has reason to believe that the alleged victim may require treatment as a result of the alleged offense and that the child's parent, guardian, or custodian will be unwilling or unable to provide the treatment.

Sec. 6. Notwithstanding section 7, subsection 4, paragraph "a", of Senate File 2314, the department of public safety is authorized to use revenues generated from the fee authorized in section 692.2, subsection 6, to employ sufficient clerical personnel to process criminal history checks for non-law-enforcement purposes.

Approved May 15, 1988

CHAPTER 1253

FAMILY DEVELOPMENT AND SELF-SUFFICIENCY COUNCIL

S.F. 2225

AN ACT relating to the establishment of a family development and self-sufficiency council and the council's duties.

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

Section 1. NEW SECTION. 217.41 FAMILY DEVELOPMENT AND SELF-SUFFICIENCY COUNCIL CREATED.

A family development and self-sufficiency council is established within the department of human services. The council consists of the following persons:

1. The director of the department of human services or the director's designee.
2. The director of the Iowa department of public health or the director's designee.
3. The administrator of the division of community action agencies in the department of human rights or the administrator's designee.
4. The administrator of the division of children, youth, and families of the department of human rights or the administrator's designee.
5. The dean of the college of family and consumer sciences at Iowa State University or the dean's designee.
6. A representative from the family life institute designated by the director of that institute.
7. The director of the public policy center at the University of Iowa or the director's designee.
8. Two recipients or former recipients of the aid to dependent children program, selected by the other members of the committee.
9. The head of the department of home economics at the University of Northern Iowa or that person's designee.

The department of human services shall contract with the department of health and human rights to staff and administer grants provided under section 217.42.

Sec. 2. NEW SECTION. 217.42 COUNCIL DUTIES.

The family development and self-sufficiency council shall:

1. Identify the factors and conditions that place Iowa families at risk of long-term dependency upon the aid to dependent children program. The council shall seek to use relevant research findings and national and Iowa specific data on the aid to dependent children program.
2. Identify the factors and conditions that place Iowa families at risk of family instability and foster care placement. The council shall seek to use relevant research findings and national

and Iowa specific data on the foster care system.

3. Subject to the availability of funds for this purpose, award demonstration grants to public or private organizations submitting grant proposals to provide family development services to families at risk of long-term welfare dependency. Grant proposals shall include the following elements:

a. Designation of families to be served that meet some criteria of being at risk of long-term welfare dependency, and agreement to serve clients that are referred by the department of human services from the aid to dependent children program which meet the criteria. The criteria may include, but are not limited to, factors such as educational level, work history, family structure, age of the youngest child in the family, previous length of stay on the aid to dependent children program, and participation in the aid to dependent children program or the foster care program while the head of a household was a child. Grant proposals shall also establish the number of families to be served under the demonstration program.

b. Designation of the services to be provided for the families served, including assistance regarding job-seeking skills, family budgeting, nutrition, self-esteem, health and hygiene, child rearing, child education preparation, and goal setting. Grant proposals shall indicate the support groups and support systems to be developed for the families served during the transition between the need for assistance and self-sufficiency.

c. Designation of the manner in which other needs of the families will be provided including, but not limited to, day care assistance, transportation, substance abuse treatment, support group counseling, food, clothing, and housing.

d. Designation of the training and recruitment of the staff which provides services, and the appropriateness of the training for the purposes of meeting family development and self-sufficiency goals of the families being served.

e. Designation of the support available within the community for the program and for meeting subsequent needs of the clients, and the manner in which community resources will be made available to the families being served.

f. Designation of the manner in which the program will be subject to audit and to evaluation.

Not more than five percent of any funds appropriated by the general assembly for the purposes of this subsection may be used for staffing and administration of the grants.

4. In cooperation with the legislative fiscal bureau, develop measures to independently evaluate the effectiveness of any demonstration program funded, that include measurement of the program's effectiveness in meeting its goals in a quantitative sense through reduction in length of stay on welfare programs or a reduced need for other state child and family welfare services. Families referred to the demonstration programs shall be randomly selected from those meeting the criteria established in the demonstration programs as being at risk, and all families meeting the criteria shall be monitored to determine the effect of the demonstration programs in changing the status of the families selected compared with those not selected.

5. Seek to enlist research support from the Iowa research community in meeting the duties outlined in subsections 1 through 4.

6. Seek additional support for the funding of demonstration grants, including but not limited to, demonstration funds available through the federal government in serving families at risk of long-term welfare dependency, and private foundation grants.

7. Make recommendations to the governor and the general assembly on the effectiveness of early intervention programs in Iowa and throughout the country that provide family development services that lead to self-sufficiency for families at risk of long-term welfare dependency.

8. Evaluate and make recommendations regarding the costs and benefits of the expansion of the services provided under the special needs program of the aid to dependent children program to include tuition for parenting skills programs, family support and counseling services, child development services, and transportation and child care expenses associated with the programs and services.

Approved May 15, 1988

CHAPTER 1254**COUNTY GRAVEL PIT SALES***S.F. 2230*

AN ACT relating to the sale of part of a gravel pit owned by a county.

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

Section 1. **NEW SECTION. 309.65 SALE OF GRAVEL BED PROPERTY.**

Notwithstanding section 309.66, after notice as provided in section 331.305 and a public hearing, the board of supervisors may sell all or part of the property acquired for gravel and other highway improvement materials if the property has been owned by the county for more than five years and the board finds that the property to be sold is not needed for highway improvement purposes or the property is not suitable for those purposes.

Approved May 15, 1988

CHAPTER 1255**EXECUTION EXEMPTIONS***H.F. 649*

AN ACT relating to exemptions from execution and attachment by revising provisions governing the exemption of insurance policies, proceeds, and benefits, cash, and certain other personal property, and providing other properly related matters, providing for the applicability of the Act, and providing an effective date.

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

Section 1. Section 509.12, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

509.12 PROCEEDS EXEMPT FROM EXECUTION.

A policy of group insurance and the proceeds of the policy are exempt from execution and attachment to the same extent as provided in chapter 627.

Sec. 2. Section 512.17, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

512.17 EXEMPTION OF PROCEEDS.

The certificate and the proceeds of a beneficiary certificate issued by an association are exempt from execution and attachment to the same extent as provided in chapter 627.

Sec. 3. Section 627.6, subsection 1, Code 1987, is amended to read as follows:

1. All wearing apparel of the debtor and the debtor's dependents kept for actual use and the trunks or other receptacles necessary for the wearing apparel, not to exceed in value ~~two hundred dollars in any particular item or~~ one thousand dollars in the aggregate. In addition, the debtor's interest in any wedding or engagement ring owned and received by the debtor or the debtor's dependents on or before the date of marriage.

Sec. 4. Section 627.6, subsection 3, Code 1987, is amended to read as follows:

3. Private libraries, family bibles, portraits, pictures and paintings not to exceed ~~two hundred dollars in value for any particular item and~~ one thousand dollars in the aggregate.

Sec. 5. Section 627.6, subsection 5, Code 1987, is amended to read as follows:

5. The debtor's interest, not to exceed two hundred dollars in value in any particular item, in household furnishings, household goods, and appliances held primarily for the personal, family, or household use of the debtor or a dependent of the debtor, not to exceed in value two thousand dollars in the aggregate.

Sec. 6. Section 627.6, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 14. The debtor's interest, not to exceed one hundred dollars in the aggregate, in any cash on hand, bank deposits, credit union share drafts, or other deposits, wherever situated, or other personal property not otherwise specifically provided for in this chapter.

Sec. 7. Section 627.6, subsection 6, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

6. The interest of an individual in any accrued dividend or interest, loan or cash surrender value of, or any other interest in a life insurance policy owned by the individual if the beneficiary of the policy is the individual's spouse, child, or dependent. However, the amount of the exemption shall not exceed ten thousand dollars in the aggregate of any interest or value in insurance acquired within two years of the date execution is issued or exemptions are claimed, or for additions within the same time period to a prior existing policy which additions are in excess of the amount necessary to fund the amount of face value coverage of the policies for the two-year period. For purposes of this paragraph, acquisitions shall not include such interest in new policies used to replace prior policies to the extent of any accrued dividend or interest, loan or cash surrender value of, or any other interest in the prior policies at the time of their cancellation.

In the absence of a written agreement or assignment to the contrary, upon the death of the insured any benefit payable to the spouse, child, or dependent of the individual under a life insurance policy shall inure to the separate use of the beneficiary independently of the insured's creditors.

A benefit or indemnity paid under an accident, health, or disability insurance policy is exempt to the insured or in case of the insured's death to the spouse, child, or dependent of the insured, from the insured's debts.

In case of an insured's death the avails of all matured policies of life, accident, health, or disability insurance payable to the surviving spouse, child, or dependent are exempt from liability for all debts of the beneficiary contracted prior to death of the insured, but the amount thus exempted shall not exceed fifteen thousand dollars in the aggregate.

Sec. 8. Section 511.37, Code 1987, is repealed.

Sec. 9. **APPLICABILITY.**

1. The provisions of this Act relating to exemptions for the proceeds of a life insurance policy payable upon the death of the insured apply to proceeds payable on or after the effective date of this Act.

2. The provisions of this Act relating to exemptions for interests in life insurance policies, other than interests in the proceeds of a policy payable upon the death of the insured, apply to interests acquired on or after January 1, 1988.

Sec. 10. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 15, 1988

CHAPTER 1256**CONFIDENTIALITY OF LIBRARY AND VIDEO RENTAL RECORDS***H.F. 2336*

AN ACT relating to the confidentiality of certain records and information concerning individual use of services provided by libraries and video rental businesses, and providing a penalty.

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

Section 1. Section 22.7, subsection 13, Code Supplement 1987, 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 or information 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.

Sec. 2. **NEW SECTION. 22A.1 DISCLOSURE OF INFORMATION CONCERNING USE OF VIDEOTAPES — PENALTY.**

1. A person engaged in the business of renting, leasing, loaning, or otherwise distributing for a fee videotapes or other like items to individuals for personal use shall not disclose any information which would reveal the identity of an individual renting, leasing, borrowing, or otherwise obtaining through the business a videotape or other like item, except to the extent permitted by the individual as evidenced by the individual's written consent or as otherwise provided in this section. In the absence of consent, the information may 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 information 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.

2. A person who violates this section commits a simple misdemeanor.

Approved May 15, 1988

CHAPTER 1257**ECONOMIC DEVELOPMENT ASSISTANCE GUIDELINES***H.F. 2386*

AN ACT relating to additional factors, requirements, and guidelines for providing assistance under the community economic betterment account of the Iowa plan fund and rise program.

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

Section 1. Section 99E.32, subsection 2, unnumbered paragraph 2, Code Supplement 1987, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The conditions, criteria, and limitations specified in section 99E.31, subsection 2, apply to the providing of moneys under this subsection. In addition to such conditions, criteria, and limitations, for applications submitted after July 1, 1988, the following factors and requirements shall be considered or applied:

(1) The impact of the proposed project on other businesses in competition with the business being considered for assistance. The department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for assistance. The department shall make a good faith effort to determine the probability that the proposed financial assistance will displace employees of the existing businesses. In determining the impact on businesses in competition with the business being considered for assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.

(2) The economic impact to the state of the proposed project. In measuring the economic impact the department shall award more points for the following:

- (a) A project which has a greater consistency with the state strategic plan.
- (b) A business with a greater percentage of sales out-of-state or of import substitution.
- (c) A business with a higher proportion of in-state suppliers.
- (d) A project which would provide greater diversification of the state economy.
- (e) A business with fewer in-state competitors.
- (f) A potential for future job growth.
- (g) A project which is not a retail operation.

(3) The quality of jobs to be provided. Jobs that have a higher wage scale, have a lower turnover rate, are full-time, or are career-type positions are considered higher in quality. Businesses that have wage scales substantially below that of existing Iowa businesses in that area should be rated as providing the lowest quality of jobs and should therefore be given the lowest ranking for providing such assistance.

(4) If the business has a record of violations of the law over a period of time that tends to show a consistent pattern, the business shall be given the lowest ranking for providing assistance. The department shall make a good faith effort to compile this information.

(5) If a business has, within three years of application for assistance, acquired or merged with an Iowa corporation or company, the business shall make a good-faith effort to hire the workers of the merged or acquired company.

(6) To be eligible for assistance a business shall provide for a preference for hiring residents of the state or the economic development area, except for out-of-state employees offered a transfer to Iowa or the economic development area.

(7) All known required environmental permits must be granted and regulations met before moneys are released.

Sec. 2. Section 315.5, Code 1987, is amended to read as follows:

315.5 ADMINISTRATION OF FUND.

Qualifying road and street projects shall be selected by the state transportation commission for full or partial financing from the fund after consultation with organizations representing interests of counties and cities. Counties and cities may make application for qualifying road and street projects with the department. In ranking applications for funds, the department shall, in addition to effects listed in section 315.3, subsection 1, consider the proportion of political subdivision matching funds to be provided, if any, the proportion of private contributions to be provided, if any, the total number of jobs to be created, the level of need, ~~and~~ the impact of the proposed project on the economy of the area affected, and the factors and requirements in section 315.11. The proportion of funding shall be determined by the department or, in the case of cooperative projects, by agreement between the department and the city councils of participating cities, or boards of supervisors of participating counties, or other participating public agencies or private parties.

Sec. 3. **NEW SECTION. 315.11 ADDITIONAL FACTORS AND REQUIREMENTS.**

In addition to other effects and factors to be considered under section 315.5, for applications submitted after July 1, 1988, the following factors and requirements shall be considered or applied:

1. The impact of the proposed project on other businesses in competition with the business being considered for assistance. The department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for assistance. The department shall make a good faith effort to determine the probability that the proposed financial assistance will displace employees of the existing businesses. In determining the impact on businesses in competition with the business being considered for assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.
2. The economic impact to the state of the proposed project. In measuring the economic impact the department shall award more points for the following:
 - a. A project which has a greater consistency with the state strategic plan.
 - b. A business with a greater percentage of sales out-of-state or of import substitution.
 - c. A business with a higher proportion of in-state suppliers.
 - d. A project which would provide greater diversification of the state economy.
 - e. A business with fewer in-state competitors.
 - f. A potential for future job growth.
 - g. A project which is not a retail operation.
3. The quality of jobs to be provided. Jobs that have a higher wage scale, have a lower turnover rate, are full-time, or are career-type positions are considered higher in quality. Businesses that have wage scales substantially below that of existing Iowa businesses in that area should be rated as providing the lowest quality of jobs and should therefore be given the lowest ranking for providing such assistance.
4. If the business has a record of violations of the law over a period of time that tends to show a consistent pattern, the business shall be given the lowest ranking for providing assistance. The department shall make a good faith effort to compile this information.
5. If a business has, within three years of application for assistance, acquired or merged with an Iowa corporation or company, the business shall make a good-faith effort to hire the workers of the merged or acquired company.
6. To be eligible for assistance a business shall provide for a preference for hiring residents of the state or the economic development area, except for out-of-state employees offered a transfer to Iowa or the economic development area.
7. All known required environmental permits must be granted and regulations met before moneys are released.

Approved May 15, 1988

CHAPTER 1258

COURT FILING FEES

H.F. 2428

AN ACT increasing and establishing certain court filing fees.

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

Section 1. Section 602.8105, subsection 1, paragraph a, Code Supplement 1987, is amended to read as follows:

a. (1) For filing and docketing a petition other than for modification of a dissolution decree filed within one hundred eighty days of the date of the entering of the dissolution decree, or an appeal or writ of error, ~~thirty-five~~ forty-five dollars. Four dollars of the fee shall be deposited in the court revenue distribution account established under section 602.8108, and ~~thirty-one~~ forty-one dollars of the fee shall be paid into the state treasury. Of the amount paid to the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

Sec. 2. Section 631.6, subsection 1, Code 1987, is amended to read as follows:

1. The docket fee for a small claims action is ~~eleven~~ fifteen dollars. Five dollars of the docket fee shall be deposited in the court revenue distribution account established under section 602.8108 and ~~six~~ ten dollars of the fee shall be paid into the state treasury. Of the amount paid into the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state.

Sec. 3. Section 633.31, subsection 2, paragraphs d, e, and f, Code 1987, are amended to read as follows:

d. For taking and approving a bond, or the sureties on a bond	2.00	20.00
e. For entering a rule or order	1.00	10.00
f. For certificate and seal	2.00	20.00

Sec. 4. Notwithstanding section 805.6, subsection 1, paragraph "a", court costs in cases of parking violations which are more than one year old and which are dismissed by the city prior to January 1, 1989, shall be five dollars.

Approved May 15, 1988

CHAPTER 1259

SCHOOL ATTENDANCE AND DURATION REQUIREMENTS

H.F. 650

AN ACT relating to school year duration and attendance requirements and providing for an effective date, a moratorium, and an interim study committee.

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

Section 1. Section 279.10, subsections 1 and 4, Code 1987, are amended to read as follows:

1. The school year shall begin on the first day of July and each regularly established elementary and secondary school shall begin no sooner than the first day of September ~~and but no later than the first Monday in December.~~ School shall continue for at least one hundred eighty days, except as provided in subsection 3, and may be maintained during the entire calendar year. A school corporation may begin employment of personnel for in-service training and development purposes before the date to begin elementary and secondary school.

4. The director of the department of education may grant a request made by a board of directors of a school district stating its desire to commence classes for regularly established elementary and secondary schools before the ~~first day of September~~ earliest starting date specified in subsection 1. A request shall be based upon the determination that a starting date on or

after the first day of September earliest starting date specified in subsection 1 would have a significant negative educational impact.

Sec. 2. Section 299.1, unnumbered paragraphs 1 and 2, Code 1987, are amended to read as follows:

~~A person having control~~ The parent, guardian, or custodian of a child who is over seven and under sixteen years of age by September 15, in proper physical and mental condition to attend school, shall cause the child to attend enroll the child in some public school for at least one hundred twenty days in each school year, commencing no sooner than the first day of September, unless the board of school directors establishes a later date, which date shall not be later than the first Monday in December as provided under section 279.10.

The board may, by resolution, require attendance in the public schools for the entire time when the schools are in session in any school year.

Sec. 3. Section 299.1, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A child shall attend an accredited or approved school for at least one hundred twenty days each school year. The requirement shall be met by attendance for at least thirty days each school quarter, or a similar distribution of attendance throughout the school year.

Sec. 4. Section 299.4, Code 1987, is amended to read as follows:

299.4 REPORTS AS TO PRIVATE INSTRUCTION.

~~Any person having the control~~ The parent, guardian, or custodian of any a child who by September 15 is over seven and under sixteen years of age, who shall place such places the child under private instruction, not in a regularly conducted an accredited or approved school, upon receiving notice from the secretary of the school district, shall furnish a certificate stating report in duplicate, to the district by the earliest starting date specified in section 279.10, subsection 1. The secretary shall retain and file one copy and forward the other copy to the district's area education agency. The report shall state the name and age of such the child, the period of time during which such the child has been or will be under said private instruction for the school year, the details of such instruction, an outline of the course of study, texts used, and the name and address of the instructor. The term "outline of course of study" shall include, but is not limited to, subjects covered, weekly lesson plans, and time spent on the areas of study.

Sec. 5. Section 299.5, Code 1987, is amended to read as follows:

299.5 PROOF OF ABNORMALITY MENTAL OR PHYSICAL CONDITION.

~~Any person having the control~~ The parent, guardian, or custodian of any a child who is over seven and under sixteen years of age by September 15, who is physically or mentally unable to attend school, shall furnish proofs by affidavit as to the physical or mental condition of such the child.

Sec. 6. Section 299.6, Code 1987, is amended to read as follows:

299.6 VIOLATIONS.

Any person who shall violate any of the provisions of sections 299.1 to 299.5, inclusive, shall be guilty of a simple misdemeanor and the court shall order the person to perform not more than forty hours of unpaid community service instead of any fine or imprisonment.

Sec. 7. Notwithstanding section 802.4, prosecutions for violations of chapter 299, which occur between the effective date of this Act and July 1, 1989, shall be deferred until after July 1, 1989 unless the parent, guardian, or custodian fails to meet the requirements of section 299.4.

This section does not apply to any parent, guardian, or custodian who has enrolled a child in an equivalent instruction program which meets the requirements of section 299.1 on or prior to the effective date of this Act.

Sec. 8. Until July 1, 1989, any person providing equivalent instruction under section 299.1 shall provide evidence, as part of the report submitted under section 299.4, that any child instructed has complied with the immunization requirements of section 139.9.

Sec. 9. Until July 1, 1989, a person who is not a certified instructor, but who is providing equivalent instruction under section 299.1, is a mandatory reporter of child abuse under section 232.69.

Sec. 10. The legislative council is requested to establish an interim study committee to conduct a comprehensive study of the existing compulsory education law. The study shall include but not be limited to current needs in the areas of truancy, equivalent instruction, and alternative schooling. The committee shall consist of legislators of both houses and be bipartisan in composition. The committee shall develop recommendations to submit in a report to the legislative council and the members of the general assembly which convenes in 1989.

Sec. 11. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 16, 1988

CHAPTER 1260

STUDENT MEMBER OF STATE BOARD OF REGENTS

H.F. 2046

AN ACT relating to student membership on the state board of regents.

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

Section 1. Section 262.1, Code 1987, is amended to read as follows:
262.1 MEMBERSHIP.

The state board of regents shall consist consists of nine members, who eight of whom shall be selected from the state at large solely with regard to their qualifications and fitness to discharge the duties of the office. The ninth member shall be a student enrolled on a full-time basis in good standing at either the graduate or undergraduate level at one of the institutions listed in section 262.7, subsection 1, 2, or 3, at the time of the member's appointment. Not more than five members shall be of the same political party.

Sec. 2. Section 262.6, Code 1987, is amended to read as follows:
262.6 VACANCIES.

Vacancies shall be filled in the same manner in which regular appointments are required to be made. If the ninth member resigns prior to the expiration of the term, the individual appointed to fill the vacancy shall meet the requirements for the ninth member specified in section 262.1. Other vacancies occurring prior to the expiration of the ninth member's term shall be filled in the same manner as the original appointments for those vacancies.

Approved May 16, 1988

CHAPTER 1261**COLLEGE EDUCATION FINANCING***H.F. 2377*

AN ACT relating to the establishment of programs for paying for college costs, including the provision for the state board of regents to issue revenue bonds that are payable at times determined by the board and the preparation of an educational program and marketing strategies by the college aid commission in cooperation with the state board of regents.

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

Section 1. **LEGISLATIVE INTENT.** The general assembly finds:

1. It is in the state's interest to promote a college education for Iowa children.
2. The cost of paying for a college education in the future will be even more expensive than today and may be out of reach for Iowa families of average means.
3. A savings program is the best way to finance a college education.
4. The state board of regents is authorized to issue general obligation bonds for constructing academic buildings on the campuses of its institutions of higher education and a portion of these bonds could be issued and sold to residents of this state to facilitate savings for future higher education costs.
5. An Iowa college super savings plan should be created as provided in this Act.

Sec. 2. Section 261.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Develop and implement, in cooperation with the state board of regents, an educational program and marketing strategies designed to inform parents about the options available for financing a college education and the need to accumulate the financial resources necessary to pay for a college education. The educational program shall include, but not be limited to, distribution of informational material to public and nonpublic elementary schools for distribution to parents and guardians of five-year and six-year old children.

Sec. 3. **NEW SECTION. 262A.6A IOWA COLLEGE SUPER SAVINGS PLAN.**

1. The board shall issue bonds authorized under section 262A.4 by the Seventy-second General Assembly in an amount not exceeding nineteen million dollars in the form of capital appreciation bonds as provided in this section rather than the form prescribed in sections 262A.5 and 262A.6. The capital appreciation bonds shall be designed to be marketed primarily to Iowans to facilitate savings for future higher education costs.

2. Bonds issued under this section shall be sold by the board at private sale without published notice of any kind or the taking of competitive bids in a manner and upon terms as may be provided in the resolution of the board authorizing the issuance of the bonds. Chapter 75 does not apply to bonds issued under this section, but the bonds shall be sold upon terms of not less than ninety-seven percent of par plus accrued interest. Bonds issued to refund other bonds issued under this section may either be sold at public or private sale in the manner specified in this section and the proceeds applied to the payment of the obligations being refunded, or the refunding bonds may be exchanged for and in payment and discharge of the obligations being refunded. The refunding bonds may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. An issue or series of refunding bonds may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of the outstanding bonds or other obligations to be refinanced and may be issued for the purpose of refunding a like or greater principal amount of bonds, except that the principal amount of the refunding bonds may exceed the principal amount of the bonds to be refunded to the extent necessary to pay any premium due on the call of the bonds to be refunded or to fund interest in arrears or which is to become due.

Bonds issued under this section are payable solely and only from and shall be secured by an irrevocable pledge of a sufficient portion of the student fees and charges and institutional income received by the particular institution. Bonds issued under this section have all the qualities of a negotiable investment security under the laws of this state.

3. The bonds may bear a date or dates, may bear interest at a rate or rates, payable at a time or times, may mature at a time or times, may be in a form and denominations, may carry registration privileges, may be payable at a place or places, may be subject to terms of redemption prior to maturity with or without premium, if so stated on their face, and may contain terms and covenants, including the establishment of reserves, all as may be provided by the resolution of the board authorizing the issuance of the bonds. In addition to the estimated cost of construction, including site costs, the cost of the project may include interest upon the bonds during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, engineering, architectural, administrative and legal expenses and provision for contingencies. The bonds shall be executed by the president of the state board of regents and attested by the executive secretary, secretary or other official of the state board performing the duties of secretary, and the coupons attached to the bonds shall be executed with the original or facsimile signatures of the president, executive secretary, secretary or other official. The facsimile signatures of the officers executing the bonds may be imprinted on the face of the bonds in lieu of the manual signature of the officer, but at least one of the signatures appearing on the face of each bond shall be a manual signature. Bonds bearing the signatures of officers in office on the date of the signing are valid and binding for all purposes, notwithstanding that before delivery any or all of the persons whose signatures appear have ceased to be officers. Each bond shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the student fees and charges and institutional income received by the institution, and that it does not constitute a debt of or charge against the state of Iowa within the meaning or application of a constitutional or statutory limitation or provision. The issuance of these bonds shall be recorded in the office of the treasurer of the institution on behalf of which the bonds are issued, and a certificate by the treasurer to this effect shall be printed on the back of each bond.

4. In negotiating a private sale of the bonds under this section the board shall assign preference to a syndicate of underwriters which is led by an Iowa domiciled underwriting firm to facilitate selling the marketing of the bonds to Iowans within the plan for the bonds. The plan shall include:

a. Provisions for advertisements in Iowa newspapers which precede, by at least two weeks, the date the bonds will go on sale to the public.

b. The advertisements shall include the date the bonds will go on sale and a list of offices where investors may purchase the bonds.

c. The bond issue shall be structured so that at least fifty percent of the bonds are sold at a price to the initial purchaser, not including an underwriter or bond house, of one thousand dollars or less. The board shall make a report of sale to the general assembly within ninety days of sale date. The report shall specify the terms and conditions of the sale as well as the placement of the bonds by denomination and by county.

Approved May 16, 1988

CHAPTER 1262
SCHOOL STANDARDS
S.F. 2278

AN ACT relating to school standards, providing for implementation of educational standards developed and adopted by the state board of education, enactment of educational standards, providing a waiver procedure, providing for additional study of certain standards, and providing delayed effective dates for certain standards.

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

Section 1. Section 256.11, unnumbered paragraph 1, Code Supplement 1987, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The state board shall adopt rules under chapter 17A and a procedure for accrediting all public and nonpublic schools in Iowa offering instruction at any or all levels from the prekindergarten level through grade twelve. The rules of the state board shall require that a multicultural, nonsexist approach is used by school districts. The educational program shall be taught from a multicultural, nonsexist approach. Global perspectives shall be incorporated into all levels of the educational program.

The rules adopted by the state board pursuant to section 256.17, Code Supplement 1987, to establish new standards shall satisfy the requirements of this section to adopt rules to implement the educational program contained in this section.

The educational program shall be as follows:

Sec. 2. Section 256.11, subsections 1 through 9, Code Supplement 1987, are amended by striking the subsections and inserting in lieu thereof the following:

1. If a school offers a prekindergarten program, the program shall be designed to help children to work and play with others, to express themselves, to learn to use and manage their bodies, and to extend their interests and understanding of the world about them. The prekindergarten program shall relate the role of the family to the child's developing sense of self and perception of others. Planning and carrying out prekindergarten activities designed to encourage cooperative efforts between home and school shall focus on community resources. A prekindergarten teacher shall hold a certificate certifying that the holder is qualified to teach in prekindergarten. A nonpublic school which offers only a prekindergarten may, but is not required to, seek and obtain accreditation.

2. The kindergarten program shall include experiences designed to develop healthy emotional and social habits and growth in the language arts and communication skills, as well as a capacity for the completion of individual tasks, and protect and increase physical well-being with attention given to experiences relating to the development of life skills and human growth and development. A kindergarten teacher shall be certificated to teach in kindergarten. An accredited nonpublic school must meet the requirements of this subsection only if the nonpublic school offers a kindergarten program.

3. The following areas shall be taught in grades one through six: English-language arts, social studies, mathematics, science, health, human growth and development, physical education, traffic safety, music, and visual art. The health curriculum shall include the characteristics of communicable diseases including acquired immune deficiency syndrome. The state board as part of accreditation standards shall adopt curriculum definitions for implementing the elementary program.

4. The following shall be taught in grades seven and eight: English-language arts, social studies, mathematics, science, health, human growth and development, physical education,

music, and visual arts. The health curriculum shall include the characteristics of sexually transmitted diseases and acquired immune deficiency syndrome. The state board as part of accreditation standards shall adopt curriculum definitions for implementing the program in grades seven and eight.

5. In grades nine through twelve, a unit of credit consists of a course or equivalent related components or partial units taught throughout the academic year. The minimum program to be offered and taught for grades nine through twelve is:

a. Five units of science including physics and chemistry; the units of physics and chemistry may be taught in alternate years.

b. Five units of the social studies including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot.

The county auditor, upon request and at a site chosen by the county auditor, shall make available to schools within the county voting machines or sample ballots that are generally used within the county, at times when these machines or sample ballots are not in use for their recognized purpose.

c. Six units of English-language arts.

d. Four units of a sequential program in mathematics.

e. Two units of general mathematics.

f. Four sequential units of one foreign language. The department may waive the third and fourth years of the foreign language requirement on an annual basis upon the request of the board of directors of a school district or the authorities in charge of a nonpublic school if the board or authorities are able to prove that a certificated teacher was employed and assigned a schedule that would have allowed students to enroll in a foreign language class, the foreign language class was properly scheduled, students were aware that a foreign language class was scheduled, and no students enrolled in the class.

g. All students physically able shall be required to participate in physical education activities during each semester they are enrolled in school except as otherwise provided in this paragraph. A minimum of one-eighth unit each semester is required. A twelfth grade student who meets the requirements of this paragraph may be excused from the physical education requirement by the principal of the school in which the student is enrolled if the parent or guardian of the student requests in writing that the student be excused from the physical education requirement. A student who wishes to be excused from the physical education requirement must be enrolled in a cooperative or work-study program or other educational program authorized by the school which requires the student to leave the school premises for specified periods of time during the school day. The student must seek to be excused from the physical education requirement in order to enroll in academic courses not otherwise available to the student. The principal of the school shall inform the superintendent of the school district or nonpublic school that the student has been excused. Physical education activities shall emphasize leisure time activities which will benefit the student outside the school environment and after graduation from high school.

h. Five units of occupational education subjects, which may include, but are not limited to, programs, services, and activities which prepare students for employment in office and clerical, trade and industrial, consumer and homemaking, agriculture, distributive, and health occupations.

i. Three units in the fine arts which shall include at least two of the following: dance, music, theatre, and visual art.

j. One unit of health education which shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; human growth and development; substance abuse and nonuse; emotional and social health; health resources; and prevention and control of disease, including sexually transmitted diseases and acquired immune

deficiency syndrome. The state board as part of accreditation standards shall adopt curriculum standards for implementing the program in grades nine through twelve.

6. A pupil is not required to enroll in either physical education or health courses if the pupil's parent or guardian files a written statement with the school principal that the course conflicts with the pupil's religious belief.

7. Programs that meet the needs of each of the following:

a. Pupils requiring special education.

b. Gifted and talented pupils.

c. Programs for at-risk students. Rules adopted by the state board to implement this paragraph shall be based upon the definition of at-risk student developed by the child coordinating council established in section 256A.2 and the state board shall consider the recommendations of the child coordinating council in developing the rules.

8. Upon request of the board of directors of a public school district or the authorities in charge of a nonpublic school, the director may, for a number of years to be specified by the director, grant the district board or the authorities in charge of the nonpublic school exemption from one or more of the requirements of the educational program specified in subsection 5. The exemption may be renewed. Exemptions shall be granted only if the director deems that the request made is an essential part of a planned innovative curriculum project which the director determines will adequately meet the educational needs and interests of the pupils and be broadly consistent with the intent of the educational program as defined in subsection 5.

The request for exemption shall include all of the following:

a. Rationale of the project to include supportive research evidence.

b. Objectives of the project.

c. Provisions for administration and conduct of the project, including the use of personnel, facilities, time, techniques, and activities.

d. Plans for evaluation of the project by testing and observational measures of pupil progress in reaching the objectives.

e. Plans for revisions of the project based on evaluation measures.

f. Plans for periodic reports to the department.

g. The estimated cost of the project.

9. a. Effective July 1, 1989, through June 30, 1990, to facilitate the implementation and economical operation of the educational program defined in subsections 4 and 5, each school offering any of grades seven through twelve, except a school which offers grades one through eight as an elementary school, shall meet the media center requirements specified in section 256.11, subsection 9, paragraph "a", Code Supplement 1987.

b. Effective July 1, 1990, unless a waiver has been obtained under section 256.11A, each school or school district shall have a qualified school media specialist who shall meet the certification and approval standards prescribed by the department and shall be responsible for supervision of the media centers. Each school or school district shall establish a media center, in each attendance center, which shall be accessible to students throughout the school day.

10. Each school or school district shall provide an articulated sequential guidance program for grades kindergarten through twelve. Until July 1, 1991, a school or school district may obtain a waiver from meeting the requirements of this subsection pursuant to section 256.11A. The guidance counselor shall meet the certification and approval standards of the department.

Sec. 3. NEW SECTION. 256.11A IMPLEMENTATION OF STANDARDS.

1. Schools and school districts are not required to meet the standard adopted by the state board under section 256.17, Code Supplement 1987, requiring that ten units of vocational education be offered and taught in grades nine through twelve unless the general assembly enacts legislation relating to the requirements stated in the standard. Until the time schools and school districts are required to meet the standard, the occupational education requirements stated in section 256.11, subsection 5, paragraph "h", apply.

2. Schools and school districts are not required to meet the requirement stated in the standards adopted by the state board under section 256.17, Code Supplement 1987, that prohibits an individual who is employed or contracted as superintendent from also serving as a principal in that school or school district until July 1, 1990, except as otherwise provided in this subsection. Not later than January 1, 1990, for the school year beginning July 1, 1990, the board of directors of a school district or authorities in charge of a nonpublic school, may file a written request with the department of education that the department waive the requirement for that district or school. The procedures specified in subsection 5 apply to the request.

3. Schools and school districts unable to meet the standard adopted by the state board under section 256.17, Code Supplement 1987, and contained in section 256.11, subsection 9, effective July 1, 1989, requiring that on July 1, 1989, each board operating a kindergarten through grade twelve program provide an articulated sequential elementary-secondary guidance program may, not later than January 1, 1989, for the school year beginning July 1, 1989, file a written request to the department of education that the department waive the requirement for that school or school district. The procedures specified in subsection 5 apply to the request. Not later than January 1, 1990, for the school year beginning July 1, 1990, the board or authorities may request a one-year extension of the waiver.

If a waiver is approved under subsection 5, the school or school district shall meet the requirements of section 256.11, subsection 9, paragraph "b", Code Supplement 1987, for the period for which the waiver is approved.

4. Schools and school districts are not required to meet the standard adopted by the state board of education under section 256.17, Code Supplement 1987, and contained in section 256.11, subsection 9, paragraph "b", effective July 1, 1990, that requires the board to establish and operate a media services program to support the total curriculum until July 1, 1990, except as otherwise provided in this subsection. Not later than January 1, 1990, for the school year beginning July 1, 1990, the board of directors of a school district, or authorities in charge of a nonpublic school, may file a written request with the department of education that the department waive the requirement for that district or school. The procedures specified in subsection 5 apply to the request.

If a waiver is approved under subsection 5, the school district or school shall meet the requirements of section 256.11, subsection 9, paragraph "a", Code Supplement 1987, for the period for which the waiver is approved.

5. A request for a waiver filed by the board of directors of a school district or authorities in charge of a nonpublic school shall describe actions being taken by the district or school to meet the requirement for which the district or school has requested a waiver. The state board of education shall adopt rules under chapter 17A to implement a procedure and criteria for the department to use in making a decision to approve a waiver under subsections 2, 3, and 4.

Sec. 4. The legislative council is requested to establish a study committee composed of members of the house and senate committees on education from both political parties to conduct a comprehensive study of the provision of vocational education courses for secondary school students. The study shall include, but not be limited to, the vocational education requirements contained in the rules adopted by the state board of education pursuant to section 256.17, the courses offered by school districts, the costs of offering the various areas of vocational education courses, enrollment trends, and the feasibility of alternative means of offering vocational education courses, including but not limited to, requiring that secondary school vocational education courses be provided by the area schools in either the high school or area school setting or an alternative setting.

The study committee shall submit a report of its recommendations to the legislative post-secondary education task force if one is established, the legislative council, and the general assembly meeting in 1989.

Sec. 5. If the general assembly adopts a concurrent resolution during the 1989 legislative session requesting a survey, the legislative fiscal bureau shall conduct a survey of school districts to determine the feasibility of requiring that the kindergarten program operate a minimum of one hundred eighty days and meet a minimum school day time requirement of four and one-half hours. The survey shall include an inventory of additional space requirements and the availability of vacant classrooms in school district facilities, additional staff requirements, factors affecting pupil/teacher ratios, availability of educational materials, and transportation needs.

The legislative fiscal bureau shall report the results of the survey to the chairpersons and ranking members of the senate and house committees on education not later than January 1, 1990.

Sec. 6. It is the intent of the general assembly to develop a standard relating to kindergarten requirements which is based on the unique needs of young children in school settings. The legislative council is requested to appoint an interim study committee to conduct a comprehensive study of the needs of young children for all day, every day kindergarten as well as the need for additional care and activities in the school environment, including but not limited to recreation, child care, health, developmental, and latchkey programs. The committee shall consider the preliminary findings of the legislative fiscal bureau space study. The committee shall be composed of members of the house and senate, from both political parties, and persons knowledgeable in the field of child development, including members of the state child development coordinating council. The committee shall develop recommendations and submit the recommendations in a report to the legislative council and the general assembly not later than March 1, 1989.

Sec. 7. Section 331.502, subsection 23, Code 1987, is amended to read as follows:

23. Make available to schools, voting machines or sample ballots for instructional purposes as provided in section 256.11, subsection 6 5.

Sec. 8. Section 455E.8, subsection 10, Code Supplement 1987, is amended to read as follows:

10. Develop a program, in consultation with the department of education and the department of environmental education of the University of Northern Iowa, regarding water quality issues which shall be included in the minimum program required in grades seven and eight pursuant to rules adopted by the state board of education under section 256.11, subsection 4.

Sec. 9. Section 467A.7, subsection 18, Code Supplement 1987, is amended to read as follows:

18. To encourage local school districts to provide instruction in the importance of and in some of the basic methods of soil conservation, as a part of the course work relating to conservation of natural resources and environmental awareness required in rules adopted by the state board of education pursuant to section 256.11, subsections 3 and 4, and to offer technical assistance to schools in developing such instructional programs.

Sec. 10. Section 622.10, unnumbered paragraph 2, Code 1987, is amended to read as follows:

No qualified school guidance counselor, who has met the certification and approval standards of the department of education as provided in section ~~257.25~~ 256.11, subsection ~~9~~ 10, who obtains information by reason of the counselor's employment as a qualified school guidance counselor shall be allowed, in giving testimony, to disclose any confidential communications properly entrusted to the counselor by a pupil or the pupil's parent or guardian in the counselor's capacity as a qualified school guidance counselor and necessary and proper to enable the counselor to perform the counselor's duties as a qualified school guidance counselor.

Sec. 11. Sections 1, 2, and 7 through 10 of this Act take effect July 1, 1989.

Sec. 12. Section 256.17, Code Supplement 1987, is repealed effective July 1, 1989.

Approved May 16, 1988

CHAPTER 1263**SCHOOL ENROLLMENT, DISTRICT DISSOLUTIONS,
AND WHOLE-GRADE SHARING AGREEMENTS***H.F. 2419*

AN ACT relating to enrollment of school pupils, including initiating and effecting school district dissolutions and whole-grade sharing agreements, setting maximum incentives.

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

Section 1. Section 256.9, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 31. Conduct or direct the area education agency to conduct feasibility surveys and studies, if requested under section 282.11, of the school districts within the area education agency service areas and all adjacent territory, including but not limited to contiguous districts in other states, for the purpose of evaluating and recommending proposed whole-grade sharing agreements requested under section 282.7 and section 282.10, subsections 1 and 4. The surveys and studies shall be revised periodically to reflect reorganizations which may have taken place in the area education agency, adjacent territory, and contiguous districts in other states. The surveys and studies shall include a cover page containing recommendations and a short explanation of the recommendations. The factors to be used in determining the recommendations include, but are not limited to:

- a. The possibility of long-term survival of the proposed alliance.
- b. The adequacy of the proposed educational programs versus the educational opportunities offered through a different alliance.
- c. The financial strength of the new alliance.
- d. Geographical factors.
- e. The impact of the alliance on surrounding schools.

Copies of the completed surveys and studies shall be transmitted to the affected districts' school boards.

Sec. 2. Section 275.1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

It is the policy of the state to encourage economical and efficient school districts which will ensure an equal educational opportunity to all children of the state. All areas of the state shall be in school districts maintaining kindergarten and twelve grades. If a school district ceases to maintain kindergarten and twelve grades except as otherwise provided in ~~sections~~ section 28E.9, 280.15, 257-28 256.13, and 282.7, subsection 1 or subsections 1 and 3, or 282.8, it shall reorganize within six months or the state board shall attach the school district not maintaining kindergarten and twelve grades to one or more adjacent districts. Voluntary reorganizations under this chapter shall be commenced only if the affected school districts are contiguous to one another. A reorganized district shall meet the requirements of section 275.3.

Sec. 3. Section 275.51, unnumbered paragraph 1, Code 1987, is amended to read as follows:

As an alternative to school district reorganization prescribed in this chapter, the board of directors of a school district may establish a school district dissolution commission to prepare a proposal of dissolution of the school district and attachment of all of the school district to one or more contiguous school districts and to include in the proposal a division of the assets and liabilities of the dissolving school district. A school district dissolution commission may also be established by the board of directors of a school district if a dissolution proposal has been prepared by eligible electors who reside within the district. The proposal must contain the names of the proposed members of the commission and be accompanied by a petition which has been signed by at least twenty percent of the eligible electors.

Sec. 4. Section 275.55, unnumbered paragraph 4, Code 1987, is amended to read as follows:

The attachment is effective July 1 following its approval. If the dissolution proposal is for the dissolution of a school district with a certified enrollment of fewer than six hundred, the territory located in the school district that dissolved is eligible, if approved by the director of the department of education, for a reduction in the uniform property tax levy under section 442.2, subsection 1. If the director approves a reduction in the uniform property tax levy as provided in this section, the director shall notify the director of the department of management of the reduction.

Sec. 5. **NEW SECTION. 275.55A ATTENDANCE IN OTHER DISTRICT.**

A pupil enrolled in ninth, tenth, or eleventh grade during the school year preceding the effective date of a dissolution proposal, who was a resident of the school district that dissolved, may enroll in any school district to which territory of the school district that dissolved was attached until that pupil's graduation from high school. Notwithstanding section 282.24, the district of residence of the pupil, determined in the dissolution proposal, shall pay tuition to the school district selected by the pupil in an amount not to exceed the district cost per pupil of the district of residence and the school district selected by the pupil shall accept that tuition payment and enroll the pupil.

Sec. 6. Section 282.1, Code 1987, is amended to read as follows:

282.1 SCHOOL AGE — NONRESIDENTS.

Persons between five and twenty-one years of age are of school age. A board may establish and maintain evening schools for residents of the corporation regardless of age and for which no tuition need be charged. Nonresident children shall be charged the maximum tuition rate as determined in section 282.24, subsection 1, with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board, and boards discontinuing grades under section 282.7, subsection 1 or subsections 1 and 3, shall be charged tuition as provided in section 282.24, subsection 2.

Sec. 7. Section 282.7, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 282.8 and section 28E.9, a school district may negotiate an agreement under subsection 1 for attendance of its pupils in a school district located in a contiguous state subject to a reciprocal agreement by the two state boards in the manner provided in this subsection. Prior to negotiating an agreement with the school district in the contiguous state, the board of directors shall file a written request with the state board of education for a determination whether the school district in the contiguous state meets requirements substantially similar to those required for accredited or approved school districts in this state and the school district receives or has available services equivalent to those that would be provided in this state by an area education agency. The school district shall also obtain approval by the department of education of the sharing proposal, before the agreement becomes effective. Six months prior to making the request for approval, the district shall request a feasibility study from the department of education. If the state board of this state and the corresponding state board in the contiguous state agree that the school districts of their respective states meet substantially similar requirements and have substantially similar services available to the school district, and if the Iowa department of education approves the proposed contract, the two state boards may sign a reciprocal agreement for attendance of their pupils in the school district of the other state, subject to the agreement signed between the boards of directors of the two districts. A school district that negotiates an agreement with a school district in a contiguous state under this subsection is not eligible for supplementary weighting under section 442.39 as a result of that agreement.

Sec. 8. Section 282.10, subsection 1, Code Supplement 1987, is amended to read as follows:

1. Whole grade sharing is a procedure used by school districts whereby all or a substantial portion of the pupils in any grade in two or more school districts share an educational program for all or a substantial portion of a school day under a written agreement pursuant to section 256.13, 280.15, or 282.7, subsection 1 or subsections 1 and 3. Whole grade sharing may either be one-way or two-way sharing.

Sec. 9. Section 282.24, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

There is established a maximum tuition fee that may be charged for elementary and high school students residing within another school district or corporation except students attending school in another district under section 282.7, subsection 1 or subsections 1 and 3. That fee is the district cost per pupil of the receiving district as computed in section 442.9, subsection 1, paragraph "a".

Sec. 10. Section 282.11, Code Supplement 1987, is amended to read as follows:

282.11 PROCEDURE.

Not less than ninety days prior to signing a whole grade sharing agreement whereby all or a substantial portion of the pupils in a grade in the district will attend school in another district, the board of directors of each school district that is negotiating, extending, or renewing a sharing agreement, shall publicly announce its intent to negotiate a sharing agreement under section 21.4, subsection 1. Within thirty days of the board's public notice, a petition may be filed with the department of education requesting that a feasibility study be completed. The petition shall be signed by twenty percent of the eligible electors in the district. The director of the department of education may determine that a feasibility study conducted by the board satisfies the request, provided that the study conforms with the criteria contained in section 256.9.

Not less than thirty days prior to signing a whole grade sharing agreement whereby all or a substantial portion of the pupils in a grade in the district will attend school in another district, the board of directors of each school district that is a party to a proposed sharing agreement shall hold a public hearing at which the proposed agreement is described, and at which the parent or guardian of an affected pupil and certificated employees of the school district shall have an opportunity to comment on the proposed agreement. Within the thirty-day period prior to the signing of the agreement, the parent or guardian of an affected pupil may request the board of directors to send the pupil to another contiguous school district. The request shall be based upon one of the following:

1. That the agreement will not meet the educational program needs of the pupil.
2. That adequate consideration was not given to geographical factors.

The board shall allow or disallow the request prior to the signing of the agreement, or the request shall be deemed granted. If the board disallows the request, the board shall indicate the reasons why the request is disallowed and shall notify the parent or guardian that the decision of the board may be appealed as provided in this section.

If the board disallows the request of a parent or guardian of an affected pupil, the parent or guardian, not later than March 1, may appeal the sending of that pupil to the school district specified in the agreement, to the state board of education. The basis for the appeal shall be the same as the basis for the request to the board. A parent or guardian may appeal on the basis that sending the pupil to school in the district specified in the agreement will not meet the educational program needs of the pupil, or the school in the school district to which the pupil will be sent is not appropriate because consideration was not given to geographical factors. An appeal shall specify a contiguous school district to which the parent or guardian wishes to send the affected pupil. If the parent or guardian appeals, the standard of review of the

appeal is clear and convincing a preponderance of evidence that the parent parent's or guardian's hardship outweighs the benefits and integrity of the sharing agreement. The state board may require the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, or may deny the appeal by the parent or guardian. If the state board requires the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, the tuition shall be equal to the tuition established in the sharing agreement. The decision of the state board is binding on the boards of directors of the school districts affected, except that the decision of the state board may be appealed by either party to the district court.

Sec. 11. Section 285.1, subsection 3, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

In a district where transportation by school bus is impracticable, where necessary to implement a whole grade sharing agreement under section 282.10, or where school bus service is not available, the board may require parents or guardians to furnish transportation for their children to the schools designated for attendance. Except as provided in section 285.3, the parent or guardian shall be reimbursed for such transportation service for public and nonpublic school pupils by the board of the resident district in an amount equal to eighty dollars plus seventy-five percent of the difference between eighty dollars and the previous school year's statewide average per pupil transportation cost, as determined by the department of education.

Sec. 12. Section 290.1, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of section 282.11, a "person aggrieved" or "party aggrieved" means the "parent or guardian of an affected pupil."

Sec. 13. Section 442.2, subsection 1, unnumbered paragraphs 2 and 3, Code 1987, are amended to read as follows:

However, commencing with the budget year beginning July 1, ~~1987~~ 1988, a reorganized school district shall cause a foundation property tax of four dollars and forty cents per thousand dollars of assessed valuation to be levied on all taxable property which, in the year preceding the a reorganization, was within a school district affected by the reorganization as defined in section 275.1, and which or in the year preceding a dissolution was a part of a school district that dissolved if the dissolution proposal has been approved by the director of the department of education pursuant to section 275.55. In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved must have had a certified enrollment of less fewer than six hundred in order for the four dollar and forty cent levy to apply. In succeeding school years, the foundation property tax levy on that portion shall be increased twenty cents per year until it reaches the rate of five dollars and forty cents per thousand dollars of assessed valuation.

For purposes of this section, a reorganized school district is one which absorbed at least thirty percent of the enrollment of the school district affected by a reorganization or dissolved during a dissolution and in which reorganization or dissolution was approved in an election pursuant to sections 275.18 and 275.20 or section 275.55, and will take the reorganization or dissolution takes effect on or after July 1, ~~1986~~ 1988.

Sec. 14. Section 442.13, subsection 7, Code Supplement 1987, is amended to read as follows:

7. The committee may authorize a district to spend a reasonable and specified amount from its unexpended cash balance for the purpose or purposes of furnishing either of the following purposes:

a. Furnishing, equipping, and contributing to the construction of a new building or structure for which the voters of the district have approved a bond issue as provided by law or a tax as provided in chapter 278 and for major building repairs as defined in section 297.5.

b. The costs associated with the demolition of an unused school building, or the conversion of an unused school building for community use, in a school district involved in a dissolution or reorganization under chapter 275 which are incurred within three years of the dissolution or reorganization.

PARAGRAPH DIVIDED. No other expenditure, including but not limited to expenditures for salaries or recurring costs, shall be authorized under this subsection. Expenditures authorized under this subsection shall not be included in allowable growth or district cost, and the portion of the unexpended cash balance which is authorized to be spent shall be regarded as if it were miscellaneous income. Any part of ~~such~~ the amount which is not actually spent for the authorized purpose shall revert to its former status as part of the unexpended cash balance.

Sec. 15. Section 442.39, subsection 2, Code Supplement 1987, is amended to read as follows:

2. Pupils attending classes in another school district or an area school, attending classes taught by a teacher who is employed jointly under section 280.15, or attending classes taught by a teacher who is employed by another school district, are assigned a weighting of one plus five-tenths times the percent of the pupil's school day during which the pupil attends classes in another district or area school, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district if the school budget review committee certifies to the department of management that the shared classes or teachers would otherwise not be implemented without the assignment of additional weighting. However, in lieu of the additional weighting of five-tenths, the school budget review committee shall assign an additional weighting of one-tenth times the percent of the pupil's school day in which a pupil attends classes in another district or an area school, attends classes taught by a teacher who is employed jointly under section 280.15, or attends classes taught by a teacher who is employed by another district, in districts that have a substantial number of students in any of grades seven through twelve sharing more than one class or teacher. ~~Effective July 1, 1986, the~~ The additional weighting of one-tenth may be assigned by the school budget review committee to a district for a maximum of five years, and thereafter, the additional weighting shall not be assigned to the same district under this section, but may be assigned under section 442.39A.

Sec. 16. Section 442.39, subsection 4, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Effective July 1, 1988, the additional weighting assigned under this subsection may be assigned to a district for a maximum of five years and, thereafter, the additional weighting shall not be assigned to the same district under this section, but may be assigned under section 442.39A.

Approved May 16, 1988

CHAPTER 1264**VOCATIONAL AGRICULTURE EDUCATION***H.F. 2433*

AN ACT relating to public school vocational education in agriculture technology and creating a council for agricultural education.

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

Section 1. NEW SECTION. 256.31 COUNCIL FOR AGRICULTURAL EDUCATION.

1. An advisory council for agricultural education is established, which consists of nine members appointed by the governor. The nine members shall include the following:

- a. Five persons representing all areas of agriculture and diverse geographical areas.
- b. The individual representing agriculture on the state council for vocational education.
- c. A secondary school program instructor, a postsecondary school program instructor, and a teacher educator.

2. The council may also include as ex officio members the following persons, as determined by the voting members of the council:

- a. The state future farmers of America president.
- b. The current state future farmers of America alumni association president.
- c. The current postsecondary agriculture students president.
- d. The current young farmers educational association president.
- e. A state consultant in agricultural education.
- f. The secretary of agriculture or the secretary's designee.
- g. A member of each house of the general assembly. This membership shall be bipartisan in composition and shall be selected by the majority leader of the senate and the speaker of the house.

3. The duties of the council are to review, develop, and recommend standards for secondary and postsecondary agricultural education. The council shall annually issue a report to the state board of education and the chairpersons of the house and senate agriculture and education committees regarding both short-term and long-term curricular standards for agricultural education and the council's activities. The council shall meet a minimum of twice annually, and must have a quorum consisting of a majority of voting members present to hold an official meeting and to take any final council action. However, hearings may be held without a quorum. The chairperson shall be elected annually by and from the voting membership. The initial organizational meeting shall be called by the director of the department of education.

4. The term of membership is three years. The terms shall be staggered so that three of the terms end each year, but no member serving on the initial council shall serve less than one year. The governor shall determine the length of the initial terms of office.

Sec. 2. NEW SECTION. 280.19 VOCATIONAL AGRICULTURE EDUCATION.

1. It is the intent of the general assembly to encourage the public secondary schools to develop comprehensive programs for vocational education in agriculture technology to meet the diverse needs of Iowa's students and to ensure an adequate supply of trained and skilled individuals in all phases of the agriculture industry. The board of directors of each public school district may develop, as part of the curriculum in grades nine through twelve, programs for vocational education in agriculture technology.

It is also the intent of the general assembly to encourage the development of programs for vocational education in agriculture technology which are structured on a twelve-month basis and which include the following:

- a. Provision for twelve-month extended contracts to permit entrepreneurial agricultural experience, summer program planning, and recordkeeping.

Supervision and accountability of vocational agriculture teachers employed for extended contracts are the responsibility of the local school board.

b. Submission of an annual summer program by each vocational agriculture instructor, employed on an extended contract basis.

c. The following reports shall be made available to the council for agriculture education upon request:

(1) A summary of summer activities completed for each vocational agriculture instructor employed on an extended contract.

(2) A summary of supervised agricultural experience programs conducted during the year in vocational agriculture.

d. Provision for instructional supervision for agricultural occupational experience programs.

Approved May 16, 1988

CHAPTER 1265

M-F-L COMMUNITY SCHOOL DISTRICT LEGALIZING ACT

H.F. 2449

AN ACT to legalize the proceedings of the board of directors of the M-F-L Community School District relating to the sale of certain real estate.

WHEREAS, the board of directors of the M-F-L Community School District approved the sale of lots three and four of block two of Russell's addition to the town of Farmersburg, Clayton County, Iowa; and

WHEREAS, the property was appraised as required by law, advertised for bids as required by law, and sold by special warranty deed on December 2, 1980; and

WHEREAS, the board of directors of the M-F-L Community School District complied with the law relating to the sale of the property except that in the advertisement for bids the property was erroneously described as lots two and four of block two of Russell's addition to the town of Farmersburg, Clayton County, Iowa; and

WHEREAS, doubts have arisen concerning the legality of the sale of the property and it is deemed advisable to remove forever such doubts as to the validity of these transactions; now therefore,

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

Section 1. All proceedings taken by the board of directors of the M-F-L Community School District relating to the sale of Lots Three and Four of Block Two of Russell's Addition to the Town of Farmersburg, Clayton County, Iowa are hereby legalized and constitute a legal and binding sale of those properties by the board of directors of the M-F-L Community School District.

Approved May 16, 1988

CHAPTER 1266**TEACHER EDUCATION PROGRAMS***S.F. 2193*

AN ACT relating to requirements for approved teacher education programs and the establishment of a teacher certification advisory committee.

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

Section 1. Section 256.7, subsection 3, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. By January 1, 1989, the state board shall adopt rules under chapter 17A that prescribe a process for the appointment and operation of evaluation panels for evaluating the performance of teachers possessing initial certification to determine whether the teachers meet the requirements adopted by the board for progressing to the next certification level.

Sec. 2. NEW SECTION. 256.31 CERTIFICATION ADVISORY COMMITTEE.

1. A certification advisory committee is established to advise the board of educational examiners concerning the requirements for certification of elementary and secondary school personnel and standards for the preparation and certification of school personnel. The advisory committee shall consist of the following members appointed by the board of educational examiners:

a. Eight members who are certificated classroom teachers, three of whom are currently employed as classroom teachers in school districts in this state, and one of whom is currently employed as a classroom teacher in an approved nonpublic school in this state.

b. One member who is employed as a school service person.

c. One member who is employed as a certificated principal in this state.

d. One member who is employed as a certificated superintendent in this state.

e. Two members of the teacher education faculty from institutions of higher education in this state which are approved for teacher education. One member shall be from an institution of higher education under the control of the state board of regents and one member shall be from a private college or university in this state.

f. One member who is a certificated employee of an area education agency in this state assigned to instructional programs or staff development responsibilities.

2. Committee members shall be appointed to staggered four-year terms. They shall be reimbursed for actual and necessary expenses incurred in the performance of their duties from funds appropriated to the department of education.

3. The committee shall meet at least quarterly. Staff assistance shall be provided by the department of education.

4. A vacancy on the advisory committee shall be filled for the unexpired portion of the term in the same manner as the original appointment.

Sec. 3. NEW SECTION. 260.25 RULES FOR TEACHER EDUCATION PROGRAMS.

Not later than January 1, 1990, the board of educational examiners shall adopt rules pursuant to chapter 17A to implement the following for approved teacher education programs:

1. A requirement that each student admitted to an approved teacher education program, must participate in field experiences that include both observation and participation in teaching activities in a variety of school settings. These field experiences shall comprise a total of at least fifty hours' duration at least forty hours of which shall occur after a student's admission to an approved teacher education program. The student teaching experience shall be a minimum of twelve weeks in duration during the student's final year of the teacher education program.

2. A requirement that faculty members in professional education maintain an ongoing involvement in activities in elementary, middle, or secondary schools. The activities shall include at least forty hours of team teaching during a period not exceeding five years in duration at the elementary, middle, or secondary level.

3. A requirement that the program includes instruction in skills and strategies to be used in classroom management of individuals, and of small and large groups, under varying conditions; skills for communicating and working constructively with pupils, teachers, administrators, and parents; and skills for understanding the role of the board of education and the functions of other education agencies in the state. The requirement shall be based upon recommendations of the department of education after consultation with teacher education faculty members in colleges and universities.

4. A requirement that prescribes minimum experiences and responsibilities to be accomplished during the student teaching experience by the student teacher and by the cooperating teacher based upon recommendations of the department of education after consultation with teacher education faculty members in colleges and universities. The student teaching experience shall consist of interactive experiences involving the college or university personnel, the student teacher, the cooperating teacher, and administrative personnel from the cooperating teacher's school district.

5. A requirement that each approved teacher education institution annually offer a workshop of at least one day in duration for prospective cooperating teachers. The workshop shall define the objectives of the student teaching experience, review the responsibilities of the cooperating teacher, and provide the cooperating teacher other information and assistance the institution deems necessary.

6. A requirement that teacher education students receive instruction in the use of electronic technology for classroom and instructional purposes.

7. A requirement that approved teacher education institutions annually solicit the views of the education community regarding the institution's teacher education programs.

8. A requirement that an approved teacher education institution submit evidence that the college or department of education is communicating with other colleges or departments in the institution so that teacher education students may integrate teaching methodology with subject matter areas of specialization.

9. A requirement that an approved teacher education program submit evidence that the evaluation of the performance of a student teacher is a cooperative process that involves both the faculty member supervising the student teacher and the cooperating teacher. The rules shall require that each institution develop a written evaluation procedure for use by the cooperating teacher and a form for evaluating student teachers, and require that a copy of the completed form be included in the student teacher's permanent record.

Sec. 4. NEW SECTION. 262.75 PROGRAMS FOR TEACHER EDUCATION.

A cooperating teacher incentive program is established to encourage experienced teachers to serve as cooperating teachers for student teachers enrolled in the institutions of higher education under the control of the board. An individual who submits evidence to an institution that the individual has satisfactorily served as a cooperating teacher for a student teacher from any of the institutions of higher education under the control of the board for the duration of the student teaching experience shall receive from the institution either a monetary recompense or a reduction in tuition for graduate hours of coursework equivalent to the value of the monetary recompense, rounded to the nearest whole credit hour. If, because of a policy adopted by the board of directors employing the teacher, the amount of the monetary recompense is not made available to the teacher for the teacher's own personal use or the salary paid to the cooperating teacher by the employing board is correspondingly reduced, the institution shall grant the teacher the reduction in tuition pursuant to this section in lieu of the monetary recompense.

Sec. 5. DEPARTMENT OF EDUCATION STUDIES.

1. The department of education is directed to develop recommendations concerning incentives that might be used to encourage experienced teachers in elementary and secondary schools to serve as cooperating teachers for student teachers enrolled in approved teacher education programs.

The recommendations shall be submitted to the general assembly not later than February 1, 1989.

2. The department of education is directed to develop recommendations for the establishment of programs that provide for interaction between faculty members in colleges and departments of education at approved teacher education institutions and teachers and students at the elementary and secondary schools.

The recommendations shall be submitted to the general assembly not later than February 1, 1989.

Sec. 6. Section 294A.2, subsection 5, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Effective July 1, 1988, "teacher" includes an individual employed on less than a full-time basis by a school district through a contract between the school district and an institution of higher education with an approved teacher education program in which the teacher is enrolled in a graduate teacher education program.

Sec. 7. Section 294A.14, unnumbered paragraph 9, Code Supplement 1987, is amended to read as follows:

For school districts, additional instructional work assignments may include but are not limited to general curriculum planning and development, vertical articulation of curriculum, horizontal curriculum coordination, development of educational measurement practices for the school district, attendance at workshops and other programs for service as cooperating teachers for student teachers, development of plans for assisting beginning teachers during their first year of teaching, attendance at summer staff development programs, development of staff development programs for other teachers to be presented during the school year, and other plans locally determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the school district.

Sec. 8. Notwithstanding section 256.31, for the initial membership, two teachers and the area education agency representative shall serve one-year terms; two teachers, the principal, and a teacher education faculty member shall serve two-year terms; two teachers and the superintendent shall serve three-year terms; and two teachers and the other teacher education faculty member shall serve four-year terms.

Approved May 17, 1988

CHAPTER 1267

SALARIES AND BENEFITS FOR PUBLIC OFFICIALS AND EMPLOYEES

S.F. 2321

AN ACT relating to the compensation and benefits for public officials and employees by specifying salary rates and ranges, by providing adjustments for salaries, by providing coverage and adjustments for health, life, disability, and dental insurance, by making coordinating amendments to the Code, and by providing applicability dates.

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

Section 1.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1988, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section pursuant to any Act of the general assembly or if the appropriation is not sufficient, from the salary adjustment fund.

2. The following annual salary rates shall be paid to the person holding the position indicated:

a. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Salary for the secretary of agriculture:

..... \$ 53,000

b. DEPARTMENT OF JUSTICE

Salary for the attorney general:

..... \$ 66,250

c. OFFICE OF THE AUDITOR OF STATE

Salary for the auditor of state:

..... \$ 53,000

d. OFFICE OF THE SECRETARY OF STATE

Salary for the secretary of state:

..... \$ 53,000

e. OFFICE OF THE TREASURER OF STATE

Salary for the treasurer of state:

..... \$ 53,000

Sec. 2.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1988, and are effective for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department or the agency specified in this section pursuant to any Act of the general assembly or if the appropriation is not sufficient, from the salary adjustment fund.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

a. Chief justice of the supreme court:

..... \$ 75,900

b. Each justice of the supreme court:

..... \$ 72,900

c. Chief judge of the court of appeals:

..... \$ 72,800

d. Each associate judge of the court of appeals:

..... \$ 69,800

e. Each chief judge of a judicial district:	\$	69,000
f. Each district judge except the chief judge of a judicial district:	\$	66,000
g. Each district associate judge:	\$	56,800
h. Each judicial magistrate:	\$	15,000

Sec. 3. Persons receiving the salary rates established under sections 1 and 2 of this Act shall not receive any additional salary adjustments provided by this Act.

Sec. 4. The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in section 5 of this Act within the range provided by considering, among other items, the experience of the individual in the position, changes in the duties of the position, the incumbent's performance of assigned duties, and subordinates' salaries. However, the attorney general shall establish the salary for the consumer advocate within the salary range provided in section 5 of this Act.

The governor, in establishing salaries as provided in section 5 of this Act, shall take into consideration other employee benefits which may be provided for an individual including, but not limited to, housing.

A person whose salary is established by section 5 of this Act and who is a full-time permanent employee of the state shall not receive any other remuneration from the state or from any other source for the performance of that person's duties unless the additional remuneration is first approved by the governor or authorized by law; however, this provision does not exclude necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 5. The following annual salary ranges are effective for the positions in this section and for the fiscal year indicated. The ranges for the fiscal year beginning July 1, 1988, are effective for subsequent years until otherwise provided by the general assembly. The governor shall determine the salary to be paid to the person indicated at a rate within the salary ranges indicated from funds appropriated by the general assembly for that purpose.

1. The following salary ranges are effective for the fiscal year beginning July 1, 1988, and as otherwise provided in this section:

	<u>Minimum</u>	<u>Maximum</u>
a. Range 1	\$ 6,700	\$20,300
b. Range 2	\$24,400	\$40,600
c. Range 3	\$33,500	\$47,300
d. Range 4	\$40,600	\$54,300
e. Range 5	\$47,300	\$61,000
f. Range 5A	\$54,300	\$68,300

2. The following are range 1 positions: part-time members of the parole board.

3. The following are range 2 positions: administrator of the arts division of the department of cultural affairs, administrators of the division of persons with disabilities, the division on the status of women, the division for deaf persons, the division for Spanish-speaking peoples, and the division of children, youth and families of the department of human rights, administrator of the division of professional licensure of the department of commerce, and administrators of the division of disaster services, the division of veterans affairs of the department of public defense, and the commission on status of blacks of the department of human rights.

4. The following are range 3 positions: administrator of the library division of the department of cultural affairs, administrator of the division of community action agencies of the department of human rights, chairperson and members of the employment appeals board of the department of inspections and appeals, appellate defender, and secretary of the state fair board.

5. The following are range 4 positions: superintendent of banking, superintendent of the credit union division of the department of commerce, superintendent of the division of savings and loan associations of the department of commerce, administrator of the alcoholic beverages division of the department of commerce, and full-time members of the parole board.

6. The following are range 5 positions: chairperson and members of the utilities board, consumer advocate, job services commissioner, labor commissioner, industrial commissioner, insurance commissioner, administrators of the historical division and the public broadcasting division of the department of cultural affairs, and administrator of the racing and gaming division of the department of inspections and appeals.

7. The following is a range 5A position: lottery commissioner.

8. The following salary ranges are effective for the fiscal year beginning July 1, 1988, and as otherwise provided in this section:

	<u>Minimum</u>	<u>Maximum</u>
DEPARTMENT DIRECTOR'S SALARIES		
a. Range 6	\$36,700	\$49,100
b. Range 7	\$50,200	\$61,600
c. Range 8	\$53,700	\$71,500
d. Range 9	\$60,000	\$85,000

9. The following are department director's salary range 6 positions: department coordinator of the department of human rights, director of the civil rights commission, executive director of the college aid commission, director of the law enforcement academy, director of the department for the blind, and executive director of the campaign finance disclosure commission.

10. The following are department director's range 7 positions: director of the department of cultural affairs, director of the department of personnel, director of the department of public health, director of the department of employment services, executive director of the department of elder affairs, commissioner of the department of public safety, director of the department of general services, director of the department of commerce, executive director of the Iowa finance authority, and director of the department of inspections and appeals.

11. The following are department director's range 8 positions: director of the department of management, director of the department of revenue and finance, director of the department of natural resources, and director of the department of corrections.

12. The following are the department director's range 9 positions: commissioner of the department of education, director of the department of human services, director of the department of economic development, executive secretary of the state board of regents, and director of the department of transportation.

Sec. 6.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1988, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

a. Chairperson of the public employment relations board:	\$	47,400
b. Two members of the public employment relations board:	\$	44,000

Sec. 7. The following annual salary range is effective for the position specified in this section and for the fiscal year indicated. The range for the fiscal year beginning July 1, 1988, is effective for subsequent fiscal years until otherwise provided by the general assembly. The salary shall be paid to the person indicated at a rate determined as otherwise provided by law within the salary range from funds provided for that purpose:

	<u>Minimum</u>	<u>Maximum</u>
For the state court administrator	\$49,700	\$72,065

Sec. 8. The annual salary rates or ranges provided in sections 1, 2, 5, 6, and 7 of this Act become effective for the fiscal year beginning July 1, 1988, with the pay period beginning June 24, 1988.

Sec. 9. The funds appropriated to the salary adjustment fund and other funds appropriated to the various state departments and agencies shall be used to fund the following annual pay adjustments, expense reimbursements, and related benefits:

1. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.

2. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit to be effective June 10, 1988.

3. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.

4. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.

5. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.

6. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the University of Northern Iowa faculty bargaining unit.

7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.

8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the social services bargaining unit.

9. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.

10. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining unit.

11. The annual pay adjustments, related benefits, and expense reimbursements referred to in sections 10 and 11 of this Act for employees not covered by a collective bargaining agreement.

Sec. 10.

1. All pay plans provided for in section 19A.9, subsection 2, as they exist for the fiscal year ending June 30, 1988, shall be increased for employees who are not included in a collective bargaining agreement made final under chapter 20 and who are not otherwise specified in this Act, by four percent for the fiscal year beginning July 1, 1988, effective with the pay period beginning June 24, 1988. The department of personnel shall revise the pay plans as provided under section 19A.9, subsection 2, by increasing the salary levels for the various grades and steps within the respective plans. In addition to the increases specified above, employees may receive merit increases or the equivalent thereof.

2. The pay plans for state employees who are exempt from chapter 19A and who are included in the department of revenue and finance's centralized payroll system, and the board office employees of the state board of regents shall be increased by the same percent and in the

same manner included in subsection 1 of this section.

3. This section does not apply to members of the general assembly, board members, commission members, salaries of persons set by the general assembly pursuant to this Act or set by the governor, employees designated under section 19A.3, subsection 5, and employees under the state board of regents, but subsection 2 of this section does apply to office employees of the state board of regents.

4. The pay plans for the bargaining eligible employees of the state shall be increased by the same percent and in the same manner included in subsection 1 of this section. As used in this section, "bargaining eligible employee" means an employee who is eligible to organize under chapter 20, but has not done so.

5. The policies for implementation of this section shall be approved by the governor except for those policies governing the board employees of the state board of regents.

Sec. 11. The funds allocated to the state board of regents for the purpose of providing increases for employees not covered by a collective bargaining agreement shall be used as follows:

1. The amount necessary to fund for the fiscal year beginning July 1, 1988, an average base salary increase of four percent of the base salaries of professional and scientific staff members, except board office employees as provided for in section 10 of this Act, paid during the preceding fiscal year, to be allocated to professional and scientific staff members at the discretion of the state board of regents. In addition to the increase specified above, employees may receive the equivalent of a merit increase.

2. For employees under the state board of regents' merit system who are not included in the collective bargaining agreement made final under chapter 20, except board office employees, the amount necessary to increase the state board of regents' merit system pay plans as they exist for the fiscal year beginning July 1, 1988, by increasing the salary levels for each grade and step within the plans by four percent for the fiscal year beginning July 1, 1988. In addition to the increases specified above, employees may receive merit increases or the equivalent of a merit increase.

3. For faculty members who are not included in the collective bargaining agreement made final under chapter 20, for the fiscal year beginning July 1, 1988, an average base salary increase to be allocated at the discretion of the state board of regents.

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 the University of Northern Iowa faculty's allocation of salary adjustment funds which are provided in excess of the amount necessary to fund the collective bargaining agreement negotiated pursuant to chapter 20 for employees in the University of Northern Iowa faculty bargaining unit. The distribution shall be either according to the contract in effect for the fiscal year beginning July 1, 1987, for the fiscal year beginning July 1, 1988, or according to a different procedure that is agreeable to both parties.

Sec. 12. Section 2.10, subsection 2, Code Supplement 1987, is amended to read as follows:

2. The lieutenant governor shall receive an annual salary of twenty-three thousand nine hundred dollars. Personal expense and travel allowances shall be the same for the lieutenant governor as for a senator. The lieutenant governor while performing administrative duties of the office of lieutenant governor when the general assembly is not in session or serving as the president of the senate during special sessions of the general assembly shall receive sixty dollars per diem and reimbursement for expenses incurred in performing such duties. The lieutenant governor may elect to become a member of a state group insurance plan for employees of the state established pursuant to chapter 509A and the disability insurance program established pursuant to section 79.20 on the same basis as a full-time state employee excluded from

collective bargaining as provided in chapter 20. The lieutenant governor shall authorize a payroll deduction of any premium due. The salary, per diem, and expenses of the lieutenant governor provided for under this subsection, including office and staff expenses, shall be paid from funds appropriated to the office of the lieutenant governor by the general assembly.

Sec. 13. Section 2.10, subsection 1, Code Supplement 1987, is amended to read as follows:

1. Every member of the general assembly except the speaker of the house and majority and minority floor leaders of the senate and house shall receive an annual salary of sixteen thousand six hundred dollars for the year 1989 and subsequent years while serving as a member of the general assembly. The majority and minority floor leaders of the senate and house, except the senate majority leader, shall receive an annual salary of twenty-two thousand nine hundred dollars for the year 1989 and subsequent years while serving in such capacity. In addition, each such member shall receive the sum of forty dollars per day for expenses of office, except travel, for each day the general assembly is in session commencing with the first day of a legislative session and ending with the day of final adjournment of each legislative session as indicated by the journals of the house and senate, except that in the event the length of the first regular session of the general assembly exceeds one hundred ten calendar days and the second regular session exceeds one hundred calendar days, such payments shall be made only for one hundred ten calendar days for the first session and one hundred calendar days for the second session. However, members from Polk county shall receive twenty-five dollars per day. Each member shall receive a seventy-five dollar per month allowance for legislative district constituency postage, travel, telephone costs, and other expenses. Travel expenses shall be paid at the rate established by section 18.117 for actual travel in going to and returning from the seat of government by the nearest traveled route for not more than one time per week during a legislative session. However, any increase from time to time in the mileage rate established by section 18.117 shall not become effective for members of the general assembly until the convening of the next general assembly following the session in which the increase is adopted; and this provision shall prevail over any inconsistent provision of any present or future statute.

Sec. 14. Section 2.40, Code 1987, is amended to read as follows:

2.40 MEMBERSHIP IN STATE INSURANCE PLANS.

A member of the general assembly may elect to become a member of a state health or medical service group insurance plan for employees of the state established under chapter 509A subject to the following conditions:

1. The member shall be eligible for all state group insurance plans on the basis of enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20.

2. The member shall pay the total premium for the plan selected on the same basis as a full-time state employee excluded from collective bargaining as provided in chapter 20.

3. The member shall authorize a payroll deduction of the total premium during due according to the member's pay plan selected pursuant to subsection 5 of section 2.10, subsection 5.

4. The premium rate will shall be the same as the premium rate paid by a state employee for the plan selected except the state will provide no matching funds.

In order to implement this section a member of the general assembly may elect to become a member of a state health or medical service group insurance plan effective July 1, 1983 or as otherwise authorized in the contract of the state January 1, 1989. If a member of the general assembly elected to be paid the member's total salary during each pay period during the first six months of 1983, that member may become a member of the state health or medical service group insurance plan by paying the premium due until that member's salary and payroll deductions commence. A member of the general assembly may continue membership in a state group

insurance plan without reapplication during the member's tenure as a member of consecutive general assemblies. For the purpose of electing to become a member of the state health or medical service group insurance plan, a member of the general assembly has the status of a "new hire", full-time state employee when the member is initially eligible or during the first subsequent annual open enrollment. A member of the general assembly who elects to become a member of a state health or medical group insurance plan shall be exempted from preexisting medical condition waiting periods. A member of the general assembly may change programs or coverage under the state health or medical service group insurance plan during the month of January of odd-numbered years, but program and coverage change selections shall be subject to the enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20. A person who has been a member of the general assembly for two years and who has elected to be a member of a state health or medical group insurance plan may continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within thirty-one days after leaving office. The continuing former member of the general assembly shall pay the total premium and administrative costs for the state plan and shall have the same rights to change programs or coverage as state employees.

Sec. 15. Section 79.20, subsection 2, Code 1987, is amended to read as follows:

2. Maximum period benefits paid 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 but prior to age sixty-nine, 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.

c. If the disability occurs on or after the time the employee attains the age of sixty-nine years, the maximum benefit period shall end twelve months after continuous benefit payments begin.

Sec. 16. Section 79.20, subsection 4, Code 1987, is amended to read as follows:

4. All permanent full-time state employees shall be covered under the employees disability insurance program, except the members of the general assembly, board members and members of commissions who are not full-time state employees, and state employees who on July 1, 1974, are under another disability program financed in whole or in part by the state. For purposes of this section, members of the general assembly serving on or after January 1, 1989, are eligible for the plan during their tenure in office, on the basis of enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20.

Sec. 17. Section 99D.5, subsection 4, Code 1987, is amended to read as follows:

4. Commission members are each entitled to receive an annual salary of ~~three six thousand~~ dollars until June 30, 1987, and thereafter are entitled to ~~forty dollars per diem for each day actually spent in performing commission duties~~. Members shall also be reimbursed for actual expenses incurred in the performance of their duties to a maximum of six thousand dollars per year for each member. Each member shall post a bond in the amount of ten thousand dollars, with sureties to be approved by the governor, to guarantee the proper handling and accounting of moneys and other properties required in the administration of this chapter. The premiums on the bonds shall be paid as other expenses of the commission.

Sec. 18. Section 331.752, subsection 4, Code 1987, is amended to read as follows:

4. The resolution changing the status of a county attorney shall state the initial annual salary to be paid to the county attorney when the full-time or part-time status is effective. The annual salary specified in the resolution shall remain effective until changed as provided in section 331.907. The Except in counties having a population of more than two hundred thousand, the annual salary of a full-time county attorney shall be an amount which is between forty-five percent and one hundred percent of the annual salary received by a district court judge.

Sec. 19. Section 331.757, subsection 2, Code 1987, is amended to read as follows:

2. The county attorney may appoint, with the approval of the board, an assistant county attorney to serve as a full-time prosecutor. A full-time prosecutor shall refrain from the private practice of law. The county attorney shall determine the compensation paid to a full-time prosecutor within the budget set for the county attorney's office by the board. The Except in counties having a population of more than two hundred thousand, the annual salary of an assistant county attorney shall not exceed eighty-five percent of the maximum annual salary of a full-time county attorney.

Sec. 20. This section and the salary rate of the commissioner of education as specified in section 5, subsection 8, paragraph "d", of this Act are effective upon enactment.

Approved April 16, 1988

CHAPTER 1268

LOTTERY REVENUES APPROPRIATED AND ALLOCATED

S.F. 2328

AN ACT relating to the allocations and appropriations of lottery revenues and the programs for which the revenues may be used.

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

Section 1. Section 99E.9, subsection 3, paragraphs b and o, Code Supplement 1987, are amended to read as follows:

b. The types of lottery games to be conducted. Rules governing the operation of a class of games are subject to chapter 17A. However, rules governing the particular features of specific games within a class of games are not subject to chapter 17A. Such rules may include, but are not limited to, setting the name and prize structure of the game and shall be made available to the public prior to the time the games go on sale and shall be kept on file at the office of the commissioner. The board shall authorize instant lottery and on-line lotto games and may authorize the use of any type of lottery game that on May 3, 1985 has been conducted by a state lottery of another state in the United States, or any game that the board determines will achieve the revenue objectives of the lottery and is consistent with subsection 1. However, the board shall not authorize a game using electronic computer terminals or other devices if the terminals or devices dispense coins or currency upon the winning of a prize. In a game utilizing instant tickets other than pull-tab tickets, each ticket in the game shall bear a unique consecutive serial number distinguishing it from every other ticket in the game, and each lottery number or symbol shall be accompanied by a confirming caption consisting of a repetition of a symbol or a description of the symbol in words. In the game other than an instant game which uses tangible evidence of participation, each ticket shall bear a unique serial number distinguishing it from every other ticket in the game.

o. Requirement that a licensee either print or stamp the licensee's name and address on the back of each instant ticket, except pull-tab tickets.

Sec. 2. Section 99E.10, subsection 1, paragraph a, Code Supplement 1987, is amended to read as follows:

a. An amount equal to one half of one percent of the gross lottery revenue shall be deposited in a gamblers assistance fund in the office of the treasurer of state. Moneys in the fund shall be administered by the commissioner of human services and used to provide assistance and counseling to individuals and families experiencing difficulty as a result of gambling losses and to promote awareness of "Gamblers Anonymous" and similar assistance programs. For the fiscal year beginning July 1, 1988, there is appropriated from the fund to the department of human services the sum of one hundred twenty-five thousand dollars to be used to establish a separate reimbursement policy to reimburse providers for material costs incurred in providing unit dose drug distribution systems in long-term care facilities. The department shall seek to implement the recommendation on unit dose reimbursement when funds become available.

Sec. 3. Section 99E.32, subsection 1, paragraphs a and b, Code Supplement 1987, are amended to read as follows:

a. In the fiscal year beginning July 1, 1986 the first three million four hundred thirty-eight thousand dollars, in the fiscal year beginning July 1, 1987 the first six million six hundred seventy-five thousand dollars, in the fiscal year beginning July 1, 1988 the first ~~three~~ four million ~~seven~~ six hundred ~~forty~~ twenty-five thousand dollars and in the fiscal year beginning July 1, 1989 the first three million seven hundred fifty thousand dollars to the jobs now capitals account.

b. ~~In each of the four~~ For the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, after the allotment in paragraph "a", ten million dollars, ten million dollars, four million six hundred fifty thousand dollars, and ten million dollars, respectively to the community economic betterment account; for the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, eight million five hundred fifty thousand dollars, eight million three hundred seventy-five thousand dollars, seven nineteen million nine hundred eight thousand dollars, and seven million nine hundred thousand dollars, respectively, to the jobs now account; and for the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, twelve million five hundred thousand dollars, seven million four hundred thousand dollars, eleven seven million five hundred thousand dollars, and eleven million two hundred fifty thousand dollars, respectively, to the education and agriculture research and development account.

Sec. 4. Section 99E.32, subsection 2, Code Supplement 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. i. Notwithstanding any other provision, the moneys allocated to the community economic betterment account for the fiscal year beginning July 1, 1988, are appropriated to the department of economic development to be used only for the purposes of providing financial assistance for small business gap financing, new business opportunities, new product and entrepreneurial development, and comprehensive management assistance in the amounts, or so much thereof as may be necessary, as provided in section 99E.33. These purposes may be accomplished by providing the following types of assistance:

- (1) Principal buy-down program to reduce the principal of a business loan.
- (2) Interest buy-down program to reduce the interest of a business loan.
- (3) Loans to aid in economic development.
- (4) Grants to aid in economic development projects as defined in section 99E.10, subsection 2, if at least fifty percent of the total cost of the project is paid from sources other than the

Iowa plan fund. If a project involves purchase or improvement of real property, a grant may be made only if the property is located in the state of Iowa.

(5) Loan guarantees for business loans made by commercial lenders.

(6) Equity-like investments.

(7) Comprehensive management assistance. The conditions, criteria, and limitations specified in section 99E.31, subsection 2, apply to providing of moneys under this paragraph.

The department shall document the actual job creation and retention effects of all businesses receiving financial assistance from the account in the context of the businesses' employer's contribution and payroll report.

The department shall require businesses which receive assistance from the account to submit historical copies of the reports with the application for funds, require businesses to submit the reports after the award on a timely basis, and require businesses to estimate the expected job creation and retention effects for the twelve-month and twenty-four month period after the award in terms of the number of employees and total wages as displayed in the payroll reports. The department shall develop definitions for the terms "job creation" and "job retention" to measure and identify the actual number of permanent, full-time positions which the businesses actually created or retained and can be documented by comparison of the payroll reports during the twenty-four month period after the award.

Sec. 5. Section 99E.32, subsection 3, Code Supplement 1987, is amended to read as follows:

3. There are appropriated moneys in the jobs now account for each of the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989 to the following funds, agencies, boards or commissions in the amounts, or so much thereof as may be necessary, as provided in section 99E.33 to be used for the following purposes:

a. To the department of natural resource commission resources for the purposes designated in section 99E.31, subsection 3, paragraph "a". For the fiscal year beginning July 1, 1986, the amount appropriated is two million five hundred thousand dollars. For the fiscal year beginning July 1, 1987, the amount appropriated is two million dollars. For the fiscal year beginning July 1, 1988, the amount appropriated is two million dollars, of which one hundred sixty thousand dollars shall be used for continuing projects to be matched with federal funds.

b. To the Iowa product development fund for the purposes provided in section 28.89. For the fiscal year beginning July 1, 1987, the amount appropriated is one million five hundred thousand dollars. For the fiscal year beginning July 1, 1988, the amount appropriated is one million two hundred fifty thousand dollars.

c. To the Iowa state arts council with administration by the department of cultural affairs for the purposes designated in section 99E.31, subsection 3, paragraph "d". For the fiscal year beginning July 1, 1987, the amount appropriated is six hundred seventy-five thousand dollars. For the fiscal year beginning July 1, 1988, the amount appropriated is six hundred fifty thousand dollars of which forty thousand dollars shall be allocated to the John L. Lewis commission for the John L. Lewis museum in Lucas, Iowa, seventy thousand dollars for the Iowa town square project, seventy thousand dollars for the artist endowment program, and twelve thousand dollars is to be directed to the secretary of state for the restoration and display of the Iowa state constitution.

d. To the Iowa department of economic development for the purposes designated in section 99E.31, subsection 3, paragraph "e". For the fiscal year beginning July 1, 1986, the amount appropriated is two million six hundred thousand dollars. For the fiscal year beginning July 1, 1987, the amount appropriated is two million fifty thousand dollars. For the fiscal year beginning July 1, 1988, the amount appropriated is one million nine hundred eight thousand dollars to be used for the purposes and in the amounts as follows:

(1) Satellite centers under section 28.101, one million one hundred twenty-five thousand dollars of which fifty thousand dollars shall be used by the department to hire a rural development coordinator; forty-five thousand dollars for an informational referral center; and ninety-five thousand dollars for model rural development projects. For the fiscal year beginning July 1, 1988, the amount appropriated is nine hundred thirty-five thousand dollars. Of the amount appropriated, thirty thousand dollars shall be awarded to each of the fifteen regional coordinating councils for annual salaries, support, and maintenance of the satellite centers and up to one hundred fifty thousand dollars may be used for supplemental grants to the satellite centers. Criteria for awarding the grants include the performance of the satellite center and the need for the supplemental funding. The department shall award at least four supplemental grants, but in no case shall the maximum supplemental grant exceed fifteen thousand dollars.

(2) Federal procurement offices, one hundred thousand dollars. For the fiscal year beginning July 1, 1988, the amount appropriated, is one hundred thousand dollars.

(3) Iowa main street program, two hundred seventy-five thousand dollars. For the fiscal year beginning July 1, 1988, the amount appropriated is three hundred ninety-three thousand dollars.

(4) Technical assistance for businesses for purposes of the federal small business innovation research grants program, two hundred fifty thousand dollars of which fifty thousand dollars shall be expended to develop and operate a small business information center. For the fiscal year beginning July 1, 1988, no amount is appropriated.

(5) Business incubators, three hundred thousand dollars. The funds shall be used to provide for operations of existing incubators and for the establishment of at least one new incubator in the fiscal year. The department will award grants to universities, community colleges, and local communities on an annual basis. In awarding the grants, the department shall consider the incubator's plan to become self-sufficient from the need for further grants within three years of its start-up. Future grants shall be contingent upon how the incubator is succeeding in becoming self-sufficient. The local community, university, or college is required to match the state's grant on a dollar for dollar basis. For the fiscal year beginning July 1, 1988, the amount appropriated is two hundred fifty thousand dollars.

(6) Rural incubators, one hundred fifty thousand dollars. The funds shall be used for the establishment of incubators located in communities with a population of less than ten thousand. The department will award grants to universities, community colleges, and local communities on an annual basis. In awarding the grants, the department shall consider the incubator's plan to become self-sufficient from the need for further grants within three years of its start-up. Future grants shall be contingent upon how the incubator is succeeding in becoming self-sufficient. The local community, university, or college is required to provide a twenty-five percent match of the state's grant.

(7) For rural development programs, the sum of eighty thousand dollars.

e. For the fiscal year beginning July 1, 1986 only, the sum of two hundred thousand dollars for the targeted small business loan guarantee program established pursuant to section 220.111.

f. For the fiscal years beginning July 1, 1986 and July 1, 1987 only, to the Iowa conservation corps account the sum of one million dollars and seven hundred fifty thousand dollars, respectively. Of the funds appropriated under this paragraph, five hundred thousand dollars shall be used for a summer jobs program for young adults, as a part of the Iowa youth corps and designed to provide part-time public service employment to work on conservation-oriented projects.

g. For the fiscal years beginning July 1, 1988 and July 1, 1989 only, to the Iowa department of economic development, ~~one million~~ eight hundred thousand dollars for purposes of administration of the "young adult program" of the Iowa conservation corps, established in section 15.225. Of the amount appropriated, one hundred thousand dollars shall be used for minority

youth employment. Moneys not used for minority youth employment are available for use for the purposes of the Iowa conservation corps.

h. For the fiscal year years beginning July 1, 1987 only and July 1, 1988, to the advance account of the area school job training fund established in section 280C.6, one million dollars and seven hundred fifty thousand dollars, respectively. If Senate File 2303* is enacted, the amount appropriate for the fiscal year beginning July 1, 1988, shall be to the revolving loan account of the area school job training fund.

i. For the fiscal year beginning July 1, 1987 only, to the department of agriculture and land stewardship the sum of three hundred thousand dollars for developing pilot public/private partnerships to assist Iowa producers of agricultural products in the promotion, marketing, and selling of agricultural products to local and regional markets. For the fiscal year beginning July 1, 1988, the amount appropriated is one hundred fifty thousand dollars.

j. For the fiscal year beginning July 1, 1987 only, to the department of agriculture and land stewardship the sum of one hundred thousand dollars, or so much as is necessary, to provide a grant to the organizers from the 1988 world ag expo in the Amana colonies.

k. For the fiscal year beginning July 1, 1988, there is appropriated to the department of economic development for labor management councils the sum of one hundred thousand dollars.

l. For the fiscal year beginning July 1, 1988, to the Iowa department of economic development the sum of seven hundred thousand dollars for the establishment of welcome centers as provided in sections 15.271 and 15.272. The funds appropriated shall be used for implementation of the recommendations of the statewide long-range plan for developing and operating welcome centers through the state.

m. (1) For the fiscal year beginning July 1, 1988, to the department of agriculture and land stewardship the sum of one hundred thousand dollars to fund pilot lamb and wool management education projects approved by the department at area schools selected as project sites. The selection of an area school as a project site shall be based upon the evaluation and recommendations of an advisory committee created by the department and composed of persons actively engaged in lamb and wool production, persons representing the agricultural experiment station of the Iowa State University of science and technology, and persons expert in postsecondary education. The committee shall conduct an evaluation of area schools applying to be selected as pilot project sites. The committee in formulating its recommendations shall assign a weight to and consider the following criteria:

(a) The area school's relevant and available educational facilities.

(b) The number of persons interested in beginning or expanding lamb and wool production in the area school's merged area.

(c) The current number of sheep in the area school's merged area.

(d) The increase in the number of sheep in the area school's merged area.

(e) The creation or expansion of lamb and wool production facilities in the area school's merged area.

(f) The size and number of lamb and wool producer groups in the area school's merged area, and the degree to which such groups promote lamb and wool production in the area.

(g) The qualifications of the person selected by the area school to direct the project, and the qualifications of persons selected by the area school to instruct producers participating in the project.

The committee shall be staffed by employees of the department as appointed by the director of the department. The evaluation and recommendations shall be submitted to the director not later than December 30, 1988.

*Chapter 1131 herein

(2) An area school selected to be a pilot project site is entitled to regular disbursements of funds by the department to establish the project, and for salaries, support, maintenance, and other operational purposes according to a schedule which shall be established by the department. An area school shall not have less than thirty producers participating in the project, on or after December 30, 1990. If after that time, less than thirty producers participate in a project when the department is disbursing scheduled funds to the area school, the amount of funds to the school shall be reduced proportionately according to the number of producers participating in the project. The amount withheld shall be added equally to the amount disbursed to area schools having thirty or more producers participating in their respective projects. Only producers are eligible to participate in a project. The department may establish additional requirements for participation in the project, including a fee which shall be charged for producers participating in the project. A producer shall be charged the fee notwithstanding any other fee paid to the area school.

(3) For purposes of the projects, "producer" means a person actively engaged or seeking to become actively engaged in lamb or wool production.

n. For the fiscal year beginning July 1, 1988, the sum of nine million three hundred thousand dollars as follows:

(1) Four million six hundred fifty thousand dollars to the Iowa finance authority for the revolving fund for the community and rural development loan program established under Senate File 2092.*

(2) Four million six hundred fifty thousand dollars to the business development finance corporation assistance fund established under House File 2396.**

(3) Up to one million dollars of the moneys allocated under subparagraph (1) and up to three million dollars of the moneys allocated under subparagraph (2) which are not used or dedicated may be transferred to and used for purposes of the community economic betterment account, as determined by the department of economic development with one-half of the amount to be transferred on October 1, 1988, and one-half of the amount to be transferred on January 15, 1989.

o. For the fiscal year beginning July 1, 1988, to the department of economic development the sum of fifty thousand dollars for a local economic development pilot project for an area encompassing the cities and rural areas making up the area community commonwealth where the cities are represented on the board of directors of a nonprofit corporation set up for the purpose of aiding in the economic development of the area. In order for the area to receive moneys under this paragraph, the area shall be formed under an agreement entered into pursuant to chapter 28E for the sole purpose of providing for economic development projects for the area provided the agreement identifies an entity to receive the funds under this paragraph and all parties to the agreement shall be located within the same regional economic delivery area created pursuant to section 28.101. The moneys available to the chapter 28E area shall be used only for economic development initiatives as defined in section 99E.10, subsection 2. However, as used in this paragraph, economic development initiatives do not include the employment of professional staff or consultants. The chapter 28E area shall file an economic development plan with the department of economic development before application is made to receive funds under this paragraph. The area receiving funds under this paragraph shall submit an annual financial report within sixty days following the close of its fiscal year to the regional coordinating council created pursuant to section 28.101 of the region in which the area is located.

p. For the fiscal year beginning July 1, 1988, to the division of soil conservation within the department of agriculture and land stewardship for deposit in the water protection fund created

*Chapter 1217 herein

**Chapter 1207 herein

in 1988 Iowa Acts, House File 2381,* section 5, the sum of five hundred thousand dollars for purposes of the fund.

q. For the fiscal year beginning July 1, 1988, to the department of education the sum of seven hundred fifty thousand dollars for the purposes and under the conditions specified in section 99E.31, subsection 5, paragraph "c".

Sec. 6. Section 99E.32, subsection 4, Code Supplement 1987, is amended to read as follows:

4. There are appropriated moneys in the education and agriculture research and development account for each of the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989 to the following funds, agencies, boards or commissions in the amounts, or so much thereof as may be necessary, as provided in section 99E.33 to be used for the following purposes:

a. To the Iowa college aid commission for the forgivable loan program established in sections 261.71 to 261.73. For the fiscal year beginning July 1, 1986, the amount appropriated is seven hundred fifty thousand dollars. Notwithstanding subsection 7, any moneys not expended under this paragraph by June 30, 1987 shall not be used for purposes of this paragraph but shall be transferred and used for the purposes described in paragraph "c" for the fiscal year beginning July 1, 1987. For the fiscal year years beginning July 1, 1987, and July 1, 1988, no amount is appropriated.

b. To the Iowa department of economic development for the purposes and under the conditions specified in section 99E.31, subsection 4, paragraph "a". For the fiscal year beginning July 1, 1986, the amount appropriated is ten million seven hundred fifty thousand dollars. For the fiscal year beginning July 1, 1987, the amount appropriated is seven million dollars of which five hundred thousand dollars shall be allocated to the Iowa State University of science and technology for the national center for food and industrial agricultural product development; and two hundred fifty thousand dollars shall be allocated to the University of Northern Iowa for the decision making science institute. For the fiscal year beginning July 1, 1988, the amount appropriated is seven million dollars of which two hundred fifty thousand dollars shall be allocated to the University of Northern Iowa for the decision-making science institute; one hundred thousand dollars shall be allocated to the department of economic development for an economic development training program at the school of business at the University of Northern Iowa which shall use these funds in consultation with the department, the university, and the Iowa professional developers; forty thousand dollars shall be allocated to the state library within the department of cultural affairs to establish a patent depository library for the purpose of making university patents accessible to the public and private sectors by purchasing the twenty-year backfile of patents and to train existing staff to work with users of the library; and three hundred sixty thousand dollars shall be allocated and used to establish a university and private industry research and development consortium at each of the state board of regents universities under chapter 262B. Of the three hundred sixty thousand dollars, one hundred twenty thousand dollars is allocated to each of the consortiums with eighty-five thousand dollars being appropriated to the department of economic development for providing staff and support to the marketing for the consortiums and thirty-five thousand dollars is allocated to each of the offices of vice president for research at the three board of regents institutions. Of the money allocated under this paragraph to the Iowa State University of science and technology for the fiscal year beginning July 1, 1988, two hundred thousand dollars shall be used to support collaborative research with the United States department of agriculture to improve reproductive performance and disease resistance in swine. After the first five million dollars appropriated for the fiscal year beginning July 1, 1988, has been allocated, the next one million dollars shall be allocated for proposals described in section 99E.31, subsection 4, paragraph "a", subparagraph (1) and the next one million dollars shall be allocated for applied research projects

*Chapter 1189 herein

described in section 99E.31, subsection 4, paragraph "a", subparagraph (3) of which one hundred fifty thousand dollars shall be used for the water resource research institute under paragraph "e". The department may use any unexpended funds from the appropriation made under this paragraph for the fiscal year beginning July 1, 1987, as a prepayment of the allocations made for the fiscal year beginning July 1, 1988, for the decision-making science institute and the economic development leadership program, which prepayment shall be repaid as the fiscal year beginning July 1, 1988, allocation to such institute or program becomes available. Of the amount appropriated for the fiscal year beginning July 1, 1989, forty thousand dollars shall be allocated to the state library within the department of cultural affairs for purposes of the patent depository library and three hundred sixty thousand dollars shall be allocated and used to establish a university and private industry research and development consortium at each of the state board of regents universities under chapter 262B. Of the three hundred sixty thousand dollars, one hundred twenty thousand dollars is allocated to each of the consortiums with eighty-five thousand dollars being appropriated to the department of economic development for providing staff and support to the marketing for the consortiums and thirty-five thousand dollars is allocated to each of the offices of vice president for research at the three board of regents institutions.

c. To the Iowa college aid commission for the purposes and under the conditions specified in section 99E.31, subsection 4, paragraph "b". For the fiscal year beginning July 1, 1987, no amount is appropriated. However, the funds transferred under paragraph "a" are available for use under this paragraph for the fiscal year beginning July 1, 1987. For the fiscal year beginning July 1, 1988, no amount is appropriated.

d. For the fiscal years beginning July 1, 1987 and July 1, 1988 only, to the Iowa peace institute, the sum of two hundred fifty thousand dollars each fiscal year for salaries, support, and maintenance provided, and to the extent that, the appropriations are matched dollar for dollar by the Iowa peace institute. The peace institute shall not use any of the state funds for the construction or purchase of real property. For the fiscal year beginning July 1, 1988, the unobligated moneys left in the Iowa plan fund as a result of the appropriation made for the fiscal year beginning July 1, 1985, pursuant to section 99E.31, subsection 5, paragraphs "e" and "g", are appropriated for use under this paragraph. However, if the amount appropriated exceeds two hundred fifty thousand dollars the excess shall be reallocated under the account.

e. For the fiscal years beginning July 1, 1987, July 1, 1988, and July 1, 1989 to the Iowa State University of science and technology, the sum of one hundred fifty thousand dollars for each fiscal year for allocation to the Iowa State University water resource research institute for a subsurface water and nutrient management system. This research shall concentrate its efforts on providing optimum soil water table level throughout the growing season, reduction of nitrates in Iowa's surface and subsurface waters, reduction of Iowa's dependency on subsurface water for irrigation, and increasing productivity of selected Iowa soils for selected crops. The Iowa State University water resource research institute shall administer the research funds and report to the general assembly by February 1 of each year, on the program's progress and results.

Sec. 7. Section 99E.32, subsection 5, paragraphs a, b, c, i, and j, Code Supplement 1987, are amended to read as follows:

a. There is appropriated from the allotment made to the jobs now capitals account under subsection 1 for each of the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988 and July 1, 1989 to the department of education the sum of one million dollars for the purposes and under the conditions specified in section 99E.31, subsection 5, paragraph "c".

b. There is appropriated from the allotment made to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1986 to the department of public safety for the acquisition and interface with a fingerprint computer the sum of four hundred thousand dollars. There is established an automated fingerprint identification system (AFIS) computer

committee. This committee shall have the authority to prepare and implement guidelines, rules, and regulations pertaining to the placement, use, and access to the AFIS computer and any remote terminal designed to interface with the main computer located at the department of public safety. The AFIS committee will be chosen for two-year terms with four sheriffs chosen by the Iowa state sheriffs and deputies association and four chiefs of police chosen by the Iowa police executive forum. The director of public safety, or the designee, will be chairperson of the AFIS committee.

After the initial committee is selected effective July 1, 1986, new members will serve staggered terms of two years. Beginning July 1, 1988, the Iowa state sheriffs and deputies association and the Iowa police executive forum will each choose two new members, who will make up the nine member AFIS committee. Thereafter, the staggered terms will take effect between the sheriffs' representatives and the police chiefs' representatives. Nothing herein shall limit the number of terms any one person may serve.

For the fiscal year beginning July 1, 1988, there is appropriated to the department of public safety the sum of two hundred fifty thousand dollars for the automated fingerprint identification system.

c. There is appropriated from the allotment made to the jobs now capitals account under subsection 1 for the fiscal years beginning July 1, 1986, and July 1, 1987, and July 1, 1988, to the Iowa State University of science and technology for funding for the small business development centers the sum of seven hundred thousand dollars, and eight hundred twenty-five thousand dollars, and eight hundred twenty-five thousand dollars, respectively.

i. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1987 to the Iowa department of economic development the sum of two million dollars for the establishment of welcome centers as provided in sections 15.271 and 15.272. Of the amounts appropriated, sixty thousand dollars shall be used for the establishment of rural centers to be located in or near communities with populations of five thousand or less. Not more than twenty thousand dollars shall be expended for each center. The local communities are required to equally match state funds. Welcome centers and rural centers that have received moneys from the department under this paragraph are required to promote the region in which they are located and the state as a whole.

j. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for construction, equipment, renovation, and other costs associated with buildings in the capitol complex the sum of two million seven hundred fifty thousand dollars for each of the fiscal years beginning July 1, 1987; July 1, 1988; and July 1, 1989 to the department of general services. Of the total funds appropriated, seven hundred fifty thousand dollars shall be utilized to pay costs of equipping the new historical building and the costs of moving exhibits into that building; and the remaining funds shall be used for renovation and remodeling of buildings in the capitol complex. Notwithstanding the amount otherwise appropriated and the purpose for which appropriated under this paragraph, for the fiscal year beginning July 1, 1988, there is appropriated one million five hundred thousand dollars to the department of general services for construction, equipment, renovation, and other costs associated with buildings in the capitol complex, of which two hundred thousand dollars is allocated for Terrace Hill, one hundred twenty-five thousand is allocated for planning and construction of a parking garage, five hundred thousand is allocated for the planning for legislative office space, and up to ten thousand dollars shall be used for the purchase of POW/MIA flags to be flown on all public buildings of public bodies that apply for the flags.

Sec. 8. Section 99E.32, subsection 5, Code Supplement 1987, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. m. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1988, to the department of public defense the sum of fifty thousand dollars for the planning for the construction of armories.

NEW LETTERED PARAGRAPH. n. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1988, to the Iowa department of economic development the sum of seven hundred ninety-three thousand dollars for contracting exclusively for advertising for in-state and out-of-state tourism, tourism marketing, and tourism promotion programs for electronic media and printed materials.

The department shall develop public-private partnerships with Iowa businesses in the tourism industry, Iowa tour groups, Iowa tourism organizations, and political subdivisions in this state to assist in the development of advertising efforts and to the fullest extent possible, match on a dollar-for-dollar basis, contributions from other sources to fund the advertising contracts.

The amount appropriated under this lettered paragraph is in addition to any amounts appropriated under Senate File 2309,* if enacted.

NEW LETTERED PARAGRAPH. o. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1988, to the Iowa department of economic development the sum of one million two hundred seven thousand dollars for contracting exclusively for marketing and advertising contracts for out-of-state national marketing programs for electronic media and printed materials.

The department shall develop public-private partnerships with Iowa businesses, Iowa business organizations, Iowa chambers of commerce, and political subdivisions in this state, to assist in the development of the marketing efforts and to the fullest extent possible, match on a dollar-for-dollar basis, contributions from other sources to fund the marketing contracts.

The amount appropriated under this lettered paragraph is in addition to any amounts appropriated under Senate File 2309,* if enacted.

Sec. 9. NEW SECTION. 262B.1 TITLE.

This chapter shall be known and may be cited as the "University-Based Research and Economic Development Act".

Sec. 10. NEW SECTION. 262B.2 LEGISLATIVE INTENT.

It is the intent of the general assembly to provide support for mechanisms for encouraging the coordination of pure and applied research at the state board of regents institutions. The purpose is to maximize and promote the economic benefit which may derive from research. This is to be done by increased coordination with the Iowa department of economic development and encouragement of the transfer of research results to the private sector.

Sec. 11. NEW SECTION. 262B.3 ESTABLISHMENT OF CONSORTIUM.

The board of regents or the universities under its jurisdiction shall establish consortiums for the purpose of carrying out the intent of this chapter. The majority of consortium members shall be from the university community and the balance of members shall be from private industry. The members of the consortium shall be appointed by the president of the convening university and will serve at the pleasure of the president.

Sec. 12. NEW SECTION. 262B.4 DUTIES OF THE CONSORTIUM.

1. Each consortium shall assist the university in efforts to maximize the economic benefits outlined in section 262B.2. More specifically, it shall assist the university by making recommendations for:

*Chapter 1273 herein

- a. The development of strategies and materials useful in marketing university resources to out-of-state firms interested in an Iowa site.
 - b. Matching university resources with the needs of existing Iowa firms.
 - c. Evaluation of university research for commercial potential.
 - d. The development of a plan that will improve private sector access to the university and the transfer of technology from the university to the private sector.
2. In order to carry out its objectives the consortium shall perform, but is not limited to, the following tasks:
- a. Receive and review selected research synopses.
 - b. Disseminate information on research activities of the university.
 - c. Identify research needs of existing Iowa businesses and recommend ways in which the university can meet these needs.
 - d. On a case-by-case basis, suggest business and financial tactics useful in realizing the commercial potential of university research projects.

Sec. 13. NEW SECTION. 262B.5 REGENTS AND DEPARTMENT OF ECONOMIC DEVELOPMENT.

The state board of regents and the Iowa department of economic development shall enter into an agreement under chapter 28E to coordinate and facilitate the activities of the consortiums. The state board of regents and the Iowa department of economic development shall report annually to the governor and the general assembly concerning the activities of the consortiums.

Sec. 14. 1988 Iowa Acts, Senate File 2312, section 54, subsection 9,* paragraph d, is amended to read as follows:

d. To the department of corrections, the sum of one million three hundred thousand (1,300,000) dollars to be retained by the department of revenue and finance and not paid to the department of corrections for the purposes of paragraph "c" upon the approval of the general assembly of the plans submitted pursuant to paragraph "c" but not to be used until the general assembly enacts legislation that provides for the specific expenditure of the moneys, and after consideration of the most recent information made available by the task force consultant.

Approved May 15, 1988

CHAPTER 1269

SUPPLEMENTAL APPROPRIATION TO HUMAN SERVICES DEPARTMENT

H.F. 2082

AN ACT relating to and making appropriations to the department of human services and to the Iowa finance authority for the remainder of the fiscal year ending June 30, 1988, allowing carryover of certain funds to the next fiscal year, and providing an effective date.

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

**APPROPRIATION REDUCTION

Section 1. 1987 Iowa Acts, chapter 234, section 202, subsection 1, is amended to read as follows:

*Subsection 1 probably intended

**Item veto: see message at end of the Act

1. As a condition of this appropriation for field operations, including salaries and support for not more than two thousand four hundred thirty-three point eighty-eight full-time equivalent positions, maintenance, and miscellaneous purposes, the department shall provide an extensive orientation program for newly employed social workers in the area of community resource programs and shall provide assistance to each county board of social welfare to identify community resources in counties pursuant to section 234.11

..... \$ 29,000,000
27,550,856

The general assembly finds it necessary to reduce the appropriation made by this subsection due to the decision of the department of human services to fill no more than two thousand two hundred thirteen full-time equivalent positions in the community services division, even though the appropriation made by this subsection was adequate to fill up to two thousand three hundred twenty-one full-time equivalent positions in the community services division.*

***AID TO DEPENDENT CHILDREN**

Sec. 2. 1987 Iowa Acts, chapter 234, section 203, subsection 1, is amended by adding the following new paragraph:

NEW PARAGRAPH j. As a condition of the appropriation made in subsection 1, unnumbered paragraph 1, effective March 1, 1988, the department shall establish the schedule of basic needs for one person at one hundred seventy-four dollars, for two persons at three hundred forty-three dollars, for three persons at four hundred six dollars, for four persons at four hundred seventy-two dollars, for five persons at five hundred twenty-two dollars, for six persons at five hundred eighty-one dollars, for seven persons at six hundred thirty-eight dollars, for eight persons at six hundred ninety-six dollars, for nine persons at seven hundred fifty-three dollars, for ten persons at eight hundred twenty-three dollars, and for each additional person eighty-two dollars.*

***HOUSING TRUST FUND**

Sec. 3. There is appropriated from the general fund of the state to the Iowa finance authority for the fiscal period beginning March 1, 1988, and ending June 30, 1988, one hundred seventeen thousand (117,000) dollars, or so much thereof as is necessary, for the rehabilitation, construction, or purchase of transitional shelters for homeless families, under section 220.100, Code Supplement 1987. Any state funds may be used to match federal funds if available.*

***MEDICAL ASSISTANCE**

Sec. 4. 1987 Iowa Acts, chapter 234, section 203, subsection 2, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Effective June 1, 1988, the department shall extend coverage to include caretaker relatives under the medically needy program. Effective June 1, 1988, the department shall increase resource limitations under the medically needy program to five thousand dollars for a one-person household and seven thousand five hundred dollars for a family of two or more persons. For the medically needy program, the department shall be allowed to set the length of the certification period, as authorized by federal regulations.

NEW UNNUMBERED PARAGRAPH. Effective March 1, 1988, the department shall extend medical assistance benefits for an additional six months to individuals who lose assistance through the aid to families with dependent children program solely due to the loss of the thirty dollars and one-third earned income disregard.

*Item veto; see message at end of the Act

NEW UNNUMBERED PARAGRAPH. *Effective March 1, 1988, the department shall begin implementation planning for the provision, as soon as is administratively feasible, of medical assistance to all pregnant women, and infants and children up to age five on an incremental basis; and to all individuals who are aged, blind, or disabled, whose income does not exceed one hundred percent of the federal poverty level. Resource limitations shall be five thousand dollars for a one person household and seven thousand five hundred dollars for a family of two or more people. Aged, blind, or disabled individuals shall have income and resources treated according to supplemental security income methodologies. Pregnant women, and infants and children shall have income and resources treated according to aid to families with dependent children methodologies. All other medical assistance program requirements shall apply. Upon implementation, phased-in coverage for children shall begin with children up to the age of one and shall be continued through January 1, 1992.**

***DISPLACED HOMEMAKER PROGRAMS**

Sec. 5. 1987 Iowa Acts, chapter 234, section 203, subsection 11, is amended by adding the following new paragraph:

NEW PARAGRAPH. *i. Of the funds appropriated in this subsection, forty thousand (40,000) dollars, or so much thereof as is necessary, is allocated for displaced homemaker programs. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated by this section and allocated by this paragraph shall not revert to the general fund of this state on June 30, 1988, but shall be available for expenditure under this section and paragraph during the fiscal year beginning July 1, 1988, and ending June 30, 1989.**

SUPPLEMENTAL APPROPRIATIONS

Sec. 6. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1987, and ending June 30, 1988, to the department of human services, the following amounts, or so much thereof as is necessary, to supplement prior appropriations:

- 1. For medical assistance to be used for the same purposes and to supplement funds appropriated by 1987 Iowa Acts, chapter 234, section 203, subsection 2:*
- \$ 10,500,000*
- 2. For state supplementary assistance to be used for the same purpose and to supplement funds appropriated by 1987 Iowa Acts, chapter 234, section 203, subsection 6:*
- \$ 1,500,000*
- 3. For foster care to be used for the same purpose and to supplement funds appropriated by 1987 Iowa Acts, chapter 234, section 203, subsection 9:*
- \$ 8,000,000*

***MENTAL HEALTH INSTITUTES**

Sec. 7. 1987 Iowa Acts, chapter 234, section 205, is amended by adding the following new subsection:

NEW SUBSECTION. *8. The department shall pursue all reasonable courses of action necessary to expand the recruitment and retention of psychiatrists at the state mental health institutes. The department shall aggressively recruit psychiatrists, when necessary 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*

*Item veto; see message at end of the Act

*recruitment of psychiatrists. The department shall continue 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.**

***RURAL MENTAL HEALTH SERVICES**

*Sec. 8. There is appropriated from the general fund of the state to the department of human services for the fiscal period beginning March 1, 1988, and ending June 30, 1988, as a condition of the appropriation made in 1987 Iowa Acts, chapter 234, section 205, thirty-three thousand (\$33,000) dollars, or so much thereof as is necessary, for rural mental health services. The division of mental health, mental retardation, and developmental disabilities of the department of human services shall allocate these funds to continue existing special allocation project grants providing outreach services to Iowans affected by the current rural economic situation. The division shall award these funds to agencies that have participated in the 1988 fiscal year mental health and mental retardation services funds special allocation grant application process. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated by this section shall not revert to the general fund of this state on June 30, 1988, but shall be available for expenditure under this section during the fiscal year beginning July 1, 1988, and ending June 30, 1989.**

***ENHANCED MENTAL HEALTH/MENTAL RETARDATION/DEVELOPMENTAL DISABILITIES SERVICES**

Sec. 9. There is appropriated from the general fund of the state to the department of human services, for the fiscal period beginning March 1, 1988, and ending June 30, 1988, five hundred thirty-seven thousand eight hundred thirty-five (\$377,835) dollars, or so much thereof as is necessary, for administrative support and for service coordination and diagnosis and evaluation.

1. The funds provided under this section shall be used by the department of human services for the following:

a. No more than eighty-eight percent of the funds shall be used for the establishment of service coordination units for persons with mental retardation, developmental disabilities, or chronic mental illness for the provision of specialized service coordination. It is the intent of the general assembly that these units be established no later than June 30, 1988, in each of the department's human service districts. The department shall report to the general assembly by June 30, 1988, on the establishment of the service coordination units. Priority shall be given to individuals who require service coordination in preventing a placement that would be inconsistent with the person's identified needs. Persons performing service coordination shall be given caseloads no greater than thirty for clients with mental retardation, developmental disabilities, or chronic mental illness.

b. No more than twelve percent of the funds shall be used for the provision of diagnosis and evaluation services for persons with mental retardation, developmental disabilities, or chronic mental illness. Priority shall be given to individuals who have not received a diagnosis and evaluation within the past five years.

The available funds shall be allocated to the department of human service districts based on the bill of rights enumeration study. Within the funds available under this section, case management and diagnosis and evaluation shall be made available proportional to the bill of rights populations within each district as cited in the enumeration study.

The department shall seek to draw down additional funds through the federal medical assistance program in the provision of these services.

It is the intent of the general assembly that recognition be given to reducing the cost for potential conversion of residential care facilities for the mentally retarded to intermediate

**Item veto; see message at end of the Act*

care facilities for the mentally retarded without imposing more restrictive construction and renovation standards than absolutely essential.

It is the intent of the general assembly that greater use of federal support through vocational rehabilitation funding be provided for the bill of rights population. The department shall work with the department of education in seeking to make greater use of vocational rehabilitation support for the bill of rights population, and shall report to the general assembly by June 30, 1988, on the feasibility of obtaining additional federal assistance.

The department shall develop a proposal to assist individuals in obtaining Social Security and Title XIX benefits.

2. Nothing in this Act is intended by the general assembly to be the provision of a fair and equitable funding formula specified in 1985 Iowa Acts, chapter 249, section 9. Nothing in this Act shall be construed, is intended, or shall imply a claim of entitlement to any programs or services specified in section 225C.28.*

*REIMBURSEMENT RATES

Sec. 10. 1987 Iowa Acts, chapter 234, section 213, is amended by adding the following new subsections:

NEW SUBSECTION. 11. Beginning March 1, 1988, the basis for establishing the maximum medical assistance rate for intermediate care facilities shall be the sixty-sixth percentile of all facility per diems as calculated from the June 30, 1987, unaudited compilation of cost and statistical data.

NEW SUBSECTION. 12. Beginning March 1, 1988, skilled nursing facility payment rates shall be increased by two and nine-tenths percent, rural health clinic rates shall be increased in accordance with increases under the federal Medicare program, pursuant to Title XVIII of the federal Social Security Act.

NEW SUBSECTION. 13. Effective March 1, 1988, the three and eighty-five hundredths percent will no longer apply to residential care facilities. Furthermore, the maximum reimbursement rate for residential care facilities shall be increased by four percent making the maximum rate seventeen dollars and ninety-seven cents. The new flat rate for facilities electing not to file cost reports shall be twelve dollars and eighty-four cents.

NEW SUBSECTION. 14. Effective March 1, 1988, the three and eighty-five hundredths percent reduction shall not be applied in the in-home health related care program. Furthermore, the maximum reimbursement rate for the in-home health related care program shall be increased by four percent.

NEW SUBSECTION. 15. For services given by social service providers on or after March 1, 1988, reductions to invoices or rates shall be discontinued. In addition, for services given between March 1, 1988, and June 30, 1988, rates shall be automatically increased by four percent over the unreduced rates in effect on June 30, 1987. Rates for foster group care and shelter care services shall not exceed sixty-eight dollars and eighty cents per day. This automatic increase is intended to be a one-time exception to policy for the fiscal period beginning March 1, 1988, and ending June 30, 1988, only and is not intended to eliminate regular submission of cost reports.*

*ASSISTANCE TO GAMBLERS

Sec. 11. The department shall use funds deposited in the gamblers assistance fund established in section 99E.10 only for programs to assist gamblers. Any unspent funds shall remain in the fund and shall not be transferred or reverted to the general fund.

*Item veto; see message at end of the Act

*The department shall use gamblers assistance fund moneys for two full-time equivalent positions to support this program.**

EFFECTIVE DATE

Sec. 12. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 12, 1988, except the items which I hereby disapprove and which are designated as section 1, section 2, section 3, section 4, section 5, and the titles thereof; and section 7, section 8, section 9, section 10, section 11, and the titles thereof; all of which are bracketed in ink and initialed by me. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Speaker of the House of Representatives this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

*Item veto; see message at end of the Act

Dear Mr. Speaker:

I hereby transmit House File 2082, an Act relating to and making appropriations to the Department of Human Services and to the Iowa Finance Authority for the remainder of the fiscal year ending June 30, 1988, allowing carryover of certain funds to the next fiscal year, and providing an effective date.

House File 2082 is approved with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Section 1, Section 2, Section 3, Section 4, Section 5, Section 7, Section 8, Section 9, Section 10, and Section 11.

That portion of House File 2082 which I have approved will make \$20 million of supplemental funds available to the Department of Human Services for fiscal year 1988. These supplemental funds are needed to make certain that our existing human services programs for the needy are maintained throughout the remainder of this fiscal year.

The remaining sections of House File 2082 either spend money the state does not have or deappropriate money that is desperately needed for social workers. As the result, I cannot approve those sections.

Section 1 of this bill deappropriates approximately \$1.4 million dollars for the Department of Human Services' field operations. If this is allowed to occur, an immediate freeze on filling vacant social worker positions would be required and a reduction in force may be necessary. Fifty-three social worker positions would be lost if this deappropriation were to be approved.

It is, indeed, ironic that the legislature should enact such a reduction in social workers at a time when it is acknowledged that human service needs are considerable. It is my understanding that this section of House File 2082 may be a punitive measure designed by some to respond to the department's failure to hire a full complement of social worker staff this year. It should be understood that the department has been limited in its ability to hire additional social workers because of lost federal funds and a last minute legislative reduction in the state salary adjustment fund last year. Eliminating an additional 53 positions from the department's social worker staff would only compound the difficulties of our social workers in meeting the needs of less fortunate Iowans and cannot be approved.

The remaining sections of House File 2082 either expand existing programs or create new ones. The decision to item veto those sections is a most difficult one. I recognize that government has an appropriate role in caring for those who cannot care for themselves and this bill addresses some of those needs. But our ability to truly meet those needs is limited by the fiscal realities of our state. Government would play a cruel hoax on the most vulnerable in our society if we were to make promises we know we cannot keep.

Indeed, House File 2082 results in new state human service spending obligations of approximately \$5 million this year and approximately \$18 million for fiscal year 1989 without providing necessary offsetting revenue or expenditure reductions. I am unwilling to put these human needs programs on the state's credit card in the hope that the legislature could somehow find money to pay for them in the future. Some of the proposals in House File 2082 are worthy of consideration, but only within the context of the balanced budget our Constitution requires.

In addition, I am disappointed that the legislature did not recognize the very real need to reform the welfare system in House File 2082. I have made recommendations to the General Assembly to provide transitional medical assistance, child care, and job training and education to help those who are on welfare obtain jobs and climb the ladder of opportunity.

In order to truly care for the less fortunate, we must not only provide them basic assistance, but we must also eliminate the barriers and provide them with incentives to obtain an education, training and a job so that they can become productive members of our state. A welfare reform component must be an essential part of any human services spending bill that I consider this year.

Finally, I frankly am disappointed with the process that has yielded this first item veto of the legislative session. We began with a joint call for cooperation and, together, the legislative leaders and I agreed on the outlines of a budget which recognized our priorities and met our constitutional responsibility to ensure a balanced budget. Yet, with remarkable alacrity the legislature passed this spending bill without showing how the budget will all add up.

In my budget message, I pledged my willingness to sit down with legislators and build a consensus budget to achieve a mutually agreed upon set of priorities. My priorities are education, economic development and welfare reform. And, I know members of the General Assembly may have varying priorities. However, if we all work together and agree to cooperate, I believe that we can pass a budget for the people of Iowa this session that is both balanced and meets the needs of Iowans.

I pledge my willingness to begin anew the process of working with members of the General Assembly to establish a budget for this state. However, all of those priorities could be jeopardized if I were to sign this first appropriation bill of the legislative session that could put the state as much as \$62 million in the red.

This is no time for budget games or polarizing polemics. Instead, it is a time for legislative and executive branch, Democrat and Republican, to sit down and agree on what needs to be done and commit to do it together. If we do so, it is my firm belief that some of the priorities that are established in House File 2082 will be able to be accomplished, education and economic development goals will be realized, major tax increases will be avoided, and Iowans will have the balanced budget that they deserve.

For the above reasons, I hereby respectfully 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 2082 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1270

APPROPRIATION FOR LEGAL ASSISTANCE FOR FARMERS

S.F. 2050

AN ACT appropriating funds to the office of the attorney general to fund the legal assistance for farmers program 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 office of the attorney general for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the sum of sixty thousand (60,000) dollars, or so much thereof as is necessary, to be used for the legal assistance for farmers program.

Notwithstanding section 8.33, funds appropriated by this section which are unexpended or unencumbered shall carry forward for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to be used for the same purpose as originally appropriated.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 11, 1988

CHAPTER 1271

APPROPRIATIONS AND DUTIES RELATED TO THE JUSTICE SYSTEM

H.F. 2443

AN ACT relating to and making appropriations to the justice system 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 department of justice for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the general office of attorney general for salaries and support of not more than one hundred forty-eight full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 3,692,010

2. Prosecuting attorney training program for salaries and support of not more than two full-time equivalent positions, maintenance and miscellaneous purposes:

..... \$ 87,277

3. Prosecuting intern program; however, counties participating in the prosecuting intern program shall match funds appropriated by this subsection:

..... \$ 44,955

4. In addition to the funds appropriated under subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1988, and ending June 30, 1989, 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 attorneys fees awarded the state in state or federal antitrust actions.

5. In addition to funds appropriated under subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1988, and ending June 30, 1989, an amount not exceeding fifty thousand (50,000) dollars to be used for public education relating to consumer fraud and for enforcement of section 714.16. 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. Notwithstanding section 8.33, funds received in a previous fiscal year which have not been expended shall be credited to this fiscal year.

6. For the farm mediation service program:
..... \$ 200,000

7. For the legal assistance for farmers program:
..... \$ 60,000

Sec. 2. There is appropriated from the utilities trust fund to the office of consumer advocate of the department of justice for the fiscal year beginning July 1, 1988 and ending June 30, 1989, the sum of one million one hundred forty-four thousand eight hundred fifty-six (1,144,856) dollars, or so much thereof as is necessary, for salaries and support of not more than twenty-one full-time equivalent positions, maintenance, and operational purposes of the office.

Sec. 3. There is appropriated from the general fund of the state to the board of parole for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, for salaries and support of not more than eighteen full-time equivalent positions, maintenance and miscellaneous purposes:
..... \$ 613,000

Sec. 4. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the operation of adult correctional institutions, to be allocated as follows:

a. For the operation of the Fort Madison correctional facility, including salaries and support of not more than four hundred seventy-seven point five full-time equivalent positions, maintenance, and miscellaneous purposes, the sum of seventeen million one hundred twenty-six thousand three hundred sixty-five (17,126,365) dollars, and as a condition, limitation, and qualification of this appropriation, the facility shall employ two hundred ninety correctional officers.

b. For the operation of the Anamosa correctional facility, including salaries and support of not more than three hundred nine full-time equivalent positions, maintenance, and miscellaneous purposes, the sum of eleven million nine hundred twenty-five thousand five (11,925,005) dollars, and as a condition, limitation, and qualification of this appropriation, the facility shall employ one hundred seventy-eight correctional officers.

c. For the operation of the Oakdale correctional facility, including salaries and support of not more than two hundred forty-four point five full-time equivalent positions, maintenance, and miscellaneous purposes, the sum of eight million three hundred eighty thousand seven hundred sixty-five (8,380,765) dollars, and as a condition, limitation, and qualification of this appropriation, the facility shall employ one hundred twenty-four correctional officers.

d. For the operation of the Newton correctional facility, including salaries and support of not more than fifty-six full-time equivalent positions, maintenance, and miscellaneous purposes, the sum of two million one hundred eight thousand one hundred seventy-two (2,108,172) dollars, and as a condition, limitation, and qualification of this appropriation, the facility shall employ eighteen correctional officers.

e. For the operation of the Mt. Pleasant correctional facility, including salaries and support of not more than two hundred fifty-two point two eight full-time equivalent positions, maintenance, and miscellaneous purposes, the sum of nine million one hundred six thousand seven hundred eighty-seven (9,106,787) dollars, and as a condition, limitation, and qualification of this appropriation, the facility shall employ one hundred thirty-four correctional officers.

f. For the operation of the Rockwell City correctional facility, including salaries and support of not more than sixty-four full-time equivalent positions, maintenance, and miscellaneous purposes, the sum of two million two hundred forty-four thousand four hundred eighty-one (2,244,481) dollars, and as a condition, limitation, and qualification of this appropriation, the facility shall employ thirty-six correctional officers.

g. For the operation of the Clarinda correctional facility, including salaries and support of not more than one hundred two point six five full-time equivalent positions, maintenance, and miscellaneous purposes, the sum of three million two hundred eighty thousand two hundred thirty-two (3,280,232) dollars, and as a condition, limitation, and qualification of this appropriation, the facility shall employ fifty-nine correctional officers.

h. For the operation of the Mitchellville correctional facility, including salaries and support of not more than eighty-two full-time equivalent positions, maintenance, and miscellaneous purposes, the sum of two million seven hundred thirteen thousand eight hundred forty-one (2,713,841) dollars, and as a condition, limitation, and qualification of this appropriation, the facility shall employ forty-four correctional officers.

2. The department of corrections shall provide a report to the co-chairpersons and ranking members of the justice system appropriations subcommittee and the legislative fiscal bureau on or before January 15, 1989, detailing the amount of money to be pooled by the institutions for educational programs, which educational institutions will be involved, the amount of any federal funds received for use with these programs, and any other pertinent information.

3. If the inmate tort claim fund for inmate claims of less than twenty-five dollars is exhausted during the fiscal year, sufficient funds shall be transferred from the institutional budgets to pay approved tort claims for the balance of the fiscal year. The warden or superintendent of each institution or correctional facility shall designate an employee to receive, investigate, and recommend whether to pay any properly filed inmate tort claim for less than the above amount. The designee's recommendation shall be approved or denied by the warden or superintendent and forwarded to the department of corrections for final approval and payment. The amounts appropriated to this fund pursuant to 1987 Iowa Acts, chapter 234, section 304, subsection 2, are not subject to reversion under section 8.33.

Tort claims denied at the institution shall be forwarded to the state appeal board for their consideration as if originally filed with that body. This procedure shall be used in lieu of chapter 25A for inmate tort claims of less than twenty-five dollars.

Of the funds appropriated, the department's budget for Anamosa shall include funding for a full-time substance abuse counselor for the Luster Heights facility, for the purpose of certification of a substance abuse program at that facility.

Sec. 5. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. For general administration, including salaries and support of not more than thirty-seven point five two full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 1,693,744

The department of corrections shall report to the legislative fiscal bureau on a monthly basis the current number of persons placed on probation or released on parole residing within this state and supervised pursuant to the interstate probation and parole compact.

The department of corrections and the board of parole shall review the implementation of, and the participation of this state under, the interstate probation and parole compact including, but not limited to the method of administration under the compact. The report shall be filed with the co-chairpersons and ranking members of the justice system appropriations subcommittee, the executive council, and the legislative fiscal bureau on or before January 15, 1989.

It is the intent of the general assembly that the department of human services shall continue to provide for the mailing of vendor warrants for the department of corrections.

2. For reimbursement of counties for temporary confinement of work release and parole violators, as provided in sections 246.908, 901.7, and 906.17:

..... \$ 119,580

3. For federal prison reimbursement and miscellaneous contracts:

..... \$ 300,000

The department of corrections shall use funds appropriated by this subsection to continue to contract for the service of a Muslim imam.

4. For salaries and support of not more than six point three one full-time equivalent positions, maintenance, and miscellaneous purposes at the correctional training center at Mt. Pleasant:

..... \$ 279,731

5. For repairs to roofs and related expenses at the correctional institutions:

..... \$ 115,584

Sec. 6.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1988, and ending June 30, 1989, or so much thereof as is necessary, the following amounts allocated as follows:

a. For the first judicial district department of correctional services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of three million one hundred sixty-four thousand nine hundred forty (3,164,940) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, sixty thousand four hundred twenty (60,420) dollars shall be used for intensive supervision programs established within the district.

b. For the second judicial district department of correctional services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of two million five hundred sixty-four thousand two hundred seventy-eight (2,564,278) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, ninety-seven thousand three hundred eighty-four (97,384) dollars shall be used for sex offender programs established within the district.

c. For the third judicial district department of correctional services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of one million four hundred seventy thousand seven hundred eighty-two (1,470,782) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, twenty-four thousand (24,000) dollars shall be used for sex offender programs established within the district.

d. For the fourth judicial district department of correctional services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of one million three hundred eighty-two

thousand one (1,382,001) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, sixteen thousand three hundred forty (16,340) dollars shall be used for sex offender programs established within the district.

e. For the fifth judicial district department of correctional services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of four million four hundred forty thousand nine hundred sixty-nine (4,440,969) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, one hundred seventy thousand fifty-eight (170,058) dollars shall be used for intensive supervision programs established within the district.

f. For the sixth judicial district department of correctional services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of three million two hundred thirty-two thousand one hundred seventy-eight (3,232,178) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, one hundred four thousand two hundred fifty-nine (104,259) dollars shall be used for intensive supervision programs established within the district.

g. For the seventh judicial district department of correctional services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of two million seven hundred thirty-eight thousand twenty-eight (2,738,028) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, seventy-three thousand six hundred ninety-six (73,696) dollars shall be used for intensive supervision programs established within the district.

h. For the eighth judicial district department of correctional services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of one million three hundred thirty-three thousand seven hundred nineteen (1,333,719) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, seventy-three thousand seven hundred fifty-two (73,752) dollars shall be used for intensive supervision programs established within the district.

i. To the department of corrections for the assistance and support of each judicial district department of correctional services, the following amount:

..... \$ 86,445

2. The department of corrections shall not change the appropriations either to the district departments of correctional services or to the correctional institutions from the amounts appropriated under this section and section 4 of this Act, unless notice of the revisions is given prior to their effective date to the legislative fiscal bureau. The notice shall include information on the department's rationale for making the changes and details concerning the workload and performance measures upon which the changes are based.

3. The department of corrections shall report to the legislative fiscal bureau on a monthly basis the current expenditures and full-time equivalent positions of the department's various allocations with a comparison of actual to budgeted expenditures and full-time equivalent positions.

The department shall furnish performance measure data designed to enable comparison of this data with historical spending information, and shall assist the legislative fiscal bureau in developing information to be used in legislative oversight of all programs operated by the department.

4. The department of corrections shall continue the OWI facilities established in 1986 Iowa Acts, chapter 1246, section 402, in compliance with the conditions specified in that section.

Sec. 7. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

COURTS AND ADMINISTRATION

1. For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates and staff, state court administrator, clerk of the supreme court, district court administrators, clerks of the district court, juvenile court officers, board of law examiners and board of examiners of shorthand reporters and judicial qualifications commission, maintenance, equipment and miscellaneous purposes:

..... \$ 58,159,405

2. For salaries, support, maintenance, and miscellaneous purposes necessary to provide adult indigent defense and the cost of juvenile proceedings including attorney and witness fees:

..... \$ 8,000,000

3. For the juvenile victim restitution program:

..... \$ 115,000

Notwithstanding chapter 232A, it is the intent of the general assembly that the judicial department receive the funds appropriated and administer the Iowa juvenile victim restitution program.

4. For salaries, support, maintenance, and miscellaneous purposes necessary to fund the cost of juvenile proceedings including attorney and witness fees:

..... \$ 1,500,000

Sec. 8. Of the funds appropriated by section 7, subsection 1, of this Act, not more than one million six hundred thousand (1,600,000) dollars may be transferred into the revolving fund established pursuant to section 602.1302, subsection 4, to be used for the payment of jury and witness fees and mileage.

Sec. 9. A public office providing indigent defense which is in existence on June 30, 1988, shall not be abolished during the period beginning June 30, 1988, and ending June 30, 1989, unless done at the request of the chief judge of the judicial district.

Sec. 10. Section 602.1301, subsection 2, paragraph a, Code 1987, is amended to read as follows:

a. As early as possible, but not later than December 1, the supreme court shall submit to the legislative fiscal bureau the annual budget request and detailed supporting information for the judicial department. The submission shall be designed to assist the legislative fiscal bureau in its preparation for legislative consideration of the budget request. The information submitted shall contain and be arranged in a format substantially similar to ~~part II of the governor's budget message as the format specified in by the director of management and used by all department and establishments in transmitting to the director estimates of their expenditure requirements pursuant to section 8.22 8.23.~~ The supreme court shall also make use of the department of management's automated budget system when submitting information to the director of management to assist the director in the transmittal of information as required under section 8.35A.

Sec. 11. 1987 Iowa Acts, chapter 234, section 304, subsection 2, unnumbered paragraph 1, is amended to read as follows:

In addition to the funds appropriated in subsection 1, there is appropriated one thousand five hundred (1,500) dollars for an inmate tort claim fund for inmate claims of less than twenty-five dollars. The amount appropriated to the inmate tort claim fund is not subject to reversion under section 8.33. If the fund is exhausted during the fiscal year, sufficient funds shall be transferred from the institutional budgets to pay approved tort claims for the balance of the fiscal year.

Sec. 12. In order to achieve full-time equivalent position levels, the number of filled positions may exceed the number of full-time equivalent positions during parts of the fiscal year

to compensate for time periods when the number of filled positions is below the number of full-time equivalent positions. For purposes of this section, a full-time equivalent position equals two thousand eighty hours in one fiscal year.

Sec. 13. All federal grants to and the federal receipts of the agencies to whom funds are appropriated under this Act are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 14. The legislative council shall create a corrections task force to review and assess the state's corrections system. The task force shall address how to achieve the maximum safety for the public in the most cost-effective and efficient manner for the taxpayers and citizens of Iowa. The task force shall be composed of five members of the senate, five members of the house of representatives, one member representing the board of parole, one member representing the department of corrections and one member representing the judicial district department of correctional services. The task force is authorized to contract with consultants and experts within the corrections area to review and assess the state's corrections system for the purpose of recommending a long-term master plan. The plan shall include two-year, five-year, and ten-year goals and a comprehensive ten-year master plan for the corrections system. This plan shall include a study and evaluation of the custody classification system regarding the availability of minimum, medium, and maximum security beds in the correctional institutions and the availability of beds within the judicial district departments of correctional services. The study shall compare recommended classification levels of the national institute of corrections and the federal board of parole. The classification study shall include the development of a profile of the state's prison population, a determination of whether an identifiable group of inmates exists which could be placed in alternative correctional programs without increased risk to the public safety, an examination of the current aggregate custody needs involving the state's prison population so that preliminary estimates may be made of prison capacity needs by custody level, and a determination of the overuse or underuse of bed space at the various custody levels.

The master plan shall also include an evaluation of the risk assessment model used by the board of parole in comparison with other available models including the Rand study model.

The master plan shall include recommendations relating to sentencing patterns and practices, release criteria, and resource allocation. The plan shall also include evaluation and recommendations for use of diversion and community service programs and the use of alternative and intermediate sanction programs, such as intensive supervision and electronic monitoring. Recommendations shall also be made as to institutional staffing levels and training programs for corrections officers. Correctional policy alternatives with cost-benefit analyses regarding those alternatives shall be provided. The plan shall project prison population for the next five years and if necessary make recommendations concerning the construction and maintenance of additional prison space. Any recommendations for additional space shall include the location or locations of additional correctional bed space and to the extent intermediate or alternative sanctions can reduce the need for any additional space. The plan shall also address programs targeted toward OWI offenders, substance abusers, and sex offenders, and shall include the cost-effectiveness of lease purchase arrangements to build any new prison space. The task force shall recommend a five-year to ten-year maintenance program for the correctional institutions in this state.

The task force shall report to the legislative council and the general assembly by January 15, 1989, its determinations and findings concerning the custody classification system and the risk assessment model used by the board of parole. The master plan shall be completed and a report made to the legislative council and the general assembly by January 1, 1990.

Sec. 15. Sections 9 and 11 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 13, 1988

CHAPTER 1272

**APPROPRIATIONS AND FEES FOR AGRICULTURE
AND LAND STEWARDSHIP AND NATURAL RESOURCES DEPARTMENTS**

H.F. 2440

AN ACT relating to and making appropriations to the department of agriculture and land stewardship and the department of natural resources, and providing for an increase in certain fees.

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

Section 1. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. There is appropriated from the general fund of the state and the trust funds indicated to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE DIVISION

- a. From the general fund for salaries, support, maintenance, and miscellaneous purposes:

.....	\$	968,311
-------	----	---------
- b. From the fertilizer fund to be transferred to the administration division:

.....	\$	51,100
-------	----	--------
- c. From the dairy trade practice fund to be transferred to the administration division:

.....	\$	86,813
-------	----	--------
- d. From the commercial feed fund to be transferred to the administration division:

.....	\$	51,100
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- e. Of the amount appropriated from the general fund of the state under paragraph "a" of this subsection, sixty thousand (60,000) dollars shall be allocated for the operations of the statistics bureau.
- f. The department of agriculture and land stewardship shall establish annual subscription fees for the regular and periodic publications of the department. However, the subscription fee for a publication by the farm commodity division relating to a livestock market summary shall not exceed ten dollars and a publication by the farm commodity division relating to sheep clippings shall not exceed four dollars. Fees collected from subscribers shall be deposited in the general fund of the state.
- g. The department of agriculture and land stewardship shall fund, from moneys appropriated to the department under paragraph "a" for the salary and support of the currently untitled position within the administrative division, the salary and support of the position of programming and planning administrator II.
- h. Funds appropriated by this subsection are for the salaries and support of not more than forty-two point twenty-four full-time equivalent positions.

2. FARM COMMODITY DIVISION

a. From the general fund for salaries and support, for not more than twenty-three full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 985,270

b. Of the amount appropriated from the general fund of the state under paragraph "a" of this subsection, three hundred forty-six thousand three hundred seventy-nine (346,379) dollars shall be allocated to the horticultural division for the continuation of the agricultural diversification program as enacted by 1986 Iowa Acts, chapter 1246, section 501, subsection 1, paragraph "e".

3. FARMER'S MARKET COUPON PROGRAM

From the general fund of the state to be used by the department to continue and expand the farmer's market coupon program by providing federal special supplemental food program recipients with coupons redeemable at farmer's markets:

..... \$ 100,000

4. REGULATORY DIVISION

a. From the general fund of the state for salaries and support for not more than one hundred forty-nine point twenty full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 3,910,737

b. Of the amount appropriated from the general fund of the state under paragraph "a" of this subsection, one hundred forty-nine thousand seven hundred ninety (149,790) dollars shall be allocated for the operations of the grain warehouse bureau.

c. Of the amount appropriated from the general fund of the state under paragraph "a" of this subsection, one hundred seventy thousand twenty-nine (170,029) dollars shall be allocated as follows: twenty-two thousand six hundred twenty (22,620) dollars to the animal health bureau; forty-one thousand eight hundred fifty-nine (41,859) dollars to the grain warehouse bureau; fifty-two thousand eight hundred seventy (52,870) dollars to the meat and poultry bureau; and fifty-two thousand six hundred eighty (52,680) dollars to the weights and measures bureau for the operations of those bureaus.

5. LABORATORY DIVISION

a. From the general fund for salaries, support, maintenance, and miscellaneous purposes:

..... \$ 596,283

b. From the commercial feed fund to be transferred to the laboratory division:

..... \$ 811,527

c. From the pesticide fund to be transferred to the laboratory division:

..... \$ 495,517

d. From the fertilizer fund to be transferred to the laboratory division:

..... \$ 832,356

e. Funds appropriated by this subsection are for the salaries and support of not more than ninety full-time equivalent positions.

6. SOIL CONSERVATION DIVISION

a. From the general fund for salaries and support for not more than one hundred seventy-five point seventy-eight full-time equivalent positions, maintenance, assistance to soil conservation districts, and for miscellaneous purposes:

..... \$ 4,347,061

b. Of the amount appropriated from the general fund of the state under paragraph "a" of this subsection, three hundred three thousand four hundred thirty-six (303,436) dollars shall be used to conduct soil surveys in conjunction with federal, state, and local agencies in Iowa.

c. To provide financial incentives for soil conservation practices in accordance with the provisions of paragraph "d" of this subsection:

..... \$ 6,789,972

d. The following requirements apply to the funds appropriated by paragraph "c":

(1) Not more than five percent may be allocated for cost sharing to abate complaints filed under section 467A.47 and 467A.48.

(2) 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 section 10 of this Act.

(3) The soil conservation district commissioners may allocate financial incentives not exceeding sixty percent of the cost of permanent soil conservation practices for special watershed practices or summer construction incentives under section 467A.7, subsections 17 and 19.

(4) Except for the allocations subject to subparagraphs 1, 2, and 3, 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.

(5) The soil conservation committee may allocate funds to conduct research and demonstration projects to promote conservation tillage and nonpoint sources pollution control practices.

(6) Not more than thirty percent of a district's allocation may be allocated by the soil conservation district commissioners for the establishment of management practices to control soil erosion on land that is now row cropped.

(7) The financial incentive payments may be used in combination with department of natural resources funds.

e. The provisions of section 8.33 shall not apply to the funds appropriated by paragraph "c". Unencumbered or unobligated funds remaining on June 30, 1992, from funds appropriated for the fiscal year beginning July 1, 1988, shall revert to the general fund on September 30, 1992.

Sec. 2. There is appropriated to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1988, and ending June 30, 1989, from the funds available under section 99D.13 the sum of one hundred sixteen thousand five hundred seventy-one (116,571) dollars, or so much thereof as necessary, for volunteer assistance and not more than three full-time equivalent positions for the administration of section 99D.22.

Sec. 3. The department shall not make transfers from the funds established in chapter 192A, 198, 200, or 206, to be used for purposes not authorized in those chapters without notifying the chairpersons and ranking members of the agriculture and natural resources appropriations subcommittee in writing prior to the proposed transfer of funds. The notice from the department shall include information concerning the amount of the proposed transfer, the funds affected by the proposed transfer, and the reasons for the proposed transfer. Chairpersons and ranking members notified shall be given at least two weeks to review and comment on the proposed transfer before the transfer of funds is made.

Sec. 4. Notwithstanding section 83.4, the division of soil conservation of the department of agriculture and land stewardship shall set the fee for a mine site permit at fifteen dollars per site acre which shall be deemed to be the cost of administration.

Sec. 5. DEPARTMENT OF NATURAL RESOURCES. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1. For salaries, support, maintenance, and miscellaneous purposes:

..... \$ 10,570,488

- 2. For reimbursement to federal agencies for cooperative contracts:
 - \$ 185,983
- 3. For the green thumb program for the employment of the elderly in conservation and outdoor recreation related fields in coordination with other agencies as provided by law:
 - \$ 200,000
- 4. For the payment of assessments to the midwest interstate low-level radioactive waste compact:
 - \$ 78,000

Sec. 6. There is appropriated from the state fish and game protection fund to the department of natural resources for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

DIVISION OF FISH AND GAME

- 1. From the state fish and game protection fund for salaries, support, maintenance, equipment, and miscellaneous purposes including not more than two million three hundred sixty-three thousand nine hundred fifty-seven (2,363,957) dollars during the fiscal year beginning on July 1, 1988, which shall be available from the state fish and game protection fund for administrative support:
 - \$ 14,655,148
- 2. From the fees deposited under section 321G.7 to the fish and game protection fund for enforcement of snowmobile laws as part of the state snowmobile program:
 - \$ 150,000
- 3. From the fees deposited under section 106.52 to the fish and game protection fund for administration and enforcement of navigation laws and water safety:
 - \$ 1,000,000
- 4. Funds remaining in the fish and game protection fund during fiscal year 1988-1989 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, 1988. 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.

Sec. 7. **MARINE FUEL TAX FUND.** There is appropriated from the marine fuel tax fund to the department of natural resources for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the following purposes:

- 1. For maintenance and development of boating facilities and access to public waters:
 - \$ 397,179
- 2. For deposit in the state fish and game protection fund for the administration and enforcement of navigation laws and boat safety:
 - \$ 150,000

The balance of the amount computed as provided in section 324.84 for the fiscal year beginning July 1, 1988, and ending June 30, 1989, 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, 1989, shall revert to the fund from which appropriated September 30, 1991.

Sec. 8. Funds appropriated by section 6, subsections 1 and 3, and sections 7 and 8 of this Act are for salaries and support for not more than nine hundred seventy point ten full-time equivalent positions.

Sec. 9. The natural resources commission shall establish a priority list of watersheds which are of highest importance based on soil loss to be used for the allocation of funds set aside in the appropriations to the department of agriculture and land stewardship for permanent soil conservation practices.

Sec. 10. Effective July 1, 1988, the department of natural resources shall establish prices of plant material grown at the state forest nurseries to cover eighty percent of all expenses directly related to the growing of plants.

Effective July 1, 1989, the department shall establish prices of plant material grown at the state forest nurseries to cover all expenses directly related to the growing of the plants.

The department shall develop additional programs to encourage the wise management and preservation of existing woodlands and shall increase its efforts to encourage forestation and reforestation on private and public lands in the state.

The department shall encourage a cooperative relationship between the state forest nurseries and private nurseries in the state in order to achieve these goals.

Sec. 11. If the department of agriculture and land stewardship or the department of natural resources makes an appropriation transfer between appropriation line-items, the chairpersons and ranking members of the agriculture and natural resources appropriations subcommittee shall be notified in writing prior to the proposed transfer of funds. The notice from the department shall include information concerning the amount of the proposed transfer, the appropriation line-items affected by the proposed transfer, and the reasons for the proposed transfer. Chairpersons and ranking members notified shall be given at least two weeks to review and comment on the proposed transfer before the transfer of funds is made.

Sec. 12. Section 162.3, Code 1987, is amended to read as follows:

162.3 CERTIFICATE OF REGISTRATION FOR POUND.

No pound shall be operated unless a certificate of registration for the pound is granted by the secretary. Application for the certificate shall be made in the manner approved by the secretary. ~~No fee shall be required for the application or certificate.~~ Certificates of registration shall expire annually on March 1 unless revoked and may be renewed upon application in the manner provided by the secretary. A registered pound may engage in the sale of dogs or cats, or both, under its control, if it obtains a license for such activity, ~~but no fee shall be charged therefor unless the registered pound is privately owned.~~ The license fee for a registered pound shall be fifteen dollars per year.

Sec. 13. Section 162.5, Code 1987, is amended to read as follows:

162.5 PET SHOP LICENSE.

No person shall operate a pet shop unless the person has obtained a license to operate a pet shop issued by the secretary. Application for the license shall be made in the manner provided by the secretary. The license shall expire annually on March 1 of each year unless revoked and may be renewed in the manner provided by the secretary. The license fee shall be ~~forty fifty~~ dollars per year or ten thirteen dollars for each quarter or portion of a quarter of a year. The license may be renewed if the licensee has conformed to all statutory and regulatory requirements.

Sec. 14. Section 162.6, Code 1987, is amended to read as follows:

162.6 COMMERCIAL KENNEL OR PUBLIC AUCTION LICENSE.

No person shall operate a commercial kennel or public auction, as defined in section 162.2, unless the person has obtained a license to operate a commercial kennel or a public auction issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The license and the certificate shall expire annually on March 1 unless revoked. The license fee shall be ~~twenty-five~~ forty dollars per year or ~~seven~~ ten dollars for each quarter or portion of a quarter of a year and the certification fee shall be five dollars annually. If the person has obtained a federal license, the person need only obtain a certificate. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary ~~provided if the licensee~~ has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary.

Sec. 15. Section 162.7, Code 1987, is amended to read as follows:

162.7 DEALER LICENSE.

No person shall operate as a dealer unless the person has obtained a license issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The license and certificate shall expire annually on March 1 unless revoked. The license fee shall be ~~fifty one~~ hundred dollars per year or ~~fifteen~~ twenty-five dollars for each quarter or portion of a quarter of a year, and the certification fee shall be five dollars per year. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary, ~~provided if the licensee~~ has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary.

Sec. 16. Section 162.8, Code 1987, is amended to read as follows:

162.8 COMMERCIAL BREEDER'S LICENSE.

No person shall operate as a commercial breeder unless the person has obtained a license issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The annual license or the certification period shall commence March 1 of each year. The license fee shall be ~~twenty-five~~ forty dollars per year or ~~seven~~ ten dollars for each quarter or portion of a quarter of a year and the certificate fee shall be five twenty dollars per year. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary ~~provided the licensee~~ has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary.

Sec. 17. Section 162.9, Code 1987, is amended to read as follows:

162.9 BOARDING KENNEL OPERATOR'S LICENSE.

No person shall operate a boarding kennel unless the person has obtained a license to operate a boarding kennel issued by the secretary. Application for the license shall be made in the manner provided by the secretary. The annual license period shall commence March 1 of each year. The license fee shall be ~~fifteen~~ thirty dollars per year or ~~four~~ nine dollars for each quarter or portion of a quarter of a year. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary ~~provided the licensee~~ has conformed to all statutory and regulatory requirements.

Sec. 18. Section 162.10, Code 1987, is amended to read as follows:

162.10 HOBBY KENNEL OWNER'S LICENSE.

No person shall operate a hobby kennel unless the person obtains a license issued by the secretary. Application for the license shall be in the manner provided by the secretary. The annual license period shall commence March 1. The license fee shall be ~~two~~ thirty dollars per year. The license may be renewed upon application in the manner prescribed by the secretary, provided the licensee has conformed to all statutory and regulatory requirements.

Sec. 19. Section 177A.9, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The fees for inspections and certifications shall not be less than ~~fifteen~~ twenty-five dollars nor more than five hundred dollars. Certificates shall be issued to nursery stock growers and dealers on an annual basis. Inspection and certification fees for nursery stock growers shall be ~~fifteen~~ twenty-five dollars plus ~~one dollar~~ five dollars per acre or part thereof, according to the amount of stock inspected. The inspection and certification fee for nursery stock dealers shall be ~~fifteen~~ twenty-five dollars. All fees shall be paid at the time of inspection or before a certificate is issued. Inspection and certification shall take place when necessary to enforce this chapter and the rules pursuant to it. Certificates issued in accordance with this chapter may be revoked when inspection results determine that conditions violate the standards for which certification was issued.

Sec. 20. Section 199.15, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A person shall not sell, distribute, advertise, solicit orders for, offer or expose for sale, agricultural or vegetable seed without first obtaining from the department a permit to engage in the business. A permit is not required of persons selling seeds which have been packed and distributed by a person holding and having in force a permit. A permit is not required of persons selling or advertising seed of their own production, provided that the seed is stored or delivered to a purchaser only on or from the farm or premises where grown. The fee for a new permit is ten dollars and the fee for a renewed permit is based on the gross annual sales of seeds in Iowa during the previous twelve-month period under the permit holder's label and all permits expire on the first day of July following date of issue. Permits shall be issued subject to the following fee schedule:

Gross sales of seeds		Fee
Not more than	\$ 25,000	\$ <u>10</u>
		<u>30</u>
Over \$25,000 but not exceeding	50,000	<u>20</u>
		<u>60</u>
Over \$50,000 but not exceeding	100,000	<u>30</u>
		<u>90</u>
Over \$100,000 but not exceeding	200,000	<u>40</u>
		<u>120</u>

For each additional increment of one hundred thousand dollars of sales in Iowa the fee shall increase by ~~ten~~ thirty dollars. The fee shall not exceed one thousand five hundred dollars for a permit holder.

Sec. 21. Section 214.3, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

The fee for each license shall be ~~four~~ six dollars per annum, except that the fee for motor vehicle fuel pumps and meters shall be ~~two~~ three dollars per annum if paid within one month from the date the license fee is due.

Sec. 22. Section 215.2, subsection 1, Code 1987, is amended to read as follows:

1. Railroad track scales, fifty sixty-five dollars each.

Sec. 23. Section 215.20, unnumbered paragraph 1, Code 1987, is amended to read as follows:
 The secretary of agriculture shall annually inspect and test all liquid meters used for the measurement and retail sale of liquefied petroleum gas and the secretary shall condemn all meters which are found to be inaccurate. A reasonable tolerance within a maximum of two percent, plus or minus, shall be allowed. It is unlawful to use a meter for retail measurement and sale which has been condemned. All condemned meters shall be conspicuously marked "inaccurate", and the mark shall not be removed or defaced except upon authorization of the secretary of agriculture or the secretary's authorized representative. The secretary of agriculture shall charge an annual fee of ~~ten~~ thirty-five dollars for each meter tested but the testing fee provided for by this section shall not be charged more than once in a calendar year to each meter tested. When liquefied petroleum gas is sold or delivered to a consumer as a liquid and by liquid measurement, the volume of liquid sold and delivered shall be corrected to a temperature of 60 degrees F. through use of an approved volume correction factor table, or through use of an approved meter with sealed automatic compensation mechanism. All sale tickets shall show the delivered gallons, the temperature at the time of delivery, and the corrected gallonage, or shall state that temperature correction was automatically made.

Sec. 24. 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.

Approved April 12, 1988

CHAPTER 1273

APPROPRIATIONS AND PROGRAMS FOR ECONOMIC DEVELOPMENT

S.F. 2309

AN ACT relating to and making appropriations to the department of economic development, providing for the creation and repeal of programs, and transferring administration of a program.

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

Section 1. There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. General administration

For salaries and support for not more than twenty-one point five full-time equivalent positions, maintenance, and other operational purposes:

..... \$ 266,827

2. For tourism and promotion programs, including salaries and support for not more than fifteen full-time equivalent positions:

..... \$ 926,533

The department shall evaluate the feasibility of providing financial and nonfinancial assistance to local and regional tourism organizations to promote local and regional tourism and recreational attractions and sites at the Iowa state fair, and to educate residents of this state and out-of-state visitors about the significant number of tourism and recreational attractions and sites within the state. The department shall consult with regional tourism councils and local tourism organizations to evaluate the type, extent, and effectiveness of providing

financial and nonfinancial assistance programs. The department shall report the recommendations, findings, and conclusions resulting from the evaluation to the governor's office and the general assembly on or before February 15, 1989.

3. For contracting exclusively for advertising for in-state and out-of-state tourism, tourism marketing, and tourism promotion programs for electronic media and printed materials:

..... \$ 915,000

Of the funds appropriated in this subsection thirty thousand (30,000) dollars shall be used for the promotion of state-owned historic attractions and thirty thousand (30,000) dollars shall be used for the promotion of other cultural attractions as determined by the department of cultural affairs.

The department shall develop public-private partnerships with Iowa businesses in the tourism industry, Iowa tour groups, Iowa tourism organizations, and political subdivisions in this state to assist in the development of advertising efforts and to the fullest extent possible, match on a dollar-for-dollar basis, contributions from other sources to fund the advertising contracts.

4. For participation in the development, printing, and distribution of multistate regional tourism materials:

..... \$ 5,000

5. For national marketing programs, including salaries and support for not more than twelve point seventy-five full-time equivalent positions:

..... \$ 716,623

6. For the operation and maintenance of the film office, including salaries and support for not more than one full-time equivalent position:

..... \$ 114,000

7. For contracting exclusively for marketing and advertising contracts for out-of-state national marketing programs for electronic media and printed materials:

..... \$ 790,000

The department shall develop public-private partnerships with Iowa businesses, Iowa business organizations, Iowa chambers of commerce, and political subdivisions in this state, to assist in the development of the marketing efforts and to the fullest extent possible, match on a dollar-for-dollar basis, contributions from other sources to fund the marketing contracts.

8. International trade programs

For salaries and support for not more than six point zero full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 403,669

The department shall give attention to using a portion of these funds to contract and coordinate with international programs at Iowa colleges and universities to develop a network of trade contacts overseas through the use of alumni from Iowa colleges and universities.

9. Export trade activities.

For the establishment of international trade activities including a program to encourage and increase participation in trade shows and trade missions by providing financial assistance to businesses for a percentage of their costs of participating in trade shows and trade missions, lease/sublease showcase space in existing world trade centers, provide temporary office space for foreign buyers, international prospects, and potential reverse investors, development of an Iowa export trading company, and other promotional and assistance activities.

..... \$ 400,000

10. For the operation and maintenance of the West German trade office, including salaries and support for not more than one point five full-time equivalent positions:

..... \$ 195,350

11. For the operation and maintenance of the Hong Kong trade office, including salaries and support for not more than two point zero full-time equivalent positions:

..... \$ 163,939

12. For the operation and maintenance of the Asian trade office, including salaries and support for not more than two point zero full-time equivalent positions:	\$ 290,709
13. Agricultural product advisory council	
For support, maintenance, and miscellaneous purposes:	\$ 4,885
14. For small business programs, including salaries and support for not more than five point zero full-time equivalent positions:	\$ 302,094
15. For community progress programs, including salaries and support for not more than eight point five full-time equivalent positions:	\$ 426,768
16. For additional and supplemental funding for the child care services program and the displaced homemakers program, including salaries and support for not more than zero point seventy-five full-time equivalent positions:	\$ 727,272
17. Mississippi river parkway commission	
For support, maintenance, and miscellaneous purposes:	\$ 19,535
18. Community development block grant administration and related federal housing and urban development grant administration	
For salaries and support for not more than thirteen point five full-time equivalent positions, maintenance, and miscellaneous purposes:	\$ 55,509
19. Job training partnership Act: dislocated workers	
For salaries and support for not more than twenty-eight point five full-time equivalent positions, maintenance, and miscellaneous purposes:	\$ 480,000
20. Iowa youth corps and youth services administration	
For salaries and support for not more than two point zero full-time equivalent positions, maintenance, and miscellaneous purposes to develop and administer employment opportunities for youth:	\$ 286,287
21. Iowa finance authority	
For the housing trust fund program, to be deposited in the housing trust fund and to be used for the grant program for the homeless for the construction, rehabilitation, or expansion of group home shelter for the homeless:	\$ 100,000

Sec. 2. 1987 Iowa Acts, chapter 233, section 301, subsection 9, is amended to read as follows:

9. Job training partnership Act: dislocated workers

For salaries and support for not more than twenty-eight point seven full-time equivalent positions, maintenance, and miscellaneous purposes \$ 960,151

Notwithstanding section 8.33, funds appropriated under this subsection for the fiscal year beginning July 1, 1987, and ending June 30, 1988, shall not revert to the general fund of the state but shall remain available for expenditure in the fiscal year beginning July 1, 1988, and ending July 1, 1989.

Sec. 3. Section 10A.104, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Establish by rule standards and procedures for certifying that targeted small businesses are eligible to participate in the procurement set-aside program established in sections 73.15 through 73.21. The procedure for determination of eligibility shall not include self-certification by a business. Rules and guidelines adopted pursuant to this subsection are subject to review and approval by the director of the department of management. The director shall maintain a current directory of targeted small businesses which have been certified pursuant to this subsection.

Sec. 4. Section 12.43, subsections 1 and 2, Code Supplement 1987, are amended to read as follows:

1. "Targeted small business" means a business as defined in section ~~220.111~~ 15.102, subsection ~~1~~ 5.

2. A linked deposit shall only be approved in connection with a loan application for a targeted small business which has been certified pursuant to section ~~15.108~~ 10A.104, subsection ~~7~~ 8, ~~paragraph "c", subparagraph (4).~~

Sec. 5. Section 12.44, unnumbered paragraphs 1 and 2, Code Supplement 1987, are amended to read as follows:

Agencies of state government shall be required to waive the requirement of satisfaction or performance bonds for targeted small businesses which are able to demonstrate the inability of securing such a bond because of a lack of experience. This waiver shall not apply to businesses with a record of repeated failure of substantial performance or material breach of contract in prior circumstances. The waiver shall be applied only to a project or individual transaction amounting to fifty thousand dollars or less, notwithstanding section 573.2. In order to qualify, the targeted small business shall provide written evidence to the department of ~~economic development~~ inspections and appeals that the bond would otherwise be denied the business. The granting of the waiver shall in no way relieve the business from its contractual obligations and shall not preclude the state agency from pursuing any remedies under law upon default or breach of contract.

The department of ~~economic development~~ inspections and appeals shall certify targeted small businesses for eligibility and participation in this program and shall make this information available to other state agencies.

Sec. 6. Section 15.108, subsection 7, paragraph c, unnumbered paragraph 1, subparagraph (2), and subparagraph (5), unnumbered paragraph 1, Code Supplement 1987, are amended to read as follows:

Aid in the development and implementation of the Iowa targeted small business procurement Act established in sections 73.15 through 73.21 and the targeted small business ~~loan guarantee financial assistance program of the Iowa finance authority~~ established in section ~~220.111~~ 15.111. The duties of the director under this paragraph include the following:

(2) The director, in conjunction with the director of the department of management, shall publicize the ~~loan guarantee financial assistance program of the Iowa finance authority~~ established in section 15.111 to targeted small businesses.

The director shall submit an annual report to the governor and the general assembly relating progress toward realizing the goals and objectives of the procurement set-aside program and the ~~loan guarantee financial assistance program of the Iowa finance authority~~ established in section 15.111 during the preceding fiscal year. The ~~Iowa finance authority and the director~~ of the department of management shall assist in compiling the data to be included in the report. The report shall include the following information:

Sec. 7. Section 15.108, subsection 7, paragraph c, subparagraph (4), Code Supplement 1987, is amended by striking the subparagraph.

Sec. 8. Section 15.108, subsection 7, paragraph g, subparagraph (1), Code Supplement 1987, is amended to read as follows:

(1) Developing a uniform small business vendor application form which can be adopted by all agencies and departments of state government to identify small businesses and targeted small businesses which desire to sell goods and services to the state. This form shall also contain information which can be used to determine certification as a targeted small business pursuant to ~~paragraph "e", subparagraph (4)~~ section 10A.104, subsection 8.

Sec. 9. NEW SECTION. 15.111 TARGETED SMALL BUSINESS FINANCIAL ASSISTANCE PROGRAM.

1. As used in this section, "small business" and "targeted small business" mean the same as defined in section 15.102, subsections 4 and 5.

2. The department shall establish, contingent upon the availability of funds authorized for the program, a targeted small business financial assistance program, to provide for loans, loan guarantees, or grants to targeted small businesses. A targeted small business in any year shall receive under this program not more than twenty-five thousand dollars in a loan or grant, and not more than forty thousand dollars in a guarantee, or a combination of loans, grants, or guarantees. The program shall provide guarantees not to exceed seventy-five percent for loans made by qualified lenders. The department shall establish a financial assistance reserve account from funds provided for this program, from which any default on a guaranteed loan under this section shall be paid. In administering the program the department shall not guarantee loan values in excess of the amount credited to the reserve account and only moneys set aside in the loan reserve account may be used for the payment of a default.

3. All moneys designated for the targeted small business financial assistance program shall be credited to the financial assistance reserve account. The department shall also establish an administrative account from which the operating costs of the program shall be paid. The department may transfer moneys between the reserve and the administrative accounts except that not more than twenty-five percent of the funds, pursuant to section 15.241, shall be used to administer the fund. The department shall determine what is the actuarially sound reserve requirement for the amount of guaranteed loans outstanding.

4. The department shall adopt rules as necessary for the administration of the financial assistance program under this section.

5. The general assembly is not obligated to appropriate moneys to pay for any defaults or to appropriate moneys to be credited to the loan reserve account. The loan guarantee program does not obligate the state except to the extent provided in this section, and the department in administering the program shall not give or lend the credit of the state of Iowa.

Sec. 10. NEW SECTION. 15.235 AMBASSADOR'S PROGRAM ESTABLISHED.

The department shall administer, contingent upon the availability of funds authorized for the program, an ambassador's program as originally established pursuant to 1986 Iowa Acts, chapter 1246, section 1, subsection 4. However, notwithstanding that Act, the program shall be administered to attract capital to be used by the department to develop a comprehensive national and state marketing program. Funds appropriated by the general assembly to support the program shall be matched on a dollar-for-dollar basis with capital provided by private sources. The program shall implement a statewide initiative that includes a toll-free number, billboards, displays in key business locations, a direct marketing program, a "trade and

marketing institute", and an "invest in Iowa" program. The department shall secure the necessary private participation from groups and organizations most appropriate for any particular function. In-kind expenditures from the private sector may be considered as a portion of the dollar-for-dollar match.

Sec. 11. Section 73.16, subsection 2, Code 1987, is amended to read as follows:

2. The director of each agency or department of state government having purchasing authority shall designate and set aside for awarding to certified targeted small businesses identified pursuant to section 15.108, ~~subsection 7, paragraph "e"~~ 10A.104, subsection 8, at least two percent, and should set a goal of up to ten percent, of the value of anticipated procurements of goods and services, including construction, but not including utility services, each fiscal year. The director of each department and agency of state government shall cooperate with the director of the department of inspections and appeals, the director of the department of economic development and the director of the department of management and do all acts necessary to carry out the provisions of this division.

Sec. 12. Section 73.18, Code 1987, is amended to read as follows:

73.18 NOTICE OF SOLICITATION FOR BIDS — IDENTIFICATION OF TARGETED SMALL BUSINESSES.

The director of each agency or department releasing a solicitation for bids or request for proposal under the set-aside program shall notify the director of the department of ~~economic development inspections and appeals~~ prior to or upon release of the solicitation. The director of the department of ~~economic development inspections and appeals~~ shall notify the soliciting agency or department of any targeted small businesses which have been certified pursuant to section 15.108, ~~subsection 7, paragraph "c", subparagraph (4)~~ 10A.104, subsection 8, and which may be qualified to bid.

Sec. 13. The department shall honor a contract executed prior to the effective date of this Act under the ambassador's program established pursuant to 1986 Iowa Acts, chapter 1246, section 1, subsection 4, as amended by 1987 Iowa Acts, chapter 233, section 303. However, the department shall not extend the date that a contract executed under either Act terminates, if the contract is not allowed under section 15.235, and the department shall not execute a contract or begin or continue an initiative allowed under either Act but not allowed under section 15.235, unless discontinuing the initiative involves a breach of contract.

Sec. 14. Notwithstanding section 8.33, funds appropriated under 1986 Iowa Acts, chapter 1246, section 1, subsection 4, as amended by 1987 Iowa Acts, chapter 233, section 303, shall not revert to the general fund of the state but shall remain available for expenditure by the department to administer section 15.235 for the fiscal year beginning July 1, 1988, and ending June 30, 1989.

Sec. 15. 1987 Iowa Acts, chapter 233, section 305, is amended to read as follows:

SEC. 305. **Notwithstanding section 8.33, moneys appropriated pursuant to 1986 Iowa Acts, chapter 1246, section 1, subsection 6, not in excess of five hundred thousand (500,000) dollars to the department of economic development for the establishment and maintenance of an export finance program for the fiscal year beginning July 1, 1986, and ending June 30, 1987, which remain unexpended or unencumbered shall carry forward to the fiscal year beginning July 1, 1987, and ending June 30, 1988, to be used for the same purpose as originally appropriated.** On June 30, 1988, the unobligated funds up to four hundred eighty thousand (480,000)

dollars shall be transferred for the general administration of the department of economic development as provided in section 1, subsection 1, of this Act.

Sec. 16. The director of the department of inspections and appeals shall maintain the directory of targeted small businesses which have been certified prior to the effective date of this Act pursuant to section 15.108, subsection 7, paragraph "c", subparagraph (4). Businesses certified by the department of economic development prior to the effective date of this Act shall remain certified unless decertified.

Sec. 17. All federal grants to and federal receipts of the agencies appropriated under this Act are appropriated for the purposes set forth in such federal grants and receipts unless otherwise provided by the general assembly.

Sec. 18. REPEALS.

1. Section 15.110, Code Supplement 1987, is repealed.
2. Section 220.111, Code 1987, is repealed.

Sec. 19. Moneys credited to the loan reserve account and administrative account established under section 220.111 shall be transferred to the department of economic development prior to that section's repeal. The department may use uncommitted moneys in the loan reserve account and the administrative account for purposes of the case management assistance program established pursuant to House File 2416,* if enacted by the Seventy-second General Assembly, 1988 Session. The department shall make a good faith effort to serve clients of the self-employment loan program, clients that meet the definition of a targeted small business, or clients that qualify under the unemployment insurance demonstration project if authorized by the federal government.

Sec. 20. The department of economic development and not the Iowa finance authority shall administer any guarantee and may enforce any agreement or collect any loan made pursuant to section 15.110 or 220.111 to the same extent the department did or the Iowa finance authority did prior to the repeal of those sections. Any rule, regulation, order, or guideline established by the department of economic development pursuant to section 15.110 or by the Iowa finance authority pursuant to section 220.111 and in effect on the effective date of this Act shall continue in full force and effect until amended, repealed, or supplemented by affirmative action of the department of economic development. All guarantees made under section 15.110 or 220.111 shall be maintained by the department of economic development.

Approved April 13, 1988, except the item which I hereby disapprove and which is designated as that portion of section 15 which is herein bracketed in ink and initialed by me. My reason for vetoing this item is delineated in the item veto message pertaining to this Act to the President of the Senate this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

*Chapter 1098 herein

Dear Madam President:

I hereby transmit Senate File 2309, an Act relating to and making appropriations to the Department of Economic Development, providing for the creation and repeal of programs, and transferring administration of a program.

Senate File 2309 is approved with the following exception which I hereby disapprove.

I am unable to approve the item designated as that portion of Section 15, which reads as follows:

Notwithstanding section 8.33, moneys appropriated pursuant to 1986 Iowa Acts, chapter 1246, section 1, subsection 6, not in excess of five hundred thousand (500,000) dollars to the department of economic development for the establishment and maintenance of an export finance program for the fiscal year beginning July 1, 1986, and ending June 30, 1987, which remain unexpended or unencumbered shall carry forward to the fiscal year beginning July 1, 1987, and ending June 30, 1988, to be used for the same purpose as originally appropriated.

It is clear that the intent of Section 15 in Senate File 2309 is to allow \$480,000 of carryover funds from the Export Finance Program to be used for the general administration of the Department of Economic Development. I approve of this utilization of these funds since they are needed to maintain the necessary operations of this important department. A portion of Section 15 authorizes the use of those carryover Export Finance Funds for that purpose.

However, a separate item in Section 15 inadvertently prevents that carryover from being fully utilized. In fact, a drafting error in this section would, if allowed to stand, reduce the operating budget for the Department of Economic Development by \$220,000.

The vetoed language limits the amount of funds from the Export Finance Program that are allowed to be carried over by the department from fiscal year 1987 to fiscal year 1988 to \$500,000. In fact, \$720,000 was carried over during that time.

Thus, retroactively capping the allowable carryover to \$500,000 would effectively reduce the available funds for the department's general administration budget by \$220,000.

It is my understanding that the Economic Development Appropriation Subcommittee chairpersons have been notified of this drafting error and approve of my action to item veto this restrictive carryover language.

For the above reasons, I hereby respectfully disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2309 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1274

**APPROPRIATIONS, FEES, AND DUTIES RELATING TO
STATE REGULATORY AGENCIES**

H.F. 2444

AN ACT relating to regulatory bodies of state government by making appropriations to agencies, boards, commissions, departments, and programs of state government including the auditor of state, campaign finance, employment services, labor services, industrial services, job services, inspections and appeals, commerce, professional licensing and regulation, insurance, alcoholic beverages, banking, credit union, savings and loan, and utilities, by mandating certain studies, policies, and other actions by certain regulatory bodies, by increasing certain fees, by allocating certain expenses between state agencies, and by exempting certain regulatory personnel from the merit pay system and providing certain effective dates.

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 office of the auditor of state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries and support for not more than ninety point five full-time equivalent positions, maintenance, and other operational purposes:

..... \$ 1,473,442

The auditor of state shall be reimbursed, out of the examined agency's appropriation, for performing examinations of the department of human services, the state department of transportation, the Iowa department of public health, the state board of regents, the department of agriculture and land stewardship, the department of economic development, the department of education, the department of employment services, the department of natural resources, and federal financial assistance, as defined in Pub. L. No. 98-502, received by all other departments.

The auditor of state shall audit an agency or department, which does not receive federal funding, every other year if in the judgment of the auditor of state, the agency or department would not be adversely affected by being audited less than annually. The auditor of state shall report to the legislative fiscal bureau and the department of management on or before September 1, 1988, which agencies and departments will be audited every other year instead of annually.

The auditor of state shall collect information on the costs, including time spent by employees of the auditor of state, associated with providing assistance to private certified public accounting firms, local governments, and other people in connection with audits of political subdivisions not conducted by the auditor of state. The auditor of state shall report the cost information to the legislative fiscal bureau and the department of management on or before September 1, 1988.

Sec. 2. There is appropriated from the general fund of the state to the campaign finance disclosure commission for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, for the purposes designated:

1. For salaries and support of not more than four full-time equivalent positions, maintenance and miscellaneous purposes:

..... \$ 178,599

2. For salaries and support of not more than zero point seventy-five full-time equivalent positions for an administrative intern:

..... \$ 8,100

Sec. 3. There is appropriated from the administrative surcharge trust fund to the department of employment services for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following amounts, or so much thereof as is necessary, for the purpose of rural job service office operations:

..... \$ 1,300,000

Sec. 4. There is appropriated from the general fund of the state to the department of employment services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF LABOR SERVICES

For salaries and support for not more than eighty-four point eighty-five full-time equivalent positions, maintenance and miscellaneous purposes:

..... \$ 1,867,668

2. DIVISION OF INDUSTRIAL SERVICES

For salaries and support for not more than thirty-six point ninety-five full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 1,427,071

The division shall add three full-time employees, from the funds appropriated, to expedite the administrative hearing process for workers' compensation cases, and to reduce case backlogs. The employees shall include one deputy industrial commissioner, and two clerical employees. The division shall begin charging a sixty-five dollar filing fee for workers' compensation cases. The filing fee shall be paid by the petitioner of a claim; however, the fee can be taxed as a cost, and therefore, paid by the losing party, except in cases where it would impose an undue hardship or be unjust in the circumstances. The division shall by rule implement the filing fee.

It is the intent of the general assembly that the position of job service commissioner not be filled and that the director of the department of employment services shall continue to act as the chief executive officer of the division of job service.

Sec. 5. The department of employment services, division of labor services, may, conditioned upon the adoption of a contractor registration requirement similar to that provided for by Senate File 2318, expend up to fifty thousand dollars, or so much thereof as is necessary, out of the funds collected under the contractor registration requirements, for the purposes of implementation and administration of the contractor registration program. This appropriation is exempt from the department of management's quarterly allocation recapture procedure.

Sec. 6. CONTINGENCY FUND USES — BUILDING AND EQUIPMENT EXPENSES, ECONOMIC DEVELOPMENT LABOR SURVEYS, DIVISION-APPROVED TRAINING.

1. Notwithstanding the provisions of section 96.13, subsection 3, which restrict the use of moneys in the special employment security contingency fund, moneys in the fund on June 30, 1988, shall not be transferred by the treasurer of state to either the temporary emergency surcharge fund or the unemployment compensation fund, but shall be available to the division of job service of the department of employment services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, for expenditures under subsection 2.

2. The division of job service shall expend moneys which are credited to the special employment security contingency fund during the fiscal year beginning July 1, 1988, and ending June 30, 1989, including moneys which are available to the division of job service under subsection 1, only in accordance with the following restrictions:

a. The division may expend up to fifty thousand (50,000) dollars from the fund for replacing the roof of the state administrative office building.

b. The division may expend up to four hundred fifty-two thousand five hundred (452,500) dollars from the fund for the support of the county, labor survey, economic development teams.

c. Any balance of moneys in the special employment security contingency fund shall be deposited by the treasurer of state in the division-approved training fund which is created as a special fund in the state treasury. Notwithstanding section 453.7, interest or earnings from moneys deposited in the division-approved training fund shall be credited to that fund. The division shall use moneys from the fund to pay only the instructional cost of training related to tuition and course fees, approved by the division pursuant to section 96.4 and 345 IAC, rules 4.39 and 4.40, for individuals who demonstrate to the division's satisfaction that they are financially incapable of paying the instructional cost of the approved training. However, the division may expend up to forty thousand (40,000) dollars from the fund for administrative costs relating to payments for division approved training.

Payments from the fund shall not be made to the individual receiving approved training but shall be made directly to the institution or person providing the approved training. Payments shall not exceed one thousand dollars per individual trainee in any two-year period. The division shall distribute information on the qualification requirements for and availability of payment for the division-approved training to individuals filing claims for benefits or receiving benefits under chapter 96.

Sec. 7. A rural job service operations study committee shall be established consisting of the following members:

1. One representative appointed by the speaker of the house.
2. One representative appointed by the house minority leader.
3. One senator appointed by the senate majority leader.
4. One senator appointed by the senate minority leader.

The legislative fiscal bureau shall provide staff assistance. The committee shall meet with the job service advisory council for the purpose of establishing criteria to be used for making changes in rural job service operations and service delivery.

Issues for consideration include, but are not limited to, the following:

- a. Evaluation of job service's administrative structure, including staffing, level of service, method of service, and organizational structure.
- b. Location of offices.
- c. Access to services and the types of services provided.
- d. Possible consolidation of similar services which are provided to similar clients.
- e. Feasibility and cost of providing certain job service functions through automation or telephone communications.

Sec. 8. There is appropriated from the administrative contribution surcharge fund of the state to the department of employment services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF JOB SERVICE

For salaries, support, maintenance, and miscellaneous purposes of rural and satellite job service offices in population centers of less than twenty thousand:

..... \$ 3,743,151

2. DIVISION OF JOB SERVICE

For deposit in the division-approved training fund:

..... \$ 1,149,209

As a condition of these appropriations, all job service offices which were open and operating on June 30, 1988, shall remain open and operating during fiscal year 1989. However, this provision shall not prevent the consolidation of multiple offices within the same city or the collocation of a job service office with another state office.

Sec. 9. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. GENERAL DEPARTMENT

For salaries and support for not more than two hundred twenty-seven point five full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 3,960,680

It is the intent of the general assembly that food and food service establishments receiving a score of ninety points or more in the last two inspections shall be subject to an annual inspection rather than semiannual inspections.

It is the intent of the general assembly that the department of inspections and appeals continue the demonstration waiver project through June 30, 1989, to encourage the development of residential care facilities, which serve persons with mental retardation, chronic mental illness, and other developmental disabilities, which have five or fewer residents for persons specified in section 225C.26. The project shall be exempt from section 135.63 through June 30, 1989. The demonstration waiver committee shall evaluate the project and make a recommendation whether to continue the project to the general assembly, on or before February 15, 1989.

2. DEPARTMENT OF INSPECTIONS AND APPEALS

For salaries and support for not more than one full-time equivalent position for a field auditor to audit bingo operations:

..... \$ 37,000

3. EMPLOYMENT APPEAL BOARD

For salaries and support for not more than one point eight full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 32,154

4. FOSTER CARE REVIEW BOARD

For salaries and support for not more than five full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 193,781

5. The department of inspections and appeals may charge state departments, agencies, and commissions for services rendered and the payment received shall be considered repayment receipts as defined in section 8.2, subsection 5.

6. It is the intent of the general assembly that the board of cosmetology examiners and the board of barber examiners, as appropriate, shall increase the original and renewal license fees to operate a beauty salon and the original and renewal of a barber shop license fee as follows:

- a. A beauty shop original license fee shall be increased to thirty dollars.
- b. A beauty shop renewal license fee shall be increased to thirty dollars.
- c. A barber shop original license fee shall be increased to thirty dollars.
- d. A barber shop renewal license fee shall be increased to thirty dollars.

The board of cosmetology examiners and the board of barber examiners shall by rule implement this fee schedule.

Sec. 10. There is appropriated from the road use tax fund to the department of inspections and appeals for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries and support for not more than eleven point five full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 364,857

It is the intent of the general assembly that the department of inspections and appeals cross train its employees to perform more than one form of inspection or work whenever possible.

Sec. 11. There is appropriated from the road use tax fund to the department of inspections and appeals for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following amount, or so much thereof as is necessary, for the purposes designated:

For salary adjustments:

..... \$ 24,124

Sec. 12. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries and support for not more than thirteen full-time equivalent positions, maintenance and miscellaneous purposes:

..... \$ 604,405

Sec. 13.

1. There is created in the office of the treasurer of state for the professional licensing and regulation division of the department of commerce, a professional licensing revolving fund.

2. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 1988, and ending June 30, 1989, one hundred thousand dollars for deposit in the professional licensing revolving fund.

3. The amount appropriated in subsection 2 from the general fund of the state is appropriated from the professional licensing revolving fund to the treasurer of state to be transferred to and deposited in the general fund of the state no later than June 30, 1989.

4. There is appropriated from the professional licensing revolving fund to the professional licensing and regulation division of the department of commerce, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary for the following purposes:

For salaries and support for not more than nine full-time equivalent positions, maintenance, and other operational purposes:

..... \$ 654,027

The professional licensing division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually.

5. It is the intent of the general assembly that the department of commerce shall transfer eighty percent of fee revenue from the professional licensing and regulation division to the professional licensing revolving fund. The department of commerce shall remit and deposit the remaining twenty percent of the professional licensing and regulation division fees to the general fund of the state.

Sec. 14. No later than January 15, 1989, the administrator of the division of professional licensing of the department of commerce shall prepare and submit a study to the general assembly evaluating the feasibility of adopting financial responsibility rules meeting the following criteria:

1. The rules shall require a member of a regulated profession to carry errors or omissions insurance to cover all regulated activities of the profession, or similar professional malpractice insurance.

2. The rules shall permit the administrator to contract with an insurance provider for a group policy for each or all professions regulated by the administrator. The contract shall be solicited by competitive, sealed bid.

3. A group policy obtained by the administrator to satisfy the mandate of subsection 1 shall be made available to all members of the regulated profession with no right on the part of the insurance provider to cancel coverage for any member.

4. A member of a profession shall have the option of obtaining insurance independently, provided that the coverage contained in an independently obtained policy complies with the minimum requirements adopted by rule of the administrator.

5. The administrator shall determine the terms and conditions of coverage for the annual policy at least thirty days prior to the annual policy renewal date. The study shall include proposed terms and conditions. A certificate of coverage, showing compliance with the required terms and conditions of coverage, must be filed with the administrator as a condition to license renewal by a member opting not to participate in the group insurance program contracted for by the administrator.

6. If the administrator is unable to obtain a group policy of errors and omissions insurance coverage at a reasonable premium to insure all members of a regulated profession who choose to participate in the group insurance program, the insurance or proof of financial responsibility requirement shall not be applicable to that profession during the applicable contract year.

The study shall include an evaluation of the availability of a group policy meeting the listed criteria, and an estimate of the premiums costs for a member of each regulated profession. The study shall describe the minimum requirements contemplated, including, but not limited to deductible amounts and minimum coverage limits. The study shall also describe the availability and cost of currently available insurance programs for each profession, both group and individual. The study shall contain a recommendation of the administrator whether to adopt professional financial responsibility rules for each regulated profession and whether to provide a group insurance policy program as described in this subsection.

Sec. 15. The Code editor shall change all references to the "real estate examining board" to read "real estate commission", to conform with amendments in this Act to section 117.8.

Sec. 16. There is appropriated from the administrative services trust fund to the administrative services division of the department of commerce for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the following purposes:

For salaries and support for not more than forty-four point five full-time equivalent positions, maintenance, and miscellaneous purposes:
..... \$ 1,377,154

Sec. 17. Notwithstanding section 123.53, there is appropriated from the beer and liquor control fund to the alcoholic beverages division of the department of commerce for the fiscal year beginning July 1, 1988, and ending June 30, 1989, four million four hundred ninety-five thousand seven hundred fifty-five (4,495,755) dollars, or so much thereof as is necessary, for salaries and support for not more than eighty-three point eighty-six full-time equivalent positions, maintenance and other operational purposes or additional funds as necessary for the orderly and efficient operation of the liquor system, subject to the approval of the department of management. The department of management shall notify the legislative fiscal committee

of the need for additional funds. Funds appropriated under this section shall not be used for lease-purchase of cash registers.

The alcoholic beverages division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures will be reconciled and any overpayment will be returned to each division or any underpayment will be paid by each division.

Sec. 18. The legislative fiscal bureau shall perform a joint study of the state of Iowa's wholesale liquor system. The purpose of the study is to examine the feasibility and policy issues of eliminating the current wholesale system. The study shall be submitted to the general assembly on or before January 10, 1989.

Sec. 19. 1986 Iowa Acts, chapter 1246, section 755, is hereby reenacted and remains effective to the extent that persons who were employed by the division of alcoholic beverages whose positions were terminated as a result of sections 724 through 761 of chapter 1246 of the 1986 Iowa Acts shall continue to be accorded the hiring preferences for other positions in state departments provided by section 755.

Sec. 20. There is appropriated from the banking revolving fund to the banking division of the department of commerce for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the following purposes:

For salaries and support for not more than one hundred eighteen point fifty full-time equivalent positions, maintenance and other operational purposes:

..... \$ 4,960,362

The banking division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures will be reconciled and any overpayment will be returned to each division or any underpayment will be paid by each division.

The banking division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for bank examinations and directly result from examinations of banks. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those banks being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 21. There is appropriated from the credit union revolving fund to the credit union division of the department of commerce for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the following purposes:

For salaries and support for not more than eighteen full-time equivalent positions, maintenance, and other operational purposes:

..... \$ 819,119

The credit union division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures will be reconciled and any overpayment will be returned to each division or any underpayment will be paid by each division.

The credit union division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for credit union examinations and directly result from examinations of credit unions. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those credit unions being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 22. There is appropriated from the savings and loan revolving fund to the savings and loan division of the department of commerce for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the following purposes:

For salaries and support for not more than six full-time equivalent positions, maintenance and other operational purposes:

..... \$ 287,060

The savings and loan division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures will be reconciled and any overpayment will be returned to each division or any underpayment will be paid by each division.

The savings and loan division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for savings and loan examinations and directly result from examinations of savings and loans. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management

shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those savings and loans being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 23. There is appropriated from the insurance revolving fund to the insurance division of the department of commerce for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the following purposes:

For salaries and support for not more than eighty-seven point thirty-three full-time equivalent positions, maintenance and other operational purposes:

..... \$ 3,547,300

It is the intent of the general assembly that the department of commerce shall transfer sixty percent, provided that the fee increases in section 22 are implemented otherwise the department shall transfer fifty-five percent, of insurance nonexamination revenues received for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the general fund of the state.

Of the funds appropriated, forty-five thousand (45,000) dollars, or so much thereof as necessary, shall be transferred to the office of the attorney general to reimburse the office of the attorney general for one assistant attorney general. It is the intent of the general assembly that an additional forty-five thousand (45,000) dollars of the funds appropriated to the division of insurance shall be expended for the computerization of continuing education files and other automation improvements.

The insurance division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures will be reconciled and any overpayment will be returned to each division or any underpayment will be paid by each division.

The insurance division may expend additional funds, including funds for additional personnel, 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 division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management the division 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 regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 24.

1. It is the intent of the general assembly that the division of insurance of the department of commerce amend the current insurance agent licensing fee and securities agent license fee to provide as follows:

- a. An insurance agent license fee shall be fifty dollars once every three years and ten dollars annually for continuing education.
 - b. A securities agent license fee shall be thirty dollars annually.
2. The division shall by rule implement this fee structure.

Sec. 25. There is appropriated from the utilities trust fund to the utilities division of the department of commerce for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the following purposes:

For salaries and support for not more than ninety-six point five full-time equivalent positions, maintenance and other operational purposes:

..... \$ 4,478,319

The utilities division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures will be reconciled and any overpayment will be returned to each division or any underpayment will be paid by each division.

Sec. 26. The racing commission shall submit the commission's fiscal year 1990 budget request in the same manner and level of detail as required by the department of management for state agencies receiving a general fund appropriation for their operations. The commission shall submit the detailed budget information to the department of management and the legislative fiscal bureau on or before October 1, 1988.

Sec. 27. Section 19A.3, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 21. A chief deputy industrial commissioner.

Sec. 28. Section 96.7, subsection 12, paragraph c, Code Supplement 1987, is amended to read as follows:

c. Moneys in the fund shall be used by the division only upon appropriation by the general assembly and only for personnel and nonpersonnel costs of rural and satellite job service offices in population centers of less than twenty thousand or for the division-approved training fund funded in section 8, subsection 2, of this Act. ~~After the end of a state fiscal year the treasurer of state shall promptly transfer all moneys in the fund which have not been appropriated or which have been appropriated but remain unencumbered or unobligated to the unemployment compensation fund.~~

Sec. 29. Section 96.11, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 14. ACCESS TO AVAILABLE JOBS LIST. The division of job service shall make available for consultation by the public, at each of the division's offices, a list of current job openings listed with the division, provided that the list shall comply with the confidentiality requirements of section 97.11,* subsection 7, or those mandated by the federal government.

Sec. 30. Section 99B.2, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The ~~division~~ department of inspections and appeals shall issue the licenses required by this chapter. A license shall not be issued, except upon submission to the ~~division~~ department of

*96.11 probably intended

an application on forms furnished by the ~~division~~ department, and the required license fee. A license may be issued to an eligible applicant. An authorization number to operate may be issued to an applicant until a license is issued. However, a license or authorization number 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. However, an organization which has been in existence for less than five years prior to the date of issuance of the license may obtain a two-year license if either of the following conditions apply:

Sec. 31. Section 99B.3, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. The person conducting the game has submitted a license application and a fee of ~~fifteen~~ fifty dollars for each game, and has been issued a license for the game, and prominently displays the license at the playing area of the game. A license is valid for a period of one year from the date of issue.

Sec. 32. Section 99B.6, subsection 1, paragraph a, Code Supplement 1987, is amended to read as follows:

a. The holder of the liquor control license or beer permit has submitted an application for a license and an application fee of one hundred fifty dollars, and has been issued a license, and prominently displays the license on the premises.

Sec. 33. Section 99B.7, subsection 3, paragraph a, Code Supplement 1987, is amended to read as follows:

3. a. A person wishing to conduct games and raffles pursuant to this section as a qualified organization shall submit an application and a license fee of one hundred fifty dollars. However, upon submission of an application accompanied by a license fee of fifteen dollars, a person may be issued a limited license which shall authorize the person to conduct all games and raffles pursuant to this section at a specified location and during a specified period of fourteen consecutive calendar days. A limited license shall not be issued more than once during any calendar year to the same person, or for the same location. For the purposes of this paragraph, a limited license is deemed to be issued on the first day of the fourteen-day period for which the license is issued.

Sec. 34. Section 99B.10, subsection 1, Code Supplement 1987, is amended to read as follows:

1. A prize of merchandise ~~exceeding five dollars in value~~ or cash shall not be awarded for use of the device. However, a mechanical or amusement device may be designed or adapted to award a ~~prize of~~ one or more free games or portions of games without payment of additional consideration by the participant.

Sec. 35. Section 116.3, subsection 3, unnumbered paragraph 2, Code 1987, is amended by striking the paragraph.

Sec. 36. Section 117.8, Code 1987, is amended to read as follows:

117.8 REAL ESTATE EXAMINING BOARD COMMISSION CREATED — STAFF.

A real estate ~~examining board~~ commission is created within the professional licensing and regulation division of the department of commerce. The ~~board~~ commission consists of three members licensed under this chapter and two members not licensed under this chapter and who shall represent the general public. At least one of the licensed members shall be a licensed

real estate salesperson, except that if the licensed real estate salesperson becomes a licensed real estate broker during a term of office, that person may complete the term, but is not eligible for reappointment on the board commission as a licensed real estate salesperson. A licensed member shall be actively engaged in the real estate business and shall have been so engaged for five years preceding the appointment, the last two of which shall have been in Iowa. Professional associations or societies of real estate brokers or real estate salespersons may recommend the names of potential board commission members to the governor. However, the governor is not bound by their recommendations. A board commission member shall not be required to be a member of any professional association or society composed of real estate brokers or salespersons. Board Commission members shall be appointed by the governor subject to confirmation by the senate. Appointments shall be for three-year terms and shall commence and end as provided in section 69.19. A member shall serve no more than three terms or nine years, whichever is less. No more than one member shall be appointed from a county. A board commission member shall not hold any other elective or appointive state or federal office. Vacancies shall be filled for the unexpired term by appointment of the governor and are subject to senate confirmation. A majority of the board commission members constitutes a quorum. The administrator of the professional licensing and regulation division shall hire and provide staff to assist the board commission with implementing this chapter.

Sec. 37. Section 118.16, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 14. "Interior designer" means a person using such designation in the performance of interior design services who has either passed the NCIDQ (National Council for Interior Design Qualification) prior to or subsequent to enactment of this Act, or who were qualified under established NCIDQ criteria to take the examination as of the date of enactment of this Act. An interior designer performing customary interior design services shall not be deemed to be engaged in the unlawful practice of architecture. Customary interior design services include nonstructural aspects of interior space as provided in section 118.18.

Sec. 38. Section 170.5, unnumbered paragraph 3, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 39. Section 170A.5, unnumbered paragraph 3, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 40. NEW SECTION. 258A.11 CONTINUING EDUCATION MINIMUM REQUIREMENTS.

The board of barber examiners and the board of cosmetology examiners, created pursuant to chapter 147, shall each require, as a condition of license renewal, a minimum of six hours of continuing education in the two years immediately prior to a licensee's license renewal.

Sec. 41. Section 546.10, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The professional licensing and regulation division of the department of commerce may expend additional funds, including funds for additional personnel, if those additional expenditures are directly the cause of actual examination expenses exceeding funds budgeted for examinations. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and the division does not have other funds from which the expenses can be paid. Upon approval of the director of the department of management, the division may expend and encumber funds for excess examination

expenses. The amounts necessary to fund the 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. 42. 1984 Iowa Acts, chapter 1279, section 44, is repealed.

Sec. 43. NEW SECTION. 237.23 AUTOMATIC REPEAL.

Sections 237.15 through 237.22, Code 1987, are repealed July 1, 1992.

Sec. 44. The department of human services, the foster care review board, and the supreme court shall submit a coordinated foster care plan to the legislature on or before January 15, 1989. The plan shall coordinate foster care services between the participants to avoid duplication, to improve delivery of services, and improve fact-finding, review, and appeal processes, both nonjudicial and judicial, to the extent possible. The plan should include specific proposals for legislative action necessary to implement the plan. The plan shall also include a critical review and summary of problems with the current system.

**Sec. 45. Section 714.23, unnumbered paragraph 1, Code 1987, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:*

A student enrolled in a proprietary school which offers a course of study of more than four months in length and leads to a degree, diploma, or license shall, upon terminating study in the course, be obligated to the school for costs not to exceed the following:

1. The total cost of all textbooks, tools, equipment, uniforms, and other course-related materials purchased and received by the student as of the date of termination.

2. Fees charged by the school, not to exceed one hundred fifty dollars.

3. The total tuition cost of the course multiplied by a factor whose numerator shall be the time the student was in attendance and whose denominator shall be the total length of the course. In determining the student's tuition obligation to the school, the following rules shall apply:

a. The student's starting date shall be the first day the student attends classes.

b. The student's termination date shall be the last day the student attends classes.

c. Time in attendance shall be the actual time the student was at the school; total length of the course shall be stated in identical units as time in attendance.

*All moneys collected by the proprietary school from or for the benefit of the student in excess of the total of subsections 1 through 3 shall, within thirty days of the student's termination date, be returned to the appropriate agency or person. For purposes of this chapter, unless the context otherwise requires, "proprietary school" means a person offering a course of instruction at the postsecondary level, for profit, that is more than four months in length and leads to a degree, diploma, or license.**

**Sec. 46. NEW SECTION. 714.24 PERFORMANCE BOND.*

A proprietary school shall, prior to enrollment of any students and thereafter annually on or before June 30 of each year, present evidence to the attorney general that the school has obtained a performance bond to be used to make refunds of moneys received by the school for the benefit of students in the event the school ceases business or is otherwise unable to perform as required by section 714.23.

*The amount of the performance bond shall be fifty thousand dollars for a school which has not operated in the state in the previous twelve months, and shall be fifty thousand dollars or twenty-five percent of the school's previous year's tuition receipts, whichever is less, for a school which has operated in the state in the previous calendar year.**

*Item veto; see message at end of the Act

Sec. 47. **NEW SECTION. 714.25 DISCLOSURE.**

A proprietary school located within the state shall, prior to the time a student is obligated for payment of any moneys, inform the student of all of the following:

1. The total cost of the course of instruction as charged by the school.
2. An estimate of any fees which may be charged the student by others which would be required if the student is to successfully complete the course and, if applicable, obtain a degree, diploma, or license.
3. The percentage of students who successfully complete the course, the percentage who terminate prior to completing the course, and the period of time upon which the school has based these percentages. The reporting period shall not be less than one year in length and shall not extend more than five years into the past.
4. If claims are made by the school as to successful placement of students in jobs upon completion of the course of study, the school shall provide the student with all of the following:
 - a. The percentage of graduating students who were placed in jobs in fields related to the course of instruction.
 - b. The percentage of graduating students who went on to further education immediately upon graduation.
 - c. The percentage of students who, ninety days after graduation, were without a job and had not gone on to further education.
 - d. The period of time upon which the reports required by paragraphs "a" through "c" were based. The reporting period shall not be less than one year in length and shall not extend more than five years into the past.
5. If claims are made by the school as to income levels of students who have graduated and are working in fields related to the school's course of instruction, the school shall inform the student of the method used to derive such information.

Sec. 48. 1986 Iowa Acts, chapter 1245, section 763, is repealed.

Sec. 49. Section 114.23, Code 1987, is repealed.

Sec. 50. Sections 3 and 11 of this Act, being deemed of immediate importance, are effective upon enactment.

Sec. 51. Section 43 of this Act is effective June 30, 1988.

Sec. 52. 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.

Approved April 13, 1988, except the items which I hereby disapprove and which are designated as section 45 and section 46. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Speaker of the House of Representatives this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Speaker:

I hereby transmit House File 2444, an Act relating to regulatory bodies of state government by making appropriations to agencies, boards, commissions, departments, and programs of state government including the auditor of state, campaign finance, employment services, labor services, industrial services, job services, inspections and appeals, commerce, professional licensing and regulation, insurance, alcoholic beverages, banking, credit union, savings and loan, and utilities, by mandating certain studies, policies, and other actions by certain regulatory bodies, by increasing certain fees, by allocating certain expenses between state agencies, and by exempting certain regulatory personnel from the merit pay system and providing certain effective dates.

House File 2444 is approved with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 45 of House File 2444.

Section 45 of House File 2444 puts in place an excessively strict tuition refund provision for proprietary schools. The proportionate tuition refund provision in this bill is far more extreme than the tuition refund policies utilized by the Regents and the community colleges. For example, if a student drops a course four weeks into the semester at a Regent institution or five weeks into a course at an area school, the student forfeits any possibility for a refund of their tuition. Under Section 45 of House File 2444, if a student drops out after four weeks in a course at a proprietary college, 80 percent of all tuition paid would have to be refunded.

It is clear that proprietary schools do have longer course years than the Regent institutions. However, a strict proportionate refund provision ignores the fact that these schools have significant fixed costs. Commitments must be made to teachers and associated supplies and services once the course begins. Allowing a student to drop out at any time during the length of that course and receive a proportionate reduction in their tuition ignores the need for schools to cover these necessary fixed costs. Indeed, applying this strict tuition refund method could cause many cosmetology schools to go out of business.

In short, the proportionate tuition refund provision of Section 45 is excessive when compared with similar policies put in place at public postsecondary and educational institutions and could be an economic backbreaker for many of these institutions. I encourage the General Assembly to work to develop an appropriate tuition refund provision which will provide appropriate protection to students while recognizing the necessary fixed costs at these institutions.

I am unable to approve the item designated as Section 46 of House File 2444.

This item requires each proprietary school to obtain a performance bond of \$50,000 in order to operate in the state of Iowa. I understand that this performance bond provision was in response to a recent closing of a beauty college in Des Moines. However, the level of bonding authorized — \$50,000 — is not sufficient to provide significant long-term protection for students and would increase the cost these students would have to pay in order to attend these institutions. If proprietary school closings become a major concern, I would suggest that the cosmetology school association consider some kind of umbrella policy to protect students at all the institutions. Requiring individual bonding for each institution is an unnecessary burden and an excessive cost for students in our state.

My office has been in close communication with key legislators who have worked on this issue. They have indicated support for my action to item veto these sections of House File 2444 and that they have worked out a compromise with all the appropriate parties to provide appropriate protections for students and to allow proprietary institutions to stay in business. I encourage

the General Assembly to take swift action yet this General Assembly to adopt that compromise, which is supported by bipartisan leadership.

For the above reasons, I hereby respectfully 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 2444 are hereby approved as of this date.

Sincerely,

TERRY E. BRANSTAD, *Governor*

CHAPTER 1275**APPROPRIATIONS AND FEES FOR STATE AND LOCAL GOVERNMENT***S.F. 2311*

AN ACT relating to and making appropriations to various state agencies including the elected officials, the executive council, the department of general services, the department of personnel, the department of revenue and finance, the office of state-federal relations, and the department of management appropriating certain membership fees, increasing fees collected by filing officers, transferring moneys in the Iowa economic emergency fund to the general fund of the state, and appropriating moneys to the county assistance fund, the municipal assistance fund, and the moneys and credits replacement fund.

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 office of the secretary of state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries and support for not more than forty-six full-time equivalent positions, maintenance, and other operational purposes:

	\$	1,450,437
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2. For editing and printing the Iowa official register:

	\$	72,470
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Sec. 2. There is appropriated from the general fund of the state to the office of the governor for the fiscal year commencing July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries and support for not more than fifteen full-time equivalent positions, maintenance, and miscellaneous purposes of the general office of the governor:

	\$	728,028
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2. For the governor's expenses connected with office:

	\$	5,434
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3. For salaries and support for not more than three full-time equivalent positions, and miscellaneous purposes of the governor's quarters at Terrace Hill:

	\$	82,676
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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 and as a condition, limitation, and qualification of this appropriation, the ad hoc committees, councils, and task forces appointed by the governor shall be subject to the provisions of chapters 21 and 22 and the members shall be so informed:

	\$	8,009
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5. For salaries and support for not more than two full-time equivalent positions, maintenance, and miscellaneous purposes of the office of administrative rules coordinator:

	\$	86,898
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6. For payment of Iowa's membership in the national governors' conference:

	\$	68,980
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Sec. 3. There is appropriated from the general fund of the state to the office of the lieutenant governor for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries and support for not more than two point five full-time equivalent positions, 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:

..... \$ 124,664

Sec. 4. There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries and support for not more than twenty-six full-time equivalent positions, maintenance, and other operational purposes:

..... \$ 632,543

Sec. 5. There is appropriated from the general fund of the state to the executive council for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries and support for not more than one point twelve full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 38,379

Sec. 6. There is appropriated from the general fund of the state to the following named agencies for the fiscal year commencing July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment:

..... \$ 64,701

2. COMMISSION ON UNIFORM STATE LAWS

For support of the commission and expenses of the members:

..... \$ 12,100

3. PIONEER LAWMAKERS

For expenses of the biennial meeting:

..... \$ 700

Sec. 7. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, for general operations the sum of five million two hundred forty-six thousand four hundred ninety-seven (5,246,497) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, no more than five million one hundred thirty-six thousand two hundred one (5,136,201) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43 may be expended for salaries and benefits for not more than two hundred twenty point ten full-time equivalent positions and not more than five hundred sixty-one thousand six hundred twenty-four (561,624) dollars from all revenue sources may be expended for support and miscellaneous purposes. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

Savings achieved in providing telecommunications services shall be used by the department of general services to increase efficiencies in the provision of those services, however, if the revenue estimate for the fiscal year beginning July 1, 1988, approved by the revenue estimating conference as of December 15, 1988, is less than two billion seven hundred forty million seven hundred thousand (2,740,700,000) dollars the department shall transfer three hundred fifty thousand (350,000) dollars, or so much thereof as is necessary, of those savings to the general fund of the state on June 30, 1989.

Sec. 8. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, for the division of information services the sum of five million four hundred four thousand four hundred seventy (5,404,470) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, no more than four million seven hundred sixty-seven thousand seven hundred twenty-eight (4,767,728) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43 may be expended for salaries and benefits for not more than one hundred fifty-eight full-time equivalent positions and not more than three million four hundred seventy-six thousand three hundred thirty (3,476,330) dollars from all revenue sources may be expended for support and miscellaneous purposes. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

Sec. 9. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:
 \$ 1,542

2. UTILITY COSTS

For payment of utility costs:
 \$ 1,667,302

The department of general services may use funds appropriated in this subsection for utility costs to fund energy conservation projects in the state capitol complex which will have a one hundred percent payback within a twelve-month period.

3. 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:

..... \$ 655,431

Sec. 10. There is appropriated from the revolving funds designated to the department of general services for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

DEPARTMENT OF GENERAL SERVICES – REVOLVING FUNDS

1. From the centralized printing permanent revolving fund established by section 18.57 for salaries and support for not more than twenty-nine full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 751,500

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, 1988, which are legally payable from this fund.

3. From the centralized purchasing permanent revolving fund established by section 18.9 for salaries and support for not more than fifteen full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 492,886

4. The remainder of the centralized purchasing permanent 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, 1988, and ending June 30, 1989, which are legally payable from this fund.

5. From the vehicle dispatcher revolving fund established by section 18.119 for salaries and support for not more than fifteen full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 442,028

6. The remainder of the vehicle dispatcher revolving fund is appropriated for the purchase of gasoline, gasohol, 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, 1988, which are legally payable from this fund.

Sec. 11. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1988, and ending June 30, 1989, for operations the sum of three million three hundred eighty-six thousand six hundred fifty-four (3,386,654) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, no more than three million forty-seven thousand nine hundred eighty-eight (3,047,988) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43 may be expended for salaries and benefits for not more than ninety-nine point twenty-five full-time equivalent positions and not more than three hundred thirty-eight thousand six hundred sixty-six (338,666) dollars from all revenue sources may be expended for support and miscellaneous purposes. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

Sec. 12. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of fifty thousand (50,000) dollars, or so much thereof as is necessary, for the transfer of eight full-time equivalent positions from the department of human services to the department of personnel to accomplish state government reorganization for the purpose of fulfilling federal billing and reimbursement requirements.

Sec. 13. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries and support for not more than two point five full-time equivalent positions, maintenance, and other operational purposes to pay the costs of administration of federal old age benefit and Iowa old age survivors insurance programs:

..... \$ 102,517

Sec. 14. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the following purposes designated:

For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system:

..... \$ 2,306,059

It is the intent of the general assembly that the Iowa public employees' retirement system employ sufficient staff within the appropriation provided in this section to meet the developing requirements of the investment program.

Sec. 15. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as may be necessary, to be used for the funding of the following programs for the purposes designated:

For salaries and support for not more than six hundred twelve point twenty-seven full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 18,130,891

Of the funds appropriated by this section, it is the intent of the general assembly that the department of revenue and finance shall expend one hundred seventy-six thousand eight hundred three (176,803) dollars to employ additional auditors for tax auditing and collection purposes.

Notwithstanding any other provisions, not more than one million (1,000,000) dollars of the funds received in payment of taxes to the state of Iowa from audits conducted by the department of revenue and finance shall be transferred to the general fund of the state but shall be placed in a special account within the department of revenue and finance and may be used by the director of the department to hire or retain not more than thirty-three full-time equivalent positions to conduct audits and investigations and initiate tax collection proceedings and enforcements, provided the director of the department determines that the effect of the use of the funds for this purpose will result in collecting an additional two dollars in tax collections for every dollar expended in fiscal year 1989, and result in at least three dollars collected for every dollar expended over a longer time period. The director shall report at least quarterly to the fiscal committee of the legislative council when the general assembly is not in session and to the general assembly when the general assembly is in session, on the personnel and support services provided, the funds expended, the tax obligations established, and the taxes collected under the provisions of this paragraph.

The department shall review the net fiscal impact of joining the multistate tax commission, including convening a meeting with officials from the multistate tax commission, the department, and the fiscal committee of the legislative council prior to October 1, 1988.

Sec. 16. There is appropriated from the motor vehicle fuel tax fund to the department of revenue and finance for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, 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:

..... \$ 1,032,836

The department shall continue to report quarterly to the legislative fiscal bureau the estimates of additional revenue collected as a result of any increase in auditing and enforcement provided under this appropriation.

Sec. 17. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For salaries and support for not more than one hundred forty-six point thirty-five full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 7,424,465

Sec. 18. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of one million four hundred eighty-five thousand eight hundred fifty-one (1,485,851) dollars, or so much thereof as is necessary, and as a condition, limitation, or qualification of this appropriation, no more than one million three hundred thirty-five thousand seven hundred fifty (1,335,750) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43 may be expended for salaries and benefits for not more than thirty-three full-time equivalent positions and not more than two hundred six thousand five hundred one (206,501)

dollars from all revenue sources may be expended for support and miscellaneous purposes. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

Sec. 19. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the following purpose:

COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment:

..... \$ 55,900

Sec. 20. There is appropriated from the general fund of the state to the office of state-federal relations for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the following purposes designated:

For salaries and support for not more than three full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 186,522

Sec. 21. 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, 1988, and ending June 30, 1989, the sum of one million four hundred seventy-five thousand (1,475,000) dollars, or so much thereof as may be necessary, to be used for payments to counties as provided in section 422.100. Notwithstanding section 422.100, all of the funds allocated to the counties from the moneys and credits replacement fund during the fiscal year beginning July 1, 1988, and ending June 30, 1989, shall be allocated to cities as required by law by the county treasurer.

If the governor's proposed standing limited property tax replacement program is adopted by the Seventy-second General Assembly, 1988 Session, and becomes law, this section is void.

Sec. 22. 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, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for state assistance to municipalities, with distribution in accordance with section 405.1:

..... \$ 14,500,000

If the governor's proposed standing limited property tax replacement program is adopted by the Seventy-second General Assembly, 1988 Session, and becomes law, this section is void.

Sec. 23. There is appropriated from the general fund of the state to the county assistance fund established in section 334A.1 for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for state assistance to counties, with distribution in accordance with section 334A.2:

..... \$ 5,400,000

If the governor's proposed standing limited property tax replacement program is adopted by the Seventy-second General Assembly, 1988 Session, and becomes law, this section is void.

Sec. 24. There is appropriated from the centralized printing permanent revolving fund to the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of forty-seven thousand (47,000) dollars.

Sec. 25. There is appropriated from the centralized purchasing permanent revolving fund to the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of fifty-three thousand (53,000) dollars.

Sec. 26. Notwithstanding section 8.55, the moneys in the Iowa economic emergency fund are transferred to the general fund of the state if necessary to avoid a deficit in the general fund of the state and to defray expenses at the conclusion of the fiscal year beginning July 1, 1988, and ending June 30, 1989.

Sec. 27. For purposes of this Act and any other appropriations statute enacted by the Seventy-second General Assembly, 1988 Session, "full-time equivalent position" means a budgeting and monitoring unit that equates the aggregate of full-time positions, part-time positions, a vacancy and turnover factor, and other adjustments. One full-time equivalent position represents two thousand eighty working hours, which is the regular number of hours one full-time person works in one fiscal year. The number of full-time equivalent positions shall be calculated by totaling the regular number of hours that could be annually worked by persons in all authorized positions, reducing those hours by a vacancy and turnover factor and dividing that amount by two thousand and eighty hours. In order to achieve the full-time equivalent position level, the number of filled positions may exceed the number of full-time equivalent positions during parts of the fiscal year to compensate for time periods when the number of filled positions is below the authorized number of full-time equivalent positions.

Sec. 28. Section 18.75, Code 1987, is amended by inserting the following new subsection after subsection 7 and renumbering the subsequent subsection:

NEW SUBSECTION. 8. By September 1 of each year supply a report which contains the name, gender, county or city of residence when possible, official title, salary received during the previous fiscal year, base salary as computed on July 1 of the current fiscal year, and traveling and subsistence expense of the personnel of each of the departments, boards, and commissions of the state government except personnel who receive an annual salary of less than one thousand dollars. The number of the personnel and the total amount received by them shall be shown for each department in the report. All employees who have drawn salaries, fees, or expense allowances from more than one department or subdivision shall be listed separately under the proper departmental heading. On the request of the superintendent, the head of each department, board, or commission shall furnish the data covering that agency. The report shall be paid for out of moneys in the general fund not otherwise appropriated. A report shall be distributed upon request without charge to each member of the general assembly and the state law library. Other persons may purchase a copy for a fee not less than the amount required to print the copy. All funds from the sale of the report shall be deposited in the general fund.

Sec. 29. Section 2.10, subsection 7, Code Supplement 1987, is amended to read as follows:

7. If a special session of the general assembly is convened, members of the general assembly shall receive, in addition to their annual salaries, the sum of forty dollars per day for each day the general assembly is actually in special session, and the same travel allowances and expenses as authorized by this section. A member of the general assembly shall receive the additional per diem, travel allowances and expenses only for the days of attendance during a special session.

Sec. 30. Section 19.29, Code 1987, is amended to read as follows:

19.29 PERFORMANCE OF DUTY — EXPENSE.

The executive council shall not employ others, or incur any expense, for the purpose of performing any duty imposed upon ~~such~~ the council when ~~such~~ the duty may, without neglect of their usual duties, be performed by the members, or by their regular employees, but, subject to ~~such~~ this limitation, the council may incur the necessary expense to perform or cause to be performed any legal duty imposed on ~~said~~ the council, and pay the same out of any money in the state treasury not otherwise appropriated. The council shall consider the original sources of funds prior to committing general fund moneys in performing its duties under this section.

Sec. 31. Section 19A.12, subsection 2, Code 1987, is amended to read as follows:

2. An Iowa management training revolving fund is created in the state treasury. The moneys credited to the fund shall be used for the purpose of paying actual and necessary expenses incurred by the department in administering the Iowa management training system. All fees, grants, or specific appropriations for this purpose shall be credited to the fund. The fees for the Iowa management training system courses shall be set by the director to cover the cost of administration, course development, training materials and equipment, and professional instructors. The fees shall be paid to the department by the state agency sending the employees for training and the payment shall be credited to the Iowa management training revolving fund. Section 8.33 does not apply to the unobligated or unencumbered balance in this fund. Notwithstanding section 8.33, the department shall not revert any unencumbered or unobligated balance in the fund, except amounts in excess of fifty thousand dollars, beginning on June 30, 1988.

Sec. 32. Section 77.4, subsection 5, Code 1987, is amended to read as follows:

5. Remit the sum of fifteen thirty dollars to the secretary of state.

Sec. 33. Section 331.609, subsection 7, Code 1987, is amended to read as follows:

7. Upon request of a person, the filing officer shall issue a certificate showing whether there is on file, on the date and hour stated, a notice of federal tax lien or certificate or notice affecting the lien, filed on or after July 1, 1970, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is five six dollars. Upon request the filing officer shall furnish a copy of any notice of federal tax lien or notice or certificate affecting a federal tax lien for a fee of five dollars per page.

Sec. 34. Section 496A.126, Code 1987, is amended to read as follows:

496A.126 ANNUAL LICENSE FEES PAYABLE BY DOMESTIC CORPORATIONS.

At the time of filing its annual report, each domestic corporation shall pay to the secretary of state an annual license fee for the calendar year, which shall be due on January 1, payable March 31, to be based on its stated capital, as follows:

		STATED CAPITAL		FEE	
Over	Not over	\$	20,000	\$	15
					<u>20</u>
\$	20,000	but not over	40,000		<u>20</u>
					<u>25</u>
	40,000	but not over	60,000		<u>25</u>
					<u>30</u>
	60,000	but not over	80,000		<u>30</u>
					<u>35</u>
	80,000	but not over	100,000		<u>35</u>
					<u>40</u>
	100,000	but not over	150,000		<u>40</u>
					<u>45</u>
	150,000	but not over	200,000		<u>45</u>
					<u>50</u>
	200,000	but not over	250,000		<u>50</u>
					<u>55</u>
	250,000	but not over	300,000		<u>55</u>
					<u>60</u>

300,000	but not over	350,000	<u>60</u>
			65
350,000	but not over	400,000	<u>65</u>
			70
400,000	but not over	500,000	<u>70</u>
			75
500,000	but not over	600,000	<u>80</u>
			85
600,000	but not over	700,000	<u>90</u>
			95
700,000	but not over	800,000	<u>100</u>
			105
800,000	but not over	900,000	<u>110</u>
			115
900,000	but not over	1,000,000	<u>120</u>
			125
1,000,000	but not over	2,500,000	<u>185</u>
			190
2,500,000	but not over	5,000,000	<u>260</u>
			265
5,000,000	but not over	10,000,000	<u>360</u>
			365
10,000,000	but not over	50,000,000	<u>810</u>
			815
50,000,000	but not over	100,000,000	<u>1,210</u>
			1,215
100,000,000	but not over	200,000,000	<u>1,610</u>
			1,615
200,000,000	but not over	300,000,000	<u>2,010</u>
			2,015
300,000,000	but not over	500,000,000	<u>2,510</u>
			2,515
500,000,000			<u>3,010</u>
			3,015

Provided, that a domestic corporation having no stated capital, or a foreign corporation having no stated capital or no property in Iowa, shall pay an annual license fee of ~~fifteen~~ twenty dollars.

Sec. 35. Section 496A.127, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The minimum annual license fee shall be ~~fifteen~~ twenty dollars.

Sec. 36. Section 554.9403, subsection 5, Code 1987, is amended to read as follows:

5. The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing shall be as follows:

a. ~~Four~~ Five dollars for an original financing statement if the statement is in the standard form prescribed by the secretary of state, and otherwise ~~five~~ six dollars.

b. ~~Four~~ Five dollars for a continuation statement if the statement is in the standard form prescribed by the secretary of state, and otherwise ~~five~~ six dollars.

Sec. 37. Section 554.9405, subsections 1 and 2, Code 1987, are amended to read as follows:

1. A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in section 554.9403, subsection 4. The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment on a form conforming to standards prescribed by the secretary of state shall be ~~four~~ five dollars, or if such statement otherwise conforms to the requirements of this section, ~~five~~ six dollars.

2. A secured party may assign of record all or a part of the rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. The filing officer shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to section 554.9103, subsection 5, the filing officer shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, the filing officer shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment on a form conforming to standards prescribed by the secretary of state shall be ~~four~~ five dollars, or if such statement otherwise conforms to the requirements of this section, ~~five~~ six dollars. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (section 554.9402, subsection 6), may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this chapter.

For financing statements covering fixture filings, changes in the filings, and termination of the filings, an additional fee shall be charged for recording in an amount specified in section 331.604.

Sec. 38. Section 554.9406, Code 1987, is amended to read as follows:

554.9406 RELEASE OF COLLATERAL — DUTIES OF FILING OFFICER — FEES.

A secured party of record may by a signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with section 554.9405, subsection 2, including payment of the required fee. Upon presentation of such a statement of release the filing officer shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release on a form conforming to standards prescribed by the secretary of state shall be ~~four~~ five dollars, or if such statement otherwise conforms to the requirements of this section, ~~five~~ six dollars.

Sec. 39. Section 554.9407, subsections 2 and 3, Code 1987, are amended to read as follows:

2. Upon a verbal request of a person, the filing officer shall verbally give information concerning a presently effective financing statement. The uniform fee for responding to a verbal request is ~~four~~ five dollars. The requesting party may request a certificate from the filing officer confirming the information given. The uniform fee for a certificate is one dollar.

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 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~~ five dollars if the request for the certificate is on a form conforming to standards prescribed by the secretary of state; otherwise, five six 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.

Sec. 40. Section 570A.4, subsection 4, Code 1987, is amended to read as follows:

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~~ five dollar filing fee if the statement is the standard form prescribed by the secretary of state, and otherwise a fee of five six dollars.

Sec. 41. 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.

Approved April 13, 1988

CHAPTER 1276

HUMAN SERVICES APPROPRIATIONS, LIMITATIONS, AND POWERS

H.F. 2447

AN ACT relating to human services, and making appropriations to the department of human services for the fiscal years beginning July 1, 1987, and July 1, 1988, and providing effective dates.

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

Section 1. **AID TO FAMILIES WITH DEPENDENT CHILDREN.** There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used:

1. For aid to families with dependent children:

..... \$ 48,328,449

2. As a condition of this appropriation, the department shall continue to operate the pilot grant diversion program which qualifies for federal financial participation according to federal law for the aid to families with dependent children program. The grant diversion program shall be operated from July 1, 1988, through June 30, 1989, as a component of the work incentive demonstration program in the Des Moines district. Employers who provide jobs shall

receive financial compensation in return for training provided. Aid to families with dependent children savings which result from the participant's employment shall be used to compensate an employer.

3. As a condition of this appropriation, the department shall continue to contract for services in developing and monitoring a waiver program with a consortium of other states to facilitate assistance to aid to dependent children families in self-employment. From the funds provided in this section, one hundred twenty-five thousand (125,000) dollars, or so much thereof as is necessary, shall be used to provide technical assistance for aid to dependent children families seeking self-employment. The technical assistance shall be provided either directly or through a contract with the division of job training of the department of economic development and through a contract with the corporation for enterprise development.

4. As a condition of this appropriation, the department shall work with the legislative fiscal bureau and the department of management to establish goals and objectives for each new program which commenced on or after July 1, 1987, or thereafter. The goals and objectives shall be submitted to the fiscal committee of the legislative council on or before August 15, 1988.

5. As a condition, qualification, and limitation of the appropriation made by this section, there is appropriated from the general fund of the state one million one hundred seventy-five thousand seven hundred (1,175,700) dollars to the department for transfer to the appropriate state agency to be used for the child development grants under Senate File 2192 if Senate File 2192 is enacted by the Seventy-second General Assembly, 1988 Session. Grants shall be awarded on a two-year basis, subject to renewal, and the funds appropriated in this subsection shall be for support for the first twelve-month period the grant is in effect. Grants shall be awarded not later than January 1, 1989. **Notwithstanding section 8.33, unexpended or unencumbered funds shall not revert to the general fund, but shall be available for the purposes set forth in this subsection.**

6. As a condition, qualification, and limitation of the appropriation made by this section, there is appropriated from the general fund of the state six hundred ninety thousand (690,000) dollars to be used for the family development and self-sufficiency grant program under Senate File 2225 if Senate File 2225 is enacted by the Seventy-second General Assembly, 1988 Session. A grant shall be awarded on a three-year basis, subject to annual renewal, and the funds appropriated under this subsection shall be for support for the first twelve-month period the grant is in effect. All grants shall be awarded not later than January 1, 1989. Not more than five percent of the appropriation shall be used for administration of the program. **Notwithstanding section 8.33, unexpended or unencumbered funds shall not revert to the general fund, but shall be available for the purposes set forth in this subsection.**

7. As a condition, qualification, and limitation of the appropriation made by this section, the schedule of basic needs under the aid to families with dependent children program is established for one person at one hundred sixty-nine dollars, for two persons at three hundred thirty-three dollars, for three persons at three hundred ninety-four dollars, for four persons at four hundred fifty-eight dollars, for five persons at five hundred seven dollars, for six persons at five hundred sixty-four dollars, for seven persons at six hundred nineteen dollars, for eight persons at six hundred seventy-six dollars, for nine persons at seven hundred thirty-one dollars, for ten persons at seven hundred ninety-nine dollars, and for each additional person at eighty dollars.

*Item veto; see message at end of the Act

Sec. 2. WORK AND TRAINING PROGRAMS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For work incentive program:

..... \$ 1,202,794

It is the intent of the general assembly that the department operate the work incentive demonstration program as it operated in the fiscal year beginning July 1, 1986, unless a replacement program is mandated by federal law.

2. For food stamp employment and training program:

..... \$ 246,550

Sec. 3. MEDICAL ASSISTANCE. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for medical assistance, on the condition that effective July 1, 1988, the basis for establishing the maximum medical assistance rate for intermediate care facilities shall be the sixty-fourth percentile of all facility per diem rates as calculated from the June 30, 1988, unaudited compilation of cost and statistical data, on the condition that effective January 1, 1989, the basis for establishing and maintaining the maximum medical assistance rate for intermediate care facilities shall be the seventy-fourth percentile of all facility per diems as calculated from the June 30, 1988, unaudited compilation of cost and statistical data and that the minimum number of hours of care per resident of an intermediate care facility shall be two hours per resident per day computed on a seven-day week, and on the condition that the provider rates specified in section 33 of this Act are enacted into law, including reimbursement for abortion services, which shall be available under the medical assistance program only for those abortions which are medically necessary:

1. 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:

..... \$ 163,290,645

2. Of the funds appropriated in this section, not more than two hundred thousand (200,000) dollars may be transferred to the Iowa department of public health for contingency state assistance for the federal program for women, infants, and children in order to allow the Iowa department of public health to fully use available funds under this program.

3. As a condition, qualification, and limitation of the funds appropriated under this section, the department may implement mandatory enrollment of eligible clients into licensed health maintenance organizations where appropriate and consistent with federal guidelines. **However, clients shall continue to be eligible to use the family planning services and mental health services provided through community mental health centers without obtaining referral from the*

*Item veto; see message at end of the Act

*health maintenance organization and effective January 1, 1989, the cost of the services shall be billed directly to the medical assistance program.** Clients shall not be required to enroll in a health maintenance organization if the health maintenance organization does not provide service that is easily accessible **with no more than a minimal transportation expense** to the client. The department shall track any savings realized by the use of the health maintenance organizations and shall annually submit to the legislative fiscal bureau the results of the client satisfaction survey required by the federal health care financing administration. The department shall report at the start of each calendar quarter, beginning on January 1, 1989, to the legislative fiscal bureau regarding cost savings.

4. As a condition, qualification, and limitation of the funds appropriated under this section, the copayment policy relating to mandatory services shall not require copayment by a recipient on a service or an item where copayment was not required by rules in effect on January 1, 1988.

5. As a condition, qualification, and limitation of the funds appropriated under this section, effective October 1, 1988, the department shall extend medical assistance benefits for a maximum of twelve months to those persons who lose assistance through the aid to dependent children program as the result of income obtained from employment. The department shall extend medical assistance benefits for an additional six months, up to a maximum of fifteen months, to those persons who lose assistance under the aid to dependent children program because the earned income disregards are no longer applicable and who would continue to be eligible for aid to dependent children if the disregards were still applicable.

6. As a condition, qualification, and limitation of the funds appropriated under this section, payments made to hospitals shall include inpatient and outpatient services. The department shall establish by rule criteria that a hospital provider shall meet in order to receive reimbursement for routine outpatient services and for clinical program services provided on an outpatient basis. Hospital outpatient program services reimbursed under the medical assistance program shall include, but are not limited to, alcoholism and substance abuse, mental health, eating disorders, cardiac rehabilitation, pulmonary rehabilitation, pain management, and outpatient diabetes education. Outpatient diabetes education programs shall be certified by the Iowa department of public health. All other outpatient programs shall meet requirements established by the department. Other clinical outpatient programs may be reimbursed under the medical assistance program upon a determination by the department that such programs are effective in meeting the health care needs of recipients and in avoiding more costly inpatient medical care and that criteria can be developed for those programs to govern admissions to and utilization of those program services consistent with the health care needs of the patient and the fiscal needs of the medical assistance program.

**7. As a condition, qualification, and limitation of the funds appropriated under this section, beginning July 1, 1988, the department of inspections and appeals shall issue provisional licenses to specialized psychiatric hospitals for children and adolescents for those facilities which are providing residential psychiatric services to children and adolescents, which are accredited by the joint commission on the accreditation of hospitals, and which are in compliance with all applicable state rules and standards regarding the operation of comprehensive residential facilities for children. Each applicant shall submit a copy of the applicant's accreditation and a statement of approval from the state fire marshal to the department of inspections and appeals. Such facilities are not required to apply for or receive a certificate of need pursuant to section 135.63. Notwithstanding the provisions of section 237.1, subsection 3, paragraph "e", care furnished by these facilities shall continue to be considered foster care.*

*Item veto; see message at end of the Act

The department of inspections and appeals, with the approval of the state board of health, shall adopt permanent standards for the licensure of specialized psychiatric hospitals for children and adolescents under chapter 135B. The rules shall take effect no later than July 1, 1989. Specialized psychiatric hospitals for children and adolescents licensed prior to July 1, 1989, are not required to apply for or receive a certificate of need pursuant to section 135.63.

*The department of human services shall adopt rules to expand coverage under the medical assistance program to include services provided by specialized psychiatric hospitals for children and adolescents which are licensed by the department of inspections and appeals. The rules shall take effect no later than July 1, 1988, contingent upon the facilities meeting the federal requirements for a hospital as outlined in 42 C.F.R., subpart D. Initially, the rules shall provide that the medical assistance reimbursement rate for such specialized hospitals shall be one hundred twenty dollars per day or actual audited costs, whichever is less. The department shall develop a permanent reimbursement methodology for such specialized hospitals to be effective on or before July 1, 1989. Notwithstanding any other provisions of this Act, the department may transfer funds from the foster care appropriation to the medical assistance appropriation if necessary for the purposes of this subsection.**

8. As a condition, qualification, and limitation of the funds appropriated under this section, the department and the Iowa department of public health shall proceed with implementation of enhanced services and targeted case management for pregnant women as recommended in the report entitled "case management and enhanced services for Medicaid eligible pregnant women".

9. As a condition, qualification, and limitation of the funds appropriated under this section, effective January 1, 1989, the department shall extend coverage to include caretaker relatives under the medically needy program. The department shall increase resource limitations under the medically needy program to five thousand dollars for a one-person household and seven thousand five hundred dollars for a family of two or more persons.

10. As a condition, qualification, and limitation of the funds appropriated under this section, no later than January 1, 1989, the department shall modify the diagnosis related group payment system for adolescents treated in Title XIX-certified adolescent substance abuse and adolescent psychiatric treatment units to reflect the treatment needs of Title XIX-eligible adolescents.

11. As a condition, qualification, and limitation of this appropriation, the department*, *with the approval of the legislative council,** may expend not more than twenty thousand (20,000) dollars to obtain technical assistance from the national center for health services research in identifying and examining state approaches for providing health care services to uninsured and underinsured persons in the low-income population.

12. As a condition, qualification, and limitation of the funds appropriated under this section, the department shall provide a disproportionate share adjustment of four percent in the reimbursement rate paid to a hospital which provides more than twenty percent of its services to indigent patients.

13. As a condition of this appropriation, the department shall develop policies and guidelines to implement on a pilot basis a physician case management program for recipients of medical assistance. The pilot program shall be developed after review of established programs in other states. The pilot program shall continue for at least twenty-four months subsequent to implementation. If necessary, the department shall request a waiver from the federal health care financing administration. Of the funds appropriated under this section, forty-two thousand (42,000) dollars may be used to contract for the development of the policies or guidelines

*Item veto; see message at end of the Act

or to add an additional full-time equivalent position for this purpose. If an additional full-time equivalent position is added, it is in addition to the positions authorized under the appropriation for general administration in this Act.

14. As a condition, qualification, and limitation of the appropriation made by this section, there is appropriated from the general fund of the state six hundred eight thousand (608,000) dollars, or so much thereof as is necessary to the department, effective on January 1, 1989, for medical assistance to all pregnant women and infants under one year of age whose income does not exceed one hundred fifty percent of the federal nonfarm poverty level, and for children up to age five on an incremental basis whose income does not exceed one hundred percent of the federal nonfarm poverty level, for salaries, support, and miscellaneous purposes.

a. The department shall expend the funds appropriated under this section for not more than three full-time equivalent positions in the field at a cost of not more than thirty-seven thousand (37,000) dollars, for salaries and support for not more than four full-time equivalent positions in general administration at a cost of not more than fifty-nine thousand (59,000) dollars, for systems and fiscal agent development at a cost of no more than twenty-five thousand (25,000) dollars, and for payment of medical benefits at a cost of no more than four hundred eighty-seven thousand (487,000) dollars. These positions are in addition to the positions authorized under the appropriations for community services and general administration in this Act.

b. As a condition, qualification, and limitation of the funds appropriated under this section, resource limitations shall be five thousand dollars for a one person household and seven thousand five hundred dollars for a family of two or more persons. Pregnant women shall have resources considered according to the standards for computing resources under the supplemental security income program. Infants and children shall have resources considered in accordance with the standards for computing resources under the aid to families with dependent children program. Pregnant women, infants, and children shall have income considered in accordance with standards under the aid to families with dependent children program. All other medical assistance program requirements apply. Upon implementation, phased-in coverage for children shall begin with children up to age two and shall be continued through January 1, 1992.

c. For persons who do not have a spend-down requirement under the medically needy program, the department shall set the length of the certification period at the length authorized by federal regulations.

d. As a condition, qualification, and limitation of the funds appropriated under this section, the department shall report, in each month of the fiscal year, to the fiscal committee of the legislative council regarding the expenditure of the funds for the implementation of the medical assistance program for pregnant women, infants, and children and the additional full-time equivalent positions authorized for this purpose under this section. The report shall detail the number of additional authorized positions which have been filled, describe problems encountered in filling the positions, and assess the impact of the additional positions upon the quality of services provided to the targeted persons. If the department is caused to reduce expenditures because of an unanticipated reduction in federal funding, or the average base salary and support cost in staffing is greater than anticipated, or the staff vacancy factor is lower than anticipated, the department shall fill the additional full-time equivalent positions by reducing other expenditures.

15. As a condition, qualification, and limitation of the funds appropriated under this section, the department, in cooperation with the Iowa department of public health and the department of elder affairs, shall apply for federal waivers for the provision of case management services, homemaker/home health aide services and personal care services, adult day health services, habilitation services, and respite care under the medical assistance program pursuant to provision of the federal Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203.

Sec. 4. MEDICAL CONTRACTS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for medical contracts:

..... \$ 2,527,045

The department may expend up to two thousand (2,000) dollars of the funds appropriated in this section for changes in the claims payment and reporting system to support implementation of a program of mandatory enrollment in health maintenance organizations.

Sec. 5. CHILD SUPPORT RECOVERY. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for child support recoveries, including salaries and support for not more than one hundred point forty-two full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 1,012,000

1. The commissioner of human services, within the limitations of the funds appropriated in this section, 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 human 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.

2. As a condition, qualification, and limitation of the funds appropriated under this section, the department shall extend the child support modification demonstration program to at least fifteen counties in the state. The department may transfer funds from the appropriation for aid to families with dependent children to the extent that is necessary in order to fund the demonstration program. Notwithstanding the number of full-time equivalent positions allowed under this section, the department may exceed the number allowed to the extent the positions are funded by the funds transferred for this purpose from the appropriation for aid to families with dependent children. The department shall report to the legislative fiscal bureau regarding the demonstration program each quarter.

Sec. 6. COMMUNITY SERVICES. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services the following amount, or so much thereof as is necessary, to be used for community services:

1. As a condition of this appropriation for field operations, including salaries and support for not more than two thousand two hundred five point five full-time equivalent positions, maintenance, and miscellaneous purposes, the department shall provide an extensive orientation program for newly employed social workers in the area of community resource programs and shall provide assistance to each county board of social welfare to identify community resources in counties pursuant to section 234.11:

..... \$ 31,890,603

2. As a condition, qualification, and limitation of the funds appropriated under this section, the appropriation for community services is based upon an expected federal cost allocation share of fifteen million nine hundred seventy-two thousand nine hundred seventeen (15,972,917) dollars, a federal block grant share of twelve million six hundred sixty-seven thousand two hundred forty-nine (12,667,249) dollars, an average base salary and support cost of twenty-seven

thousand five hundred forty-nine (27,549) dollars, and a vacancy factor of four percent. **The department shall seek additional funds through supplemental appropriation if the expected federal cost allocation share is less than expected, the average base salary and support cost is more than expected, or the vacancy factor is lower than expected.** The department shall report monthly to the fiscal committee of the legislative council regarding the projections of expenditures under this appropriation, and any changes related to the federal cost allocation, the average base salary and support, and the vacancy factor that occur. **The department shall not expend more than two million four hundred fourteen thousand one hundred three (2,414,103) dollars of this appropriation on items not related to salary and benefits without obtaining approval by the legislative council or the general assembly.** The number of full-time equivalent positions under subsection 1 is the target number to be reached by the department in the fiscal year beginning July 1, 1988, and ending June 30, 1989. The department may fill up to two thousand two hundred ninety-seven point five positions and shall coordinate the P-5 hiring process in order to meet the target number for the fiscal year. However, if the state Title XIX plan amendments for candidate services under section 14 of this Act are approved by the federal government, the department may exceed the specified number of full-time equivalent positions for those full-time equivalent positions which are funded by cost savings and additional funds received by the state pursuant to section 14 of this Act.

3. As a condition, qualification, and limitation of the funds appropriated under this section, the department shall not place any orders for computer terminals and other hardware related to the family assistance management information system project and shall not take delivery of any terminals or hardware previously ordered when the general assembly is not in session without receiving approval from the legislative council after notification to the fiscal committee and the membership of the human services appropriations subcommittee.

4. As a condition, qualification, and limitation of the funds appropriated under this section, the department shall identify the amount of the state funds and federal block grant funds saved under this appropriation and the amount of additional federal funds gained as a result of the case management provided under section 14, subsection 2, of this Act and transfer the total of the amounts to the funds appropriated under section 14 to provide enhanced mental health, mental retardation, and developmental disabilities services.

Sec. 7. GENERAL ADMINISTRATION. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, for general administration, including salaries and support for not more than three hundred seventeen point forty-four full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 6,841,245

1. Full-time equivalent positions which are funded entirely with federal, public, private grants, or the gambler's assistance fund established in section 99E.10 are exempt from the limits on the number of full-time equivalent positions provided in this section, but are approved only for the period of time for which the federal funds or grants are available for the position.

2. As a condition, qualification, and limitation of the funds appropriated under this section, the appropriation for general administration is based upon an expected federal cost allocation share of seven million one hundred three thousand nine hundred forty-six (7,103,946) dollars, a federal block grant share of one million eight hundred forty-nine thousand three hundred thirty-one (1,849,331) dollars, an average base salary and support of cost of thirty-four thousand two hundred forty-five (34,245) dollars, and a vacancy factor of two point six percent. **The department shall seek additional funds through supplemental appropriation if the expected*

*Item veto; see message at end of the Act

*federal cost allocation share is less than expected, the average base salary and support cost is more than expected, or the vacancy factor is lower than expected.** The department shall report monthly to the fiscal committee of the legislative council regarding the projections of expenditures under this appropriation, and regarding any changes related to the federal cost allocation, the average base salary and support, and the vacancy factor that occur. **The department shall not expend more than two million four hundred fifty-six thousand five hundred seventeen (2,456,517) dollars of this appropriation on items not related to salary and benefits without obtaining approval by the legislative council or the general assembly.** The number of full-time equivalent positions under unnumbered paragraph 1 of this section is the target number to be reached by the department in the fiscal year beginning July 1, 1988, and ending June 30, 1989. The department may fill up three hundred twenty-six point five positions and shall coordinate the P-5 hiring process in order to meet the target number for the fiscal year.

As a condition, qualification, and limitation of the funds appropriated under this section, eighteen thousand (18,000) dollars, or so much thereof as is necessary, shall be used to fill the zero point five full-time equivalent position for administration of the expanded coverage under the medical assistance program to include specialized psychiatric hospitals. The position is in addition to the other positions authorized under this section. The department shall report, at least quarterly, to the fiscal committee of the legislative council regarding the expenditure of the funds for the administration of the expanded coverage and the additional position authorized for this purpose under this subsection. The report shall detail when the additional authorized position has been filled, describe problems encountered in filling the position, and assess the impact of the additional position upon the quality of services provided. If the department is caused to reduce expenditures because of an unanticipated reduction in federal funding, or the average base salary and support cost in staffing is greater than anticipated, or the staff vacancy factor is lower than anticipated, the department shall fill the zero point five additional full-time equivalent position by reducing other expenditures.

Sec. 8. JUVENILE INSTITUTIONS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services the following amount, or so much thereof as is necessary, to be used for the operation of the state training school and the Iowa juvenile home, including salaries and support for not more than three hundred twenty-nine full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 10,062,000

1. As a condition, qualification, and limitation of the funds appropriated under this section, eight hundred twelve thousand (812,000) dollars shall be used to implement the recommendations of the governor's foster care task force, including filling thirty-six point seventy-five additional full-time equivalent positions. Of the funds designated in this subsection, one hundred fifty thousand (150,000) dollars shall be used to improve programs and services provided at the juvenile institution at Eldora. Notwithstanding the cap placed on full-time equivalent positions in this section, the positions filled for this purpose shall only be limited to the extent of the funds so designated.

2. As a condition, qualification, and limitation of the funds appropriated under this section, such funds shall be used to increase staff in order to improve supervision and services provided to residents, to implement a classification system and a short-term high-impact program for adjudicated delinquents at the state training school, and to establish a diagnostic program and short-term high-impact program for adjudicated female delinquents and adjudicated "child in need of assistance" boys and girls residing at the state juvenile home.

*Item veto; see message at end of the Act

3. **As a condition, qualification, and limitation of the funds appropriated under this section, the juvenile institution at Eldora shall maintain an average of two hundred juveniles and the juvenile institution at Toledo maintain an average of ninety juveniles during the fiscal year ending June 30, 1989.** The plurality of the population at Eldora should consist of older juveniles with a history of serious offenses who are expected to require placement for a period of one year or longer. Eldora may also be used to provide a short-term high-impact placement for juveniles who will be evaluated and provided other services following the placement at Eldora. The department shall review each new and existing placement of a juvenile at the juvenile institutions and determine whether the placement is appropriate for the juvenile. If it is determined that an alternative placement, including, but not limited to, placement for substance abuse and mental health treatment or programming for juveniles with mental retardation, would be more appropriate for the juvenile, the department shall seek modification of the court order for placement.

4. As a condition of this appropriation, the department shall report, in each month of the fiscal year, to the fiscal committee of the legislative council regarding the expenditure of the funds for the implementation of the governor's foster care task force and the additional full-time equivalent positions authorized for this purpose under this section. The report shall detail the number of additional authorized positions which have been filled, describe problems encountered in filling the positions, and assess the impact of the additional positions upon the quality of services provided by the juvenile institutions. If the department is caused to reduce expenditures because of an unanticipated reduction in federal funding, or the average base salary and support cost in staffing is greater than anticipated, or the staff vacancy factor is lower than anticipated, the department shall fill the thirty-six point seventy-five additional full-time equivalent positions by reducing other expenditures.

Sec. 9. It is the intent of the general assembly that the legislative council establish an advisory committee to develop a plan for the future use of the juvenile institutions at Eldora and Toledo.

1. The plan shall include all of the following:

a. A needs statement, an organizational structure, and a location for an assessment and placement unit for juveniles who are committed directly to the state juvenile institutions at Eldora and Toledo.

b. A recommendation regarding the type of juvenile who should be placed at the juvenile institutions, the length of stay which is suitable, the programming required, and the number of beds needed.

c. A recommendation regarding the establishment of a short-term high-impact program for juveniles which includes potential locations and an organizational structure for the program.

d. A recommendation regarding modifications needed in the juvenile justice system, including the statutory law, responsibilities of the department, and responsibilities of the court, to ensure that a juvenile is appropriately placed.

e. A recommendation regarding amending chapters 242 and 244 to make statutory language consistent with the responsibilities of the juvenile institutions.

f. A recommendation regarding staff, equipment, and capital improvements needed at the juvenile institutions.

g. A recommendation regarding living needs and supervision needs of juveniles following their departure from the institution.

h. A recommendation regarding a system for tracking juveniles after release from the juvenile institution.

*Item veto; see message at end of the Act

2. The plan shall be developed by an advisory group composed of representatives of the state child welfare and juvenile justice system, including representation of the juvenile court officers, the courts, the department of human services, the coalition for children and family services, and the advisory committees for Toledo and for Eldora. The committee may enlist the aid of experts from other states and visit other institutions inside or outside this state in order to obtain information. The plan shall be submitted to the general assembly on or before January 1, 1989.

3. The plan shall be comprehensive and build upon past studies which deal with out-of-state placement of children, foster care, juvenile institutions, decategorization, and the state mental health institution services for children. The department shall submit the plan to the general assembly or legislative council on or before January 15, 1989.

Sec. 10. HOSPITAL-SCHOOLS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services for the state hospital-schools, the following amount, or so much thereof as is necessary, to be used for salaries and support for not more than two thousand one hundred seventy-nine point zero two full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 59,918,000

The state hospital-schools may exceed the specified number of full-time equivalent positions if the additional positions are specifically related to licensing, certification, or accreditation standards, or citations. The department shall notify the legislative fiscal bureau if the specified number is exceeded. The notification shall include an estimate of the number of full-time equivalent positions added and the fiscal effect of the addition.

Sec. 11. MENTAL HEALTH INSTITUTES. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services for the state mental health institutes, the following amount, or so much thereof as is necessary, to be used for salaries and support for not more than one thousand one hundred ninety-one point sixteen full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 38,153,000

The state mental health institutes may exceed the specified number of full-time equivalent positions if the additional positions are specifically related to licensing, certification, or accreditation standards, or citations. The department shall notify the legislative fiscal bureau if the specified number is exceeded. The notification shall include an estimate of the number of full-time equivalent positions added and the fiscal effect of the addition.

Sec. 12. IOWA VETERANS HOME. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for operation of the Iowa veterans home, including salaries and support for not more than seven hundred sixty-one point twenty-eight full-time equivalent positions, maintenance, and miscellaneous purposes, on the condition that the sixty new beds are phased into operation and salary and support is provided for not more than nineteen point fifteen full-time equivalent positions for this purpose:

..... \$ 23,181,000

As a condition, qualification, and limitation of the funds appropriated by this section, five hundred thousand (500,000) dollars, or so much thereof as is necessary, shall be used to phase in and staff new beds at the Iowa veterans home; however, if federal or private per diem rates paid to the home exceed the rates budgeted for the fiscal year, then the amount of unplanned revenue from the increased rates shall be used first.

The department may use the gifts accepted by 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.

The Iowa veterans home may exceed the specified number of full-time equivalent positions if the additional positions are specifically related to licensing, certification, or accreditation standards, or citations. The department shall notify the legislative fiscal bureau if the specified number is exceeded. The notification shall include an estimate of the number of full-time equivalent positions added and the fiscal effect of the addition.

Sec. 13. MENTAL HEALTH AND RETARDATION SERVICES FUND. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, 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:

..... \$ 3,205,000

Sec. 14. ENHANCED MENTAL HEALTH – MENTAL RETARDATION – DEVELOPMENTAL DISABILITIES SERVICES. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the state candidate services fund established in this section, the following amount, or so much thereof as is necessary:

..... \$ 1,300,000

1. An enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee is created to assure the services plan is implemented within identified, budgeted, and appropriated funds. For purposes of this section "oversight committee" means the enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee.

The oversight committee shall have nine members. Two members shall be designated by the fiscal committee of the legislative council and subject to approval by the governor. The commissioner of human services and the director of the division of mental health, mental retardation, and developmental disabilities or their designees shall be members. Three members shall be designated by the Iowa state association of counties. One member shall be designated by the state mental health and mental retardation commission. One member shall be designated by the governor's planning council on developmental disabilities.

The oversight committee shall do all of the following:

a. Take action on whether to include behavior management as a candidate service in the state Title XIX plan amendment, to develop a federal waiver request for behavior management as a candidate service, or to take no action to include behavior management as a covered service. Decisions shall be based upon a determination of the availability of funds for the non-federal share of the cost of the service.

b. Explore and make recommendations regarding the submission of a Title XIX plan waiver for any candidate services which are not accepted by the federal government as a state plan amendment.

c. Review and make recommendations regarding the county case management implementation plan and budget to the state mental health and mental retardation commission.

d. Track the expenditures for, and utilization of, candidate services. Report a variance in an approved plan to the governor, the legislative fiscal bureau, and each county.

e. Recommend action regarding variations from the budgeted, appropriated, and identified expenditures and projected expenditure offsets to the council on human services and the state mental health and mental retardation commission.

f. Submit a report regarding the results of the implementation of the provisions of this section, including the impact upon the institutional populations, to the governor and the general

assembly. The report shall contain recommendations regarding continuing the provisions of this section in subsequent budget years.

g. Recommend rules, or amendments to existing rules, which implement the provisions of this section, to the council on human services and the state mental health and mental retardation commission.

h. Develop a methodology to determine the base year expenditure for a county maintenance of effort which includes an amount for each of the candidate services described in this section.

i. Issue a final decision regarding any issue of disagreement between a county and the department relating to expenditures for candidate services or the county's maintenance of effort.

2. For purposes of this section, "candidate services" means rehabilitation services, day treatment, partial hospitalization, and case management. Case management shall be limited to persons with mental retardation, a developmental disability, or chronic mental illness. A state candidate services fund is created in the office of the treasurer of state for the purposes of this section.

Effective October 1, 1988, the department shall add candidate services to the state Title XIX plan. Behavior management services shall be included in the plan as a candidate service if recommended by the oversight committee.

If recommended by the oversight committee, the department shall seek Title XIX plan waivers for any of the candidate services which are not accepted by the federal government as a state plan amendment.

3. The county of legal settlement shall be billed for fifty percent of the nonfederal share of the cost of candidate services provided under the medical assistance program for persons with mental retardation, a developmental disability or chronic mental illness.

4. By using the general allocation application for the state community mental health and mental retardation services fund under section 225C.10, the department, in conjunction with the oversight committee, and with the agreement of each county, shall establish the actual amount expended by each county for persons with mental retardation, a developmental disability, or chronic mental illness in the fiscal year which ended on June 30, 1987, and this amount shall be deemed each county's maintenance of effort. A disagreement between the department and a county as to the actual amount spent in a category shall be decided by the oversight committee. A county is responsible to continue to pay at least the agreed upon amount in fiscal year 1988-1989 for services to persons with mental retardation, a developmental disability, or chronic mental illness. If a county does not spend the agreed upon amount in a fiscal year, the balance not spent shall not revert to the general fund of the county, but shall be carried over to the next fiscal year to be expended for the provision of services to persons with mental retardation, a developmental disability, or mental illness including, but not limited to, the chronically mentally ill, and shall be used as additional funds. The additional funds shall be used, to the greatest extent possible, to meet unmet needs of persons with mental retardation, a developmental disability, or mental illness. This subsection does not relieve the county from any other funding obligations required by law, including but not limited to the obligations in section 222.60.

5. a. Notwithstanding section 8.33, funds appropriated under this section which are not obligated or expended, shall not revert to the general fund on June 30, 1989, but shall be deposited in the state community mental health and mental retardation services fund for use in the next fiscal year. It is the intent of the general assembly that the funds deposited in the fund for this purpose shall be used in addition to moneys appropriated in the next fiscal year for this purpose.

b. Notwithstanding section 8.39, funds appropriated to the department for the state hospitals by section 10 of this Act and to the state mental health institutes by section 11 of this

Act shall not be subject to transfer, except to the state candidate services fund after January 1, 1989, subsequent to a reevaluation of the institutional budgets for the remainder of the fiscal year.

6. The department, in conjunction with the oversight committee, and with the agreement of each county, shall establish the actual amount expended for each candidate service for persons with mental retardation, a developmental disability, or chronic mental illness in the fiscal year which ended June 30, 1987, and this amount shall be deemed each county's base year expenditure for the candidate service. A disagreement between the department and a county as to the actual amount spent shall be decided by the oversight committee.

The department, in conjunction with the oversight committee, and with the agreement of each county, shall determine the expenditures in the 1988-1989 fiscal year by each county for the candidate services, including the amount the county contributes under subsection 3. If the expenditures in the 1988-1989 fiscal year exceed the base year expenditures for candidate services, then the county shall receive from the funds under this appropriation the least amount of the following:

- a. The difference between the total expenditures for the candidate services in fiscal year 1988-1989 and the base year expenditures.
- b. The amount expended by the county under subsection 3.
- c. The amount by which the fiscal year 1988-1989 total expenditures under subsection 4 exceed the maintenance of effort expenditures.

7. Case management shall be provided by the department except when a county or a consortium of counties contracts to be the provider. The criteria for the case management services shall include, but are not limited to, the appropriateness, availability, and accessibility of the services and financial resources. A county or counties may contract to be the provider at any time within ninety days of the final publication of the standards for case management in the Iowa administrative bulletin. The county or consortium of counties may subcontract for the provision of case management services so long as the subcontract meets the same criteria. The department shall agree to the contract so long as the contract meets the standards for case management established by the department and the criteria for case management as stated in the state Title XIX plan and rules.

8. This section does not relieve the county from any other funding obligations required by law, including but not limited to the obligations in section 222.60.

9. Nothing in this Act is intended by the general assembly to be the provision of a fair and equitable funding formula specified in 1985 Iowa Acts, chapter 249, section 9. Nothing in this Act shall be construed, is intended, or shall imply a claim of entitlement to any programs or services specified in section 225C.28.

10. For the purposes of this section only, persons with organic mental disorders shall not be considered chronically mentally ill.

11. As a limitation of this appropriation, the funds shall be expended for not more than three full-time equivalent positions in general administration at a cost of not more than seventy thousand (70,000) dollars to administer the analysis of funding amounts and related issues required under this section. The positions are in addition to the positions authorized under the appropriation for general administration in this Act.

12. The legislative council is requested to appoint a committee staffed by the legislative fiscal bureau to conduct a study and develop recommendations regarding a fair and equitable funding formula for services provided to persons described in section 225C.26. The committee shall study an equitable split in funding between state and counties, providing equitable services between population groups, and providing adequate reimbursement for providers to assure services are provided. The committee shall submit a report of the study on or before December 1, 1988.

Sec. 15. STATE SUPPLEMENTARY ASSISTANCE. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for state supplementary assistance, on the condition that the across-the-board cuts currently in effect are eliminated, followed by a three-percent increase in the maximum reimbursement rate paid to residential care facilities and in-home health related care providers, as specified in section 34 of this Act:

..... \$ 14,995,600

The department shall increase the personal needs allowance for residents of residential care facilities by the same percentage and at the same time as federal supplemental security and federal social security benefits are increased due to a recognized increase in the cost of living.

Sec. 16. BLOCK GRANT SUPPLEMENTATION. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, 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, the following amount, or so much thereof as is necessary, on the condition that the across-the-board cuts currently in effect are eliminated, followed by a three-percent increase in the reimbursement rate paid to service providers funded under this appropriation, as specified in section 35 of this Act:

..... \$ 3,064,000

The funds appropriated in this section shall be allocated to the counties pursuant to the rules of the department in effect on January 1, 1985. The department shall increase the income guidelines for income eligible persons receiving services funded with federal social services block grant funds for the fiscal year beginning July 1, 1988, 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. A county shall allocate funds for child day care services in an amount at least equal to the amount expended by the county for government-assisted child day care services in the fiscal year ending June 30, 1988.

Sec. 17. STATE CHILD DAY CARE ASSISTANCE. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services the following amount, or so much thereof as is necessary, to be used for supplemental payments of child care costs:

..... \$ 3,500,000

1. The funds appropriated in this section shall be allocated to counties based upon the number of children living in a county whose family income is equivalent to or below one hundred twenty-five percent of the current federal office of management and budget poverty guidelines as estimated by the department. The department shall not require counties to match the state child day care services funds with local funds but shall require a maintenance of effort. The counties shall allocate local funds for child day care services in an amount at least equal to the county expenditures for child day care services in the fiscal year ending June 30, 1983 and expend at least the same amount of block grant supplemental funds for child day care services as expended for the purpose in the fiscal year ending June 30, 1988. If a county elects not to use the state child day care services funds, an amount equal to the county expenditure for its maintenance of effort and an amount equal to the county expenditure under the provision to use up to four percent of the federal social services block grant fund and supplemental state purchase of local services funds in the fiscal year ending June 30, 1983, shall be deducted from the amount allocated to the county for the purchase of local services under this Act. The state day care services funds and the amount deducted from the local services funds for a county shall be administered by the district administrator for child day care

services in the county. The department shall transfer the state child day care services funds which a county does not utilize to a county where there is a demonstrated need.

2. The department shall establish the income eligibility level for recipients of child day care services at the equivalent of one hundred twenty-five percent of the federal office of management and budget poverty guidelines for families of all sizes. However, a local office which is allocated funds under this section may manage the funds to assure that child care services are purchased in a system of slots which last for a period of twelve months. The local office shall maintain a list of persons who were eligible, but did not receive the child care services due to a lack of funds.

3. Any funds allocated for the local purchase of child care services shall be available for purchase of services in any type of child care facility approved under 441 I.A.C. §* 170.

4. ***If the department determines that funds under this section for child day care services will not be fully expended, the department may increase the income guidelines in order to provide for the expenditure of all funds under this section for child day care services.***

The recipient of child day care services shall contribute to the cost of the child care in accordance with the sliding fee schedule currently utilized by the department for child care services.

5. As a condition, qualification, and limitation of this appropriation, the funds appropriated under this section shall be expended for not more than six full-time equivalent positions in the field at a cost of not more than one hundred seventy-five thousand (175,000) dollars, and for salary and support for not more than one full-time equivalent position in general administration at a cost of not more than twenty-three thousand (23,000) dollars. The positions are in addition to the positions authorized under the appropriations for community services and general administration in this Act.

6. It is the intent of the general assembly for the fiscal year ending June 30, 1990, that allocations to counties under the appropriation for federal social services block grant supplementation for child day care services and the allocation for this purpose under state child day care assistance will be combined. The allocation to a county for child day care services will be based upon the expenditures by the county for this purpose in the fiscal year ending June 30, 1989.

7. Nothing in this section shall be construed or is intended as, or shall imply a grant of entitlement for services to persons described in subsection 2 of this section. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated under this section.

Sec. 18. RESOURCE AND REFERRAL PROGRAMS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services the following amount, or so much thereof as is necessary, to be used for allocation in the form of grants to public agencies and private nonprofit corporations which provide child and dependent adult care resource and referral programs:

..... \$ 150,000

Individual grants shall not exceed fifty thousand (50,000) dollars. A program which is allocated funding shall match funds appropriated with local funds which may be in the form of private donations, in-kind contributions, or public funding sources including block grant local purchase funds. The department of human services shall adopt rules pursuant to chapter 17A which establish the criteria for allocation of grant funds to local resource and referral programs. Of the funds appropriated in this section, not more than fifteen thousand (15,000) dollars may be used for a computerized information and referral system for children, youth, and families agencies, organizations, and departments within the state.

*Chapter probably intended

**Item veto; see message at end of the Act

Sec. 19. COMMUNITY-BASED PROGRAMS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for community-based programs on the condition that displaced homemaker programs and the pilot projects relating to adolescent pregnancy under 1987 Iowa Acts, chapter 234, section 203, subsection 1, paragraph "i", are funded, that four hundred fifty-five thousand (455,000) dollars of the following amount is used for child care assistance pursuant to section 237A.13, and that the across-the-board cuts currently in effect are eliminated, followed by a three-percent increase in the reimbursement rate paid to service providers funded under this appropriation, as specified in section 35 of this Act:

..... \$ 4,682,014

The commissioner of human services shall pay from the funds appropriated in this section, 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, improvement, operation, and maintenance of approved county or multicounty juvenile homes.

Of the funds allocated to the pilot projects relating to adolescent pregnancy, the department shall expend no more than seven percent for administrative costs.

Sec. 20. CHILD ABUSE PREVENTION GRANTS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, for child abuse prevention grants:

..... \$ 350,686

Sec. 21. SUPPLEMENTAL CHILD CARE ASSISTANCE. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used beginning on or before October 1, 1988, for supplemental payments of the child care costs of persons who qualify for transitional child care assistance for a period of twelve months due to a loss of eligibility for assistance under chapter 239 because of an increase in earned income:

..... \$ 2,100,000

1. The department shall deliver the supplemental payments through a voucher agreement system which requires the recipient to contribute to the cost of the child care services in accordance with the sliding fee schedule currently utilized by the department for child day care services. Reimbursement for services will be limited to registered or licensed child care providers.

2. As a condition, qualification, and limitation of the funds appropriated under this section, the department shall work with the legislative fiscal bureau to develop a means to measure the effect of the supplemental child care assistance upon the number of aid to families with dependent children recipients and the economic status of the persons who receive the assistance.

Sec. 22. HOME-BASED SERVICES. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for home-based services on the condition that family planning services are funded, and that the across-the-board cuts currently in effect are eliminated, followed by a three-percent increase in the reimbursement rate paid to service providers funded under this appropriation as specified in section 35 of this Act provided that if the department amends the allocation to a program funded under this section, then the department shall promptly notify the fiscal committee of the legislative council of the change:

..... \$ 6,974,800

Of the funds appropriated in this section, nine hundred fifty-nine thousand forty (959,040) dollars, or so much thereof as is necessary, shall be used to continue the three-year family preservation pilot services initiative to provide highly intensive in-home family reunification and placement prevention services. These funds shall be used to maintain fiscal year 1988 service levels. The payment system for this project shall be other than an hourly unit-based system and may be based on a cost per family unit with actual payments per family adjusted according to the performance of the provider and the outcome of their services to each family. It is the intent of the general assembly that the three-year evaluation of this initiative and other project monitoring activities be continued to assess service impact and cost-effectiveness.

Sec. 23. AID TO INDIANS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for aid to Indians under section 252.43:

..... \$ 34,965

The tribal council shall not use more than ten percent of the funds for administration purposes.

Sec. 24. VOLUNTEERS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for development and coordination of volunteer services:

..... \$ 67,932

Sec. 25. JUVENILE JUSTICE. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for juvenile justice reimbursement to counties under section 232.141, subsection 2:

..... \$ 2,502,000

Sec. 26. FOSTER CARE. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for foster care on the condition that the across-the-board cuts currently in effect are eliminated, followed by a three-percent increase in the reimbursement rate paid to foster care providers, as specified in section 35 of this Act:

..... \$ 38,247,000

1. The department shall revise the reimbursement formula for foster family special care and emergency care allowances to encourage foster family special care and emergency care placements in lieu of group foster care placements. Beginning December 1, 1988, the formula shall recognize the special needs of children in foster care and the special services that may be required of foster parents.

2. Beginning on the effective date of administrative rules governing this section, the department may use a portion of the funds appropriated in this section to provide payments to senior citizens, recipients of assistance under aid to families with dependent children, or other appropriate persons to assist in monitoring certain children in foster family placement, in order to demonstrate whether the monitoring can make family foster care a more viable placement option for delinquent children.

3. Beginning on the effective date of administrative rules governing this section, the department may use a portion of the funds appropriated in this section to purchase special services in order to demonstrate whether the services can prevent out-of-home shelter care.

4. It is the intent of the general assembly that the department of human services, the state judicial department, the department of education and representatives of service providers shall

establish a target problem-child committee. The committee shall be responsible to find placements for children who have exceptional service needs or who have been rejected in previous referrals and who may be at risk of being placed out of state.

5. It is the intent of the general assembly that the department of human services and the judicial department shall jointly develop, for submission to the governor and general assembly by December 1, 1988, a plan to eliminate the practice of joint case management and the monitoring of juvenile court cases.

6. Of the funds appropriated in this section, thirty thousand (30,000) dollars, or so much thereof as is necessary, may be used by the department to conduct a study to determine the impact of establishing a fee schedule for parental participation in all child welfare services.

7. For those children who would otherwise be eligible for federal Title IV-E funding, when a juvenile court considers ordering a "payment only" foster care placement, the juvenile court and the department shall determine whether departmental custody and placement is feasible. The department shall record the number of cases which were eligible for federal Title IV-E funding, but were ordered into "payment only" foster care and report this information to the legislative fiscal bureau every three months beginning October 1, 1988. The department and the state court administrator shall work with the federal department of health and human services to develop an agreement between the department and the state court administrator which would enable the state to receive federal Title IV-E funds for "payment only" cases and make recommendations to the general assembly as to legislation required to fulfill the agreement.

8. The department shall develop an alternative system for reimbursing foster care providers that provide performance-based payment. The system shall include contract features which provide incentives and penalties based upon outcomes. It is the intent of the legislature that the alternative system shall be made available on a demonstration project basis by December 1, 1988.

9. The department may transfer a portion of the funds appropriated in this section for use in providing subsidized adoption services or for use in purchasing adoption services, if funds allocated for adoption services are insufficient.

10. No more than thirty percent of 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.

11. Of the funds appropriated in this section, forty-five thousand (45,000) dollars, or so much thereof as is necessary, is allocated for foster parent training prior to the initial licensure of foster parents.

12. As a condition, qualification, and limitation of the funds appropriated under this section, by September 1, 1988, the department shall designate two counties as the counties in which the demonstration program to decategorize child welfare services will occur. The county boards of supervisors and the judicial districts serving the counties shall agree to those counties serving in the demonstration. The department shall establish a child welfare fund for those counties composed of all or part of the amount that would otherwise be expected to be used for residents of the counties for foster care, family-centered services, subsidized adoption, day care, local purchase services, juvenile institutional care, mental health institute care, state-hospital school care, juvenile detention, department direct services, and juvenile justice county-based reimbursable services. Notwithstanding other service funding provisions in law, the department shall establish this fund by transferring funds from the budgets affected, except for the funds appropriated for juvenile institutions, mental health institutes, and state hospital-schools, which shall be identified in the demonstrations for auditing purposes only. The child welfare fund may be used to support services and payment rates not allowable within historical program or service categories. The department shall work with the county board of supervisors and the judicial districts in providing training for the project, and shall make use of

the national conference of state legislatures and the center for the study of social policy for technical assistance. It is the intent of the general assembly that the demonstration program commence not later than April 1, 1989, and be designed to operate for a three year period.

13. As a condition, qualification, and limitation of the appropriation made under this section, thirty thousand (30,000) dollars, or so much thereof as is necessary, may be used by the department to contract with universities to provide ongoing research and evaluation assistance to programs and initiatives of the department involving family-centered services and foster care. Such contracts shall make maximum use of any matching resources from the universities with which the department contracts.

14. As a condition, qualification, and limitation of the funds appropriated under this section, seventy-five thousand (75,000) dollars, or so much thereof as is necessary, shall be used for grants under the family support subsidy program as provided in Senate File 2018 if enacted by the Seventy-second General Assembly, 1988 Session.

Sec. 27. FOSTER HOME INSURANCE FUND. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used for the foster home insurance fund as required under Senate File 2107, if enacted by the Seventy-second General Assembly, 1988 Session:

..... \$ 165,000

As a condition, qualification, and limitation of the funds appropriated under this section, if Senate File 2107 is not enacted, funds appropriated under this section shall be allocated as follows:

1. One hundred twenty-five thousand (125,000) dollars for additional services to support foster family placements under section 29.

2. Forty thousand (40,000) dollars, or so much thereof as is necessary, may be used by the department on or after January 1, 1989, to reimburse foster parents for damages caused by a child placed in their care which cannot be reimbursed from another source. Funds shall be reimbursed according to criteria established by rule. The criteria shall include the provision that a foster parent who claims damages shall be responsible for one hundred fifty dollars of the claim.

Notwithstanding section 8.33, the funds remaining in the foster home insurance fund shall not revert to the general fund on June 30, 1989.

Sec. 28. SUPPLEMENTAL PAYMENTS TO IN-STATE FOSTER CARE PROVIDERS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used to provide supplemental payments to in-state providers of foster care beginning July 1, 1988, in order to reduce the number of out-of-state foster care placements. Payments shall be made according to criteria established by administrative rules and shall be based upon the special needs of individual children:

..... \$ 450,000

Sec. 29. ADDITIONAL SERVICES TO SUPPORT FOSTER FAMILY PLACEMENTS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used to provide additional services to support foster family placement commensurate with the needs of the child in order to make the placement a viable alternative to group foster care. The additional services may begin on the effective date of administrative rules governing this section:

..... \$ 240,000

Sec. 30. FOSTER PARENT IN-SERVICE TRAINING. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the department of human services, the following amount, or so much thereof as is necessary, to be used to offer foster parent in-service training in order to meet the requirement for six hours of foster parent training annually to qualify for relicensure:

..... \$ 200,000

**Sec. 31. TRANSFERS PROHIBITED. As a condition of the appropriations made for aid to families with dependent children, medical assistance, state supplementary assistance, and foster care under sections 1, 3, 15, and 26 of this Act the following shall apply:*

1. Notwithstanding section 8.39, and except as provided in section 3, subsection 3, for the health maintenance organization enrollment, in section 3 for the medical assistance for pregnant women, infants, and children program, in section 5, for the child support recovery unit, in section 26 for subsidized adoption and purchase of adoption services, funds appropriated for aid to families with dependent children, medical assistance, state supplementary assistance, and foster care shall not be subject to transfer. Department of human services' programs shall not be modified for the purpose of transferring other funds appropriated to the department of human services into the aid to families with dependent children, medical assistance, state supplementary assistance, and foster care accounts.

2. Except as provided in subsection 3 of this section, the commissioner of human services shall not modify programs funded under the aid to families with dependent children, medical assistance, state supplementary assistance, and foster care appropriations in order to meet any projected budget shortfalls, but shall request supplemental appropriations from the general assembly to meet those shortfalls.

3. Notwithstanding the concept of allotments in section 8.31, for the purpose of any across-the-board budget reductions ordered by the governor, the appropriations for the aid to families with dependent children, medical assistance, state supplementary assistance, and foster care shall be deemed to include amounts needed to operate the programs for the entire fiscal year beginning July 1, 1988, and ending June 30, 1989, under the July 1988 program guidelines and mandated subsequent changes. The across-the-board budget reductions shall be applied to the appropriations, and the estimate of revenues needed to balance the state's budget shall be made so as to operate the July 1, 1988 programs, as modified by mandated changes for the entire fiscal year.

4. Notwithstanding section 8.31, for deficit appropriations, the department shall apply the across-the-board budget reductions to the aid to families with dependent children, medical assistance, state supplementary assistance, and foster care appropriations, and to additional anticipated needs according to the July 1, 1988, guidelines and mandated subsequent changes. For surplus appropriations, the across-the-board budget reductions shall be applied first to the surplus appropriations and then to amounts needed to maintain the July 1, 1988, programs and any mandated subsequent changes.

5. The appropriations made to the department of human services for general administration, community services, and the supplemental block grant are based upon receipt of grants to the state from the federal government in the federal fiscal year beginning October 1, 1988, and ending September 30, 1989, in the amount of thirty-two million sixty-eight thousand seven hundred seventy-seven (32,068,777) dollars for the social services block grant. The appropriations are based upon general administration receiving one million eight hundred forty-nine thousand three hundred thirty-one (1,849,331) dollars of the block grant and community services receiving twelve million six hundred sixty-seven thousand two hundred forty-nine

*Item veto; see message at end of the Act

*(12,667,249) dollars for community services. It is the intent of the general assembly that if the amount provided by the federal grants is less than the amounts listed above, then fiscal adjustments shall be made during the state fiscal year beginning July 1, 1989, and ending June 30, 1990.**

Sec. 32. GOALS AND OBJECTIVES. As a condition, qualification, and limitation of the appropriation for general administration, the department of human services shall work with the legislative fiscal bureau and the department of management to establish goals and objectives for each program which commenced on July 1, 1988, or thereafter. The goals and objectives shall be submitted to the fiscal committee of the legislative council on or before August 15, 1988.

Sec. 33. MEDICAID PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES. The following providers shall have their reimbursement rates frozen at the rates in effect on June 30, 1985: optometrists, opticians, clinics, audiologists, rehabilitation agencies, community mental health centers, family planning clinics, psychologists, screening centers, hearing aid dealers, orthopedic shoe dealers, maternal health centers, ambulatory surgery centers and genetic counseling clinics.

However, the material costs of products which are reimbursed at the acquisition cost shall not be frozen.

All across-the-board cuts currently in effect shall be removed effective July 1, 1988.

Reimbursement rates to hospitals and skilled nursing facilities shall be increased according to an inflation factor determined by the department.

Reimbursement rates for rural health clinics shall be increased in accordance with increases under the federal Medicare program.

Home health agencies certified for the medical assistance program shall be reimbursed for their current federal Medicare audited costs. The department shall conduct a study of the reimbursement methodology used for home health agencies in order to change from one of retrospectively determined rates to one of prospectively determined rates.

Sec. 34. STATE SUPPLEMENTARY ASSISTANCE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES. Effective July 1, 1988, the across-the-board cuts currently in effect will no longer apply to residential care facilities. Furthermore, the maximum reimbursement rate for residential care facilities shall be increased by three percent making the maximum rate seventeen dollars and ninety-seven cents. The new flat rate for facilities electing not to file cost reports shall be twelve dollars and eighty-four cents.

Effective July 1, 1988, the across-the-board cuts currently in effect shall not be applied in the in-home health related care program. Furthermore, the maximum reimbursement rate for the in-home health related care program shall be increased by three percent.

Sec. 35. SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES. For services given by social service providers on or after July 1, 1988, reductions to invoices or rates shall be discontinued. In addition, for services given between July 1, 1988, and June 30, 1989, rates shall be automatically increased by three percent over the unreduced rates in effect on June 30, 1988. Rates for foster group care and shelter care services shall not exceed sixty-eight dollars and thirteen cents per day. This automatic increase is intended to be a one-time exception to policy for the fiscal year beginning July 1, 1988, and ending June 30, 1989, only and is not intended to eliminate regular submission of cost reports. The maximum rate in effect on June 30, 1989, shall become the provider's base maximum rate. Future maximum increases shall be calculated on the base maximum rate,

*Item veto; see message at end of the Act

except that the maximum rate a provider may charge shall be calculated under the cost-based system. The base maximum rate for service providers not included in a contract on June 30, 1989, shall be the first actual cost-based rate determined for the provider.

Sec. 36. ASSISTANCE TO GAMBLERS. The department shall use funds deposited in the gamblers assistance fund established in section 99E.10 only for programs to assist gamblers. Any unspent funds shall remain in the fund and shall not be transferred or reverted to the general fund of the state.

The department shall use gamblers assistance fund moneys for three full-time equivalent positions to support this program.

Sec. 37. RULES. The department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", for the following: Sections 3, 15, 16, 19, 20, 21, 26, 27, 33, 34, and 35 of this Act and rules shall become effective immediately upon filing, unless a later effective date is specified in the rules.

Sec. 38. Section 222.73, subsection 2, Code 1987, is amended to read as follows:

2. The superintendent shall certify to the director of revenue and finance the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and outpatient treatment charges computed pursuant to subsection 1, and the number of inpatient days and outpatient treatment service units chargeable to the county. The county billing for a patient shall be reduced by an amount received for the patient's care from any source other than state appropriated funds. The per diem costs billed to each county shall not exceed the per diem costs in effect on July 1, 1988. However, the per diem costs may be adjusted annually to the extent of the adjustment in the consumer price index published annually in the federal register by the federal department of labor, bureau of labor statistics.

Sec. 39. Section 230.20, subsection 2, Code Supplement 1987, is amended to read as follows:

2. The superintendent shall certify to the director of revenue and finance the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and other service charges computed pursuant to subsection 1, and the number of inpatient days and other service units chargeable to the county. However, a county billing shall be decreased by an amount equal to reimbursement by a third party payor or estimation of such reimbursement from a claim submitted by the superintendent to the third party payor for the preceding calendar quarter. When the actual third party payor reimbursement is greater or less than estimated, the difference shall be reflected in the county billing in the calendar quarter the actual third party payor reimbursement is determined. The per diem costs billed to each county shall not exceed the per diem costs in effect on July 1, 1988. However, the per diem costs may be adjusted annually to the extent of the adjustment in the consumer price index published annually in the federal register by the federal department of labor, bureau of labor statistics.

Sec. 40. STATE BOARD OF REGENTS REPORT. The state board of regents shall prepare a report regarding the professional training required to ensure there are a sufficient number of qualified staff to deliver the case management services under section 14 of this Act in regard to enhanced mental health, mental retardation, and developmental disabilities services. The report shall be submitted to the legislative council on or before December 1, 1988.

Sec. 41. SUPPLEMENTAL APPROPRIATION. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1987, and ending June 30, 1988, to the department of human services, the following amount, or so much thereof as is necessary, to supplement the prior appropriation for medical assistance to be used for the same purposes

and to supplement funds appropriated by 1987 Iowa Acts, chapter 234, section 203, subsection 2:
 \$ 3,600,000

Sec. 42. FEDERAL RECEIPTS. 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 of the state.

Sec. 43. CAPITAL EXPENDITURES EXCLUDED. Funds appropriated by this Act shall not be used for capital acquisitions or improvements.

Sec. 44. OUT-OF-STATE TRAVEL PROHIBITED. Funds appropriated by this Act shall not be used by an employee of the department of human services for travel or other expenses related to a training program that takes place outside of this state unless the training is required or it can be demonstrated that out-of-state training is the least expensive alternative.

Sec. 45. LAYOFF PROCEDURES. If the department of human services must lay off more than five employees, the ratio of the number of departmental employees below merit classification pay grade twenty-five who are laid off compared to the total number of departmental employees who are laid off shall not exceed the ratio of the total number of departmental employees below merit classification pay grade twenty-five compared to the total number of departmental employees.

Sec. 46. Sections 135.84 and 142B.1, Code Supplement 1987, are repealed.

Sec. 47. Section 6, subsection 3 of this Act takes effect upon enactment.

Sec. 48. EFFECTIVE DATE. Section 41 of this Act takes effect upon enactment.

Approved April 14, 1988, except the items which I hereby disapprove and which are designated as those portions of section 1, subsections 5 and 6, which are hereby bracketed in ink and initialed by me; those portions of section 3, subsection 3, which are herein bracketed in ink and initialed by me; section 3, subsection 7; that portion of section 3, subsection 11, which is herein bracketed in ink and initialed by me; those portions of section 6, subsection 2, which are herein bracketed in ink and initialed by me; section 6, subsection 3; those portions of section 7, subsection 2, which are herein bracketed in ink and initialed by me; that portion of section 8, subsection 3, which is herein bracketed in ink and initialed by me; that portion of section 17, subsection 4, which is herein bracketed in ink and initialed by me; section 31; section 45; and section 47. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Speaker of the House of Representatives on this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

*Item veto; see message at end of the Act

Dear Mr. Speaker:

I hereby transmit House File 2447, an Act relating to human services, and making appropriations to the Department of Human Services for the fiscal years beginning July 1, 1987, and July 1, 1988, and providing effective dates.

House File 2447 provides funding for various human services programs, including important welfare reform initiatives. I am approving the funding provided in this bill since it is consistent with the budget compromise. I am pleased that the bill, for the most part, fully funds these programs within available funds. As a result, we can avoid a supplemental appropriation next year while providing an honest accounting of the expenditures during this fiscal year.

However, items in this bill excessively limit the ability of the executive branch to administer state government and rule out necessary cost-saving options in the event of budget shortfalls. This administrative flexibility is essential if we are to wisely conserve taxpayers money. For that reason, I have item vetoed some of this restrictive language in House File 2447.

Therefore, House File 2447 is approved with the following exceptions which I hereby disapprove.

I am unable to approve the designated portions of Section 1, subsections 5 and 6, of House File 2447.

The item vetoed language in subsections 5 and 6 of Section 1 of House File 2447 prevents these appropriations from reverting to the state's general fund at the end of fiscal year 1989. Apparently, these nonreversion clauses were inserted in this legislation to prevent the Department of Human Services from making hasty decisions about awarding grants in the Child Development and Family Development and Self-Sufficiency Grant Programs. However, this legislation also requires that all grant awards be made by January 1, 1989. These confusing signals to the department should be eliminated by striking the nonreversionary clauses and maintaining the requirement for the department to make these grant awards by January 1 of next year. The grant awards by the department can be multi-year in nature without the threat of a reversion being required in the next fiscal year, since the money is required to be encumbered by January 1.

I am unable to approve the designated portions of Section 3, subsection 3, of House File 2447.

The designated language would greatly hinder the effectiveness of the department's efforts to implement mandatory HMO's to contain Medicaid costs. Medicaid costs are increasing by over fifteen percent a year and mandatory HMO's are needed as a way to contain these costs. While I appreciate the legislature's recognition of the need to implement mandatory HMO's to contain these costs, restrictive language included in this subsection could render these mandatory HMO's ineffective.

Specifically, this item would exempt family planning services, and mental health services provided through community mental health centers from the mandatory HMO's and could exempt anyone with "minimal transportation expense" from the mandatory HMO.

Federal law and the remaining language in Section 3, subsection 3 require that HMO Medicaid services be easily accessible to needy individuals. The minimal transportation requirement would be most difficult to define and could result in a substantial and unnecessary loophole in the HMO requirements.

In addition, exempting community family planning services and mental health services from the HMO would greatly restrict our ability to contain the cost of those services.

I am unable to approve the item designated as Section 3, subsection 7, of House File 2447.

This provision of the bill exempts certain specialized psychiatric hospitals for children and adolescents from the certificate of need requirements.

I understand that the rationale for this legislative provision exempting these facilities from the certificate of need process was to attempt to allow the facilities to draw down federal dollars from the Medicaid program. I am certainly willing to consider ways in which to accomplish that effort.

However, there is no assurance that money will actually be saved through this method and the legislative action to set aside the certificate of need requirements could open the door for for-profit institutions to become JCAH-accredited and licensed during the next fourteen months in order to draw down federal Medicaid dollars.

The certificate of need process is designed to provide a technical review of the need for additional beds and to help contain health care costs. Those goals are important to the state and the certificate of need process should not be subverted by this legislative action.

I am unable to approve the designated portion of Section 3, subsection 11, of House File 2447.

This item in House File 2447 requires the approval of Legislative Council before the department can expend \$20,000 to obtain assistance from the National Center for Health Services Research in examining state approaches to providing health services to uninsured and underinsured persons. Requiring such approval of the Legislative Council before the department can administer these appropriated funds is an unnecessary intrusion by the legislative branch into the administration of the executive branch and therefore cannot be approved. If the legislature is uncertain about the wisdom of providing these funds for this purpose, the legislature should establish appropriate criteria governing the expenditure of these dollars without granting the Legislative Council de facto administrative power over an executive branch agency.

I am unable to approve the designated portions of Section 6, subsection 2, of House File 2447.

The item vetoed language in this section of House File 2447 requires the Department of Human Services to seek additional funds through supplemental appropriation in the event the department discovers a shortfall in expected funds. Thus, by implication, the department is prohibited from putting in place efficiencies or cost savings in order to pick up an unexpected shortfall. It is bad public policy to rule out the possibility of the department achieving cost savings in order to save taxpayers dollars. The efficiency and cost saving options should be the first ones selected by the department and a supplemental appropriation should be used only as a last resort. In addition, this item would require the department to seek Legislative Council approval before spending additional funds on non-salary or benefit items in its budget. Again, this allows the Legislative Council to, in effect, administer the appropriation made in Section 6 of House File 2447. The legislature does have the authority to appropriately indicate, by statute, the way in which funds should be expended. However, requiring the department to seek Legislative Council approval before certain administrative action is taken is an intrusion on the executive branch's constitutional responsibility to manage state government.

I am unable to approve the item designated as Section 6, subsection 3, of House File 2447.

This section of the bill prohibits the department from placing any orders for computer terminals or other hardware for the family assistance management information system. It also prohibits the department from taking delivery of any terminals or hardware previously ordered without receiving authority of the Legislative Council.

Again, this is an excessive intrusion of the Legislative Council into the administration of state government. Requiring Legislative Council approval before those funds can be administered

is an unnecessary and potentially unconstitutional intrusion in the administration of the executive branch of state government. I will ask the Department of Human Services to inform the Legislative Council, the fiscal committees of the legislature and the membership of the Human Services Appropriation Subcommittee as to their plans for the administration of the Family Assistance Management Information System. However, I cannot accept Legislative Council approval before any action can be taken by the department.

I am unable to approve the designated portions of Section 7, subsection 2, of House File 2447.

This item in Section 7, subsection 2, of the bill again requires the department to seek supplemental funds before attempting to cut costs in order to meet the potential budget shortfalls. It also requires Legislative Council approval before the department can spend funds on items other than salary and benefits. For the above reasons, I believe that the department should use cost saving efforts as a first option when dealing with budget shortfalls and requiring Legislative Council approval before certain administrative actions can be taken is an intrusion into the administration of the executive branch of state government.

I am unable to approve the designated portion of Section 8, subsection 3, of House File 2447.

This item requires the department to limit the population of the Eldora juvenile institution to an average of 200 and puts a limit of 90 juveniles at the Toledo institution.

While I generally agree with the intent of this legislation to maintain a manageable level of population at these institutions, I believe that it would be wrong for us to strictly hamstring the department and the court's ability to make appropriate decisions in the placement of foster children. Meeting this strict limitation would be most difficult for the department to achieve and the impact of failing to achieve it is not clear.

In addition, we should not limit our ability to appropriately place foster care individuals and if the population increases excessively, all three branches of government should review options for dealing with that population problem. A strict cap on that population is an inappropriate option to select at this time.

I am unable to approve the designated portion of Section 17, subsection 4, of House File 2447.

This item of the bill requires that the department increase the eligibility standards for child day care services in the event the department is unable to expend all the funds appropriated for this purpose.

The primary purpose of an appropriation should not be to attempt to make certain that all of it is spent. Rather, it should be designed to meet a particular need that has been identified.

In this case, the need has been identified and the department has been provided funds for that purpose. If the General Assembly determines that funds are available and an additional need is in existence, the legislature can review the need for expansion of the eligibility requirements in the future. However, the department should not run this program with an eye toward making certain all funds are spent.

I am unable to approve the item designated as Section 31 of House File 2447.

This item proposes to prohibit the transfer of funds within the Aid to Families with Dependent Children (AFDC), medical assistance, state supplementary assistance, and the foster care programs. This section also prohibits the department from modifying any of these programs in order to meet budget shortfalls. It also prohibits these programs from being affected by any across-the-board cuts required in order to balance the state budget. Finally, this section

prevents the department, in the event that a shortfall of federal funds occurs, from taking action to cut those programs and instead requires a supplemental appropriation to continue funding in a future fiscal year.

This section of the bill, in effect, prohibits the department from looking for ways in which to cut costs in order to meet potential budget shortfalls. Moreover, the department is strictly limited in its ability to meet changing needs that may be identified during the course of the next fiscal year.

It would be my hope that our projections are accurate enough that budget transfer authority would not need to be utilized. In addition, I am confident that we can avoid an across-the-board cut in the coming fiscal year.

Nevertheless, the executive branch must maintain these options if we are to make certain that taxpayers' money is efficiently and wisely used. Hamstringing the department and the executive branch in efforts to deal with budget shortfalls would only encourage inefficiency and potential unnecessary expenditures. Existing statutory authority ensures the legislative branch is fully informed before the utilization of these necessary tools in the administration of the state's budget. Those notice requirements will be fully met by the executive branch should any of these options need to be selected in the coming fiscal year.

I am unable to approve the item designated as Section 45 of House File 2447.

This section of the bill sets out a strict methodology for the department to use in the event of the need for layoffs of departmental employees. I generally agree with the intent of the legislation to make certain that line employees are not disproportionately impacted should layoffs be needed.

However, the executive branch needs to maintain flexibility to select individuals affected by programs or administrative reductions for layoff in the event of a budget shortfall. Establishing a strict layoff procedure could limit the ability of the department to flexibly deal with budget shortfalls and to set appropriate priorities.

I am unable to approve the item designated as Section 47 of House File 2447.

This section of the bill makes effective the prohibition on the purchase or delivery of any computer equipment by the department upon enactment of the bill. Since that portion of this bill has been item vetoed, this enactment clause is not necessary.

The remainder of House File 2447 is approved in its entirety. Substantial additional funds are provided for child care and medical assistance to help needy Iowans climb the ladder out of poverty. In addition, the bill contains a controlled and manageable state response to the bill of rights. And, the cost estimates for the Medicaid, AFDC, and foster care programs included in this bill are reasonable and should be sufficient to meet the anticipated needs for next fiscal year — thus making a supplementary appropriation not necessary.

I salute the legislature for working with the executive branch to meet these joint goals.

For the above reasons, I hereby respectfully disapprove the designated 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 2447 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1277**APPROPRIATIONS AND OTHER MATTERS RELATING TO CIVIL
AND HUMAN RIGHTS, ELDER AFFAIRS, HEALTH, AND JUSTICE***S.F. 2310*

AN ACT relating to and making appropriations to the Iowa state civil rights commission, the department of human rights, the department for the blind, the department of elder affairs, and the department of public health and establishing a division of criminal and juvenile justice planning.

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 state civil rights commission for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries and support of not more than thirty-one full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 875,000

Sec. 2. There is appropriated from the general fund of the state to the department of human rights for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, for salaries and support of not more than thirty-four and three-tenths full-time equivalent positions and to be used for the purposes designated:

1. CENTRAL ADMINISTRATION DIVISION

For salaries and support of not more than five full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 104,000

It is the intent of the general assembly that the department establish a visitation rights advisory committee composed of volunteer members with expertise or interest in the area of visitation rights.

2. SPANISH-SPEAKING PEOPLE DIVISION

For salaries and support of not more than one and one-half full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 60,000

3. PERSONS WITH DISABILITIES DIVISION

For salaries and support of not more than three full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 125,000

4. STATUS OF WOMEN DIVISION

For salaries and support of not more than two and eight-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 110,000

5. CHILDREN, YOUTH, AND FAMILIES DIVISION

For salaries and support of not more than five and five-tenths full-time equivalent positions annually, maintenance and miscellaneous purposes:

..... \$ 134,000

Of the funds appropriated in this subsection, no less than thirty-six thousand (36,000) dollars shall be spent for expenses relating to the administration of federal funds for juvenile and victim assistance. It is the intent of the general assembly that the department of human rights employ sufficient staff to meet the federal funding match requirements established by

the federal office for juvenile justice delinquency prevention. The governor's advisory council on juvenile justice shall determine the staffing level necessary to carry out federal and state mandates for juvenile justice.

6. DEAF SERVICES DIVISION

For salaries and support of not more than ten full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 238,000

7. STATUS OF BLACKS DIVISION

For salaries and support of not more than one and one-half full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 52,000

8. DIVISION OF CRIMINAL AND JUVENILE JUSTICE PLANNING.

For salaries and support of not more than five full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 215,392

The criminal and juvenile justice advisory council of the division of criminal justice planning and the juvenile justice advisory council of the division of children, youth, and families shall coordinate their efforts in carrying out their respective duties relative to juvenile justice.

Sec. 3. There is appropriated from the general fund of the state to the department for the blind, on the condition that the department is established statutorily under this Act, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries and support of not more than one hundred two and five-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 1,298,000

Sec. 4. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries and support of not more than twenty-eight full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 319,000

It is the intent of the general assembly that the department employ an alternative housing/long-term care coordinator as one of the full-time equivalent positions.

It is the intent of the general assembly that the department establish an Alzheimer's disease task force to collect comprehensive information regarding the incidence and impact of Alzheimer's disease in Iowa; to determine the existing programs and mechanisms for dealing with dementia-related illness including a determination of barriers to access; to develop policy recommendations based upon the scope of the problem, review of relevant literary data regarding cost-effectiveness of care delivery, and the perceived needs to families of Alzheimer's disease victims; and to recommend policy for the enhancement of service delivery and training for families and caregivers through coordination of the increased utilization of existing resources related to the treatment and understanding of Alzheimer's disease victims. The members of the task force shall be reimbursed for actual and necessary expenses incurred by them in the discharge of their official duties.

2. For the administration of area agencies on aging:

..... \$ 114,000

3. For the retired Iowans community employment program:

..... \$ 104,000

4. For the older Iowans legislature:

..... \$ 13,000

5. For the retired seniors volunteer program:

..... \$ 14,000

All of the funds appropriated under subsection 5 shall be divided equally among the programs in existence as of July 1, 1988, and shall not be used by the department for administrative purposes.

6. For elderly services programs:

..... \$ 1,356,000

All funds appropriated under this subsection shall be received and disbursed by the director of elder affairs for the elderly services program, shall not be used for administrative purposes, and shall be used for citizens of Iowa over sixty years of age for chore, telephone reinsurance, adult day care, and home repair services, including the winterizing of homes, and for the construction of entrance ramps which meet the requirements of section 104A.4 and make residences accessible to the physically handicapped. Funds appropriated under this subsection may be used to supplement federal funds under federal regulations. Funds appropriated under this subsection may be used for elderly services not specifically enumerated in this subsection only if approved by an area agency for provision of the service within the area.

Of the funds appropriated in this subsection, one hundred fifty thousand (150,000) dollars, or so much thereof as is necessary, are allocated for a respite care program, administered by the department of elder affairs.

Area agencies on aging shall expend no less than the same amount expended on adult day care programs in the fiscal year beginning July 1, 1988, than during the fiscal year beginning July 1, 1987.

Of the funds appropriated in this subsection, thirty-five thousand (35,000) dollars, or so much thereof as is necessary, is allocated to each of the case management pilot projects established in Cerro Gordo and Linn counties for continuation of the projects; ten thousand (10,000) dollars, or so much thereof as is necessary, is allocated for the evaluation of both of the existing case management pilot projects in Cerro Gordo and Linn counties; and one hundred thousand (100,000) dollars, or so much thereof as is necessary, is allocated for the funding of grants for additional case management pilot projects. The department shall establish grant application and grant acceptance criteria. It is the intent of the general assembly that existing and subsequent pilot projects funded under this subsection include a component for the preadmission screening of persons considering admittance to an intermediate care facility in order to determine whether or not the provision of alternative care services is more appropriate.

7. For contractual services for the elder law education program:

..... \$ 100,000

Sec. 5. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRAL ADMINISTRATION DIVISION

For salaries and support of not more than forty-seven full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 737,000

2. HEALTH PLANNING DIVISION

For salaries and support of not more than eleven and seventy-six one-hundredths equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 1,222,000

The department shall allocate from the funds appropriated under this subsection eight hundred ninety-one thousand (891,000) dollars for the fiscal year beginning July 1, 1988, 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 nonprescription 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.

3. DISEASE PREVENTION DIVISION

a. For salaries and support of not more than fifty-nine full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 1,717,000

b. For salaries and support of not more than five full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 1,000,000

It is the intent of the general assembly that the moneys appropriated under this paragraph shall be used for the training of emergency medical services personnel at the state, county, and local levels.

4. PROFESSIONAL LICENSURE

For salaries and support of not more than eleven full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 461,000

5. STATE BOARD OF DENTAL EXAMINERS

For salaries and support of not more than four full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 168,000

6. STATE BOARD OF MEDICAL EXAMINERS

For salaries and support of not more than eighteen full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 884,000

7. STATE BOARD OF NURSING EXAMINERS

For salaries and support of not more than seventeen full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 708,000

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries and support of not more than twelve full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 516,000

Professional licensure pursuant to subsection 4 and the boards pursuant to subsections 5 through 8 shall prepare estimates of projected receipts 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 receipts equal projected costs.

9. SUBSTANCE ABUSE DIVISION

a. For salaries and support of not more than seventeen and fifty-five one-hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes:

..... \$ 471,000

- b. For program grants:
 - \$ 7,021,000
- c. For salaries and support of not more than four and three-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes for the governor's alliance on substance abuse:
 - \$ 45,000

10. HEALTH DATA COMMISSION

For the health data clearinghouse:

..... \$ 250,000

It is the intent of the general assembly that the commission shall not enter into an agreement with an entity that engages in whole or in part in the provision of health care services or an entity that has a material financial interest in the provision of such services.

11. FAMILY AND COMMUNITY HEALTH DIVISION

- a. For salaries and support of not more than sixty-seven and two-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes:
 - \$ 2,210,000

The department shall allocate from the funds appropriated under this paragraph at least six hundred twenty-six thousand (626,000) dollars for the fiscal year beginning July 1, 1988, and ending June 30, 1989, for the birth defects and genetics counseling program and of these funds, thirty-nine thousand (39,000) dollars shall be allocated for a central birth defects registry program.

Of the funds appropriated under this paragraph forty-nine thousand (49,000) dollars shall be used for a lead abatement program.

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:
 - \$ 308,000
- (2) Muscular dystrophy and related genetic disease programs:
 - \$ 125,000
- (3) Statewide perinatal program:
 - \$ 67,000

The birth defects and genetic counseling service shall apply 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 used for the program.

Of the funds allocated to the mobile and regional child health speciality clinics under subparagraph (1) of this paragraph, sixty-eight thousand (68,000) dollars shall be used for a specialized medical home care program providing care planning and coordination of community support services for children who require technical medical care in the home.

The University of Iowa hospitals and clinics shall not receive indirect costs from the funds for each program.

The Iowa department of public health shall administer the statewide maternal and child health program and the crippled children's program by conducting mobile and regional child health specialty clinics and conducting other activities to improve the health of low-income women and children and to promote the welfare of children with actual or potential handicapping conditions and chronic illnesses in accordance with the requirements of Title V of the Social Security Act.

b. Sudden infant death syndrome autopsies.

For reimbursing counties for expenses resulting from autopsies of suspected victims of sudden infant death syndrome required under section 331.802, subsection 3, paragraph "j":
 \$ 14,000

c. For grants to local boards of health for the public health nursing program:

..... \$ 2,175,000

Funds appropriated under this paragraph shall be used to maintain and expand the existing public health nursing program for elderly and low-income persons with the objective of preventing or reducing inappropriate institutionalization. The funds shall not be used for any other purpose. As used in this paragraph, "elderly person" means a person who is sixty years of age or older and "low-income person" means a person whose income and resources are below the guidelines established by the department.

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 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. 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 shall subcontract with a nonprofit nurses' association, an independent nonprofit agency, or a suitable local governmental body to use the allocated funds to provide public health nursing care. Local boards of health shall make an effort to prevent duplication of services.

If by July 30 of each fiscal year, 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. If the unallocated pool is fifty thousand (50,000) dollars or more it shall be reallocated to the 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. If the unallocated pool is less than fifty thousand (50,000) dollars, the department may allocate it to counties with demonstrated special needs for public health nursing.

The department shall maintain rules governing the expenditure of funds appropriated by paragraph "d". The rules 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.

d. For grants to county boards of supervisors for the homemaker-home health aide program:

..... \$ 7,787,000

Funds appropriated under this paragraph shall be used to provide homemaker-home health aide services with emphasis on services to elderly and persons below the poverty level 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. It also includes heavy house cleaning which includes cleaning attics or basements to remove fire hazards, moving heavy furniture, extensive wall washing, floor care or painting, and trash removal.

(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, and household management.

(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. 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: sixty percent according to the number of elderly persons living in the county; twenty percent according to the number of persons below the poverty level living in the county; and twenty percent according to the number of substantiated cases of child abuse in the county during the three most recent fiscal years for which data is available.

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 planning for 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, and that each homemaker-home health aide subcontracting agency shall maintain the direct service workers' time assigned to direct client service at seventy percent or more of the workers' paid time and that no more than thirty-five percent of the total cost of the service be in the combined costs for service administration and agency administration. The subcontract shall require that each homemaker-home health aide subcontracting agency shall pay the employer's

contribution of Social Security and provide workers' compensation coverage for persons providing direct homemaker-home health aide service and meet any other applicable legal requirements of an employer/employee relationship.

If by July 30 of each fiscal year, 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. 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, reallocate the funds in the unallocated pool among the counties in which the department has concluded contracts under this paragraph. The department shall also review the first ten months' expenditures for each county in May of each year, to determine if any counties have contracted funds which they do not anticipate spending. If such funds are identified and the county agrees to release the funds, the released funds will be considered a new reallocation pool. The department may, prior to June 1 of each year, reallocate funds from this new reallocation pool to those counties which have experienced a high utilization of protective service hours for children and dependent adults.

The department shall maintain rules governing the expenditure of funds appropriated by this paragraph. The rules 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 maintain 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.

e. For the development and maintenance of well-elderly clinics in the state:

..... \$ 494,000

Appropriations made in this paragraph shall be provided to well-elderly clinics by a formula prioritizing clinics located in counties which provide funding on a matching basis for the well-elderly clinics.

f. For the decentralized indigent obstetrical patient program for salaries and support of not more than one full-time equivalent position annually, maintenance, and miscellaneous purposes there is appropriated the amount of seven hundred seventy thousand (770,000) dollars; however, if the provisions of 1988 Iowa Acts, House File 2447, section 3, subsection 14 are not enacted, there is appropriated, in lieu of the prior amount, the amount of one million seventy thousand (1,070,000) dollars.

It is the intent of the general assembly that a person certified under chapter 255A, who is not included in the patient quota for which care is provided at the university hospitals, but who gives birth or receives obstetrical care at the university hospitals, shall receive payment for care through the funds available under chapter 255 and the moneys not expended for the person certified under chapter 255A shall be available for use by the county of residence of the person certified.

It is also the intent of the general assembly that if delivery costs for persons certified under chapter 255A are less than one thousand nine hundred (1,900) dollars, the excess moneys shall revert to a fund for reallocation under chapter 255A in accordance with the allowable reimbursement level established and in accordance with the patient quota formula.

Appropriations made in this paragraph shall be provided in accordance with the county patient quota formula established. The costs of provision of services to indigent obstetrical patients not provided services locally that are provided services at the university hospital shall be paid from the appropriation for the support of the hospital.

Sec. 6. There is appropriated from the separate fund created under section 321J.17 to the family and community health division of the Iowa department of public health for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the amount of seventy-six thousand (76,000) dollars, or so much thereof as is necessary, to pay the costs of medical examinations in crimes of sexual abuse and of treatments for prevention of venereal disease as required by section 709.10.

Sec. 7. There is appropriated from the separate fund created under section 601K.117 to the division of deaf services of the department of human rights for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the amount of fifty thousand (50,000) dollars, or so much thereof as is necessary, to be used for the funding of interpretation services provided by the division. If the moneys generated for deposit in the separate fund created under section 601K.117 are less than fifty thousand (50,000) dollars, an amount which is the difference between fifty thousand dollars and the amount generated for deposit in the fund shall be appropriated from the general fund of the state to the division of deaf services of the department of human rights for the year beginning July 1, 1988, and ending June 30, 1989. Four thousand (4,000) dollars of the moneys appropriated under this section shall be used for the payment of interpretation services contracted by the division of deaf services for the fiscal period beginning July 1, 1988, and ending June 30, 1989. Any balance in the fund on June 30, 1989, or June 30 of a succeeding fiscal year shall remain in the fund.

Sec. 8. The licensing boards for which general fund appropriations have been provided for in section 5, subsections 4, 5, 6, 7, and 8 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 5, subsections 4, 5, 6, 7, and 8 of this Act expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the department of management 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 department of management 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. 9. All federal grants to and federal receipts of the agencies appropriated funds under this division of this Act are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly. Full-time equivalent positions funded entirely with federal funds are exempt from the limits on the number of full-time equivalent positions provided in this division of this Act, but are approved only for the period of time for which the federal funds are available for the position.

Sec. 10. NEW SECTION. 255A.14 FUNDS — REVERSION OF UNENCUMBERED BALANCE.

Notwithstanding the provisions of section 8.33 or any other provision of law, any unencumbered balance remaining in the decentralized indigent obstetrical patient program fund on June 30 of each year shall be used for the payment of warrants issued pursuant to section 255.25.

**Sec. 11. Section 331.424, subsection 1, Code 1987, is amended by adding the following new paragraph:*

NEW PARAGRAPH. *p. Training of emergency medical services personnel and the acquisition of emergency medical services equipment.**

**Sec. 12. Section 331.424, subsection 2, Code 1987, is amended by adding the following new paragraph:*

NEW PARAGRAPH. *c. Training of emergency medical services personnel and the acquisition of emergency medical services equipment.**

Sec. 13. NEW SECTION. 601K.117 INTERPRETATION SERVICES FUND.

All fees collected by the division for provision of interpretation service by the division to obligated agencies shall be transmitted to the treasurer of the state who shall deposit the money in a separate fund dedicated to and used by the division for the provision of continued and expanded interpretation services. The commission shall adopt rules which establish a fee schedule for the costs of provision of interpretation services, for collection of the fees, and for disposition of moneys received under this section.

DIVISION OF CRIMINAL AND JUVENILE JUSTICE PLANNING.

Sec. 14. NEW SECTION. 601K.131 DEFINITIONS.

For the purpose of this subchapter, unless the context otherwise requires:

1. "Council" means the criminal and juvenile justice advisory council.
2. "Division" means the division of criminal and juvenile justice planning.
3. "Administrator" means the administrator of the division of criminal and juvenile justice planning.

Sec. 15. NEW SECTION. 601K.132 COUNCIL ESTABLISHED — TERMS — COMPENSATION.

A criminal and juvenile justice advisory council is established consisting of thirteen members. The governor shall appoint seven members each for a four-year term beginning and ending as provided in section 69.19 and subject to confirmation by the senate as follows:

1. Three persons, each of whom is a county supervisor, county sheriff, mayor, city chief of police, or county attorney.
2. Two persons who represent the general public and are not employed in any law enforcement, judicial, or corrections capacity.
3. Two persons who are knowledgeable about Iowa's juvenile justice system.

The departments of human rights, human services, corrections, and public safety, the attorney general, and the chief justice of the supreme court shall each designate a person to serve on the council.

Members of the council shall receive reimbursement from the state for actual and necessary expenses incurred in the performance of their official duties. Members may also be eligible to receive compensation as provided in section 7E.3.

*Item veto; see message at end of the Act

Sec. 16. NEW SECTION. 601K.133 DUTIES.

The council shall do all of the following:

1. Identify issues and analyze the operation and impact of present criminal and juvenile justice policy and make recommendations for policy changes.
2. Coordinate with data resource agencies to provide data and analytical information to federal, state, and local governments, and assist agencies in the use of criminal and juvenile justice data.
3. Report criminal and juvenile justice system needs to the governor, the general assembly, and other decision makers to improve the criminal and juvenile justice system.
4. Provide technical assistance upon request to state and local agencies.
5. Administer federal funds and funds appropriated by the state or that are otherwise available for study, research, investigation, planning, and implementation in the areas of criminal and juvenile justice.
6. Make grants to cities, counties, and other entities pursuant to applicable law.

Sec. 17. NEW SECTION. 601K.134 ADMINISTRATOR.

The administrator shall be responsible to the council, and pursuant to section 601K.2, with the approval of the council, shall employ and supervise other persons necessary to carry out the programs and policies established by the council.

Sec. 18. NEW SECTION. 601K.135 PLAN AND REPORT.

Beginning in 1989, and every five years thereafter, the division shall develop a twenty-year criminal and juvenile justice plan for the state which shall include ten-year, fifteen-year, and twenty-year goals and a comprehensive five-year plan for criminal and juvenile justice programs. The five-year plan shall be updated annually and each twenty-year plan and annual updates of the five-year plan shall be submitted to the governor and the general assembly by February 1.

Sec. 19. NEW SECTION. 601K.136 STATISTICAL ANALYSIS CENTER.

The division shall maintain an Iowa statistical analysis center for the purpose of coordinating with data resource agencies to provide data and analytical information to federal, state, and local governments, and assist agencies in the use of criminal and juvenile justice data. The division of criminal and juvenile justice planning and the statistical analysis center are considered criminal justice agencies for the purposes of receiving criminal history data.

Sec. 20. Section 7E.5, subsection 1, paragraph t, Code 1987, is amended to read as follows:

t. The department of human rights, created in section 601K.1, which has primary responsibility for services relating to Spanish-speaking people, children, youth, and families, women, persons with disabilities, community action agencies, and deaf, ~~and~~ blind persons.

Sec. 21. Section 7E.5, Code 1987, is amended by adding the following new lettered paragraph: NEW LETTERED PARAGRAPH. v. The department for the blind, created in section 601L.1, which has primary responsibility for services relating to blind persons.

Sec. 22. Section 7E.6, subsection 5, Code 1987, is amended by striking the subsection.

Sec. 23. Section 18.3, subsection 1, unnumbered paragraphs 1 and 2, Code Supplement 1987, are amended to read as follows:

Establishing and developing, in co-operation with the various state agencies, a system of uniform standards and specifications for purchasing. When the system is developed, all items of general use shall be purchased through the department, except items used by the state department of transportation, institutions under the control of the board of regents, the ~~commission~~ department for the blind, and any other agencies exempted by law.

Life cycle cost and energy efficiency shall be included in the criteria used by the department of general services, institutions under the state board of regents, the state department of transportation, the ~~commission~~ department for the blind and other state agencies in developing standards and specifications for purchasing energy consuming products. As used in this paragraph "life cycle cost" means the expected total cost of ownership during the life of a product.

Sec. 24. Section 18.8, Code 1987, is amended to read as follows:

18.8 CAPITOL BUILDINGS AND GROUNDS — SERVICES.

The director shall provide necessary telephone, telegraph, lighting, fuel, and water services for the state buildings and grounds located at the seat of government, except the buildings and grounds referred to in section ~~601K.123~~ 601L.3, subsection 6.

The director shall establish, supervise, and maintain a central mail unit for the use of all state officials and agencies located at the seat of government. All state officials and agencies located at the seat of government shall be required to dispatch first and second class mail and parcel post mail, at the mail unit for the purpose of having the mail sealed, metered, and posted.

The director shall allow a department to seal, meter or stamp, and post mail directly from such department if it would be more efficient and economical.

Postage shall not be furnished to the general assembly, its members, officers, employees, or committees.

Except for buildings and grounds described in section ~~601K.123~~ 601L.3, subsection 6, and section 2.43, unnumbered paragraph 1, the director shall assign office space at the capitol, other state buildings and elsewhere in the city of Des Moines, for all executive and judicial state agencies. Assignments may be changed at any time. The various officers to whom rooms have been so assigned may control the same while the assignment to them is in force. Official apartments shall be used only for the purpose of conducting the business of the state. The term "capitol" or "capitol building" as used in the Code shall be descriptive of all buildings upon the capitol grounds. The capitol building itself is reserved for the operations of the general assembly, the governor and the courts and the assignment and use of physical facilities for the general assembly shall be pursuant to section 2.43.

The director shall appoint a superintendent of buildings and grounds, who shall serve at the pleasure of the director and shall not be governed by the provisions of chapter 19A.

Sec. 25. Section 18.12, subsection 2, Code Supplement 1987, is amended to read as follows:

2. Have at all times, charge of and supervision over the janitors, and other employees of the department in and about the capitol and other state buildings, except the buildings and grounds referred to in section ~~601K.123~~ 601L.3, subsection 6, at the seat of government.

Sec. 26. Section 135.62, subsection 2, paragraph c, Code 1987, is amended to read as follows:

c. MEETINGS. The council shall hold an organizational meeting in July of each odd-numbered year, or as soon thereafter as the new appointee or appointees are confirmed and have qualified. Other meetings shall be held at least once each month, and may be held more frequently if necessary to enable the council to expeditiously discharge its duties. Meeting dates shall be set upon adjournment or by call of the chairperson upon five days' notice to the other members. Each member of the council shall receive an annual salary of three thousand dollars a forty dollar per diem and reimbursement for actual expenses while engaged in official duties.

Sec. 27. Section 601K.1, Code Supplement 1987, is amended to read as follows:

601K.1 DEPARTMENT OF HUMAN RIGHTS.

A department of human rights is created, with the following divisions:

1. Division of Spanish-speaking people.

2. Division of children, youth, and families.
3. Division on the status of women.
4. Division of persons with disabilities.
5. Division of community action agencies.
6. Division of deaf services.
7. Division ~~for the blind~~ of criminal and juvenile justice planning.

Sec. 28. Section 601K.3, subsection 1, Code 1987, is amended to read as follows:

1. A human rights policy-coordinating council composed of ~~seven~~ eight members is created within the department of human rights. The council is composed of the administrators within the department.

Sec. 29. Section 601K.121, Code 1987, is amended to read as follows:

601K.121 DEFINITIONS.

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

1. "Commission" means the commission for the blind.
2. "~~Division~~" "~~Department~~" means the division department for the blind ~~of the department of human rights.~~
3. "~~Administrator~~" "Director" means the ~~administrator~~ director of the division department for the blind ~~of the department of human rights.~~

Sec. 30. Chapter 80C, Code 1987, is repealed.

Sec. 31. The Code editor shall renumber sections 601K.121 through 601K.127 of the Code as a new chapter 601L.

Sec. 32. Section 13 of this Act takes effect upon enactment.

Approved April 14, 1988, except the items which I hereby disapprove and which are designated as sections 11 and 12. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the President of the Senate on this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Madam President:

I hereby transmit Senate File 2310, an Act relating to and making appropriations to the Iowa state civil rights commission, the department of human rights, the department for the blind, the department of elder affairs, and the department of public health and establishing a division of criminal and juvenile justice planning.

Senate File 2310 is approved with the following exception which I hereby disapprove.

I am unable to approve the items designated as Sections 11 and 12 of Senate File 2310.

These sections of this bill authorize counties to levy additional property taxes to fund the training of emergency medical services personnel and the acquisition of emergency medical services equipment. I am unable to approve this authorization for an additional supplemental levy because I do not believe that property taxpayers should be made subject to the additional burden of paying for emergency medical services. This same bill adopts my recommendation to provide state funding of \$1 million for emergency medical services. These state dollars can be well utilized to make certain the rural areas retain access to critical emergency medical services. Thus, adding this additional burden on the property taxpayer is unnecessary and unwise.

For the above reasons, I hereby respectfully 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 Senate File 2310 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1278

**APPROPRIATIONS AND RELATED MATTERS FOR PUBLIC DEFENSE,
PUBLIC SAFETY, AND TRANSPORTATION**

S.F. 2314

AN ACT relating to and making appropriations to state agencies whose responsibilities relate to public defense, public safety, transportation, and enforcement, and including allocation and use of moneys from the road use tax fund and abstract fee fund, appropriating moneys to the permanent school fund, providing an increase in the abstract fee, mandating reports of certain agency purchases, mandating adoption of rules governing registration and titling of motor vehicles, renaming the chief executive officer of the department of public safety, changing provisions of the Code relating to application of certain transportation safety regulations, repealing provisions of the Code requiring woodlands, wetlands, public parks, and prime agricultural land to be protected in the design, construction, and reconstruction of highways, and providing effective dates.

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

IOWA LAW ENFORCEMENT ACADEMY

Section 1. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as is necessary, for salaries and support of not more than twenty-two point two full-time equivalent positions, maintenance, and miscellaneous purposes, including jailer training and technical assistance:

..... \$ 707,165

Sec. 2. Notwithstanding section 80B.11, subsection 5, during the fiscal year beginning July 1, 1988, not more than one-half of the cost of providing cognitive and psychological examinations of law enforcement officer candidates may be charged for taking the examinations by the Iowa law enforcement academy. However, no charge shall be made for officer candidates being tested on behalf of state departments or agencies.

The Iowa law enforcement academy may also charge not more than one-half of the cost of providing the ten-week course which is designed to meet the minimum basic training requirements for a law enforcement officer. However, a charge shall not be made for officers employed by state departments or agencies.

Sec. 3. The Iowa law enforcement academy is projected to raise at least an additional two hundred one thousand (201,000) dollars in receipts and federal funds.

DEPARTMENT OF PUBLIC DEFENSE

Sec. 4. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries and support of not more than one hundred thirty-nine point forty-two full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 3,256,709

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, 1988, and ending June 30, 1989. 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.

2. For the war orphans educational aid fund:	\$ 15,185
3. For salaries and support of not more than three full-time equivalent positions, maintenance, and miscellaneous purposes for the purpose of emergency response planning:	\$ 106,837

Sec. 5. Notwithstanding section 384.15, subsection 7, paragraph "b", there is appropriated from the unencumbered and unobligated funds remaining in the law enforcement training reimbursement fund on June 30, 1988, to the department of public defense for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of eighty-six thousand (86,000) dollars, or so much thereof as is necessary, for purposes of preventing the contamination of the ground-water in the Camp Dodge area.

Sec. 6. The department of public defense is projected to raise at least an additional three million one hundred fifty thousand (3,150,000) dollars in receipts and federal funds.

DEPARTMENT OF PUBLIC SAFETY

Sec. 7. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used for funding the following functions and programs for the purposes designated:

1. For the department's administrative functions including the medical examiner's office and the criminal justice information system, the sum of one million nine hundred thirty-five thousand six hundred eight (1,935,608) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, no more than one million four hundred twenty thousand three hundred thirty-five (1,420,335) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43, may be expended for salaries and benefits for not more than forty-five full-time equivalent positions and not more than one million one hundred seventy-one thousand four hundred twenty-three (1,171,423) dollars from all revenue sources may be expended for support and miscellaneous purposes. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

2. The balance of the fund created under section 321J.17 carried forward for the fiscal year beginning July 1, 1988, and ending June 30, 1989, may be used to provide salary and support of not more than eight point five full-time equivalent positions and maintenance for the victim compensation functions of the department of public safety.

3. For purposes relating to radio communications, the sum of two million eight hundred twenty-five thousand two hundred ninety-two (2,825,292) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, no more than two million two hundred eighty-two thousand eight hundred seventy-six (2,282,876) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43, may be expended for salaries and benefits for not more than seventy-eight point five full-time equivalent positions and not more than five hundred fifty-four thousand six hundred sixty-six (554,666) dollars from all revenue sources may be expended for support and miscellaneous purposes. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

4. a. For the division of criminal investigation containing the bureaus of identification 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, the sum of three million four hundred fifty-three thousand one hundred eight (3,453,108) dollars, or so much thereof as is necessary, and

as a condition, limitation, and qualification of this appropriation, no more than four million one hundred sixty-eight thousand two hundred forty-nine (4,168,249) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43, may be expended for salaries and benefits for not more than one hundred eleven full-time equivalent positions and not more than six hundred two thousand three hundred fifty-three (602,353) dollars from all revenue sources may be expended for support and miscellaneous purposes, including lease and lease purchase of laboratory equipment. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

b. Notwithstanding section 384.15, subsection 7, paragraph "b", there is appropriated from the unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1988, to the department of public safety, division of criminal investigation, the sum of two hundred thousand (200,000) dollars, or so much thereof as is necessary, to be used for salaries, support, maintenance, and miscellaneous purposes.

5. For the 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, the sum of two hundred twenty-seven thousand six hundred sixty-five (227,665) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, no more than one hundred seventy-seven thousand three hundred thirty-six (177,336) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43, may be expended for salaries and benefits for not more than five full-time equivalent positions and not more than fifty thousand three hundred twenty-nine (50,329) dollars from all revenue sources may be expended for support and miscellaneous purposes. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

6. a. For the division of narcotics, 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, the sum of nine hundred sixty-nine thousand fifteen (969,015) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, no more than eight hundred fifty-nine thousand eight hundred ninety-nine (859,899) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43, may be expended for salaries and benefits for not more than twenty-three full-time equivalent positions and not more than one hundred thirty-two thousand six hundred sixteen (132,616) dollars from all revenue sources may be expended for support and miscellaneous purposes. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

b. Notwithstanding section 384.15, subsection 7, paragraph "b", there is appropriated from the unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1988, to the department of public safety, division of narcotics, the sum of two hundred thousand (200,000) dollars for undercover purchases by the division of narcotics and local law enforcement agencies.

7. For the fire marshal's office, 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, the sum of one million one hundred ninety-one thousand three hundred ninety-five (1,191,395) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, no more than one million one hundred fifty thousand two hundred nineteen (1,150,219) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43, may be expended for salaries and benefits for not more than thirty-one full-time equivalent positions and not more than one hundred eighty-two thousand two hundred seventy-six (182,276) dollars

from all revenue sources may be expended for support and miscellaneous purposes. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

8. For the capitol security division, the sum of nine hundred seventy-six thousand two hundred ninety-two (976,292) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, no more than nine hundred two thousand three hundred eighty-seven (902,387) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43, may be expended for salaries and benefits for not more than thirty-six full-time equivalent positions and not more than seventy-three thousand nine hundred five (73,905) dollars from all revenue sources may be expended for support and miscellaneous purposes. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to this condition.

Sec. 8. There is appropriated from the road use tax fund to the department of public safety, division of highway safety and uniformed force, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used as follows:

1. The sum of nineteen million eight hundred ninety-nine thousand three hundred fifty-one (19,899,351) dollars, or so much thereof as is necessary, and as a condition, limitation, and qualification of this appropriation, no more than sixteen million three hundred fifty-six thousand (16,356,000) dollars from all revenue sources, plus an allocation from the salary adjustment fund pursuant to section 8.43, may be expended for salaries and benefits for not more than four hundred forty-eight point five full-time equivalent positions and not more than four million ninety-nine thousand five hundred fifty-three (4,099,553) dollars from all revenue sources may be expended for support and miscellaneous purposes including federal Highway Safety Act programs, and the state's contributions to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated, and as an additional condition, limitation, and qualification of this appropriation the Iowa law enforcement academy shall be allowed to annually select up to five automobiles of the department of public safety, division of highway safety and uniformed force, which are being turned in to the state vehicle dispatcher to be disposed of by public auction and the Iowa law enforcement academy shall be allowed to exchange any automobile owned by the academy for each automobile selected if the selected automobile is used in training law enforcement officers at the academy, however, any automobile exchanged by the academy shall be substituted for the selected vehicle of the department of public safety and sold by public auction with the receipts being deposited in the depreciation fund to the credit of the department of public safety, division of highway safety and uniformed force. Unanticipated federal and local grants or receipts received after this Act becomes effective are not subject to these conditions.

However, the unfunded liability of the peace officers' retirement, accident, and disability system, as of July 1, 1986 shall not be considered a liability of the road use tax fund.

An employee of the department of public safety or its successor who retires after the effective date of this Act is eligible for payment of life or health insurance premiums as provided for in the collective bargaining agreement covering the public safety bargaining unit at the time of retirement if that employee previously served in a position which would have been covered by the agreement. The employee shall be given credit for the service in that prior position as though it were covered by that agreement. This section shall not operate to reduce any retirement benefits an employee may have earned under other collective bargaining agreements or retirement programs.

2. For the capital purchase of mobile vehicle repeater radios and test equipment to be used by the Iowa highway safety patrol, provided that only the lowest, most responsible bid is accepted by the department of public safety in the purchase of these motor vehicle repeater radios:

..... \$ 920,000

The mobile vehicle repeater radios are to be placed solely in motor vehicles used by members of the Iowa highway safety patrol below the rank of lieutenant for patrolling the highways.

3. For the purpose of making payments to the department of personnel for expenses incurred in administering workers' compensation on behalf of the highway safety division of highway safety and uniformed force:

..... \$ 55,544

4. For the purpose of making payments to the department of personnel for expenses incurred in administering the merit system on behalf of the highway safety division of highway safety and uniformed force:

..... \$ 50,000

Sec. 9. There is appropriated from the road use tax fund from revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b" to the department of public safety the sum of six hundred thousand (600,000) dollars, or so much thereof as is necessary, for land acquisition, construction or purchase of a facility, and other miscellaneous expenses for a new highway patrol post with access to Interstate highways 29, 80, and 680 and the construction of the post's communication tower. Moneys appropriated under this section shall be repaid by the department of public safety to the road use tax fund by June 30, 1991.

Sec. 10. There is appropriated from the abstract fee fund created in section 321A.3A to the department of public safety, division of criminal investigation and bureau of identification for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of eight hundred fifty thousand (850,000) dollars, or so much thereof as is necessary, for salaries, support, maintenance, and miscellaneous purposes.

Sec. 11. The department of public safety is projected to raise at least an additional one million one hundred ninety-four thousand nine hundred twenty-nine (1,194,929) dollars in receipts and federal funds.

STATE DEPARTMENT OF TRANSPORTATION

Sec. 12. It is a condition, limitation, and qualification for moneys appropriated under this section that the state department of transportation provide the legislative fiscal bureau with copies of the minutes of all meetings of the state transportation commission which occur after the effective date of this Act at no cost to the legislative fiscal bureau, and provided that the condition, limitation, and qualification is met, there is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1. For salaries, support, maintenance, and miscellaneous purposes for:

a. Administrative services, fifty-two point seventy-five full-time equivalent positions:

..... \$ 3,068,632

b. General counsel, one point two full-time equivalent positions:

..... \$ 148,151

c. Planning and research, eight point six full-time equivalent positions:

..... \$ 286,216

d. Aeronautics and public transit, five full-time equivalent positions:	\$	199,673
e. Motor vehicles, five hundred thirty-one point three full-time equivalent positions:	\$	15,156,250
f. Rail and water, fifteen point four full-time equivalent positions:	\$	586,878
2. For the purpose of making payments to the department of personnel for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A:	\$	16,000
3. Unemployment compensation:	\$	12,250

Sec. 13. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of thirty-five thousand eighty (35,080) 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. 14. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1. For salaries, support, maintenance, and miscellaneous purposes for:		
a. Administrative services, three hundred one point twenty-five full-time equivalent positions:	\$	18,802,617
b. General counsel, six point eight full-time equivalent positions:	\$	876,849
c. Planning and research, one hundred sixty-two point four full-time equivalent positions:	\$	5,438,109
d. Aeronautics and public transit, five full-time equivalent positions:	\$	199,673
e. Highways, two thousand eight hundred seventy-six full-time equivalent positions:	\$	117,652,377
f. Motor vehicles, eighteen point seven full-time equivalent positions:	\$	529,015
g. Rail and water, six point six full-time equivalent positions:	\$	248,793
2. To be deposited in the state department of transportation's highway materials and equipment revolving fund established by section 307.47 for funding the increased replacement cost of vehicles:	\$	2,000,000
3. For the purpose of making payments to the department of personnel for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A:	\$	304,000
4. Unemployment compensation:	\$	232,750

Sec. 15. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of six hundred sixty-six thousand five hundred forty (666,540) 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. 16. There is appropriated from the state aviation fund to the state department of transportation for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as may be necessary, to be used for the following purposes:

For salaries and support of not more than nine full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 348,654

Sec. 17. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, to be used in the manner designated:

1. For repairing the laboratory lot of the Ames office complex:

..... \$ 150,000

The provisions of section 8.33 do not apply to the funds appropriated by this subsection. Unencumbered or unobligated funds remaining on June 30, 1990, from funds appropriated for the fiscal year beginning July 1, 1988, shall revert to the fund from which appropriated on September 30, 1990.

2. For the replacement of obsolete field facilities located in the cities of Chariton, Waverly, and Maquoketa and the purchase of a parcel of land at Jefferson:

..... \$ 2,055,000

The state department of transportation shall continue its construction program of replacing obsolete field facilities and shall also conduct a needs assessment study of the department's maintenance facilities construction needs and shall present the findings of the study to the Seventy-third General Assembly in January 1990.

The state department of transportation shall complete the Greenfield field facility by June 30, 1991.

The provisions of section 8.33 do not apply to the funds appropriated by this subsection. Unencumbered or unobligated funds remaining on June 30, 1992, from funds appropriated for the fiscal year beginning July 1, 1988, shall revert to the fund from which appropriated on September 30, 1992.

Sec. 18. Receipts from the sale of aircraft which were replaced under the appropriation provided under 1987 Iowa Acts, chapter 232, section 9, are appropriated from the state aircraft revolving fund to the state department of transportation for the fiscal year beginning July 1, 1988, and ending June 30, 1989, for the purposes of terminal improvements at essential air service airports. In selecting projects, the state department of transportation shall give preference to projects that will assist in maintaining and attracting air service. Priority shall be given to projects for terminals which need matching funds to receive federal moneys and which have annual enplanements of under forty thousand persons. The department shall provide funding for as many essential air service communities as possible.

Sec. 19. Notwithstanding section 423.24, and prior to application of section 423.24, subsection 1, paragraph "b", there is appropriated from revenues derived from the operation of section 423.7 to the state department of transportation for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of two hundred fifty thousand (250,000) dollars, or so much thereof as is necessary, for the purposes of terminal improvements at essential air service airports. In selecting projects, the state department of transportation shall give preference to projects that will assist in maintaining and attracting air service. Moneys appropriated under

this section shall be used only for new projects for terminals which have annual enplanements of under forty thousand persons. The department shall provide funding for as many essential air service communities as possible.

Sec. 20. There is appropriated to the state department of transportation from the revenue to be credited to the road use tax fund under section 423.24, subsection 1, paragraph "b", for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of two hundred thousand (200,000) dollars, or so much thereof as is necessary, for the purposes of a study and pilot projects to evaluate gaps in the federal aviation weather collection and dissemination system in Iowa. The results of the pilot projects and the study shall be used to make recommendations for a comprehensive, coordinated statewide system to meet the needs of Iowa aviation. The study shall be independently conducted but administered by the state department of transportation. The pilot projects shall include one weather observer only system and one semiautomated system.

CODE CHANGES

Sec. 21. Section 7E.4, subsection 5, Code 1987, is amended to read as follows:

5. "Head of the department" means the elective officer, director, commissioner, or other official in charge of a department.

Sec. 22. Section 80.2, Code 1987, is amended to read as follows:

80.2 ~~DIRECTOR~~ COMMISSIONER — APPOINTMENT.

The chief executive officer of the department of public safety is the director commissioner of public safety. The governor shall appoint, subject to confirmation by the senate, a director commissioner of public safety, who shall be a person of high moral character, of good standing in the community in which the director commissioner lives, of recognized executive and administrative capacity, and who shall not be selected on the basis of political affiliation. The director commissioner of public safety shall devote full time to the duties of this office; the director commissioner shall not engage in any other trade, business, or profession, nor engage in any partisan or political activity. The director commissioner shall serve at the pleasure of the governor, at an annual salary as fixed by the general assembly.

Sec. 23. Section 100.35, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The rules adopted by the state fire marshal under this section shall provide standards for fire resistance of cellulose insulation sold or used in this state, whether for public or private use. The rules shall provide for approval of the cellulose insulation by at least one nationally recognized independent testing laboratory.

Sec. 24. Section 302.1, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. All other moneys by law credited to the permanent school fund.

Sec. 25. NEW SECTION. 307.39 MAINTENANCE FACILITIES.

The department shall maintain maintenance facilities within the boundaries of every county with a population in excess of eight thousand persons in which the department maintains a maintenance facility as of January 1, 1988.

Sec. 26. NEW SECTION. 307.40 COPIES OF CONTRACTS TO LEGISLATIVE FISCAL BUREAU.

The department shall give a copy of each contract for construction or reconstruction of roads, streets, or bridges entered into by the department in which the contract price is for five million dollars or more to the legislative fiscal bureau.

Sec. 27. Section 307.47, Code 1987, is amended to read as follows:

307.47 MATERIALS AND EQUIPMENT REVOLVING FUND.

1. The highway materials and equipment revolving fund is created from moneys appropriated out of the primary road fund. From this fund shall be paid all costs for materials and supplies, inventoried stock supplies, maintenance and operational costs of equipment, and equipment replacements incurred in the operation of centralized purchasing under the supervision of the department's administrator of highways. Direct salaries and expenses properly chargeable to direct salaries shall be paid from the fund. For each month the director shall render a statement to each unit under the supervision of the administrator of highways for the actual cost of materials and supplies, operational and maintenance costs of equipment, and equipment depreciation used. The expense shall be paid by the administrator of highways in the same manner as other interdepartmental billings are paid and when the expense is paid by the administrator of highways, the sum paid shall be credited to the highway materials and equipment revolving fund.

2. If surplus accrues to the revolving fund in excess of one hundred thousand dollars for which there is no anticipated need or use, the governor shall order that surplus reverted to the primary road fund.

3. When the units under the supervision of the administrator of highways share equipment with other administrative units of the department, the director shall prorate the costs of the equipment among the administrative units using the equipment.

4. The department shall present a purchase report to the legislative fiscal bureau prior to the beginning of each regular annual session of the general assembly. The report shall cover all equipment and vehicle purchases through the highway materials and equipment revolving fund during the preceding fiscal year.

Sec. 28. Section 312.2, subsection 9, Code Supplement 1987, is amended to read as follows:

9. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the division of soil conservation in the department of agriculture and land stewardship ~~two~~ one hundred fifty thousand dollars from the road use tax funds. The division of soil conservation, in co-operation with the state department of transportation and the department of natural resources shall expend the funds, for the lease or other use of land intended for the planting or maintenance of wind erosion control barriers designed to reduce wind erosion interfering with the maintenance of highways in the state or the safe operation of vehicles on the highway. However, the funds shall not be expended for wind erosion control barriers located more than forty rods from the highway.

Sec. 29. Section 312.2, subsections 10 and 11, Code Supplement 1987, are amended by striking the subsections.

Sec. 30. Section 312.2, subsection 17, Code Supplement 1987, is amended to read as follows:

17. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the public transit assistance fund, created under section 601J.6, from revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b", an amount equal to ~~one fortieth~~ one-twentieth of the revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b".

Sec. 31. **NEW SECTION. 312.2A ALLOCATIONS FOR TRAILS.**

1. There is appropriated from any private moneys received by the state for recreational trail development purposes to the state department of transportation for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of fifty thousand (50,000) dollars, or so much thereof as is necessary, to acquire land and other property to complete parts of existing

recreational trails including, but not limited to, the Cedar Valley nature trail, the Heritage trail, the Grundy county nature trail, and the Comet trail as provided in section 111F.2, subsection 3.

2. The treasurer of state, before making the allotments provided for in section 312.2, shall credit for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the state department of transportation one hundred thousand dollars from the road use tax fund from revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b". The state department of transportation shall expend the moneys to carry out the statewide trails development plan provided for in section 111F.2.

Sec. 32. Section 321.44, Code 1987, is amended to read as follows:

321.44 REGULATIONS GOVERNING CHANGE OF MOTORS ENGINES, DRIVETRAIN ASSEMBLIES AND RELATED PARTS.

The director is authorized to shall adopt and enforce such rules governing registration and titling of motor vehicles as may be deemed necessary by the director and compatible with the public interest with respect to the change or substitution of one engine in place of another engines, drivetrain assemblies or related parts in any motor vehicle.

Sec. 33. Section 321.462, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The connection between a truck tractor and a semitrailer with a gross weight of three thousand pounds or more shall be of a type approved by the director, and the commissioner is hereby given authority to approve or disapprove such types of connection submitted to the commissioner.

Sec. 34. Section 321A.2, subsection 1, Code 1987, is amended to read as follows:

1. The director shall administer and enforce the provisions of this chapter and may make rules necessary for its administration and shall provide for hearings upon request of persons aggrieved by orders or acts of the director under the provisions of sections 321A.4 to 321A.11.

Such ~~The~~ hearings shall be held before the director as early as practicable within not to exceed twenty days after receipt of ~~such~~ the request in the county ~~wherein~~ in which the requesting person resides unless the director and ~~such~~ the requesting person agree that ~~such~~ the hearing may be held in some other county. Upon ~~such~~ hearing the director may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require an examination under oath of the person requesting ~~such~~ the hearing.

Sec. 35. Section 321A.3, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The director shall upon request furnish any person a certified abstract of the operating record of a person subject to chapter 321 or this chapter. The abstract shall also fully designate the motor vehicles, if any, registered in the name of the person. If there is no record of a conviction of the person having violated any law relating to the operation of a motor vehicle or of any injury or damage caused by the person, the director shall so certify. A fee of ~~four~~ five dollars shall be paid for each abstract except by state, county, city or court officials. The director shall transfer the moneys collected under this section to the treasurer of state who shall credit annually to the abstract fee fund created under section 321A.3A the first nine hundred fifty thousand dollars collected and shall credit to the general fund all additional moneys collected.

Sec. 36. Section 321A.3, subsection 2, Code Supplement 1987, is amended to read as follows:

2. A sheriff may provide an abstract of the operating record of a person to the person or an individual authorized by the person. The sheriff shall charge a fee of ~~four~~ five dollars for each abstract which the sheriff shall transfer to the director quarterly. The sheriff may charge an additional fee sufficient to cover costs incurred by the sheriff in producing the abstract.

Sec. 37. Section 321A.3, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The director may permit any person to view the operating record of a person subject to chapter 321 or this chapter through one of the department's computer terminals or through a computer printout generated by the department. The director shall not require a fee for a person to view their own operating record, but the director shall impose a fee of one dollar for each of the first five operating records viewed within a calendar day and two dollars for each additional operating record viewed within the calendar day.

Sec. 38. Section 321A.3, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Fees under subsections 1 and 5 may be paid by credit cards, as defined in section 537.1301, subsection 16, approved for that purpose by the director of transportation. The director shall enter into agreements with financial institutions extending credit through the use of credit cards to ensure payment of the fees. The director shall adopt rules pursuant to chapter 17A to implement the provisions of this subsection.

Sec. 39. Section 321A.3, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding chapter 22 or any other law of this state, except as provided in subsection 5, the director shall not make available an operating record in a manner which would result in a fee of less than that provided under subsection 1. Should the director make available copies of abstracts of operating records on magnetic tape or on disk or through electronic data transfer, the five dollar fee under subsection 1 applies to each abstract supplied.

Sec. 40. **NEW SECTION. 321A.3A ABSTRACT FEE FUND.**

1. There is created the abstract fee fund. Moneys shall be credited from the abstract fee fund as appropriated by the general assembly.

2. The treasurer of state, after crediting moneys appropriated from the abstract fee fund, shall credit any moneys remaining in the abstract fee fund on June 30 of each fiscal year to the road use tax fund to be applied toward the repayment of moneys allocated from the road use tax fund to the department of public safety under section 9 of this Act, until the moneys have been repaid in full.

MISCELLANEOUS PROVISIONS

Sec. 41. 1983 Iowa Acts, chapter 198, section 31, as amended by 1984 Iowa Acts, chapter 1309, section 9, 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 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 loan during the fiscal period beginning July 1, 1984, and ending June 30, 1989 1994.

Each entity which has received a loan pursuant to this section shall have repaid twenty percent of the total amount of the loan by June 30, 1990, forty percent of the total amount of the loan by June 30, 1991, sixty percent of the total amount of the loan by June 30, 1992, eighty percent of the total amount of the loan by June 30, 1993, and the total amount of the loan by

June 30, 1994. If an entity fails to make a loan repayment as required under this section, the entire amount of the loan is immediately due and payable.

Sec. 42. 1987 Iowa Acts, chapter 232, section 1, unnumbered paragraph 2, is amended to read as follows:

Notwithstanding section 384.15, subsection 7, paragraph "b", there is appropriated from the unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1987, to the Iowa law enforcement academy the sum of twenty-eight thousand two hundred (28,200) dollars for repair of a chiller unit, repair of a parking lot, the roof over the indoor firearms range, kitchen equipment, repair or replacement of carpet and replacement of a washing machine floors at the academy. Notwithstanding section 8.33, the unencumbered and unobligated funds remaining in the appropriation of this paragraph shall revert to the general fund on June 30, 1988.

Sec. 43. 1987 Iowa Acts, chapter 232, section 6, subsection 2, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Section 8.33 does not apply to the funds appropriated by this subsection. However, unencumbered or unobligated funds remaining on June 30, 1989, from funds appropriated under this subsection shall revert to the road use tax fund on June 30, 1989.

Sec. 44. 1987 Iowa Acts, chapter 232, section 10, is amended by adding the following new subsection:

NEW SUBSECTION. 6. To meet the requirements of the groundwater protection law by putting in place sniffer wells for the detection of leakage from underground storage tanks:
..... \$ 350,000

Section 8.33 does not apply to the funds appropriated by this subsection. However, unencumbered or unobligated funds remaining on June 30, 1989, from funds appropriated for the fiscal year beginning July 1, 1987, and ending June 30, 1988, shall revert to the fund from which appropriated on June 30, 1989.

Sec. 45. 1987 Iowa Acts, chapter 232, section 11, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Section 8.33 does not apply to the funds appropriated by this section. However, unencumbered or unobligated funds remaining on June 30, 1989, from funds appropriated under this section shall revert to the road use tax fund on June 30, 1989.

Sec. 46. 1987 Iowa Acts, chapter 232, section 15, subsection 3, is amended to read as follows:

3. Section 8.33 does not apply to the funds appropriated by this section. However, unencumbered or unobligated funds remaining on June 30, ~~1991~~ 1993 from funds appropriated for the fiscal year beginning July 1, 1987 shall revert to the fund from which appropriated on September 30, ~~1991~~ 1993.

Sec. 47. 1987 Iowa Acts, chapter 232, section 30, is amended to read as follows:

SEC. 30. 1986 Iowa Acts, chapter 1246, section 12, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Section 8.33 does not apply to the funds appropriated by subsection 5 of this section. However, unencumbered or unobligated funds remaining on June 30, 1991, from funds appropriated for the fiscal year beginning July 1, 1986, shall revert to the fund from which appropriated on September 30, 1991.

Sec. 48. 1987 Iowa Acts, chapter 233, section 120, subsections 2 through 4, are amended to read as follows:

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, 1987, the sum of ~~two~~ six hundred ninety-six thousand forty-five (~~296,045~~ 696,045) dollars, or so much thereof as may be necessary, to supplement other funds appropriated by the general assembly.

3. There is appropriated from the road use tax fund of the state to the department of public safety, for the fiscal year beginning July 1, 1987, the sum of ~~five~~ one million sixty-five thousand nine hundred eighteen (~~565,918~~ 1,065,918) dollars, or so much thereof as may be necessary, to supplement other funds appropriated by the general assembly.

4. There is appropriated from the primary road fund to the state department of transportation, for the fiscal year beginning July 1, 1987, the sum of ~~two~~ four million one hundred fifty-nine thousand seven hundred thirteen (~~2,159,713~~ 4,159,713) dollars, or so much thereof as may be necessary, to supplement other funds appropriated by the general assembly.

Sec. 49. 1987 Iowa Acts, chapter 233, section 120, is amended by adding the following new subsection:

NEW SUBSECTION. 7. There is appropriated from the road use tax fund of the state to the state department of transportation, administrative services, for the fiscal year beginning July 1, 1987, the sum of four hundred thousand (400,000) dollars, or so much thereof as may be necessary for the purposes of information processing adjustments. Section 8.33 does not apply to the funds appropriated by this subsection. However, unencumbered or unobligated funds remaining on June 30, 1989, from funds appropriated under this subsection shall revert to the road use tax fund of the state on July 1, 1989.

Sec. 50. 1988 Iowa Acts, Senate File 2070, section 7, is amended by striking the section and inserting in lieu thereof the following:

SEC. 7. Section 321.449, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this section, rules adopted under this section for a driver of a commercial vehicle shall not apply to a driver for a private carrier, who is not for hire and who is engaged exclusively in intrastate commerce, when the driver's commercial vehicle is not operated more than one hundred miles from the driver's work reporting location.

Sec. 51. 1988 Iowa Acts, Senate File 2196, section 8, is repealed.

Sec. 52. There is appropriated from the general fund to the permanent school fund the sum of fifty-five thousand (55,000) dollars.

Sec. 53. Moneys appropriated for any new program or function shall be used solely for that program or function and moneys shall not be transferred from such appropriations or used for any other purpose.

Sec. 54. The legislative fiscal bureau shall conduct a program evaluation of the administration of motor vehicles of the state department of transportation. The state department of transportation and the department of public safety shall cooperate with the legislative fiscal bureau in providing information required by the legislative fiscal bureau in the program evaluation. The legislative fiscal bureau shall make recommendations about the appropriateness of those functions in the state department of transportation. The recommendations shall be completed by December 1, 1988, and presented to the members of the general assembly.

Sec. 55. The legislative fiscal bureau shall conduct a study evaluating the administration of the department of public safety specifically identifying areas of duplication or overlap of

functions within the department of public safety and with other departments, and reviewing the organizational structure of the department of public safety. The study shall also evaluate the department of public safety's employee recruitment, management, and retention policies and practices. The department of public safety and other state departments and agencies shall cooperate with the legislative fiscal bureau in the study. The study shall, upon completion, be presented to the members of the general assembly. The study shall be completed by January 14, 1989.

Sec. 56. Each department of state government receiving appropriations under this Act, when making purchases of twenty-five thousand dollars or more for which the department does not have specific prior authority from the general assembly, shall notify the legislative fiscal bureau, department of management, and all of the members of the department's respective joint appropriation subcommittee at the time the bids are let.

Sec. 57. The director of public safety on June 30, 1988, is the commissioner of public safety on July 1, 1988.

Sec. 58. The Code editor shall amend all references in the Code to the director of public safety by striking the word "director" and inserting the word "commissioner".

Sec. 59. All federal grants to and the federal receipts of the agencies which are 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. 60. Senate File 2196* appropriated moneys to the state department of transportation for a network of commercial and industrial highways and other expenditures. However, the bill does not require a plan or budget for expenditures to be submitted. In order to effectively track the use of these moneys, the state department of transportation shall submit a spending plan on moneys appropriated to it under Senate File 2196* prior to an expenditure of moneys appropriated under Senate File 2196* to the legislative fiscal bureau and each member of the fiscal committee of the legislative council. The state department of transportation shall report to the legislative fiscal bureau and each member of the fiscal committee of the legislative council by January 1, 1989, expenditures made to date in regard to moneys appropriated to the department under Senate File 2196.* The state department of transportation shall include in future long range programs adopted pursuant to section 307A.2, subsection 12, spending plans on moneys appropriated to it under Senate File 2196.* The state department of transportation's budget request for the fiscal year beginning July 1, 1989, and ending June 30, 1990, shall address any full-time equivalent positions required for the implementation of Senate File 2196.*

Sec. 61. This section, section 7, section 43, and section 45 of this Act take effect June 30, 1988.

Sec. 62. This section and sections 28, 31, 35 through 40, 42, 44, 47, 48, 49, and 60 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 15, 1988, except the item which I hereby disapprove and which is designated as section 53. My reasons for vetoing this item are delineated in the item veto message pertaining to this Act to the President of the Senate on this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Madam President:

I hereby transmit Senate File 2314, an Act relating to and making appropriations to state agencies whose responsibilities relate to public defense, public safety, transportation, and enforcement, and including allocation and use of moneys from the road use tax fund and abstract fee fund, appropriating moneys to the permanent school fund, providing an increase in the abstract fee, mandating reports of certain agency purchases, mandating adoption of rules governing registration and titling of motor vehicles, renaming the chief executive officer of the department of public safety, changing provisions of the Code relating to application of certain transportation safety regulations, repealing provisions of the Code requiring woodlands, wetlands, public parks, and prime agricultural land to be protected in the design, construction, and reconstruction of highways, and providing effective dates.

Senate File 2314 is approved with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 53 of Senate File 2314.

Section 53 of this bill restricts the use of funds appropriated for new programs. In effect, this provision abrogates administrative transfer authority included in Section 8.39 of the Code.

While I approve of the new programs included in this bill and plan to ensure the appropriate administration of them, I cannot accept the language which limits the ability of the executive branch to transfer funds in the event of a budget shortfall. In fact, new programs often have substantial lead times and thus the first full-year appropriation often remains partially unspent. In the event of a budget shortfall in the state, utilization of this transfer authority could be essential to avoid the elimination or the drastic cutbacks of other existing programs.

Therefore, the executive branch needs to maintain the flexibility of the current budget transfer authority.

Senate File 2314 also includes a provision which authorizes the Department of Public Safety to construct or purchase a facility for a new State Patrol Post with access to Interstates 29, 80, and 680. While I am approving the appropriation for that purpose, I am concerned about the impact of moving the area post and communications facility from its present Atlantic headquarters. Therefore, I approve this appropriation with the understanding that the communications center will remain in Atlantic. This community has fought back from the farm crisis and is now rebounding economically. Maintaining this communications center will provide Atlantic's recovering economy with additional stability.

For the above reasons, I hereby respectfully disapprove the designated item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2314 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1279

APPROPRIATION FOR CLAIMS AGAINST THE STATE

S.F. 2315

AN ACT making an appropriation from the road use tax fund of the state to a certain person in settlement of claims made against the state of Iowa.

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

Section 1. There is appropriated from the road use tax fund to the following person the amount set opposite the person's name in full settlement of all claims which the person has against the state of Iowa:

<u>Claimant</u> <u>Name</u>	<u>Claim No.</u>	<u>Nature</u> <u>of Claim</u>	<u>Amount</u>
Kewin Auto Company, Inc. Griswold, Iowa	C-87-0373	License fee refund	\$190.00

Sec. 2. The general assembly disapproves of all other claims submitted and considered by the committee on claims as of January 14, 1988.

Approved April 27, 1988

CHAPTER 1280

FEDERAL FUNDS APPROPRIATED AND ALLOCATED

S.F. 2323

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:

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 Iowa department of public health, two million eight hundred thirty-nine thousand (2,839,000) dollars for the federal fiscal year beginning October 1, 1988. Funds appropriated by this section are the anticipated funds to be received from the federal government for the designated federal fiscal year under 42 U.S.C. § 300w et seq., 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.

Of the funds appropriated in this subsection, an amount not exceeding twenty-seven thousand four hundred ninety-seven (27,497) dollars shall be used for audits. The auditor of state shall bill the Iowa department of public health for the cost of the audits.

2. Seventeen and eight-tenths percent of the remaining funds appropriated in subsection 1 shall be transferred to the division of mental health, mental retardation, and developmental disabilities within the department of human services and allocated for community mental health centers. Of this amount, ten percent must be used to initiate new mental services for severely disturbed children and adolescents and new comprehensive community mental health programs for unserved areas or underserved populations.

3. Funds appropriated in subsection 1 shall not be used by the Iowa department of public health for administrative expenses, except for those specified to be used for audits in subsection 1. The Iowa department of public 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 from funds appropriated to the department from the general fund of the state, in addition to the amount to be used for audits in subsection 1. The auditor of state shall bill the Iowa department of public health for the costs of the audit.

4. Five percent of the funds appropriated in subsection 1 shall be used to provide alcohol and drug abuse services to women.

5. After deducting the funds allocated in subsections 1, 2, 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 Iowa department of public health:

- a. Drug abuse programs 38.89 percent
- b. Alcohol abuse programs 38.89 percent
- c. Alcohol and drug abuse prevention programs 22.22 percent

Sec. 2. MATERNAL AND CHILD HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health, the sum of five million eight hundred seventy-one thousand seven hundred seventy-seven (5,871,777) dollars for the federal fiscal year beginning October 1, 1988. The funds appropriated by this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C. § 701-709, 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.

Of the funds appropriated in this subsection, an amount not exceeding fifty-three thousand two hundred sixty (53,260) dollars shall be used for audits. The auditor of state shall bill the Iowa department of public health for the cost of the audits.

2. Sixty-three percent of the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the Iowa department of public health. Of these funds, two hundred eight thousand nine hundred fifty (208,950) dollars shall be set aside for the statewide perinatal care program.

Thirty-seven percent of the remaining funds appropriated in subsection 1 shall be allocated to the University of Iowa hospitals and clinics under the control of the state board of regents for mobile and regional child health specialty clinics. The University of Iowa hospitals and clinics shall not receive an allocation for indirect costs from the funds for this program. Priority shall be given to establishment and maintenance of a statewide system of mobile and regional child-health speciality clinics.

3. An amount not exceeding one hundred twenty-three thousand seventy-two (123,072) dollars of the remaining funds allocated in subsection 2 to the Iowa department of public health shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

It is the intent of the general assembly that the departments of public health, human services, and education and the University of Iowa's mobile and regional 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.

4. Those federal maternal and child health services block grant funds transferred from the federal preventive health and health services block grant funds under section 3, subsection 4, of this Act for the federal fiscal year beginning October 1, 1988, are transferred to the maternal and child health programs and to the University of Iowa's mobile and regional child health specialty clinics according to the percentages specified in section 2, subsection 2, of this Act.

5. The Iowa department of public health shall administer the statewide maternal and child health program and the crippled children's program by conducting mobile and regional child health specialty clinics and conducting other activities to improve the health of low-income women and children and to promote the welfare of children with actual or potential handicapping conditions and chronic illnesses in accordance with the requirements of Title V of the Social Security Act.

Sec. 3. PREVENTIVE HEALTH AND HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health, one million three thousand (1,003,000) dollars for the federal fiscal year beginning October 1, 1988. Funds appropriated by this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C. § 300w et seq., 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.

Of the funds appropriated in this subsection, an amount not exceeding five thousand six hundred thirty (5,630) dollars shall be used for audits. The auditor of state shall bill the Iowa department of public health for the cost of the audits.

2. An amount not exceeding ninety-four thousand six hundred seventy (94,670) dollars of the remaining funds appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

3. Of the remaining funds appropriated in subsection 1, the specific amount of funds required under 42 U.S.C. § 300w et seq., 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 remaining funds appropriated in subsection 1 is transferred within the special fund in the state treasury established under section 8.41, for use by the Iowa department of public health as authorized under 42 U.S.C. § 701-709, and section 2 of this Act.

5. After deducting the funds allocated and transferred in subsections 1, 2, 3, and 4, the remaining funds appropriated in subsection 1 shall be used by the department for risk reduction services, health incentive programs, hypertension, emergency medical services, monitoring of the fluoridation program, and acquired immune deficiency syndrome. The moneys used by the department concerning acquired immune deficiency syndrome shall not be used for the funding of indirect costs. Of the funds used by the department under this subsection, an amount not exceeding forty thousand (40,000) dollars shall be used for the monitoring of the fluoridation program.

Sec. 4. ALCOHOL AND DRUG ABUSE TREATMENT AND REHABILITATION APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health, one million four hundred eighty thousand (1,480,000) dollars under Pub. L. 99-570 for the federal fiscal year beginning October 1, 1988. Funds appropriated by this section provide for the alcohol and drug abuse treatment and rehabilitation 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 percent of the funds appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the Iowa department of public 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 Iowa department of public health for the cost of the audit.

Sec. 5. NARCOTICS CONTROL ASSISTANCE PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the Iowa department of public health, eight hundred twenty-two thousand (822,000) dollars for the federal fiscal year beginning October 1, 1988. Funds appropriated by this section are the anticipated funds to be received from the federal government for the designated fiscal year under Pub. L. 99-570 which provides for the narcotics control assistance program 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 twenty percent of the funds appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the Iowa department of public 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 Iowa department of public health for the cost of the audit.

3. Priority shall be given in the state portion of these funds to maintaining the chemical dependency programs at the Eldora training school and the Iowa juvenile home to the maximum level as determined by the cash match provided in the department of human services state appropriation.

Sec. 6. COMMUNITY SERVICES APPROPRIATIONS.

1. a. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights, the sum of three million seven hundred thousand one hundred twenty-three (3,700,123) dollars for the federal fiscal year beginning October 1, 1988. Funds appropriated by this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C. § 9901-9912, which provides for the community services block grant. The division of community action agencies of the department of human rights shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

b. The administrator of the division of community action agencies of the department of human rights shall allocate not less than ninety-six percent of the amount of the block grant to programs benefiting low-income persons based upon the size of the poverty-level population in the area represented by the community action areas compared to the size of the poverty-level population in the state.

2. An amount not exceeding four percent of the funds appropriated in subsection 1 for the federal fiscal year beginning October 1, 1988, shall be used by the division of community action

agencies of the department of human rights for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of community action agencies of the department of human rights 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 division of community action agencies of the department of human rights for the costs of the audit.

Sec. 7. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of economic development, the sum of twenty-four million eighty-seven thousand seven hundred eighty-three (24,087,783) dollars for the federal fiscal year beginning October 1, 1988, of which none may be granted after July 1, 1989, to a political subdivision which does not have on file with the department of economic development a multiyear community and economic development strategic plan for the subdivision. The department shall adopt rules which require that the plan shall be completed within one year of the receipt of an award and contain key concepts; however, a valid plan shall not be required to be comprehensive. Funds appropriated by this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C. § 5301-5320, which provides for the community development block grant of which a minimum of four percent shall be set aside and expended half for a grant program for the homeless for the construction, rehabilitation, or expansion of group home shelter for the homeless and half for a home ownership program to help lower income and very low income families achieve single family home ownership. However, after January 1, 1989, the department may allocate the set-aside money between the programs based on the number of applications received. The department of economic development 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 nine hundred ninety-one thousand (991,000) dollars for the federal fiscal year beginning October 1, 1988, shall be used by the department of economic development for administrative expenses for the community development block grant. The total amount used for administrative expenses includes four hundred ninety-five thousand five hundred (495,500) dollars for the federal fiscal year beginning October 1, 1988, 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 department of economic development. From the funds set aside for administrative expenses by this subsection, the department of economic development 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 economic development for the costs of the audit.

Sec. 8. EDUCATION APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of education for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the amount received from 42 U.S.C. § 3811 et seq., not to exceed five million six hundred thirty-seven thousand (5,637,000) dollars, which provides for the education block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Twenty percent of the funds appropriated in subsection 1, not to exceed one million one hundred twenty-seven thousand four hundred (1,127,400) 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 one hundred seventy-five thousand (175,000) 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 42 U.S.C. § 3800. 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. 9. Funds appropriated in section 8 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, religion, race, color, national origin, or disability.

Sec. 10. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights, the sum of twenty-eight million five hundred four thousand one hundred seventy-five (28,504,175) dollars for the fiscal year beginning October 1, 1988. The funds appropriated by this section are the funds anticipated to be received from the federal government for the designated federal fiscal years under Pub. L. No. 97-35, Title XXVI, as amended by Pub. L. No. 98-558, which provides for the low-income home energy assistance block grants. The division of community action agencies of the department of human rights 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 for the low-income home energy assistance program. Not more than two hundred ninety thousand (290,000) dollars shall be used for administrative expenses of the division of community action agencies of the department of human rights. From the total funds set aside by this subsection for administrative expenses for the low-income home energy assistance program, 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 division of community action agencies of the department of human rights 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 the federal Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, as amended by Pub. L. No. 98-558, to meet the costs of home energy. After reserving a reasonable portion of the remaining funds not to exceed ten percent of the funds appropriated in subsection 1, to carry forward into the federal fiscal year beginning October 1, 1989, 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. Of this amount, an amount not exceeding ten percent may be used for administrative expenses.

4. An eligible household must be willing to allow residential weatherization or other related home repairs in order to receive home energy assistance. If the eligible household resides in rental property, the unwillingness of the landlord to allow residential weatherization or other related home repairs shall not prevent the household from receiving home energy assistance.

Sec. 11. SOCIAL SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of human services, the sum of thirty-one million seven hundred fifty-eight thousand three hundred thirty-one (31,758,331) dollars for the fiscal year beginning October 1, 1988. Funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C. § 1397-1397f, which provides for the social services block grant. The department of human services shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Not more than one million eight hundred thirty-one thousand four hundred twenty-eight (1,831,428) 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, 1988. 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, 1988, for the following programs within the department of human services:

a. Field operations:	\$ 12,544,620
b. Home-based services:	\$ 146,866
c. Foster care:	\$ 4,653,071
d. Community-based services:	\$ 745,200
e. Local administrative costs and other local services:	\$ 11,709,913
f. Volunteers:	\$ 127,233

Sec. 12. SOCIAL SERVICES BLOCK GRANT PLAN. The department of human services during each fiscal year shall develop a plan for the use of federal social services block grant funds for the subsequent state fiscal year.

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.

Sec. 13. MENTAL HEALTH SERVICES FOR THE HOMELESS BLOCK GRANT. Upon receipt of the minimum block grant from the federal alcohol, drug abuse, and mental health administration to provide mental health services for the homeless, the division of mental health, mental retardation, and developmental disabilities of the department of human services shall

assure that a project which receives funds under the block grant from either the federal, or nonfederal state match share of twenty-five percent in order to provide outreach services to persons who are chronically mentally ill and homeless or who are subject to a significant probability of becoming homeless shall do all of the following:

1. Provide community mental health services, diagnostic services, crisis intervention services, and habilitation and rehabilitation services.
2. Refer clients to medical facilities for necessary hospital services, and to entities that provide primary health services and substance abuse services.
3. Provide appropriate training to persons who provide services to persons targeted by the grant.
4. Provide case management to homeless persons.
5. Provide supportive and supervisory services to certain homeless persons living in residential settings which are not otherwise supported.

Sec. 14. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. Except for section 8 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 3, 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 members of appropriate subcommittees of those committees shall be notified of the proposed action.

b. The notice shall include the proposed allocations, and information on the reasons why particular percentages or amounts of funds are allocated to the individual programs, the departments and programs affected, and other information deemed useful. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

Sec. 15. 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, 3, 4, and 5, section 8, subsection 3, and section 11, subsection 1, of this Act, the excess shall be prorated to the appropriate programs according to the percentages specified in those sections, except additional funds shall not be prorated for administrative expenses.

2. If funds received from the federal government from block grants exceed the amounts appropriated in section 10 of this Act, at least ten percent and not more than fifteen percent of the excess shall be allocated to the low-income weatherization program.

3. If funds received from the federal government in the form of block grants exceed the amounts appropriated in section 1 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.

4. If funds received from the federal government from community services block grants exceed the amounts appropriated in section 6 of this Act, one hundred percent of the excess is allocated to the community services block grant program.

Sec. 16. 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, 1988, resulting from the federal government consolidating former categorical grants into block grants, or which expand block grants included in Pub. L. No. 97-35, to include additional programs formerly funded by categorical grants, which are not otherwise appropriated by the general assembly, are appropriated for the programs formerly receiving the categorical grants, subject to the conditions of this section. The governor shall, whenever possible, allocate from the block grant to each program in the same proportion as the amount of federal funds received by the program during the 1988 federal fiscal year as modified by the 1988 Session of the Seventy-second General Assembly for the fiscal year beginning July 1, 1988, compared to the total federal funds received in the 1988 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, 1988, but had anticipated applying for funds during the fiscal year ending September 30, 1989, 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 1988 federal fiscal year, state funds appropriated to the program by the general assembly to match the federal funds shall be reduced by the same proportion of the reduction in federal funds for the program. State funds released by the reduction shall be deposited in a special fund in the state treasury and are available for appropriation by the general assembly. The governor shall notify the chairpersons and ranking members of the senate and house committees on appropriations, the legislative fiscal director, and the members of the appropriate 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 1988 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 1988 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 1988 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.

Approved April 28, 1988

CHAPTER 1281

**APPROPRIATIONS OF PETROLEUM OVERCHARGE FUNDS, AND
ENERGY DEVELOPMENT AND CONSERVATION**

H.F. 2469

AN ACT relating to energy development and conservation, making appropriations of the petroleum overcharge funds, and providing an effective date.

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

Section 1. There is appropriated for the fiscal period beginning July 1, 1988, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, from those funds designated within the energy conservation trust created in section 93.11, to the energy and geological resources division of the department of natural resources for disbursement under section 93.11 to the following agencies for the purposes designated:

1. To the division of community action agencies of the department of human rights for qualifying energy conservation programs for low-income persons, including but not limited to energy weatherization projects, which target the highest energy users, and including administrative costs, to be expended first from the balance of the Warner/Imperial fund and supplemented by the Exxon fund for a total appropriation not to exceed:

..... \$ 3,000,000

If additional funding is necessary for the implementation of the provisions of 1988 Iowa Acts, the division of community action agencies of the department of human rights may allocate not more than one hundred fifty thousand (150,000) dollars from the moneys appropriated under this subsection for the funding of such provisions.

2. To the department of natural resources for the following purposes:

a. For deposit in the oil overcharge account of the groundwater protection fund created pursuant to section 455E.11, subsection 2, paragraph "e", and allocated as provided, from the Stripper Well fund:

..... \$ 4,000,000

b. For the state energy conservation program, from the Exxon fund:

..... \$ 118,500

c. For the energy extension service program including seventy thousand (70,000) dollars for the energy extension program at Iowa State University from the Exxon fund:

..... \$ 119,700

**d. To reduce the cost of financing, pursuant to section 19.34, for implementation of energy conservation measures which are identified through comprehensive engineering analysis of state facilities from the Stripper Well fund:*

..... \$ 1,000,000*

3. To the department of economic development for the energy-related activities of the amorphous semiconductor project at Iowa State University, from the Stripper Well fund:

..... \$ 500,000

If the amorphous semiconductor project is not approved, the moneys appropriated under this subsection shall revert to the Stripper Well fund.

4. To the division of community action agencies of the department of human rights for the operation of the affordable heating payment program pilot project from the Exxon fund to the extent to which the project qualifies for such funding, and the remainder shall be appropriated from the Stripper Well fund:

..... \$ 350,000

*Item veto; see message at end of the Act

If the project under this subsection cannot be funded with either Exxon or Stripper Well funds, or both, the moneys appropriated shall revert to their respective funds.

Not more than twenty-five thousand (25,000) dollars of the moneys appropriated under this subsection shall be used for administrative costs. This appropriation is contingent upon and shall only be made if the 1988 Session of the General Assembly enacts House File 683* establishing the affordable heating payment program pilot project.

Sec. 2. There is appropriated an amount up to five percent, but not to exceed two hundred thousand (200,000) dollars, of the allowable petroleum overcharge money appropriated for fiscal year 1989 to be used for administration of the petroleum overcharge programs.

Sec. 3. Notwithstanding section 8.33, the funds appropriated by sections 1 and 2 shall not revert until the completion of the projects.

Sec. 4. 1987 Iowa Acts, chapter 230, section 1, subsection 2, paragraph d, subparagraph (1), is amended by striking the subparagraph.

Sec. 5. 1987 Iowa Acts, chapter 230, section 1, subsection 3, paragraph c, is amended by striking the paragraph.

Sec. 6. 1987 Iowa Acts, chapter 230, section 8, is amended to read as follows:

SEC. 8. 1986 Iowa Acts, chapter 1249, section 4, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the funds available in the energy conservation trust fund, established in section 93.11, for the fiscal period beginning July 1, 1986, and ending June 30, 1988 1989, to the energy and geological resources division of the department of natural resources for disbursement under section 93.11, the following amounts, or so much thereof as is necessary, to be used for the purposes designated consistent with the expressed legislative intent of this Act:

Sec. 7. Section 93.7, subsections 4, 5, 9, and 11, Code 1987, are amended by striking the subsections.

Sec. 8. Section 93.11, Code Supplement 1987, is amended to read as follows:

93.11 ENERGY CONSERVATION TRUST FUND ESTABLISHED — RECEIPTS AND DISBURSEMENTS.

1. a. The energy conservation trust fund is created within the state treasury. This state on behalf of itself, its citizens, and its political subdivisions accepts any moneys awarded or allocated to the state, its citizens, and its political subdivisions as a result of the federal court decisions and federal department of energy settlements resulting from alleged violations of federal petroleum pricing regulations and deposits the moneys in the energy conservation trust fund.

b. The energy conservation trust fund is established to provide for an orderly, efficient, and effective mechanism to make maximum use of moneys available to the state, in order to increase energy conservation efforts and thereby to save the citizens of this state energy expenditures. The moneys in the ~~accounts in the fund~~ funds in the trust shall be expended only upon appropriation by the general assembly and only for programs which will benefit citizens who may have suffered economic penalties resulting from the alleged petroleum overcharges.

c. The moneys awarded or allocated from each court decision or settlement shall be placed in a separate ~~account~~ fund in the energy conservation trust fund. Notwithstanding section 453.7, interest and earnings on investments from moneys in the ~~fund~~ trust shall be credited proportionately to the ~~accounts in the fund~~ funds in the trust.

*Chapter 1175 herein

d. Unless prohibited by the conditions applying to an ~~account~~ a settlement, the moneys in the energy conservation trust ~~fund~~ may be used for the payment of attorney fees and expenses incurred by the state to obtain the moneys and shall be paid by the director of revenue and finance from the available moneys in the ~~fund~~ trust subject to the approval of the attorney general.

e. However, petroleum overcharge ~~funds~~ moneys received pursuant to claims filed on behalf of the state, its institutions, departments, agencies, or political subdivisions 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.

2. The treasurer of state shall be the custodian of the energy conservation trust ~~fund~~ and shall invest the moneys in the ~~fund~~ trust, in consultation with the energy fund disbursement council established in subsection 3 and the investment board of the Iowa public employees' retirement system, in accordance with the following guidelines:

a. To maximize the rate of return on moneys in the ~~fund~~ trust while providing sufficient liquidity to make fund disbursements, including contingency disbursements.

b. To absolutely insure the ~~fund~~ trust against loss.

c. To use such investment tools as are necessary to achieve these purposes.

3. An energy fund disbursement council is established. The council shall be composed of the governor or the governor's designee, the director of the department of management, who shall serve as the council's chairperson, the administrator of the division of community action agencies of the department of human rights, the administrator of the energy and geological resources division of the department of natural resources, and a designee of the director of the department of transportation, who is knowledgeable in the field of energy conservation. The council shall include as nonvoting members two members of the senate appointed by the majority leader of the senate and two members of the house of representatives appointed by the speaker of the house. The legislative members shall be appointed upon the convening and for the period of each general assembly. Not more than one member from each house shall be of the same political party. The council shall be staffed by the energy and geological resources division of the department of natural resources. The attorney general shall provide legal assistance to the council.

The council shall:

a. Oversee the investment of moneys deposited in the energy conservation trust ~~fund~~.

b. Make recommendations to the governor and the general assembly regarding annual appropriations from the energy conservation trust ~~fund~~.

c. Work with the energy and geological resources division in adopting administrative rules necessary to administer expenditures from the ~~fund~~ trust, encourage applications for grants and loans, review and select proposals for the funding of competitive grants and loans from the energy conservation trust ~~fund~~, and evaluate their comparative effectiveness.

d. Monitor expenditures from the ~~fund~~ trust.

e. Approve any grants or contracts awarded from the energy conservation trust ~~fund~~ in excess of five thousand dollars.

f. Prepare, in conjunction with the energy and geological resources division, an annual report to the governor and the general assembly regarding earnings of and expenditures from the energy conservation trust ~~fund~~.

4. The administrator of the energy and geological resources division of the department of natural resources shall be the administrator of the energy conservation trust ~~fund~~. The administrator shall disburse moneys appropriated by the general assembly from the ~~accounts~~ funds in the ~~fund~~ trust in accordance with the federal court orders, law and regulation, or settlement conditions applying to the moneys in that ~~account~~ fund, and subject to the approval of

the energy fund disbursement council if such approval is required. The council, after consultation with the attorney general, shall immediately approve the disbursement of moneys from the ~~account funds~~ in the ~~fund trust~~ for projects which meet the federal court orders, law and regulations, or settlement conditions which apply to that ~~account fund~~.

5. The following ~~accounts funds~~ are established in the energy conservation trust ~~fund~~:

a. The Warner/Imperial ~~account fund~~.

b. ~~The Amoco/Beldridge/Nordstrom account.~~

e b. The Exxon ~~account fund~~.

d c. The Stripper Wells ~~account Well fund~~.

e d. The Diamond Shamrock ~~account fund~~.

f. ~~The Amoco Refined account.~~

g. ~~The OKC & Coline account.~~

h. ~~The other funds account.~~

e. ~~The office of hearings and appeals second-stage settlement fund.~~

6. The moneys in the ~~account fund~~ in the energy conservation trust ~~fund~~ distributed to the state as a result of the 1985 federal court decision finding Exxon corporation in violation of federal petroleum pricing regulations shall be expended, to the extent possible, over a period of no more than six years and shall be disbursed for projects which meet the strict guidelines of the five existing federal energy conservation programs specified in Pub. L. No. 97-377, § 155, 96 Stat. 1830, 1919 (1982). The council shall approve the disbursement of moneys from the ~~account fund~~ in the ~~fund trust~~ for other projects only if the project meets one or more of the following conditions:

a. The projects meet the guidelines for allowable projects under a modification order entered by the federal court in the case involving Exxon corporation.

b. The projects meet the guidelines for allowable projects under a directive order entered by the federal court in the case involving Exxon corporation.

c. The projects meet the guidelines for allowable projects under the regulations adopted or written clarifications issued by the United States department of energy.

Sec. 9. Section 93.18, Code 1987, is repealed.

Sec. 10. Sections 93.21, 93.22, 93.23, 93.24, 93.25, 93.26, 93.27, 93.28, 93.29, and 93.30, Code 1987, are repealed.

Sec. 11. If Senate File 2312* is enacted by the Seventy-second General Assembly, 1988 Session, there is appropriated from the general fund of the state to the public broadcasting division of the department of cultural affairs an amount equal to the difference between the eleven million one hundred thousand (11,100,000) dollars appropriated to the state board of regents for construction of the power plant addition at the University of Northern Iowa in that Act and the total amount of the bids let for construction of the project, not to exceed eight hundred seventy thousand (870,000) dollars, to be used by the public broadcasting division to purchase energy efficiency packages for its ultrahigh frequency transmitters.

Sec. 12. Section 9 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 6, 1988, except the item which I hereby disapprove and which is designated as section 1, subsection 2, paragraph d. My reasons for vetoing this item are delineated 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

*Chapter 1284 herein

Dear Madam Secretary:

I hereby transmit House File 2469, an Act relating to energy development and conservation, making appropriations of the petroleum overcharge funds, and providing an effective date.

House File 2469 is approved with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 1, subsection 2, paragraph d. This item in House File 2469 appropriates \$1 million to the Department of Natural Resources to buy down interest rates by approximately one-half percent on \$10 million worth of energy conservation bonds. These bonds are to be issued to the State of Iowa Facilities Improvement Corporation with the debt service to be paid out of each department's operating budget.

I understand that the State of Iowa Facilities Improvement Corporation has issued bonds in the past in order to finance energy conservation improvements with short pay-back periods. State agencies are now saddled with paying approximately \$19 million of debt service on those bonds for the next ten years.

While I understand there is a continuing need for additional capital expenditures for energy conservation improvements on state property, I believe it would be fiscally unwise for the state to further encumber operating budgets with long-term debt. Indeed, excessive use of the bonding financed out of operating budgets would place state agencies in a fiscal straightjacket. Moreover, the long-term debt financed in operating budgets has put other governmental jurisdictions in deep financial crises.

I understand that the State of Iowa Facilities Improvement Corporation has not planned to issue any additional bonds under its authority and I concur with that decision. Moreover, I believe that with the improving state economy, the state ought to attend to the most critical of these capital needs through direct appropriation. Indeed, with Department of Energy approval, the \$1 million provided for this purpose would be much better used to provide for the actual energy improvements rather than buying down interest rates by one-half percent on \$10 million worth of debt.

In short, appropriating a million dollars to buy down interest rates by one-half percent on \$10 million of additional debt is fiscally unsound and unwise. The state should instead consider capital appropriations for energy conservation needs without encumbering operating budgets with long-term debt service.

For this reason, I hereby respectfully disapprove the designated item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2469 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1282

**APPROPRIATIONS AND PROVISIONS RELATING TO COMPENSATION,
TRAINING, AND BENEFITS OF STATE OFFICIALS AND EMPLOYEES**

S.F. 2322

AN ACT relating to and making appropriations for the compensation, training, and benefits for public officials and employees, and providing effective dates.

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, 1988, and ending June 30, 1989, the following amount, or so much thereof as may be necessary, to be used to fund increases in the judicial salaries and related benefits as otherwise provided by law and for the state's contribution to the judicial retirement system provided for in chapter 602 required because of the increased salaries:

..... \$ 1,600,000

Sec. 2.

1. There is appropriated from the general fund of the state to the salary adjustment fund provided for in section 8.43, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as may be necessary, to be distributed to the various state offices or departments and local agencies or programs to supplement other funds appropriated by the general assembly:

..... \$ 24,081,295

a. Of the funds appropriated to the salary adjustment fund pursuant to this subsection and as a condition of the appropriation to the salary adjustment fund, four hundred eighty thousand (480,000) dollars, or so much thereof as may be necessary, shall be used for the costs of implementing House File 2415,* if enacted by the Seventy-second General Assembly, 1988 Session.

b. Of the funds appropriated to the salary adjustment fund pursuant to this subsection and as a condition of the appropriation to the salary adjustment fund, one hundred forty thousand (140,000) dollars, or so much thereof as may be necessary, shall be used for salary adjustments of elected and appointed state officials.

c. Of the savings received from the implementation of House File 2415,* if enacted by the Seventy-second General Assembly, 1988 Session, and as a condition of the appropriation to the salary adjustment fund pursuant to this subsection, the first three million one hundred thousand (3,100,000) dollars shall be deposited in the salary adjustment fund. The remainder of the savings received shall be deposited in the general fund of the state.

2. There is appropriated from the road use tax fund to the following listed departments for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as may be necessary, to supplement other funds appropriated by the general assembly:

a. To the state department of transportation:
..... \$ 848,182

b. To the department of public safety:
..... \$ 921,170

c. To the department of inspections and appeals:
..... \$ 30,000

3. There is appropriated from the primary road fund to the state department of transportation, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount,

*Chapter 1086 herein

or so much thereof as may be necessary, to supplement other funds appropriated by the general assembly:

..... \$ 5,082,646

4. Except as otherwise provided in this Act, the amounts appropriated in subsections 1, 2, and 3 shall be used to fund the annual pay adjustments, expense reimbursement, and related benefits for public officials and employees as authorized pursuant to Senate File 2321,* if enacted by the Seventy-second General Assembly, 1988 Session.

***Sec. 3. There is appropriated from the salary adjustment fund provided for in section 8.43, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as may be necessary, to be allocated to the following state departments and local agencies or programs listed:*

1. Department of agriculture and land stewardship:	\$ 560,775
2. Department of justice:	\$ 290,053
3. Auditor of state:	\$ 83,673
4. Campaign finance disclosure commission:	\$ 6,693
5. Civil rights commission:	\$ 42,297
6. Department for the blind:	\$ 55,450
7. Department of commerce:	\$ 16,159
8. Department of corrections:	\$ 4,291,381
9. Department of cultural affairs:	\$ 346,061
10. Department of economic development:	\$ 181,896
11. Department of education:	\$ 332,984
12. College aid commission:	\$ 9,475
13. Department of elder affairs:	\$ 18,578
14. Department of employment services:	\$ 146,308
15. Executive council:	\$ 1,317
16. Department of general services:	\$ 564,404
17. Office of governor:	\$ 54,713
18. Department of human rights:	\$ 41,128
19. Department of human services:	\$ 12,862,019

*Chapter 1267 herein

**Item veto; see message at end of the Act

20. <i>Judicial department:</i>	\$	2,715,804
21. <i>Department of inspections and appeals:</i>	\$	218,123
22. <i>Iowa law enforcement academy:</i>	\$	46,223
23. <i>Office of the lieutenant governor:</i>	\$	4,386
24. <i>Department of management:</i>	\$	124,770
25. <i>Department of natural resources:</i>	\$	654,905
26. <i>Board of parole:</i>	\$	30,862
27. <i>Department of personnel:</i>	\$	209,224
28. <i>Public employment relations board:</i>	\$	22,667
29. <i>Department of public defense:</i>	\$	160,689
30. <i>Department of public health:</i>	\$	313,457
31. <i>Department of public safety:</i>	\$	633,724
32. <i>Office of state board of regents:</i>	\$	30,520
33. <i>Department of revenue and finance:</i>	\$	921,413
34. <i>Secretary of state:</i>	\$	60,582
35. <i>Treasurer of state:</i>	\$	42,382
36. <i>Regional libraries:</i>	\$	30,800
37. <i>Substance abuse treatment facilities:</i>	\$	194,000
38. <i>Local boards of health:</i>	\$	60,200
39. <i>Local homemaker and chore service programs:</i>	\$	201,200

*Moneys received by local programs under this section shall be used to pay the state's share of the authorized salary increases for local program employees.**

Sec. 4. There is appropriated from the general fund of the state to the salary adjustment fund provided for in section 8.43, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as may be necessary, for salary increases

*Item veto; see message at end of the Act

for employees of the state board of regents, except the state board of regents' office employees: \$ 24,903,705

Sec. 5.

1. There is appropriated from the general fund of the state to the payroll accrual fund provided for in section 8.42, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as may be necessary, to be distributed to the department of management for the twenty-seventh pay period:

\$ 16,000,000

2. There is appropriated from the road use tax fund to the payroll accrual fund provided for in section 8.42, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as may be necessary, to be distributed to the department of management for the twenty-seventh pay period:

\$ 1,200,901

3. There is appropriated from the primary road fund to the payroll accrual fund provided for in section 8.42, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as may be necessary, to be distributed to the department of management for the twenty-seventh pay period:

\$ 3,610,055

4. To departmental revolving, trust, or special funds, except for the primary road fund or the road use tax 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 the twenty-seventh pay period in the fiscal year beginning July 1, 1988, and ending June 30, 1989.

Sec. 6. To departmental revolving, trust, or special funds, except for the primary road fund or the road use tax 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 as otherwise provided in Senate File 2321,* if enacted by the Seventy-second General Assembly, 1988 Session.

Sec. 7. Funds appropriated to the salary adjustment fund by this Act may be expended to fund salaries established pursuant to section 5 of Senate File 2321,* if enacted by the Seventy-second General Assembly, 1988 Session, if funds appropriated to the agencies represented by or employing the persons holding the positions are insufficient to pay salaries provided in section 5 of Senate File 2321,* if enacted by the Seventy-second General Assembly, 1988 Session. The governor shall report to the legislative fiscal committee by September 1, 1988, the salary rates established pursuant to section 5 of Senate File 2321,* if enacted by the Seventy-second General Assembly, 1988 Session.

Sec. 8. All funds appropriated to the salary adjustment fund for the state department of transportation and for state agencies paid through the department of revenue and finance's centralized payroll system shall be used to fund salary and fringe benefit expenditures for the fiscal year beginning July 1, 1988, and ending June 30, 1989.

Sec. 9. Funds appropriated from the general fund of the state in this Act relate only to salaries supported from general fund appropriations of the state.

Sec. 10. All federal grants to and the federal receipts of the agencies affected by this Act which are received and may be expended for purposes of this Act are appropriated for such purposes and as set forth in the federal grants or receipts.

*Chapter 1267 herein

Sec. 11. 1988 Iowa Acts, Senate File 2314, section 7, subsection 6, paragraph b, is amended to read as follows:*

*b. Notwithstanding section 384.15, subsection 7, paragraph "b", there is appropriated from the unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1988, to the department of public safety, division of criminal investigation, the sum of two hundred thousand (200,000) dollars for undercover purchases by the division of narcotics and local law enforcement agencies. However, moneys appropriated under this paragraph shall not be credited until all other moneys appropriated under this Act from the unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1988, have been fully credited. Should the unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1988, not be sufficient to cover all appropriations of such moneys under this Act, the money appropriated under this paragraph shall be reduced by the amount of the shortfall.**

Sec. 12. 1988 Iowa Acts, Senate File 2314,** section 61, is amended to read as follows:

SEC. 61. This section, section 5, section 7, section 43, and section 45 of this Act take effect June 30, 1988.

Sec. 13. This section, section 11, and section 12 take effect June 30, 1988.

Approved May 15, 1988, except the items which I hereby disapprove and which are designated as section 3 and section 11 which are herein bracketed in ink and initialed by me. My reasons for vetoing these items are delineated 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 the Act

**Chapter 1278 herein

Dear Madam Secretary:

I hereby transmit Senate File 2322, an Act relating to and making appropriations for the compensation, training, and benefits for public officials and employees, and providing effective dates.

Senate File 2322 is approved with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 3 in its entirety. This section of Senate File 2322 makes line item appropriations of salary adjustments amounts to state departments and local agencies or programs. The specific allocations included in the bill are made on the basis of a snapshot of the personnel system that was taken in September of 1987.

The state and local personnel system is dynamic, thus, these specific allocations do not take account of substantial numbers of positions which were added or deleted or significant changes in pay classifications which have occurred since that time. As a result, it is anticipated that some of the allocations to individual departments in this bill are in error by as much as \$200,000.

The most glaring error is the failure to take account of the centralization of the personnel adopted by the General Assembly which resulted in the deletion of a number of positions in Corrections and the Department of Human Services and in the addition of some positions in the Department of Personnel. The Department of Personnel would be unable to carry out these functions with the allocation provided in Section 3.

Section 2 of this bill makes the traditional lump sum appropriation of the salary adjustment funds to the Department of Management under Section 8.43 of the Iowa Code. This section of the Code provides the Department of Management with the authority to distribute salary adjustment funds to individual departments, local agencies, and programs. Providing the department with this allocation authority will ensure that funds are distributed equitably and consistent with the personnel structure authorized by the General Assembly for fiscal year 1989. The Department of Management will provide appropriate reports to the Legislative Fiscal Bureau and interested legislators regarding the allocations that are made and the rationale for those allocations. The department will also, of course, respond to any additional requests for information.

In short, the specific allocations of salary adjustment funds made in Section 3 of the bill do not reflect significant personnel changes which have occurred since September of 1987. This legislation also provides a lump sum allocation to the Department of Management for distribution. Utilization of that authority will allow a more accurate allocation of these salary adjustment funds, with full reporting provided to the General Assembly.

I am unable to approve the item designated as Section 11 of Senate File 2322 in its entirety.

This section of the bill, in effect, reduces appropriations available to the Department of Public Safety for undercover drug buy money. A separate bill provided \$200,000 from the Law Enforcement Training Reimbursement Fund to the Department of Public Safety for drug buy money which is critical to the success of our efforts to crack down on drug dealers. This bill, however, provides that other appropriations from that reimbursement fund be fully credited prior to providing funds for undercover purchases.

It is estimated that the legislature has over-appropriated funds from the Law Enforcement Training Reimbursement Fund by at least \$70,000. Thus, the state's narcotics enforcement effort would be hamstrung by this significant reduction in money needed to pursue investigations into illicit drug trafficking in Iowa. In addition, the state's eligibility for federal crime control act funds for drug law enforcement would also be jeopardized.

Apparently, the legislature at one time intended to short the drug buy money account in order to provide additional salary money to the Attorney General's office. However, the appropriation from the reimbursement fund for that purpose was never made. In addition, since Section 3 of this act was item vetoed, the Department of Management has the flexibility to provide appropriate salary adjustments to the Attorney General's office to fund authorized staff.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of the 1968 Constitution of the State of Iowa. All other items in Senate File 2322 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1283

**APPROPRIATION TO ATTORNEY GENERAL FOR
ECONOMIC DEVELOPMENT LEGAL ASSISTANCE**

S.F. 2344

AN ACT appropriating funds to the office of the attorney general for the fiscal year beginning July 1, 1988, and ending June 30, 1989.

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, 1988, and ending June 30, 1989, to the office of the attorney general, sixty-five thousand (65,000) dollars, or so much thereof as is necessary, for salaries and support of not more than one and five-tenths full-time equivalent positions to provide legal assistance to the department of economic development.

Approved May 17, 1988

CHAPTER 1284

**APPROPRIATIONS AND PROVISIONS RELATING TO EDUCATIONAL,
CULTURAL, AND REHABILITATION PROGRAMS**

S.F. 2312

AN ACT relating to the funding of, operation of, and appropriation of moneys to agencies, institutions, commissions, departments, and boards responsible for educational, cultural, and rehabilitational programs of this state and providing an effective date.

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

DIVISION I

DEPARTMENT OF CULTURAL AFFAIRS

Section 1. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. For the administration division for salaries and support for not more than eight full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 273,190

2. For the arts division for salaries and support for not more than ten full-time equivalent positions, maintenance, and miscellaneous purposes including funds to match federal grants:

..... \$ 493,069

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this subsection, the arts division shall expend moneys to develop a basic art education curriculum in cooperation with the department of education in order to qualify for receipt of federal matching funds from the national endowment for the arts.

3. For the historical division:

a. For salaries and support for not more than fifty-seven full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 1,899,128

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this paragraph one of the full-time equivalent positions employed by the historical division be assigned marketing duties relating to the historical division and the department of cultural affairs.

b. For equipment, planning and construction costs for exhibits:

..... \$ 600,000

4. For the library division for salaries and support for not more than forty point five full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 1,177,842

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this subsection, the library division shall expend moneys for open access of libraries, for library cooperation grants, and for the operation of the blue ribbon task force on library cooperation and technology established in section 4 of this Act.

5. For the public broadcasting division for salaries and support for not more than one hundred full-time equivalent positions, maintenance, capital expenditures, and miscellaneous purposes:

..... \$ 6,280,706

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this subsection, the public broadcasting division shall expend moneys for the replacement of the channel 12 transmitter located at West Branch and for narrowcast production facilities. Notwithstanding section 8.33, if a portion of the moneys appropriated in this subsection is not expended or encumbered on June 30, 1989, the amount remaining shall not revert to the general fund of the state but is appropriated for expenditure for the purposes specified in this subsection during the fiscal year beginning July 1, 1989.

6. For the Terrace Hill commission for salaries and support for not more than five point twenty-five full-time equivalent positions, maintenance, and miscellaneous purposes for the operation of Terrace Hill and for conducting tours:

..... \$ 179,284

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this subsection, the Terrace Hill commission shall expend moneys for the replacement or repair of all porches at Terrace Hill.

7. For the regional library system for state aid:

..... \$ 1,458,985

8. To assist the Iowa newspaper association in funding the Iowa tomorrow: 2010 project, a project that will consist of statewide consensus building for Iowa's economic future:

..... \$ 100,000

Sec. 2. It is the intent of the general assembly that as a condition, limitation, and qualification of funds appropriated in section 1, subsection 3, of this Act, the historical division solicit voluntary contributions on behalf of the historical division at entrance locations and other locations throughout the historical building. Voluntary contributions collected in this manner and entrance fees for the Montauk governor's mansion shall be used to pay principal and interest on moneys borrowed from the permanent school fund under section 303.18.

Sec. 3. Notwithstanding sections 302.1 and 302.1A, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the portion of the interest earned on the permanent school fund that is not transferred to the credit of the first in the nation in education foundation and not transferred to the credit of the national center for gifted and talented education shall be credited as a payment by the historical division of the department of cultural affairs of principal and interest due on moneys loaned to the historical division under section 303.18.

Sec. 4. As a condition, limitation, and qualification of funds appropriated in section 1, subsection 4, of this Act, the director of the department of cultural affairs shall appoint a blue ribbon task force on libraries to examine the potential for cooperation among various library and media centers in this state through the utilization of new technology. The members of the blue ribbon task force shall consist of representatives from public libraries, university and college libraries, public and nonpublic elementary and secondary school libraries, area education agency media centers, regional libraries, libraries in area schools, the narrowcast division of the public broadcasting division, and the library division, and members of the general assembly. The administrator of the library division shall serve as chairperson of the task force.

The task force is directed to:

1. Evaluate the new technology available for libraries and the potential for cooperative use of the technology deemed to be useful.
2. Discuss problem areas from the view of the library user in the establishment of cooperative programs.
3. Develop a comprehensive long-range plan for library cooperation that will provide for a sharing of resources and use of new technology. The plan shall include free and equal access to library resources to citizens of the state and a plan for funding the services and purchase and operation of the new technology.

The task force shall hold meetings as deemed necessary and shall submit the plan to the governor and to the general assembly not later than December 1, 1988.

Sec. 5. The public broadcasting division of the department of cultural affairs may use the state of Iowa facilities improvement corporation to purchase energy efficiency packages for its ultrahigh frequency transmitters without meeting the requirements of section 19.34.

Sec. 6. Notwithstanding 1986 Iowa Acts, chapter 1246, section 102 and section 103, as amended by 1987 Iowa Acts, chapter 228, section 7, moneys appropriated in those sections that remain unobligated and unencumbered on June 30, 1988, shall not revert to the general fund on June 30, 1988, but shall remain available for expenditure for the purposes specified until June 30, 1989.

Sec. 7. Section 99E.32, subsection 3, paragraph c, Code Supplement 1987, is amended to read as follows:

c. To For the fiscal years beginning July 1, 1986, and July 1, 1987, to the department of cultural affairs, and for the fiscal years beginning July 1, 1988, and July 1, 1989, to the arts division of the department of cultural affairs, for the purposes designated in section 99E.31, subsection 3, paragraph "d". For the fiscal year beginning July 1, 1987, the amount appropriated is six hundred seventy-five thousand dollars.

Sec. 8. Section 303.9, subsection 1, Code 1987, is amended to read as follows:

1. All funds received by the department, including but not limited to gifts, endowments, funds from the sale of memberships in the state historical society, funds from the sale of mementos and other items relating to Iowa history as authorized under subsection 2, interest generated by the life membership trust fund, and fees, ~~except entrance fees for the Montauk governor's mansion,~~ shall be credited to the account of the department and are appropriated to the department to be invested or used for programs and purposes under the authority of

*Item veto; see message at end of the Act

the department. Interest earned on funds credited to the department, except funds appropriated to the department from the general fund of the state, shall be credited to the department. Section 8.33 does not apply to funds credited to the department under this section.

DIVISION II
COLLEGE AID COMMISSION

Sec. 9. There is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount, or so much thereof as may be necessary, to be used by the following agency for the purposes designated:

COLLEGE AID COMMISSION

For salaries and support for not more than five point thirty-two full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 279,251

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this section, the college aid commission shall expend moneys for the occupational therapist loan repayment program established in section 261.46.

Sec. 10. There is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of seven hundred fifteen thousand (715,000) dollars, or so much thereof as may be necessary, to be paid to the college of osteopathic medicine and surgery for the subvention program created pursuant to sections 261.18 and 261.19. Notwithstanding section 261.19, for the fiscal year beginning July 1, 1988, 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.

Sec. 11. There is appropriated from the guaranteed student loan reserve fund to the college aid commission for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as may be necessary, to be used for the funding of the following programs for the guaranteed student loan program:

1. OPERATING COSTS

For operating costs, including salaries and support for not more than twenty-six point eighty full-time equivalent positions:

..... \$ 2,202,606

2. LOAN CONSOLIDATION SERVICES

For loan consolidation services:

..... \$ 200,000

Sec. 12. As a condition, limitation, and qualification of the appropriation made in section 261.25, subsection 1 for the fiscal year beginning July 1, 1988, the institutions of higher education that enroll recipients of Iowa tuition grants shall transmit to the Iowa college aid commission information about the numbers of minority students enrolled and minority faculty members employed at the institution, and existing or proposed plans for the recruitment and retention of minority students and faculty as well as existing or proposed plans to serve non-traditional students. The Iowa college aid commission shall compile and report the enrollment and employment information and plans to the chairpersons and ranking members of the house and senate education committees, and chairpersons and ranking members of the joint education appropriations subcommittee and the governor by February 1, 1989.

Sec. 13. Notwithstanding the appropriation provided in section 261.25, subsection 3, there is appropriated from the general fund of the state to the college aid commission for the fiscal

year beginning July 1, 1988, and ending June 30, 1989, the sum of six hundred forty-four thousand two hundred ninety-four (644,294) dollars for vocational-technical tuition grants.

Sec. 14. Notwithstanding the appropriation provided in section 261.45, there is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of eighty-four thousand six hundred ninety-nine (84,699) dollars for reimbursement payments for the guaranteed loan payment program.

Sec. 15. Notwithstanding section 261.53, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, funds shall not be appropriated from the general fund of the state and loans shall not be made under sections 261.51 and 261.52.

Sec. 16. The legislative fiscal bureau shall study options for providing guaranteed student loan services to eligible borrowers and make recommendations to the education appropriations subcommittee chairpersons and ranking members not later than November 1, 1988.

Sec. 17. The college aid commission shall review during the fiscal year beginning July 1, 1988, the impact of the rule adopted by the commission that extends the deadline for applications for the Iowa tuition grant program and shall continue to pursue administrative methods that will promote access to the tuition grant program for those individuals seeking to receive an education in this state from an independent college or university. The college aid commission shall consider making a recommendation to the general assembly that increases the maximum amount of a tuition grant for those individuals who are expected to have a substantial debt burden upon graduation. The commission shall submit a report that outlines its conclusions to the general assembly by December 1, 1988.

Sec. 18. Section 99E.31, subsection 4, paragraph b, Code Supplement 1987, is amended to read as follows:

b. To the Iowa college aid commission for the summer institute program established pursuant to this paragraph the sum of one million dollars. Institutions of higher education in the state may submit proposals to the council for postsecondary education for ~~eight-week~~ summer institute programs to upgrade the skills of Iowa teachers in the ~~subject areas of math, science, foreign languages and such other areas as the department of public instruction has indicated a teaching shortage exists.~~ A summer institute program shall consist of an intensive immersion of at least eight weeks' duration in the subject area of the program except that a summer institute program that assists teachers to use technology in the classroom may have a duration of three weeks. In determining programs to be funded, preference shall be given to programs that will allow teachers to gain endorsements in other subject areas, or to add to their endorsements in mathematics, science, foreign languages, and other areas that the department of education has determined are areas in which a shortage of teachers currently exists or is predicted to occur.

PARAGRAPH DIVIDED. The proposals shall provide for the institutional reimbursement for the costs of instruction, materials, and room and board for the participants as well as for a weekly stipend of one hundred fifty dollars per week for each participant. The council for postsecondary education shall select the institutions at which the summer institutes shall be conducted based upon recommendations of the department of education. The council for postsecondary education in consultation with the Iowa college aid commission shall establish the criteria for the selection of the teachers to participate in the programs.

Sec. 19. Section 99E.32, subsection 4, paragraph c, Code Supplement 1987, is amended to read as follows:

c. To the Iowa college aid commission for the purposes and under the conditions specified in section 99E.31, subsection 4, paragraph "b". For the fiscal year years beginning July 1, 1987,

and July 1, 1988, no amount is appropriated. However, the funds transferred under paragraph "a" are available for use under this paragraph for the fiscal year years beginning July 1, 1987, and July 1, 1988.

Sec. 20. Section 261.2, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 10. Prepare and administer the occupational therapists loan program under this chapter.

Sec. 21. Section 261.2, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 11. Review reports filed by accredited private institutions under section 261.9, subsection 5, to determine compliance.

Sec. 22. Section 261.9, subsection 4, Code Supplement 1987, is amended to read as follows:
4. "Qualified student" means a ~~full-time~~ resident student who has established financial need and who is making satisfactory progress toward graduation.

Sec. 23. Section 261.9, subsection 5, Code Supplement 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Which promotes equal opportunity and affirmative action efforts in the recruitment, appointment, assignment, and advancement of personnel at the institution. In carrying out this responsibility the institution shall do all of the following:

- (1) Designate a position as the affirmative action coordinator.
- (2) Adopt affirmative action standards.
- (3) Gather data necessary to maintain an ongoing assessment of affirmative action efforts.
- (4) Monitor accomplishments with respect to affirmative action remedies identified in affirmative action plans.
- (5) Conduct studies of preemployment and postemployment processes in order to evaluate employment practices and develop improved methods of dealing with all employment issues related to equal employment opportunity and affirmative action.
- (6) Establish an equal employment committee to assist in addressing affirmative action needs, including recruitment.
- (7) Address equal opportunity and affirmative action training needs by:
 - (a) Providing appropriate training for managers and supervisors.
 - (b) Insuring that training is available for all staff members whose duties relate to personnel administration.
 - (c) Investigating means for training in the area of career development.
- (8) Require development of equal employment opportunity reports, including the initiation of the processes necessary for the completion of the annual EEO-6 reports required by the federal equal employment opportunity commission.
- (9) Address equal opportunity and affirmative action policies with respect to employee benefits and leaves of absence.
- (10) File annual reports with the college aid commission of activities under this paragraph.

Sec. 24. Section 261.9, subsection 7, Code Supplement 1987, is amended to read as follows:

7. "~~Half-time~~ **Part-time** resident student" means an individual resident of Iowa who is enrolled at an accredited private institution in a course of study including at least ~~six~~ three semester hours or the trimester or quarter equivalent of ~~six~~ three semester hours. "Course of study" does not include correspondence courses.

Sec. 25. Section 261.10, Code 1987, is amended to read as follows:
261.10 WHO QUALIFIED.

A tuition grant may be awarded to ~~any~~ a resident of Iowa who is admitted and in attendance as a full-time or ~~half-time~~ part-time resident student at ~~any~~ an accredited private institution and who establishes financial need.

Sec. 26. Section 261.11, Code 1987, is amended to read as follows:
261.11 EXTENT OF GRANT.

A qualified full-time resident student may receive tuition grants for not more than eight semesters of undergraduate study or the trimester or quarter equivalent. A qualified ~~half-time~~ part-time resident student may receive tuition grants for not more than sixteen semesters of undergraduate study or the trimester or quarter equivalent.

Sec. 27. Section 261.12, subsection 2, Code 1987, is amended to read as follows:

2. The amount of a tuition grant to a qualified ~~half-time~~ part-time student enrolled in a course of study including at least six semester hours for the fall and spring semesters, or the trimester or quarter equivalent, shall be one-half the amount which would be paid for a qualified full-time student under the provisions of subsection 1.

The amount of a tuition grant to a qualified part-time student enrolled in a course of study including at least three semester hours but fewer than six semester hours for the fall and spring semesters, or trimester or quarter equivalent, shall be one-fourth the amount which would be paid for a qualified full-time student under subsection 1.

Sec. 28. Section 261.25, subsection 1, Code Supplement 1987, is amended to read as follows:

1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~twenty-four~~ twenty-eight million ~~three~~ eight hundred ~~nineteen~~ thousand ~~eighty-four~~ ninety-four thousand seven hundred sixty-five dollars for tuition grants.

Sec. 29. Section 261.37, subsection 8, Code Supplement 1987, is amended to read as follows:

8. To develop and disseminate informational and educational materials to lenders, postsecondary institutions and borrowers. The commission shall provide applicants, as deemed necessary by the commission, with information about the past default ~~rate~~ rates of borrowers, enrollment, and placement statistics by postsecondary ~~institutions~~ institution.

Sec. 30. NEW SECTION. 261.46 OCCUPATIONAL THERAPIST LOAN PAYMENTS.

An occupational therapist loan payment program is established to be administered by the commission.

An occupational therapist is eligible for reimbursement payments under this section if the individual:

1. Has entered into a payment agreement with the commission on or after July 1, 1988.
2. Is a licensed occupational therapist under chapter 148B.
3. Is an Iowa resident employed in Iowa as an occupational therapist as certified by the board of physical and occupational therapy examiners.
4. Has an outstanding debt with an eligible lender under the Iowa guaranteed student loan program, or has parents with an outstanding debt with an eligible lender under the Iowa PLUS loan program, for the third and fourth years of an occupational therapist program.

The commission shall adopt rules under chapter 17A to provide for the administration of the program. The maximum annual reimbursement to an eligible occupational therapist for loan payments made during a year for loans qualifying under subsection 4 shall be equal to four thousand dollars or the remainder of a loan, whichever is less. Total payments for an eligible occupational therapist are limited to a two-year period and shall not exceed a total of eight thousand dollars.

If an occupational therapist fails to complete a year of employment as provided in subsection 3, the individual shall not be reimbursed for payments made during that year.

Sec. 31. Section 261.81, Code 1987, is amended to read as follows:

261.81 WORK-STUDY PROGRAM.

The Iowa college work-study program is established to stimulate and promote the part-time employment of students attending Iowa postsecondary educational institutions who are in need of employment earnings in order to pursue postsecondary education. The program shall be administered by the commission. The commission shall adopt rules under chapter 17A to carry out the program. The employment under the program shall be employment by the postsecondary education institution itself or work in a public agency or private nonprofit organization under a contract between the institution and the agency or organization. An eligible postsecondary institution that is allocated twenty thousand dollars or more for the work-study program by the commission shall allocate at least ten percent of the funds received for student employment in a public agency or private nonprofit organization that is accredited, approved, licensed, registered, certified, or operated by the department of human services or the department of corrections. However, if by October 1, for the first semester of an academic year, or by March 1, for the second semester of an academic year, contracts have not been signed, the funds may be used for employment by the postsecondary institution itself. The work shall not result in the displacement of employed workers or impair existing contracts for services.

Sec. 32. Section 261.85, Code Supplement 1987, is amended to read as follows:

261.85 APPROPRIATION.

There is appropriated from the general fund of the state to the commission for each fiscal year the sum of two million ~~one~~ six hundred fifty thousand dollars for the work-study program.

From moneys appropriated in this section, one million ~~one~~ five hundred ~~thirty~~ thirty thousand dollars shall be allocated to institutions of higher education under the state board of regents and merged area schools and the remaining ~~one million~~ dollars appropriated in this section shall be allocated by the commission on the basis of need as determined by the portion of the federal formula for distribution of work study funds that relates to the current need of institutions.

DIVISION III
DEPARTMENT OF EDUCATION

Sec. 33. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as may be necessary, to be used in the manner designated:

1. GENERAL ADMINISTRATION

For salaries and support for not more than one hundred twenty-one full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 5,371,825

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this subsection, the department shall expend moneys for the development of model human growth and development curricula for grades kindergarten through twelve and for the identification and dissemination of information about early intervention programs for students who are at the greatest risk of suffering from the problems of dropping out of school, substance abuse, adolescent pregnancy, or suicide.

As a condition, limitation, and qualification of the appropriation made in this section, the department shall cooperate with the college aid commission and survey a representative sample of individuals graduating from high school during the school year beginning July 1, 1987. The purpose of this study is to determine why high school graduates are choosing not to pursue further education or technical training and identify the unmet needs for postsecondary education. For comparison purposes, high school graduates who do continue their education may

be examined. In addition, this study will lay the groundwork for the development of a tracking mechanism to evaluate the effectiveness of each school district's preparation of its students for obtaining a college education or technical training. The survey shall elicit information about the sex of the student, race of the student, educational background of parents or guardians, location of residence, family income, reasons for not enrolling, and other relevant information. The college aid commission and the department of education shall compile the information received from the survey and other relevant sources and report the results to the general assembly by November 1, 1989.

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall expend moneys to contract with institutions of higher education to provide a summer residence program for gifted and talented elementary and secondary school students and to support existing law-related education centers for training seminars and workshops in law-related education, summer institutes relating to law-related education and methodology and substance, and mock trial competitions for junior and senior high school students. The law-related education program shall include the legislative lawmaking process. Educational materials for this segment of the program shall be developed by the law-related education centers in consultation with the legislative council.

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall expend moneys to provide funds for the lift up program administered by the fifth judicial district department of correctional services to assist clients to obtain high school equivalency diplomas. The department of education shall assist the fifth judicial district department of correctional services in the development of an analysis of the effectiveness of the program. The department of correctional services shall submit a report analyzing the effectiveness of the program to the chairpersons and ranking members of the education appropriations subcommittee and to the legislative fiscal bureau not later than February 1, 1989.

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall expend moneys for funding pilot projects of school corporations to encourage the advancement of women and minorities to administrative positions within that school corporation. Each school corporation receiving moneys for a pilot project under this section shall submit a written report to the department analyzing the results of the project not later than October 1, 1989.

2. SPECIAL PROGRAMS AND PROJECTS.

For enhancing the preparation, teaching experiences, and induction of educators, and for assisting teachers to use technologies in the classroom:

..... \$ 750,000

The department shall expend the moneys appropriated in this subsection for the following programs:

- a. To develop, in cooperation with approved teacher education programs, model training and incentive programs for cooperating teachers, including studying the feasibility of establishing a cooperating teacher approval.
- b. To develop criteria for enhancing the clinical experiences of prospective teachers and for grants for pilot projects that designate certain schools as clinical schools.
- c. For grants for pilot projects that enhance the interaction between the faculty of approved teacher education institutions and teachers in school districts that accept student teachers from that institution.
- d. For developing an evaluation system to be used by evaluator panels that are evaluating teachers after the initial certification and before advancement to the next certification level.

e. For developing, in cooperation with approved teacher education institutions, model systems for evaluating student teachers and for self-evaluation systems for student teachers and teachers.

f. To provide funds to be used in conjunction with the University of Northern Iowa to develop a networking system that translates effective teaching methods through the use of a computer conferencing system to form information exchange networks.

g. For grants for pilot projects for approved teacher education institutions to develop instructional programs that will instruct teachers in the use of electronic technologies. The pilot projects may include a demonstration project that involves classroom teachers and student teachers in the use of instructional technologies.

h. To conduct a feasibility study of the establishment of five-year teacher education programs. School districts and institutions receiving moneys under this subsection shall file a report with the department upon completion of the pilot project.

Notwithstanding the maximum number of full-time equivalent employees authorized in subsection 1, the department may employ a full-time equivalent individual to assist the department employees in fulfilling the requirements of this subsection.

Notwithstanding section 8.33, moneys appropriated in this subsection shall not revert to the general fund of the state but shall remain available for expenditure for the purposes specified until June 30, 1990.

3. VOCATIONAL EDUCATION ADMINISTRATION

For salaries and support for not more than forty-four full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 844,671

4. VOCATIONAL EDUCATION AID

For vocational education aid to secondary schools:

..... \$ 3,666,360

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 chapter 258 and chapter 280A, and to purchase instructional equipment for vocational and technical courses of instruction in such schools.

5. VOCATIONAL YOUTH ORGANIZATION FUND

To carry out section 258.14:

..... \$ 9,000

6. SCHOOL FOOD SERVICE

For the purpose of providing assistance to students enrolled in public school districts and nonpublic schools of the state for breakfasts, lunches and minimal equipment programs with the funds being used as state matching funds for federal programs and which shall be disbursed according to federal regulations, including salaries and support for not more than sixteen full-time equivalent positions:

..... \$ 3,146,215

7. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends a nonpublic school or authorized by section 301.1. Such funding is limited to ten dollars per pupil and shall not exceed the comparable services offered to resident public school pupils:

..... \$ 348,413

8. PROFESSIONAL TEACHING PRACTICES COMMISSION

For the use of the commission to carry out chapter 272A, including salaries and support for not more than one point forty-six full-time equivalent positions:

..... \$ 66,454

9. IOWA ACADEMY OF SCIENCE

For support and maintenance:

..... \$ 50,000

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this subsection, the Iowa academy of science annually submit a report of its activities, including a report of its expenditures, income from all sources, and current asset and liability base, for each fiscal year beginning with the fiscal year commencing July 1, 1987, to the legislative fiscal bureau not later than September 15 of the following fiscal year.

10. NON-ENGLISH SPEAKING

To provide funding to public schools and for nonpublic school students attending approved nonpublic schools for special instruction:

..... \$ 150,000

11. VOCATIONAL REHABILITATION DIVISION

a. For salaries and support for not more than three hundred eight point five full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 2,732,253

b. For matching funds for programs to enable severely physically or mentally disabled persons to function more independently including salaries and support for not more than one point five full-time equivalent positions:

..... \$ 17,715

12. MERGED AREA SCHOOLS

a. For general state financial aid to merged areas as defined in section 280A.2 and for 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 for salary increases, the amount of fifty-seven million two hundred ninety-five thousand eight hundred twenty-seven (57,295,827) dollars to be allocated as follows:

- (1) Merged Area I \$ 2,654,050
- (2) Merged Area II \$ 3,294,267
- (3) Merged Area III \$ 3,058,380
- (4) Merged Area IV \$ 1,493,218
- (5) Merged Area V \$ 3,460,235
- (6) Merged Area VI \$ 3,465,025
- (7) Merged Area VII \$ 4,573,775
- (8) Merged Area IX \$ 4,739,009
- (9) Merged Area X \$ 7,529,839
- (10) Merged Area XI \$ 7,392,910
- (11) Merged Area XII \$ 3,392,923
- (12) Merged Area XIII \$ 3,584,746
- (13) Merged Area XIV \$ 1,489,940
- (14) Merged Area XV \$ 4,432,771
- (15) Merged Area XVI \$ 2,734,739

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation in this paragraph, the merged area schools shall expend from moneys appropriated in this paragraph a minimum of three million five hundred thousand (3,500,000) dollars for additional salary increases for certificated nonadministrative faculty members of the merged area schools. A faculty member employed in both an administrative and a nonadministrative position shall be considered a part-time nonadministrative faculty member for the portion of time in the nonadministrative position. Distribution of the moneys for salary increases shall be negotiated pursuant to chapter 20 if the certificated nonadministrative faculty members of the area school are organized for collective bargaining purposes.

b. For distribution as property tax replacement moneys to each of the merged area schools in amounts determined by the department:

..... \$ 411,772

The moneys distributed under this paragraph shall be considered as part of the moneys generated under chapter 286A on a statewide basis.

13. MERGED AREA SCHOOL PERSONAL PROPERTY TAX REPLACEMENT

For general financial aid to merged areas in lieu of personal property replacement payments under section 427A.13, the amount of eight hundred twenty-eight thousand twelve (828,012) dollars to be allocated as follows:

a. Merged Area I	\$ 65,152
b. Merged Area II	\$ 50,567
c. Merged Area III	\$ 33,891
d. Merged Area IV	\$ 23,204
e. Merged Area V	\$ 60,042
f. Merged Area VI	\$ 34,514
g. Merged Area VII	\$ 57,884
h. Merged Area IX	\$ 69,103
i. Merged Area X	\$ 97,180
j. Merged Area XI	\$ 142,463
k. Merged Area XII	\$ 46,200
l. Merged Area XIII	\$ 40,972
m. Merged Area XIV	\$ 20,826
n. Merged Area XV	\$ 55,026
o. Merged Area XVI	\$ 30,988

Sec. 34. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts:

1. For state financial aid to merged areas the amount of twenty-three million fifty-five thousand three hundred fifty-six (23,055,356) dollars, to be accrued as income and used for expenditures incurred by the area schools during the fiscal year beginning July 1, 1988, and ending June 30, 1989, to be allocated to each area school as follows:

a. Merged Area I	\$ 1,069,231
b. Merged Area II	\$ 1,327,820
c. Merged Area III	\$ 1,245,067
d. Merged Area IV	\$ 611,651
e. Merged Area V	\$ 1,388,438
f. Merged Area VI	\$ 1,388,244
g. Merged Area VII	\$ 1,843,493
h. Merged Area IX	\$ 1,896,400
i. Merged Area X	\$ 3,035,941
j. Merged Area XI	\$ 2,935,708
k. Merged Area XII	\$ 1,379,340
l. Merged Area XIII	\$ 1,431,518
m. Merged Area XIV	\$ 606,620
n. Merged Area XV	\$ 1,799,477
o. Merged Area XVI	\$ 1,096,408

2. For distribution as property tax replacement moneys to each of the merged area schools in amounts determined by the department:

..... \$ 176,474

The moneys distributed under this subsection shall be considered as part of the moneys generated under chapter 286A on a statewide basis.

3. Funds appropriated by this section shall be allocated pursuant to this section and paid on or about August 15, 1989.

Sec. 35. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1989, and ending June 30, 1990, for general financial aid to merged areas in lieu of property tax replacement payments under section 427A.13, the amount of three hundred fifty-four thousand eight hundred sixty (354,860) dollars, to be accrued as income and used for expenditures incurred by the area schools during the fiscal year beginning July 1, 1988, and ending June 30, 1989, to be allocated to each area as follows:

1. Merged Area I	\$	27,922
2. Merged Area II	\$	21,671
3. Merged Area III	\$	14,525
4. Merged Area IV	\$	9,924
5. Merged Area V	\$	25,732
6. Merged Area VI	\$	14,792
7. Merged Area VII	\$	24,807
8. Merged Area IX	\$	29,615
9. Merged Area X	\$	41,649
10. Merged Area XI	\$	61,056
11. Merged Area XII	\$	19,800
12. Merged Area XIII	\$	17,559
13. Merged Area XIV	\$	8,925
14. Merged Area XV	\$	23,582
15. Merged Area XVI	\$	13,281

Funds appropriated by this section shall be allocated pursuant to this section and paid on or about August 15, 1989.

Sec. 36. Moneys allocated to area schools under section 33, subsections 12 and 13, of this Act, for expenditures incurred during the fiscal year beginning July 1, 1988, and ending June 30, 1989, shall be paid by the department of revenue and finance in installments due on or about November 15, February 15, and May 15 of that fiscal year. The payments received by area schools on or about August 15 under sections 34 and 35 of this Act are accounts receivable for the previous fiscal year. The installments shall be as nearly equal as possible as determined by the department of management, taking into consideration the relative budget and cash position of the state resources.

Sec. 37. The education appropriations subcommittee shall review the method of calculating the total contact hours for an area school for purposes of chapter 286A so that the calculation can be consistent with the method of calculating enrollment for school districts under the revision of chapter 442 and shall report the results of this study to the general assembly meeting in 1990.

Sec. 38. The department of education may solicit gifts and grants to be used to finance the costs of conducting a study of the literacy of Iowa's young adults.

If sufficient moneys are received for the study, the department of education shall award the contract to an independent testing corporation located in this state. The specifications for the study shall be substantially similar to the specifications for the national assessment of educational progress study of the literacy of young adults in the United States conducted by the educational testing service.

Sec. 39. Notwithstanding the appropriation provided in section 294A.25, subsection 1, there is appropriated from the general fund of the state to the department of education, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of ninety-two million seven thousand nine hundred eighty-five (92,007,985) dollars for the educational excellence program.

Sec. 40. For the fiscal year beginning July 1, 1988, and ending June 30, 1989, section 280.4, subsection 4, is void and weighted enrollment calculated under section 442.4, subsection 6, does not include application of the non-English speaking weighting plan in section 280.4.

Sec. 41.

1. The state board of education may approve the request of an area vocational school to be reclassified as an area community college, but shall not allow the school to create an associate of arts program leading to the associate of arts degree until the requirements of this section have been met. An area vocational school reclassified as an area community college may contract with an accredited private institution, as defined in section 261.9, subsection 5, that is located within the merged area, for the area community college students to enroll in courses leading to an associate of arts degree.

2. An area community college for which the state board of education approved the creation of an arts and sciences division after February 1, 1988, and prior to the effective date of this Act, shall not implement curricular changes until the requirements of this section have been met.

This subsection does not apply if the area community college has substantially detrimentally relied on the approval by the state board of education.

3. The following studies shall be conducted and written reports of the results of the studies transmitted to the state board, the task force created in section 65 of this Act, and the general assembly by February 1, 1989:

a. The legislative fiscal bureau and the department of management shall jointly conduct fiscal impact studies relating to the effect on the state budget of the creation of the associate of arts degree program under subsection 1 and of the creation of a separate arts and sciences division under subsection 2 at the area community college.

b. The department of education shall conduct educational impact studies which shall include, but not be limited to, the effect of the creation of the associate of arts degree program under subsection 1, and the effect of the creation of the separate division under subsection 2, on enrollment at other postsecondary institutions located in the merged area, student access to educational opportunity, and also the number of students within the school's service area in need of the expanded services.

4. The written reports of each study shall be considered by the general assembly, the task force created in section 65 of this Act, and the state board. The state board shall not make decisions under subsection 1 or 2 before July 1, 1989.

Sec. 42. Section 19B.11, subsections 1 and 2, Code 1987, are amended to read as follows:

1. It is the policy of this state to provide equal opportunity in school district, area education agency, and merged area school employment to all persons. An individual shall not be denied equal access to school district, ~~or area education agency, or merged area school~~ employment opportunities because of race, creed, color, religion, national origin, sex, age, or physical or mental disability. It also is the policy of this state to apply affirmative action measures to correct deficiencies in school district, area education agency, and merged area school employment systems where those remedies are appropriate. This policy shall be construed broadly to effectuate its purposes.

2. The director of the department of education shall actively promote fair employment practices for all school district, area education agency, and merged area school employees and the state board of education shall inform adopt rules requiring specific steps by school districts,

area education agencies, and merged area schools ~~concerning their efforts to accomplish this goal~~ the goals of equal employment opportunity and affirmative action in the recruitment, appointment, assignment, and advancement of personnel. Each school district, area education agency, and merged area school shall be required to develop affirmative action standards which are based on the population of the community in which it functions, the student population served, or the persons who can be reasonably recruited. The director of education shall consult with the department of personnel in the performance of duties under this section.

Sec. 43. Section 256.30, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

The tribal council shall first use moneys distributed to it by the department of education for the purposes of this section to pay the additional costs of salaries for certificated instructional staff for educational attainment and full-time equivalent years of experience to equal the salaries listed on the proposed salary schedule for the school at the Sac and Fox Indian settlement for ~~the that school year beginning July 1, 1987 as that salary schedule existed on May 1, 1987,~~ but the salary for a certificated instructional staff member employed on a full-time basis shall not be less than eighteen thousand dollars. The department of management shall approve allotments of moneys appropriated in this section when the department of education certifies to the department of management that the requirements of this section have been met.

Sec. 44. NEW SECTION. 263.8A NATIONAL CENTER.

The state board of regents shall establish and maintain at Iowa City as an integral part of the state University of Iowa the national center for talented and gifted education. The national center shall provide programs to assist classroom teachers to teach gifted and talented students in regular classrooms.

A national center endowment fund is established at the state University of Iowa and gifts and grants to the national center shall be deposited in the fund and interest earned on moneys in the fund may be expended by the state University of Iowa for the purposes for which the national center was established.

Sec. 45. Notwithstanding 1986 Iowa Acts, chapter 1246, section 105, subsection 1, paragraph "c", the moneys appropriated to the department of education and allocated for the development of a mental retardation model curriculum shall not revert to the general fund of the state on June 30, 1988, but shall remain available for expenditure for the purpose specified until June 30, 1989.

Sec. 46. Section 279.19B, unnumbered paragraph 1, Code 1987, is amended to read as follows:

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 not including cross-country, baseball, softball, volleyball, gymnastics, hockey, and wrestling only to an individual possessing a teaching certificate with a coaching endorsement issued pursuant to chapter 260.

Sec. 47. Section 280A.23, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 14. In its discretion, adopt rules relating to the classification of students enrolled in the area school who are residents of Iowa's sister states as residents or non-residents for tuition and fee purposes.

Sec. 48. Section 282.31, subsection 1, paragraph b, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, on June 30 of a school year, if the board of directors of a school district determines that the number of children under this paragraph who were counted in the basic enrollment of the school district on the third Friday of September of that school year is fewer than the sum of the number of months all children were enrolled in the school district under this paragraph during the school year divided by nine, the secretary of the school district may submit a claim to the department of education by August 1 following the school year for an amount equal to the district cost per pupil of the district for the previous school year multiplied by the difference between the number of children counted and the number of children calculated by the number of months of enrollment. The amount of the claim shall be paid by the department of revenue and finance to the school district by October 1 in the same manner as the claims are paid under paragraph "a".

Sec. 49. Section 294A.14, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any summer school program, for which the teacher's salary is paid or supplemented under a supplemental pay plan, shall be open to nonpublic school students in the manner provided in section 256.12.

Sec. 50. Section 294A.25, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Commencing with the fiscal year beginning July 1, 1988, the amount of one hundred thousand dollars to be paid to the department of education for distribution to the tribal council of the Sac and Fox Indian settlement located on land held in trust by the secretary of the interior of the United States. Moneys allocated under this subsection shall be used for the purposes specified in section 256.30.

Sec. 51. Section 302.1A, Code Supplement 1987, as amended by Senate File 2036, 1988 Iowa Acts, is amended to read as follows:

302.1A TRANSFER OF INTEREST.

1. The department of revenue and finance shall transfer the interest earned on the permanent school fund to the first in the nation in education foundation and to the national center for gifted and talented education in the manner provided in this section.

2. Prior For a transfer of interest earned to the first in the nation in education foundation, prior to July 1, October 1, January 1, and March 1 of each year, the governing board of the first in the nation in education foundation established in section 257A.2 shall certify to the director of revenue and finance the cumulative total value of contributions received under section 257A.7 for deposit in the fund and for the use of the foundation. The cumulative total value of contributions received includes the value of the amount deposited in the national center endowment fund established in section 263.8A in excess of seven hundred fifty thousand dollars. The value of in-kind contributions shall be based upon the fair market value of the contribution determined for income tax purposes.

PARAGRAPH DIVIDED. The portion of the permanent school fund that is equal to the cumulative total value of contributions, less the portion of the permanent school fund dedicated to the national center for gifted and talented education, is dedicated to the first in the nation in education foundation for that year. The interest from earned on this dedicated amount shall be transferred by the department of revenue and finance to the credit of the first in the nation in education foundation.

3. For a transfer of interest earned to the national center endowment fund established in section 263.8A, prior to July 1, October 1, January 1, and March 1 of each year, the state University of Iowa shall certify to the department of revenue and finance the cumulative total value

of contributions received and deposited in the national center endowment fund. The department of revenue and finance shall dedicate the interest earned on a portion of the permanent school fund to the national center in the manner provided in this subsection. The portion of the permanent school fund that is used to determine the dedicated amount of interest earned for a year shall equal one-half the cumulative total value of the contributions deposited in the national center endowment fund, not to exceed seven hundred fifty thousand dollars. The department of revenue and finance shall transmit the interest earned on the dedicated amount to the state University of Iowa for the use of the national center for gifted and talented education.

4. The remaining portion of the interest earned on the permanent school fund shall become a part of the permanent school fund.

DIVISION IV
STATE BOARD OF REGENTS

Sec. 52. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amounts, or so much thereof as may be necessary, for use for the following designated purposes:

1. OFFICE OF STATE BOARD OF REGENTS

a. For salaries and support for not more than nineteen point sixty-three full-time equivalent positions, maintenance, equipment, and miscellaneous purposes and for the establishment of a consortium consisting of representatives of Iowa State University, the University of Iowa, and the University of Northern Iowa as equal participants to establish and use a process for the exchange and integration of knowledge among the universities in the fields including but not limited to food production, food processing, food preservation, nutrition, medicine, pharmacy, chemical-free water, clean air, and environmental safety. The consortium shall also establish a means for the integration of knowledge across disciplines in each of the universities. In the establishment of the process for integration and exchange of knowledge for these purposes, the consortium shall also develop a process for disseminating this knowledge to the public for personal and business use by Iowans:

..... \$ 516,272

b. 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:

..... \$ 17,003,669

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory.

(1) For salaries and support for not more than four thousand three hundred twenty-five point sixty-three full-time equivalent positions, maintenance, equipment, and miscellaneous purposes:

..... \$ 138,376,377

It is the intent of the general assembly that as a condition, limitation, and qualification of moneys appropriated in this subparagraph, from moneys available to the state University of Iowa, five hundred thousand (500,000) dollars shall be expended for teaching excellence awards to teaching faculty members and teaching assistants.

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation made in this subparagraph, the University of Iowa shall expend moneys for salaries and support for the labor center.

(2) Agriculture health and safety service pilot programs, including salaries and support for not more than one point twenty-eight full-time equivalent positions:

..... \$ 59,940

(3) For acquisition of library materials:

..... \$ 341,250

b. University hospitals

(1) For salaries and support for not more than five thousand five point thirty-eight full-time equivalent positions, maintenance, equipment, and miscellaneous purposes; for medical and surgical treatment of indigent patients as provided in chapter 255:

..... \$ 25,899,603

(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, including salaries and support for not more than one hundred seventy-six point eighty-four full-time equivalent positions:

..... \$ 1,511,061

(3) For specialized child health care services, including childhood cancer diagnostic and treatment network programs; rural comprehensive care for hemophilia patients; and Iowa high risk infant follow-up program, including salaries and support for not more than thirteen point fifty-eight full-time equivalent positions:

..... \$ 337,256

c. As a condition, limitation, and qualification of the appropriation made in paragraph "b", subparagraph (1), the county quotas for indigent patients for the fiscal year commencing July 1, 1988, shall not be lower than the county quotas for the fiscal year commencing July 1, 1987. Before a patient is eligible for the indigent patient program, the county general relief director shall first ascertain from the local office of human services if the applicant would qualify for medical assistance or the medically needy program without the spend-down provision under chapter 249A. If the applicant qualifies, then the patient shall be certified for medical assistance and shall not be counted under chapter 255.

d. As a condition, limitation, and qualification of the appropriation made in paragraph "b", subparagraph (1), funds appropriated in that subparagraph shall not be allocated to the university hospitals until the superintendent has filed with the department of management and the legislative fiscal bureau a quarterly report containing the account required in section 255.24. The report shall include the information required in section 255.24 for patients by the type of service provided.

e. As a condition, limitation, and qualification of the appropriation made in paragraph "b", subparagraph (1), funds appropriated in that subparagraph 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.

f. As a condition of the appropriation made in paragraph "b", subparagraph (1), university hospitals shall compile and transmit to the general assembly the following information for the fiscal year beginning July 1, 1987:

(1) Revenue from all income sources, by source, including but not limited to state appropriations, other state funds, tuition income, patient charges, payments from political subdivisions, interest income, and gifts, and grants from public and private sources.

(2) Expenditures by program and revenue source.

(3) Net revenue over spending from hospital operations, including the method used to calculate the results.

The legislative fiscal bureau shall develop forms for collecting the information required in this subparagraph.

g. Psychiatric hospital

For salaries and support for not more than two hundred eighty-seven point twenty-six full-time equivalent positions, maintenance, equipment, and miscellaneous purposes and for the care, treatment and maintenance of committed and voluntary public patients:

..... \$ 6,014,532

h. State hygienic laboratory

For salaries and support for not more than one hundred fourteen point thirty-five full-time equivalent positions, maintenance, equipment, and miscellaneous purposes:

..... \$ 2,507,968

i. Hospital-school

For salaries and support for not more than one hundred eighty-five point seventy-three full-time equivalent positions, maintenance, equipment, and miscellaneous purposes:

..... \$ 4,542,607

j. Oakdale campus

For salaries and support for not more than eighty-two full-time equivalent positions, maintenance, equipment, and miscellaneous purposes:

..... \$ 2,498,481

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university

For salaries and support for not more than three thousand seven hundred seventy-five full-time equivalent positions, maintenance, equipment, and miscellaneous purposes:

..... \$ 116,234,916

It is the intent of the general assembly that as a condition, limitation, and qualification of the appropriation made in this paragraph, Iowa State University shall expend two million (2,000,000) dollars for the construction of livestock units for cattle and swine research and one million (1,000,000) dollars for the purchase of agronomy building equipment.

It is the intent of the general assembly that as a condition, limitation, and qualification of moneys appropriated in this paragraph, from moneys available to Iowa State University, five hundred thousand (500,000) dollars shall be expended for teaching excellence awards to teaching faculty members and teaching assistants.

b. Agricultural experiment station

For salaries and support for not more than four hundred thirteen point five full-time equivalent positions, maintenance, equipment, and miscellaneous purposes:

..... \$ 13,556,178

c. Cooperative extension service in agriculture and home economics

For salaries and support for not more than four hundred ninety-six point ninety-eight full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 13,317,224

d. For continuation of the rural concern hotline, including salaries and support for not more than four point five full-time equivalent positions:

..... \$ 90,000

e. Fire service education, including salaries and support for not more than eleven full-time equivalent positions:

..... \$ 389,456

f. For acquisition of library materials:

..... \$ 234,400

4. UNIVERSITY OF NORTHERN IOWA

a. For salaries and support for not more than one thousand three hundred twenty-four full-time equivalent positions, maintenance, equipment, and miscellaneous purposes:

..... \$ 45,136,113

It is the intent of the general assembly that as a condition, limitation, and qualification of moneys appropriated in this subsection, from moneys available to the University of Northern Iowa, two hundred fifty thousand (250,000) dollars shall be expended for teaching excellence awards to teaching faculty members and teaching assistants and four hundred sixty thousand (460,000) dollars shall constitute an equity adjustment to maintain and support the university's academic programs.

It is a condition, limitation, and qualification of the appropriation made in this subsection that moneys appropriated in this subsection not be expended for the power plant addition at the University of Northern Iowa.

b. For acquisition of library materials:

..... \$ 60,850

5. STATE SCHOOL FOR THE DEAF

For salaries and support for not more than one hundred thirty-five point three full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 4,957,177

6. IOWA BRAILLE AND SIGHT-SAVING SCHOOL

For salaries and support for not more than ninety-five point thirty-three full-time equivalent positions, maintenance, and miscellaneous purposes:

..... \$ 2,742,752

7. The provisions of section 8.33, unnumbered paragraph 2, shall not apply to the funds appropriated in this section. No later than September 15, 1989, the state board of regents shall submit to the department of management a list of all obligations which have been incurred for goods and services that have not been received or rendered as of that date.

Sec. 53.

1. From funds in the state treasury not otherwise appropriated that are in excess of a fiscal year ending balance of sixty-one million seven hundred thousand (61,700,000) dollars, there is appropriated to the state board of regents for the fiscal year beginning July 1, 1987, and ending June 30, 1988, an amount not exceeding eleven million one hundred thousand (11,100,000) dollars to be allocated to the University of Northern Iowa for construction of a power plant addition. Notwithstanding section 262.28, the moneys appropriated in this section shall not be committed by the state board of regents or paid, either in full or in part, until the governor has certified to the department of revenue and finance that the estimated budget resources during the fiscal year are sufficient to pay all other appropriations in full and to pay all or a portion of the appropriation made in this section.

2. From funds in the state treasury not otherwise appropriated, there is appropriated to the state board of regents for the fiscal year beginning July 1, 1988, and ending June 30, 1989, an amount equal to the difference between the amount of the appropriation approved by the governor under subsection 1 for the purpose specified in subsection 1 and eleven million one hundred thousand (11,100,000) dollars. The payment of the appropriation made in this subsection is subject to the same restrictions as the appropriation made in subsection 1.

3. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated by subsection 1 for the fiscal year beginning July 1, 1987, and ending June 30, 1988, remaining on June 30, 1988, and unobligated or unencumbered funds appropriated by subsection 2 for the fiscal year beginning July 1, 1988, and ending June 30, 1989, remaining on June 30, 1989, shall not revert to the general fund of the state until September 30, 1991. However, if the project for which these funds are appropriated is completed prior to June 30, 1991, 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 project is completed.

Sec. 54.

1. From funds in the state treasury not otherwise appropriated that are in excess of an ending balance for the fiscal year beginning July 1, 1987, of sixty-one million seven hundred thousand (61,700,000) dollars, after the conditions of section 53 have been met and eleven million one hundred thousand (11,100,000) dollars have been appropriated to the state board of regents, there is appropriated for the fiscal year beginning July 1, 1988, and ending June 30, 1989, in the following priority order to the following named agencies the specified amounts to be used for the purposes designated:

a. To the state board of regents to be allocated to its institutions of higher education for fire and environmental safety deficiency corrections, the sum of one million (1,000,000) dollars.

b. To the department of corrections to be used for community-based corrections, the sum of six hundred thousand five hundred sixty-three (600,563) dollars to be allocated as follows:

(1) For the first judicial district department of correctional services, the sum of ninety-three thousand five hundred fifty-nine (93,559) dollars or so much thereof as is necessary.

(2) For the second judicial district department of correctional services, the sum of seventy-six thousand one hundred ninety-two (76,192) dollars or so much thereof as is necessary.

(3) For the third judicial district department of correctional services, the sum of forty-four thousand three hundred twenty-five (44,325) dollars or so much thereof as is necessary.

(4) For the fourth judicial district department of correctional services, the sum of forty-one thousand four hundred seventy (41,470) dollars or so much thereof as is necessary.

(5) For the fifth judicial district department of correctional services, the sum of one hundred twenty-nine thousand six hundred ninety-seven (129,697) dollars or so much thereof as is necessary.

(6) For the sixth judicial district department of correctional services, the sum of ninety-four thousand eight hundred eighty-seven (94,887) dollars or so much thereof as is necessary.

(7) For the seventh judicial district department of correctional services, the sum of seventy-nine thousand eight hundred seventy-one (79,871) dollars or so much thereof as is necessary.

(8) For the eighth judicial district department of correctional services, the sum of thirty-seven thousand eight hundred seventy (37,870) dollars or so much thereof as is necessary.

(9) To the department of corrections for the assistance and support of each judicial district department of correctional services, the sum of two thousand six hundred ninety-two (2,692) dollars or so much thereof as is necessary.

c. To the department of corrections to be used for planning, site selection, and solicitations of requests for proposals for juvenile detention centers and adult correctional facilities, the sum of seven hundred thousand (700,000) dollars.

d. To the department of corrections, the sum of one million three hundred thousand (1,300,000) dollars to be retained by the department of revenue and finance and not paid to the department of corrections until the general assembly enacts legislation that provides for the specific expenditure of the moneys.

e. To the department of general services for capitol restoration, the sum of one million five hundred thousand (1,500,000) dollars.

2. The moneys appropriated in subsection 1 shall not be committed by the agency to which they are appropriated or paid, either in full or in part by the department of revenue and finance, until the governor has certified to the department of revenue and finance that the estimated budget resources during the fiscal year are sufficient to pay all other appropriations in full, including the moneys appropriated in section 53 of this Act, and are sufficient to pay the appropriation in the applicable paragraph.

3. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated in subsection 1, paragraphs "a", "c", "d", and "e", for the fiscal year beginning July 1, 1988, and ending June 30, 1989, shall not revert to the general fund of the state until September 30, 1991. However, if the project for which these funds are appropriated is completed prior to June 30, 1991, 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 project is completed.

Sec. 55. If the general fund ending balance for the fiscal year beginning July 1, 1987, is not sufficient under section 54 and the governor does not certify to the department of revenue and finance that the appropriation in section 54, subsection 1, paragraphs "b" and "c", be made, and notwithstanding any other provisions of law, the treasurer of state before making allotments of the moneys within the Iowa plan fund pursuant to section 99E.32, subsection 1, for the fiscal year beginning July 1, 1988, shall transfer to the department of corrections the sum of one million two hundred eighty-four (1,000,284) dollars, and the moneys are appropriated for the following purposes:

1. To be used for community-based corrections, the sum of three hundred thousand two hundred eighty-four (300,284) dollars, to be allocated as follows:

a. For the first judicial district department of correctional services, the sum of forty-six thousand seven hundred eighty (46,780) dollars or so much thereof as is necessary.

b. For the second judicial district department of correctional services, the sum of thirty-eight thousand ninety-six (38,096) dollars or so much thereof as is necessary.

c. For the third judicial district department of correctional services, the sum of twenty-two thousand one hundred sixty-three (22,163) dollars or so much thereof as is necessary.

d. For the fourth judicial district department of correctional services, the sum of twenty thousand seven hundred thirty-five (20,735) dollars or so much thereof as is necessary.

e. For the fifth judicial district department of correctional services, the sum of sixty-four thousand eight hundred forty-nine (64,849) dollars or so much thereof as is necessary.

f. For the sixth judicial district department of correctional services, the sum of forty-seven thousand four hundred forty-four (47,444) dollars or so much thereof as is necessary.

g. For the seventh judicial district department of correctional services, the sum of thirty-nine thousand nine hundred thirty-six (39,936) dollars or so much thereof as is necessary.

h. For the eighth judicial district department of correctional services, the sum of eighteen thousand nine hundred thirty-five (18,935) dollars or so much thereof as is necessary.

i. To the department of corrections for the assistance and support of each judicial district department of correctional services, the sum of one thousand three hundred forty-six (1,346) dollars or so much thereof as is necessary.

2. To be used for planning, site selection, and solicitations of requests for proposals for juvenile detention centers and adult correctional facilities, the sum of seven hundred thousand (700,000) dollars.

Sec. 56. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated in 1987 Iowa Acts, chapter 233, section 408, subsection 1, paragraph "b", shall not revert to the general fund of the state on June 30, 1988, but shall be available for expenditure for the purposes listed in section 52, subsection 1, paragraph "b", of this Act during the fiscal year beginning July 1, 1988, and ending June 30, 1989.

Sec. 57. As a condition, limitation, and qualification of the appropriations made in section 52, subsection 2, paragraph "a", subparagraph (1); section 52, subsection 3, paragraph "a"; and section 52, subsection 4, if the interest earned on moneys accumulated by campus organizations at an institution is not available for expenditure by those respective campus organizations, the institution shall allocate that interest to campus improvements that are of benefit to students and have been accepted by the institution's student government or to the student financial aid office to be used for the work-study program.

Sec. 58. As a condition, limitation, and qualification of the appropriations made in section 52, subsection 2, paragraph "a", subparagraph (1); section 52, subsection 3, paragraph "a"; and section 52, subsection 4, sales by an institution of computer equipment, computer software, and computer supplies to students and faculty at the institution are retail sales for the purpose of chapter 422, Division IV.

Sec. 59. It is the intent of the general assembly that the office of the state board of regents shall study the child care needs of faculty members, other staff members, and students at each institution of higher education under its control. The state board of regents shall survey each institution for potential locations for child care centers, explore the possibility of receiving federal funding for operation of the child care centers, and examine the feasibility of adopting a sliding fee scale based upon income of the parent or guardian. As a part of this study, the office of the state board of regents shall solicit input from the state association composed of students from the three institutions.

The state board of regents shall present to the general assembly no later than November 30, 1988, a comprehensive proposal for meeting the child care needs at each institution. This proposal shall include recommendations for using students enrolled at the institutions for meeting the child care needs with payment through the state work-study program.

Sec. 60. The department of human services shall increase the disproportionate share reimbursement rate under the medical assistance program provided by Title XIX of the federal Social Security Act to four percent for hospitals for which at least twenty percent of the business is with medically indigent persons.

Sec. 61. For the fiscal years beginning July 1, 1988, and July 1, 1989, the state board of regents shall use notes, bonds, or other evidences of indebtedness issued under section 262.48 to finance projects that will result in energy cost savings in an amount that will cause the state board to recover the cost of the projects within an average of six years.

Sec. 62. Notwithstanding House File 2444,* section 1, if House File 2444 is enacted by the Seventy-second General Assembly, the auditor of state shall monitor the costs of performing examinations of the state board of regents and shall seek reimbursement under section 11.5A.

****Sec. 63.** *Section 154.3, subsection 6, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:*

*The board shall adopt rules requiring an additional twenty hours per biennium of continuing education in the treatment and management of ocular disease for all therapeutically certified optometrists. The department of ophthalmology of the school of medicine of the State University of Iowa shall be one of the providers of this continuing education.***

Sec. 64. Section 262.9, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 19. Establish a hall of fame for distinguished graduates at the Iowa braille and sight-saving school and at the Iowa school for the deaf.

Sec. 65. **POSTSECONDARY EDUCATION TASK FORCE.** There is established a citizens postsecondary education task force to study and make recommendations regarding the goals, and the legislation necessary to meet the goals, of the state's postsecondary education system in the future. The study shall include, but not be limited to, the following:

1. Ways to preserve equal educational opportunity and equal access to a quality education for the students of Iowa.

2. An analysis of present and future needs of Iowans for postsecondary education.

3. Coordination and articulation of curriculum with the elementary and secondary school systems.

4. An inventory of the distribution and any duplication of the educational programs and services available in the state's board of regents institutions, merged area schools, private colleges and universities, and technical schools, and the college aid commission.

5. Demographic projections of enrollment trends, including trends among the various kinds of postsecondary education offerings available.

6. A comprehensive fiscal analysis of the state's postsecondary education financing effort, including historic financing trends, per pupil trends, and projections of the state's capacity to finance its postsecondary education system in the future.

7. The tuition being charged at the state universities, including a determination of how student tuition should be calculated, what share of the cost of education should be borne by students, and what share of the cost should be borne by the state.

8. A twenty-year postsecondary education plan that recommends methods and the structure necessary to match the recommended goals with the state resources necessary to fund them, accompanied by a recommended chronology and coordination within the postsecondary education system itself and within the elementary and secondary education systems.

The members of the citizens committee shall be appointed by the speaker and the minority leader of the house of representatives and by the majority and minority leaders of the senate. There shall be seven citizen members whose composition shall be bipartisan, which shall include citizens with an interest or experience in higher education or in research at the graduate level, a student from a postsecondary institution, members of the general public, and from which a chair shall be appointed. Four legislators, one from each political party in the house and one from each political party in the senate, shall be appointed by the joint leaders of the house and senate. The committee may work with one or more education consultants familiar with projected national trends in undergraduate, graduate, and research area goals and needs for the year 2000 and beyond. The task force shall be appointed by no later than

*Chapter 1274 herein

**Item veto; see message at end of the Act

June 1, 1988, and shall report to the legislative council by December 15, 1988, how it will be organized and conduct its research in order to report its recommendations to the general assembly by no later than July 1, 1990. If the legislative council approves of the task force organizational plan, it may authorize the task force to employ an executive director beginning February 1, 1989, until completion of the report in July 1990, and may authorize the expenditure of moneys from section 2.12 to fund the cost of the task force. The task force may request and receive research assistance from the education commission of the states. The task force may accept gifts and donations, and may contract with a foundation for additional funds. The legislative council may authorize the payment of per diem and expenses for the citizen members of the task force.

Staff assistance to the task force shall be provided by the legislative service bureau, the legislative fiscal bureau, and the caucus staffs, who shall work under the direction of the chair of the task force and the executive director if an executive director is employed.

Sec. 66. NEW SECTION. 182.24 BOARD MEMBER DISCLOSURE.

Notwithstanding section 182.13, a member of the board may receive compensation, including a salary, from an organization or agency, including an educational institution, receiving funds from the board. If a member of the board has a pecuniary interest, either direct or indirect, in a matter considered by the board, the interest shall be disclosed by the member to the board and included in the minutes for that meeting of the board. The member having the pecuniary interest shall not participate in an action taken by the board on the matter.

***Sec. 67. NEW SECTION. 269.3 CLASSROOM TEACHERS.**

*For purposes of chapter 20, classroom teachers employed by the Iowa braille and sight-saving school may be accreted to a faculty bargaining unit at the University of Northern Iowa or any other approved classroom teacher bargaining unit established under chapter 20 upon the affirmative vote of a majority of the classroom teachers employed by the school.**

***Sec. 68. NEW SECTION. 270.11 CLASSROOM TEACHERS.**

*For purposes of chapter 20, classroom teachers employed by the school for the deaf may be accreted to a faculty bargaining unit at the University of Northern Iowa or any other approved classroom teacher bargaining unit established under chapter 20 upon the affirmative vote of a majority of the classroom teachers employed by the school.**

***Sec. 69. Section 262.44, subsection 1, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:**

1. Set aside and use portions of the respective campuses of the institutions of higher education under its control, namely, the state University of Iowa, the Iowa State University of science and technology, and the University of Northern Iowa, as the board determines are suitable for the acquisition or construction of the following self-liquidating and revenue producing buildings and facilities: Student unions, recreational buildings, auditoriums, stadiums, field houses, athletic buildings and areas, parking structures and areas, research equipment if the debt incurred in its acquisition will be retired by federal, private, or other lawfully available nonappropriated funds, and additions to or alterations of existing buildings or structures.

Except as provided for self-liquidating dormitories and buildings and facilities specifically listed in this subsection, the state board of regents, or any bonding authority established by them, shall not issue any notes, bonds, or other evidence of indebtedness under this division for construction of other buildings or facilities without prior approval by the general assembly and the governor in the manner provided in section 262A.4 for bonds issued under that chapter.*

*Item veto; see message at end of the Act

DIVISION V
AREA EDUCATION AGENCIES

Sec. 70. Section 442.4, subsection 1, unnumbered paragraph 6, Code Supplement 1987, is amended to read as follows:

A school district shall certify its basic enrollment to the department of education by October 1 of each year, and the department shall promptly forward the information to the department of management. For purposes of determining whether a district is entitled to an advance for increasing enrollment a determination of actual enrollment shall be made on the third Friday of September in the budget year by counting the pupils in the same manner and to the same extent that they are counted in determining basic enrollment, but substituting the count in the budget year for the count in the base year. In addition, a school district shall determine its additional enrollment because of special education, as defined in this section 442.38, on December 1 of each year and if the district is entitled to an advance for special education, it shall certify its additional enrollment because of special education to the department of education by December 15 of each year, and the department shall promptly forward the information to the department of management.

For the purposes of this chapter, "additional enrollment because of special education" is determined by multiplying the weighting of each category of child under section 281.9 times the number of children in each category totaled for all categories minus the actual enrollment.

Sec. 71. Section 442.4, subsection 6, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

Commencing with the school year beginning July 1, ~~1981~~ 1988, and each school year thereafter, the weighted enrollment shall be determined on the basis of a count of a district's additional enrollment because of special education, as defined in ~~section 442.38~~ subsection 1, on December 1 of the base year.

Sec. 72. Section 442.4, subsection 6, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Weighted enrollment calculated under this subsection shall be used when weighted enrollment is prescribed by law. It shall not be used in calculations pertaining to special education support services costs.

Sec. 73. Section 442.4, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. For the school year beginning July 1, 1988, and each subsequent school year, weighted enrollment for special education support services costs is the sum of the budget enrollment and the additional enrollment because of special education defined in subsection 1.

Sec. 74. Section 442.7, subsection 7, paragraphs g and h, Code Supplement 1987, are amended to read as follows:

g. For the school year beginning July 1, ~~1981~~ 1988, and succeeding school years, the amount included in the special education support services district cost per pupil in weighted enrollment for special education support services costs for each district in an area education agency for a budget year is the amount included in the special education support services district cost per pupil in weighted enrollment for special education support services costs in the base year plus the allowable growth added to special education support services state cost per pupil for special education support services costs for the budget year, except as provided in paragraph "h". Funds shall be paid to area education agencies as provided in section 442.25.

h. For the school year beginning July 1, ~~1986~~ 1988, and succeeding school years, the director of the department of education may direct the department of management to increase or reduce the allowable growth ~~added to~~ included in special education support services district cost per pupil in weighted enrollment for a budget year for special education support services costs in an area education agency in the base year based upon special education support services needs in the area. However, an increase in the allowable growth can only be granted by action of the director of the department of education to restore a previous reduction or portion of a reduction in allowable growth for that year or the previous year.

Sec. 75. Section 442.7, subsection 8, Code Supplement 1987, is amended to read as follows:

8. For the school year beginning July 1, ~~1981~~ 1988, and succeeding school years, the allowable growth added to special education support services state cost per pupil ~~for special education support services costs~~ is the amount included in the special education support services state cost per pupil ~~for special education support services costs~~ for the base year times the state percent of growth for the budget year. ~~However, for the school year beginning July 1, 1981, no allowable growth shall be added, except as provided under subsection 9.~~

Sec. 76. Section 442.8, unnumbered paragraph 1, Code 1987, is amended to read as follows:

As used in this chapter, "state cost per pupil" for the school year beginning July 1, 1975, and subsequent school years means state cost per pupil in weighted enrollment. The state cost per pupil for the school year beginning July 1, 1972, is nine hundred three dollars. The state cost per pupil for the school year beginning July 1, 1987, is two thousand seven hundred six dollars. Of that amount, two thousand five hundred ninety dollars is regular program state cost per pupil and one hundred sixteen dollars and two cents is special education support services state cost per pupil. The state cost per pupil for the school year beginning on July 1, ~~1973~~ 1988, and for each succeeding school year is the sum of the base year's regular program state cost per pupil plus the allowable growth for the budget year and the base year's special education support services state cost per pupil plus the allowable growth for the budget year. If the state percent of growth is zero, the budget year's state cost per pupil shall be is the same as the base year's state cost per pupil.

Sec. 77. Section 442.9, subsection 1, Code 1987, is amended to read as follows:

1. The department of management shall determine the additional school district property tax levy for each school district, which is in addition to the foundation property tax levy, as follows:

a. As used in this chapter, "district cost per pupil" for the school year beginning July 1, 1975, and subsequent school years means district cost per pupil in weighted enrollment. The regular program district cost per pupil for the budget year is equal to the regular program district cost per pupil for the base year plus the allowable growth. However, regular program district cost per pupil does not include additional allowable growth added for programs for gifted and talented children, for programs for returning dropouts, and for educational improvement projects under chapter 260A, for special education support services costs, 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.

As used in this chapter, the special education support services district cost per pupil for the budget year is the special education support services district cost per pupil for the base year plus allowable growth as provided in section 442.7, subsection 7.

District cost per pupil is the sum of the regular program district cost per pupil and the special education support services district cost per pupil.

b. The district cost for the budget year is equal to the sum of the regular program district cost per pupil for the budget year multiplied by the weighted enrollment, plus the special education support services district cost per pupil multiplied by the weighted enrollment for special education support services costs, plus commencing with the budget year beginning July 1, 1985 additional district cost added for moneys received by a school district under section 302.3, Code 1981, as provided in section 442.21, and plus the additional district cost allocated to the district under section 442.27 to fund media services and educational services provided through the area education agency. A school district may shall not increase its district cost for the budget year except to the extent that an excess tax levy is authorized by the school budget review committee as provided in section 442.13.

c. The amount to be raised by the additional school district property tax levy is equal to the district cost for the budget year, less the product total of the products of the state or district foundation base for regular program and times the weighted enrollment plus the state or district foundation base for special education support services costs times the weighted enrollment for special education support services costs.

Sec. 78. Section 442.26, unnumbered paragraph 2, Code 1987, is amended to read as follows:

All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on June 15 of the budget year and the installments shall be as nearly equal as possible as determined by the department of management, taking into consideration the relative budget and cash position of the state resources. However, the state aids paid to school districts under section 442.28 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year and state aids paid to school districts under section 442.38 shall be paid in monthly installments beginning on February 15 and ending on June 15 of a budget year.

Sec. 79. Section 442.28, unnumbered paragraph 1, Code 1987, is amended to read as follows:

If a district's actual enrollment for the budget year, determined under section 442.4, is higher than its budget enrollment for the budget year, the district is entitled to an advance from the state of an amount equal to its regular program district cost per pupil less the amount per pupil for special education support services, computed as a part of district cost under the provisions of section 442.7 for the budget year multiplied by the difference between the actual enrollment for the budget year and the budget enrollment for the budget year. However, if a district's actual enrollment for the budget year is more than fifteen percent higher than its basic enrollment for the budget year, the advance shall be calculated using seventy-five percent of the difference between the district's actual enrollment for the budget year and its basic enrollment for the budget year. The advance shall be is miscellaneous income.

Sec. 80. Section 442.31, unnumbered paragraph 1, Code 1987, is amended to read as follows:

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

Sec. 81. Section 442.35, Code 1987, is amended to read as follows:

442.35 FUNDING.

The budget of an approved gifted and talented children program 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. The approved budget for a gifted and talented children program shall not exceed an amount equal to one and two-tenths percent of the district cost per pupil of the district multiplied by the budget enrollment of the district. Annually, the department of management shall establish a modified allowable growth for each such district equal to the difference between the approved budget for the gifted and talented children program for that district and the sum of the amount funded from the district cost of the school district plus funds received from other sources.

Sec. 82. Section 442.38, Code 1987, is repealed.

Sec. 83. All federal grants to and the federal receipts of agencies appropriated funds under this Act are appropriated for the purposes set forth in the federal grants or receipts.

Sec. 84. Moneys appropriated in this Act, except for section 1, subsections 3, 5, and 6; sections 5 and 6; section 52, subsection 3, paragraph "a"; and sections 53 and 54, shall not be used for capital improvements.

Sec. 85. Sections 40 and 70 through 82 of this Act apply to computations required under chapter 442 for the budget year beginning July 1, 1988.

Sec. 86. Sections 6, 18, 19, 40, 41, 45, 48, 53, 56, 65, and 70 through 82 of this Act, being deemed of immediate importance, take effect upon their enactment.

Approved May 17, 1988, except the items which I hereby disapprove and which are designated as section 5; section 61; section 63; sections 67 and 68; and section 69 which are herein bracketed in ink and initialed by me. My reasons for vetoing these items are delineated 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*

Dear Madam Secretary:

I hereby transmit Senate File 2312, an Act relating to the funding of, operation of, and appropriation of moneys to agencies, institutions, commissions, departments, and boards responsible for educational, cultural, and rehabilitational programs of this state and providing an effective date.

Senate File 2312 is approved with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 5 in its entirety.

This item in Senate File 2312 provides the Public Broadcasting Division of the Department of Cultural Affairs with the authority to use the financing of the State of Iowa Facilities Improvement Corporation (SIFC) to purchase portions of needed ultrahigh frequency transmitter packages. Moreover, the legislation exempted IPTV from the requirement that these packages meet the six-year energy payback requirement that is applied to financing. It is anticipated that the total cost of replacing these transmitters at IPTV is approximately \$860,000.

I am concerned about legislation which authorizes additional bonding or lease/purchases by SIFC. The principal and interest on this financing must be paid out of the operating budgets of the individual entities. In this case, it would, in effect, require a diversion of operating funds from the IPTV budget for debt service.

In addition, I am concerned about the exemption from the six-year energy payback requirement that is included in this item. Energy conservation projects with longer than six-year paybacks are generally deemed to be poor investments. Issuing bonds for that purpose is especially unwise financial strategy.

I am cognizant of the need by IPTV to replace some of their transmitters which are well past their useful lives. However, I would prefer direct appropriations to fund the purchase of these replacement transmitters. I have approved provisions in the oil overcharge bill which potentially will provide direct general fund appropriations for the purchase of these transmitters. If the intent of that appropriation is not realized, the General Assembly may need to consider a direct appropriation to replace the transmitters in future years.

I am unable to approve the item designated as Section 61 in its entirety.

This provision in Senate File 2312 requires the Board of Regents to issue bonds to finance energy conservation projects with a payback of an average of six years. Certainly, energy conservation should be an important priority of the capital program of the State Board of Regents and the Regents have allocated funds for that purpose in the past.

However, I object to requiring the State Board of Regents to issue debt financing for this purpose. Debt financing limits our financial flexibility in future years as we struggle to pay back the principal and interest on the debt. Moreover, debt financing runs the risk of tying up the operating budgets of the Regent institutions.

I am in support of and have signed legislation to require the Board of Regents to carefully review energy conservation projects which can be undertaken with reasonable payback periods. However, I cannot approve legislation which stipulates that the only method of financing those projects be bonding. Instead, the Board of Regents institutions have attempted to finance as many energy conservation projects as possible from the building repairs portion of their operating budgets. Extraordinary needs for energy conservation funds can be requested for consideration by the Governor and the General Assembly through the normal appropriation process and pay-as-you-go basis.

I am unable to approve the item designated as Section 63 in its entirety.

This section of Senate File 2312 strikes the statutory provision which requires that the Department of Ophthalmology of the School of Medicine at the State University of Iowa to provide continuing education for therapeutically certified optometrists.

In effect, this provision reopens an issue that the last General Assembly resolved by allowing optometrists to offer therapeutic services.

In order to be therapeutically certified, optometrists must meet strict education and certification requirements. Legislation passed last session by the General Assembly required the Department of Ophthalmology at the University of Iowa Hospitals and Clinics to provide some of this continuing education.

I believe that the legislation was correct last year in requiring that optometrists receive some of their continuing education at the Department of Ophthalmology at the University of Iowa. The state of Iowa does not have an optometry school and therefore it is somewhat difficult for optometrists to receive appropriate continuing education in the state of Iowa. Optometrists who do provide therapeutic services can benefit greatly from the instruction and expertise which is available at the Department of Ophthalmology. Moreover, I believe that continuing delivery of quality eye care in Iowa requires the Department of Ophthalmology to be involved in the continuing education of therapeutically certified optometrists. In order to ensure that will occur, I am item vetoing this section of Senate File 2312.

Section 65 of Senate File 2312 provides legislative authorization for the postsecondary education task force. I am not item vetoing this from the bill since I respect the prerogative of the General Assembly to conduct studies that are deemed appropriate.

However, I have some serious concerns about the structure of the study which is included in Section 65. This study does not include representation from the executive branch of state government. Such representation is critical to a complete, effective, and realistic plan for postsecondary higher education for the future. I am strongly in support of efforts to develop strategic plans for the greater coordination and focusing of our higher education resources in the state. As a result, I am working closely with the presidents and chief executive officers of each of the three major education governance boards in the state. We are planning a joint meeting of those boards to develop a process for strategic planning and coordination. I would hope that the General Assembly would work closely with the executive branch group to jointly develop plans for the future of higher education in Iowa.

I am unable to approve the items designated as Sections 67 and 68 in their entirety.

These items in Senate File 2312 provide for the accretion of the classroom teachers at the Iowa Braille and Sight Saving School and the Iowa School for the Deaf to the faculty bargaining unit at the University of Northern Iowa or another approved classroom teacher bargaining unit established under Chapter 20.

Under current law, the Public Employment Relations Board has the responsibility to establish units for collective bargaining purposes. That provision in Chapter 20 has worked quite well and the legislature should not, by statute, tinker with it. I believe that the statutory responsibilities of Public Employment Relations Board should be respected and therefore I cannot approve of this accretion language.

I am unable to approve the item designated as Section 69 in its entirety.

This provision in Senate File 2312 specifically restricts the self-liquidating financing authority for utilities, telecommunications, sewers and research equipment at the Regents institutions. The Board of Regents has used this authority over the years to meet critical needs of the Regent institutions at the lowest financing possible cost. Moreover, this self-liquidating method of financing has no impact on the state's general fund and is financed by the university's ability to generate revenues to make the payments. In addition, the Board of Regents has prudently used this mechanism to help finance important economic development projects including research equipment and the human resources biology facility at the University of Iowa. Therefore, I believe the Regents should retain this ability to obtain low cost financing to meet emergency and other important academic and economic needs for the state at no cost to our general fund.

As a matter of course, the Board of Regents has consulted with my office and the legislature prior to making use of this financing mechanism. I have been assured that such prior consultation will continue to occur.

For the above reasons, I hereby respectfully 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 Senate File 2312 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1285

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO GOVERNOR AND LIEUTENANT GOVERNOR

S.J.R. 1

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, 1991 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, 1991 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, 1991 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 amendment, having been adopted and agreed to by the Seventy-first General Assembly, 1986 Session, thereafter duly published, and now adopted and agreed to by the Seventy-second General Assembly in this joint resolution, shall be submitted to the people of the state of Iowa at the general election in November of the year nineteen hundred eighty-eight in the manner required by the Constitution of the State of Iowa and the laws of the state of Iowa.

CHAPTER 1286

ADMINISTRATIVE RULE RELATING TO CHILD ABUSE INFORMATION NULLIFIED

S.J.R. 2006

A JOINT RESOLUTION to nullify an administrative rule of the department of human services relating to the correction or expungement of information in the possession of the department concerning a case of alleged child abuse and providing an effective date.

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

Section 1. Iowa administrative code 441-175.15, is nullified.

Sec. 2. This Joint Resolution takes effect upon enactment.

Effective April 8, 1988

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE
IN THE IOWA RULES OF CIVIL
PROCEDURE

}

REPORT OF THE
SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF
THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council concerning the amending of Iowa Rule of Civil Procedure 34 as shown in the attached Exhibit "A" which is issued on this date.

Pursuant to Iowa Code section 602.4202(2) (1987), these changes are to take effect August 3, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
May 27, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the second day of June, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters

Secretary of the Legislative Council

EXHIBIT "A"

Rule 34. Third party practice.

(a) When defendant may bring in third party. At any time after commencement of the action a defending party, as a third-party plaintiff, may file a cross-petition and cause an original notice to be served upon a person not a party to the action who is or may be liable to him for all or part of the plaintiff's claim against him. The third-party plaintiff need not obtain leave to make the service if he files the cross-petition is filed not later than ten days after he files his the filing of the original answer. Otherwise he ~~must obtain leave~~ may be obtained on by motion upon notice to all parties to the action.

PARAGRAPH DIVIDED. The person served with the original notice, hereinafter called the third-party defendant, shall ~~make~~ assert his defenses to the third-party plaintiff's claim as provided in R.C.P. 85 and his counterclaims against the third-party plaintiff as provided in R.C.P. 29 and cross-claims against other third-party defendants as provided in R.C.P. 33.

PARAGRAPH DIVIDED. The third-party defendant may assert against the plaintiff any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the plaintiff thereupon shall assert his defenses as provided in R.C.P. 85 and his counterclaims under R.C.P. 29.

The plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third-party defendant thereupon shall assert defenses as provided in R.C.P. 85, counterclaims as provided in R.C.P. 29, and cross-claims as provided in R.C.P. 33. Any party may move to strike the third-party claim or for its severance or for separate trial. A third-party defendant may proceed under this rule against any person not a party to the action who is or may be liable to him for all or part of the claim made in the action against the third-party defendant.

(b) When plaintiff may bring in third party. When a counterclaim is asserted against a plaintiff, he that plaintiff may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE
 IN THE IOWA RULES OF CIVIL
 PROCEDURE

}

REPORT OF THE
 SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF
 THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council concerning the striking of existing Iowa Rule of Civil Procedure 103 and substituting the new language as shown in the attached Exhibit "A" which is issued on this date.

Pursuant to Iowa Code section 602.4202(2) (1987), these changes are to take effect August 3, 1987. The previous order of this court dated May 4, 1987,* making these changes effective July 1, 1987, is hereby rescinded.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
 May 15, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the eighteenth day of May, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters

Secretary of the Legislative Council

*Not published

EXHIBIT "A"

103. All defenses in answer. Every defense in bar or abatement, or to the jurisdiction after a general appearance, shall be made in the answer or reply, save as allowed by R.C.P. 104. No such defense shall overrule any other. But a party who presents and tries a defense in abatement alone, shall not thereafter be allowed to plead in bar. Preliminary hearings. On application of any party, the motion for judgment on the pleadings under R.C.P. 222, and the defenses of (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, and (7) failure to join a party under R.C.P. 25, whether made in a pleading or by motion, shall be heard and determined before trial, unless the court orders that the hearing and determination thereof be deferred until the trial.

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE
IN THE IOWA RULES OF CIVIL
PROCEDURE



REPORT OF THE
SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF
THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council concerning the following changes to the Iowa Rules of Civil Procedure which are issued on this date.

Attached Exhibit "A" shows the new language of rule 121(d) which is hereby adopted.

Attached Exhibit "B" shows the new language of rule 122(d) which is hereby adopted. Existing rule 122(d) is hereby stricken.

Attached Exhibit "C" shows the new language of rule 124.2 which is hereby adopted.

Attached Exhibit "D" shows the new language of rule 125 which is hereby adopted. Existing rule 125 is hereby stricken.

Attached Exhibit "E" shows the new language of rule 136* which is hereby adopted. Existing rule 136 is hereby stricken.

Attached Exhibit "F" shows the new language of rule 138, and a new final pretrial order form to be included in the appendix of forms following the Iowa Rules of Civil Procedure, which are hereby adopted. Existing rule 138 is hereby stricken.

Attached Exhibit "G" shows the amendments to rules 181(c) and 181(d), which are hereby adopted.

Attached Exhibit "H" shows the new language of rule 181.2(a), which is hereby adopted. Existing rule 181.2(a) is hereby stricken.

Pursuant to Iowa Code section 602.4202(2) (1987), these changes are to take effect August 3, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
May 28, 1987

*Stricken and rewritten; see page 746 herein

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the second day of June, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

121. Discovery methods.

(a) Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission.

(b) The rules providing for discovery and inspection shall be liberally construed and shall be enforced to provide the parties with access to all relevant facts. Discovery shall be conducted in good faith, and responses to discovery requests, however made, shall fairly address and meet the substance of the request.

(c) Unless the court orders otherwise under R.C.P. 123, the frequency of use of these methods is not limited. The court shall order otherwise if it determines that: (1) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (2) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (3) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation.

(d) A rule requiring a matter to be under oath may be satisfied by an unsworn written statement 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"

EXHIBIT "B"

122. Scope of discovery.

* * * * *

[NEW]

(d) Supplementation of responses. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement the response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement the response with respect to any question directly addressed to:

- (A) The identity and location of persons having knowledge of discoverable matters; and
- (B) The identity of each person expected to be called as a witness at trial;

(2) A party is under a duty seasonably to amend a prior response if the party obtains information upon the basis of which:

(A) The party knows that the response was incorrect when made; or

(B) The party knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment;

(3) A duty to supplement responses may be imposed by order of the court, agreement of the parties, or at any time prior to trial through new requests for supplementation of prior responses.

* * * * *

EXHIBIT "C"

[NEW]

124.2 Discovery conference. At any time after commencement of an action the court may direct the attorneys for the parties to appear before it for a conference on the subject of discovery. The court shall do so upon motion by the attorney for any party if the motion includes:

- (a) A statement of the issues as they then appear;
- (b) A proposed plan and schedule of discovery;
- (c) Any limitations proposed to be placed on discovery;
- (d) Any other proposed orders with respect to discovery;

(e) A statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion. Each party and that party's attorney are under a duty to participate in good faith in the framing of a discovery plan if a plan is proposed by the attorney for any party. Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served not later than ten days after service of the motion.

Following the discovery conference, the court shall enter an order tentatively identifying the issues for discovery, setting limitations on discovery, if any, and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the action. An order may be altered or amended whenever justice so requires.

Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the court may combine the discovery conference with a pretrial conference authorized by R.C.P. 136.

EXHIBIT "D"

[NEW]

125. Discovery of experts.

(a) Expert who is expected to be called as a witness. In addition to discovery provided pursuant to R.C.P. 133, discovery of facts known, mental impressions, and opinions held by an expert whom the other party expects to call as a witness at trial, otherwise discoverable under the provisions of R.C.P. 122(a) and acquired or developed in anticipation of litigation or for trial may be obtained as follows:

(1) A party may through interrogatories require any other party to state the name and address of each person whom the other party expects to call as an expert witness at trial and to state, with reasonable particularity:

(A) The subject matter on which the expert is expected to testify;

(B) The designated person's qualifications to testify as an expert on such subject; and

(C) The mental impressions and opinions held by the expert and the facts known to the expert (regardless of when the factual information was acquired) which relate to, or form the basis of, the mental impressions and opinions held by the expert.

Nothing in this rule shall be construed to preclude a witness from testifying as to (1) knowledge of the facts obtained by the witness prior to being retained as an expert or (2) mental impressions or opinions formed by the witness which are based on such knowledge.

In the case of an expert retained in anticipation of litigation or for trial, answers to interrogatories asking for the qualifications of the person expected to testify as an expert, the mental impressions and opinions held by the expert, and the facts known to the expert shall be prepared and separately signed by the designated expert witness. If the party serving such interrogatories believes that they were required to be answered by the expert and they were not so answered, the party may object on that basis and move for an order compelling discovery. An objection based on the failure of such interrogatories to be answered by the designated expert shall be asserted within thirty days of service of such answers; otherwise the objection is waived.

(2) Discovery by other means is available without leave of court in lieu of or in addition to interrogatories:

(A) A party may take the deposition of any person identified by any other party as a person expected to be called as an expert witness at trial;

(B) A party may also obtain discovery of documents and tangible things including all tangible reports, physical models, compilations of data, and other material prepared by an expert or for an expert in anticipation of the expert's trial and deposition testimony. The disclosure of material prepared by an expert used for consultation is required even if it was prepared in anticipation of litigation or for trial when it forms a basis, either in whole or in part, of the opinions of an expert who is expected to be called as a witness.

(C) If the discoverable factual observations, tests, supporting data, calculations, photographs, or opinions of an expert who will be called as a witness have not been recorded and reduced to tangible form, the court may order these matters be reduced to tangible form and produced within a reasonable time before the date of trial.

(b) Expert who is not expected to be called as a witness. The disclosure of the same information concerning an expert used for consultation and who is not expected to be called as a witness at trial is required if the expert's work product forms a basis, either in whole or in part, of the opinions of an expert who is expected to be called as a witness. Otherwise, a party may discover the identity of and facts known, or mental impressions and opinions held, by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, only as provided in R.C.P. 133, or upon a showing of exceptional circumstances under which

it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(c) Duty to supplement discovery as to experts. If a party expects to call an expert witness when the identity or the subject of such expert witness' testimony has not been previously disclosed in response to an appropriate inquiry directly addressed to these matters, such response must be supplemented to include the information described in subdivisions (a)(1)(A)-(C) of this rule, as soon as practicable, but in no event less than thirty days prior to the beginning of trial except on leave of court. If the identity of an expert witness and the information described in subdivisions (a)(1)(A)-(C) are not disclosed in compliance with this rule, the court in its discretion may exclude or limit the testimony of such expert, or make such orders in regard to the nondisclosure as are just.

(d) Expert testimony at trial. To the extent that the facts known, or mental impressions and opinions held, by an expert have been developed in discovery proceedings under subdivisions (a)(1) or (2) of this rule, the expert's direct testimony at trial may not be inconsistent with or go beyond the fair scope of the expert's testimony in the discovery proceedings as set forth in the expert's deposition, answer to interrogatories, separate report, or supplement thereto. However, the expert shall not be prevented from testifying as to facts or mental impressions and opinions on matters with respect to which the expert has not been interrogated in the discovery proceedings.

(e) Court's discretion to compel disclosure of experts. The court has discretion to compel a party to make the determination and disclosure of whether an expert is expected to be called as a witness and shall do so to ensure that determination and the disclosures required by this rule within a reasonable and specific time before the date of trial. Upon motion, or at a discovery conference held pursuant to R.C.P. 124.2, or on its own initiative, the court may prescribe the sequence in which the parties make the determination and disclosures provided for under this rule.

(f) Expert fees during discovery. Unless manifest injustice would result, the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subdivisions (a)(2) and (b) of this rule. With respect to discovery obtained under subdivision (a)(2) of this rule the court may require, and with respect to discovery obtained under subdivision (b) of this rule, the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert. Any fee which the court requires to be paid shall not exceed the expert's customary hourly or daily fee; and, in connection with a party's deposition of another party's expert, shall include the time reasonably and necessarily spent in connection with such deposition, including time spent in travel to and from the deposition, but excluding time spent in preparation.

EXHIBIT "E"

[NEW]

*136. Pretrial conferences; scheduling; management.

(a) Pretrial conferences; objectives. In any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conferences before trial for such purposes as:

- (1) Expediting the disposition of the action;
- (2) Establishing early and continuing control so that the case will not be protracted because of lack of management;
- (3) Discouraging wasteful pretrial activities;
- (4) Improving the quality of the trial through more thorough preparation; and
- (5) Facilitating the settlement of the case.

(b) Scheduling and planning. Upon application of any party or on the court's own motion, except in categories of cases exempted by supreme court rule as inappropriate, the court shall, after consulting with the attorneys for the parties and any unrepresented parties, by a scheduling conference which may be conducted by telephone, enter a scheduling order that limits the time:

- (1) To join other parties and to amend the pleadings;
- (2) To file and hear motions;
- (3) To complete discovery; and
- (4) To designate experts.

The scheduling order also may include:

(5) Special procedures, including assignment to a single judge, for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

- (6) The date or dates for conferences before trial, a final pretrial conference and trial; and
- (7) Any other matters appropriate in the circumstances of the case.

A schedule shall not be modified except by leave of the court upon a showing of good cause.

(c) Subjects to be discussed at pretrial conferences. The court at any conference under this rule may consider and take action with respect to:

- (1) The formulation and simplification of the issues, including the elimination of frivolous claims or defenses;
- (2) The necessity or desirability of amendments to the pleadings;
- (3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence;
- (4) The avoidance of unnecessary proof including limitation of the number of expert witnesses and of cumulative evidence;
- (5) The identification of witnesses and documents, the need and schedule for filing and exchanging pretrial briefs, and the date or dates for further conferences and for trial;
- (6) The advisability of referring matters to a master;
- (7) The possibility of settlement and imposition of a settlement deadline or the use of extrajudicial procedures to resolve the dispute;
- (8) The form and substance of the pretrial order;
- (9) The disposition of pending motions;
- (10) Settling any facts of which the court is to be asked to take judicial notice;
- (11) Specifying all damage claims in detail as of the date of conference;
- (12) All proposed exhibits and mortality tables and proof thereof;

- (13) Consolidation, separation for trial, and determination of points of law;
- (14) Questions relating to voir dire examination of jurors;
- (15) Filing of advance briefs when required; and
- (16) Such other matters as may aid in the disposition of the action.

At least one of the attorneys for each party participating in any conference before trial shall have authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably anticipate may be discussed.

(d) Final pretrial conference. A final pretrial conference shall be held as close to the time of trial as reasonable under the circumstances. The participants at any such conference shall formulate a plan for trial, including a program for facilitating the admission of evidence. The conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties.

(e) Sanctions. If a party or party's attorney fails to obey a scheduling or pretrial order, or if no appearance is made on behalf of a party at a scheduling or pretrial conference, or if a party or party's attorney is substantially unprepared to participate in the conference, or if a party or party's attorney fails to participate in good faith, the court, upon motion or the court's own initiative, may make such orders with regard thereto as are just, and among others any of the orders provided in R.C.P. 134(b)(2)(B)-(D). In lieu of or in addition to any other sanction, the court shall require the party or the attorney representing that party or both to pay the reasonable expenses incurred because of any noncompliance with this rule, including attorney's fees, unless the court finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.

EXHIBIT "F"

[NEW]

138. Pretrial orders. After any conference held pursuant to R.C.P. 136, an order shall be entered reciting the action taken. This order shall control the subsequent course of the action unless modified by a subsequent order. The order following a final pretrial conference shall be in accordance with the final pretrial order form found in the Appendix of Forms and shall be modified only to prevent manifest injustice.

6. FINAL PRETRIAL ORDER

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

	}	No. _____
Plaintiff(s)	}	
vs.		
Defendant(s)		FINAL PRETRIAL ORDER

FOLLOWING THE FINAL PRETRIAL CONFERENCE IT IS ORDERED:

1. The following facts are undisputed:
[list facts not in dispute]
- 2A. The following exhibits are received without objection:
- 2B. The following exhibits are subject to objection to be made at trial:
3. The legal issues to be tried are:
[list theories of recovery or defense]
4. The factual issues to be tried are:
[list the principal factual disputes and specifications of negligence or fault asserted by each party if applicable]
5. Requested instructions, motions in limine, and trial briefs shall be filed by _____.
6. Trial will commence at _____ .m. on _____.
7. It is further ordered that:
[list other matters which the court desires to include]

Judge for the _____ Judicial
District of Iowa

EXHIBIT "G"

181. Trial certificate, response.

* * * * *

(c) On each motion day, the clerk of court shall present to the court the file in each civil case in which a trial certificate and an objection to it have been on file for more than seven days or in which a trial certificate has been on file, without objection, for more than twenty days.

(d) After a trial certificate is served and filed, a pretrial conference of the case will be held under R.C.P. 136, if requested by a party or ordered by the court.

EXHIBIT "H"

[NEW]

181.2 Trial assignments.

(a) Civil cases. The court, in the exercise of its discretion, may assign a case for trial by order upon any one of the following:

- (1) The conclusion of a scheduling or pretrial conference;
- (2) The filing of a trial certificate and consultation with counsel for all parties;
- (3) The agreement of all parties or their counsel; or
- (4) The court's own motion after consultation with counsel for all parties. Trial of a dissolution of marriage or a small claim may be set without consulting counsel subject to rescheduling by the court administrator upon the request of counsel in the event of a scheduling conflict.

The court may delegate its power and duty to assign cases for trial to the court administrator or other suitable person.

* * * * *

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE
IN THE IOWA RULES OF CIVIL
PROCEDURE

}

REPORT OF THE
SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF
THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council the attached Exhibit "A," concerning the amendments to Iowa Rule of Civil Procedure 136, which are issued on this date. That portion of the report of this court dated May 28, 1987, amending Iowa Rule of Civil Procedure 136, effective August 3, 1987, is hereby stricken.

Pursuant to Iowa Code section 602.4202(2) (1987), this change is to take effect September 1, 1987. Existing rule 136 is to be stricken on that date.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
June 16, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the nineteenth day of June, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters

Secretary of the Legislative Council

EXHIBIT "A"

[NEW]

136. Pretrial conferences; scheduling; management.

(a) Pretrial conferences; objectives. In any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conferences before trial for such purposes as:

- (1) Expediting the disposition of the action;
- (2) Establishing early and continuing control so that the case will not be protracted because of lack of management;
- (3) Discouraging wasteful pretrial activities;
- (4) Improving the quality of the trial through more thorough preparation; and
- (5) Facilitating the settlement of the case.

(b) Scheduling and planning. Upon application of any party or on the court's own motion, except in categories of cases exempted by supreme court rule as inappropriate, the court or its designee shall enter a scheduling order setting time limits for:

- (1) Joining other parties;
- (2) Designating experts;
- (3) Completing discovery;
- (4) Amending the pleadings; and
- (5) Filing and hearing motions.

After consulting with the attorneys for the parties and any unrepresented parties, the court may also order:

(6) Special procedures, including assignment to a single judge, for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

(7) The date or dates for conferences before trial, a final pretrial conference and trial; and

(8) Any other matters appropriate in the circumstances of the case including extension of those deadlines which are then justified.

A schedule shall not be modified except by leave of the court upon a showing of good cause.

(c) Subjects to be discussed at pretrial conferences. The court at any conference under this rule may consider and take action with respect to:

(1) The formulation and simplification of the issues, including the elimination of frivolous claims or defenses;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence;

(4) The avoidance of unnecessary proof including limitation of the number of expert witnesses and of cumulative evidence;

(5) The identification of witnesses and documents, the need and schedule for filing and exchanging pretrial briefs, and the date or dates for further conferences and for trial;

(6) The advisability of referring matters to a master;

(7) The possibility of settlement and imposition of a settlement deadline or the use of extra judicial procedures to resolve the dispute;

(8) The form and substance of the pretrial order;

(9) The disposition of pending motions;

(10) Settling any facts of which the court is to be asked to take judicial notice;

(11) Specifying all damage claims in detail as of the date of conference;

(12) All proposed exhibits and mortality tables and proof thereof;

(13) Consolidation, separation for trial, and determination of points of law;

- (14) Questions relating to voir dire examination of jurors;
- (15) Filing of advance briefs when required; and
- (16) Such other matters as may aid in the disposition of the action.

At least one of the attorneys for each party participating in any conference before trial shall have authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably anticipate may be discussed.

(d) Final pretrial conference. A final pretrial conference shall be held as close to the time of trial as reasonable under the circumstances. The participants at any such conference shall formulate a plan for trial, including a program for facilitating the admission of evidence. The conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties.

(e) Sanctions. If a party or party's attorney fails to obey a scheduling or pretrial order, or if no appearance is made on behalf of a party at a scheduling or pretrial conference, or if a party or party's attorney is substantially unprepared to participate in the conference, or if a party or party's attorney fails to participate in good faith, the court, upon motion or the court's own initiative, may make such orders with regard thereto as are just, and among others any of the orders provided in R.C.P. 134(b)(2)(B)-(D). In lieu of or in addition to any other sanction, the court shall require the party or the attorney representing that party or both to pay the reasonable expenses incurred because of any noncompliance with this rule, including attorney's fees, unless the court finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE
IN THE IOWA RULES OF CIVIL
PROCEDURE

}

REPORT OF THE
SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF
THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council an amendment to Iowa Rule of Civil Procedure 144(c), attached as Exhibit "A" and issued on this date.

Pursuant to Iowa Code section 602.4202(2) (1987), this change is to take effect November 2, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
August 27, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the twenty-eighth day of August, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters

Secretary of the Legislative Council

EXHIBIT "A"

144. Use of depositions. Any part of a deposition, so far as admissible under the rules of evidence, may be used upon the trial or at an interlocutory hearing or upon the hearing of a motion in the same action against any party who appeared when it was taken, or stipulated therefor, or had due notice thereof, either:

- (a) To impeach or contradict deponent's testimony as a witness; or
- (b) For any purpose if, when it was taken, deponent was a party adverse to the offeror, or was an officer, partner or managing agent of any adverse party which is not a natural person; or
- (c) For any purpose, if the court finds that the offeror was unable to procure deponent's presence at the trial by subpoena; or that deponent is out of the state ~~or more than one hundred miles distant from the trial~~, and such absence was not procured by the offeror; or that deponent is dead, or unable to testify because of age, illness, infirmity or imprisonment.
- (d) On application and notice, the court may also permit a deposition to be used for any purpose, under exceptional circumstances making it desirable in the interests of justice; having due regard for the importance of witnesses testifying in open court.

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF SMALL
CLAIMS FORMS FOR ORIGINAL
NOTICE

}

REPORT OF THE
SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF
THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council concerning the adoption of two new forms to be used in the Iowa District Court Small Claims Division. The attached Exhibit "A" is an original notice form for use in actions involving a foreign corporation or nonresident defendant. The attached Exhibit "B" is an original notice form for use in actions involving a nonresident motor vehicle owner or operator.

Pursuant to Iowa Code section 602.4202(2) (1987), these changes are to take effect December 1, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
September 29, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the second day of October, 1987, the Report of the Supreme Court pertaining to small claims forms for original notice.

/s/ Donovan Peeters

Secretary of the Legislative Council

EXHIBIT "A"

IN THE IOWA DISTRICT COURT
IN AND FOR _____ COUNTY
(Small Claims Division)

Plaintiff(s)

(Name)

(Address)

(Name)

(Address)

vs.

Defendant(s)

(Name)

(Address)

(Name)

(Address)

ORIGINAL NOTICE

(Foreign Corporation or
Nonresident Defendant)

Small Claim No. _____

Date Filed _____



TO THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY NOTIFIED that the plaintiff(s) demand(s) from you the amount of \$ _____ based on _____ (State briefly the basis for the demand).

UNLESS YOU APPEAR by completing and filing the attached appearance and answer form with the clerk of the court at _____ (exact address) in _____ (city), Iowa _____ (zip code), within sixty days after the filing of this original notice with the secretary of state of the State of Iowa, judgment shall be rendered against you upon plaintiff's (s') claim together with interest and court costs.

IF YOU DENY THE CLAIM AND APPEAR by filing the attached appearance and answer within sixty days after the filing of this original notice with the secretary of state of the State of Iowa, you will then receive notification from the clerk's office of the place and time assigned for hearing.

Plaintiff(s)

Judgment Entry: _____

EXHIBIT "B"

IN THE IOWA DISTRICT COURT
IN AND FOR _____ COUNTY
(Small Claims Division)

Plaintiff(s)

(Name)

(Address)

(Name)

(Address)

vs.

Defendant(s)

(Name)

(Address)

(Name)

(Address)



ORIGINAL NOTICE

(Nonresident Motor Vehicle
Owner or Operator)

Small Claim No. _____

Date Filed _____

TO THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY NOTIFIED that the plaintiff(s) demand(s) from you the amount of \$ _____ based on _____ (State briefly the basis for the demand).

UNLESS YOU APPEAR by completing and filing the attached appearance and answer form with the clerk of the court at _____ (exact address) in _____ (city), Iowa _____ (zip code), within sixty days after the filing of this original notice with the director of transportation of the State of Iowa, judgment shall be rendered against you upon plaintiff's (s') claim together with interest and court costs.

IF YOU DENY THE CLAIM AND APPEAR by filing the attached appearance and answer within sixty days after the filing of this original notice with the director of transportation of the State of Iowa, you will then receive notification from the clerk's office of the place and time assigned for hearing.

Plaintiff(s)

Judgment Entry: _____

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE
 IN THE IOWA RULES OF
 EVIDENCE

}

REPORT OF THE
 SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF
 THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council an amendment to Iowa Rule of Evidence 410, attached as Exhibit "A" and issued on this date.

Pursuant to Iowa Code section 602.4202(2) (1987), this change is to take effect October 1, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
 July 31, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the fourth day of August, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Evidence.

/s/ Donovan Peeters

Secretary of the Legislative Council

EXHIBIT "A"

Rule 410. Inadmissibility of pleas, plea discussions, and related statements. Except as otherwise provided in this rule or R. Cr. P. 9(5), evidence of the following is not, in any civil or criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

- (1) a plea of guilty which was later withdrawn;
- (2) a plea of nolo contendere in a federal court or criminal proceeding in another state;
- (3) any statement made in the course of any proceedings under rule 11 of the Federal Rules of Criminal Procedure, R. Cr. P. 9, or comparable procedure in other states regarding either of the foregoing pleas; or
- (4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought in fairness be considered contemporaneously with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

ANALYSIS OF TABLES

Senate and House Files and Joint Resolutions
Chapters and Sections Repealed or Amended Code and Supplement 1987
New Code Chapters and Sections Assigned by the Seventy-Second General Assembly, 1988 Session
Chapters and Sections Referred to Code and Supplement 1987
New Code Chapters and Sections Assigned by the Seventy-Second General Assembly, 1988 Session, Referred to
Session Laws Repealed or Amended in Acts of the Seventy-Second General Assembly, 1988 Session
Session Laws Referred to in Acts of the Seventy-Second General Assembly, 1988 Session
Acts of Congress and United States Code Referred to
Code of Federal Regulations Referred to
Rules of Civil Procedure Reported by Iowa Supreme Court
Rules of Civil Procedure Referred to
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Proposed Amendments to the Constitution of the State of Iowa in Acts of the Seventy-Second General Assembly, 1988 Session
Vetoed Bills
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Iowa Administrative Code Referred to in Acts of the Seventy-Second General Assembly, 1988 Session
Iowa Administrative Code Rule Nullified in Acts of the Seventy-Second General Assembly, 1988 Session

**SENATE AND HOUSE FILES
AND JOINT RESOLUTIONS**

SENATE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
38	1188	2088	1082	2238	1158
69	1187	2089	1015	2245	1120
149	1127	2090	1057	2246	1080
156	1068	2091	1093	2247	1156
173	1160	2092	1217	2248	1170
201	1128	2094	1018	2250	1169
299	1199	2106	1118	2253	1129
302	1219	2107	1223	2256	1029
323	1113	2117	1214	2257	1094
348	1011	2126	1196	2258	1030
356	1220	2129	1039	2259	1138
370	1117	2135	1148	2262	1195
387	1004	2142	1040	2263	1137
394	1186	2157	1224	2267	1016
443	1200	2159	1037	2269	1069
450	1079	2164	1081	2270	1031
452	1240	2167	1041	2271	1032
455	1002	2168	1027	2273	1072
456	1067	2169	1225	2274	1124
464	1221	2170	1150	2278	1262
2011	1036	2171	1134	2280	1077
2017	1222	2172	1071	2281	1076
2018	1122	2174	1042	2284	1226
2020	1033	2180	1073	2285	1089
2031	1001	2182	1070	2289	1149
2036	1012	2183	1035	2291	1123
2037	1003	2188	1139	2295	1114
2039	1215	2190	1078	2296	1155
2050	1270	2192	1130	2301	1132
2051	1198	2193	1266	2302	1075
2055	1197	2196	1019	2303	1131
2058	1157	2201	1088	2304	1161
2060	1014	2202	1056	2306	1095
2061	1017	2203	1125	2307	1126
2062	1066	2205	1074	2309	1273
2063	1092	2216	1055	2310	1277
2064	1034	2225	1253	2311	1275
2069	1013	2230	1254	2312	1284
2070	1083	2232	1119	2313	1115
2074	1028	2233	1171	2314	1278
2075	1252	2234	1087	2315	1279
2086	1185	2236	1038	2316	1201

SENATE AND HOUSE FILES
AND JOINT RESOLUTIONS — Continued

SENATE FILES — Continued

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
2318	1162	2327	1202	2335	1116
2321	1267	2328	1268	2338	1159
2322	1282	2330	1245	2344	1283
2323	1280	2331	1133		

SENATE JOINT RESOLUTIONS

No.	Acts Chapter
1	1285
2006	1286

SENATE AND HOUSE FILES
AND JOINT RESOLUTIONS—Continued

HOUSE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
102	1227	2166	1045	2339	1235
105	1228	2168	1046	2344	1236
164	1006	2170	1233	2346	1210
185	1163	2179	1058	2347	1104
209	1065	2191	1192	2348	1246
278	1229	2192	1183	2352	1209
327	1005	2193	1007	2354	1237
382	1176	2226	1096	2355	1026
393	1241	2228	1085	2363	1051
395	1216	2233	1165	2367	1238
429	1203	2237	1010	2369	1091
431	1110	2247	1054	2371	1084
433	1020	2255	1106	2374	1121
470	1061	2258	1212	2377	1261
498	1164	2259	1047	2381	1189
529	1230	2260	1107	2383	1208
578	1204	2262	1166	2384	1062
613	1146	2263	1048	2386	1257
649	1255	2264	1021	2387	1173
650	1259	2265	1049	2388	1052
653	1147	2269	1211	2395	1172
665	1213	2278	1167	2396	1207
666	1141	2283	1191	2400	1177
678	1194	2287	1050	2405	1242
683	1175	2294	1234	2406	1247
2011	1008	2296	1135	2407	1145
2016	1193	2303	1111	2412	1168
2046	1260	2306	1022	2415	1086
2061	1043	2307	1112	2416	1098
2063	1060	2313	1097	2419	1263
2082	1269	2315	1101	2423	1108
2088	1105	2316	1174	2427	1053
2102	1184	2317	1136	2428	1258
2106	1231	2318	1023	2430	1109
2113	1232	2319	1102	2432	1248
2117	1142	2320	1103	2433	1264
2123	1064	2322	1024	2437	1179
2127	1059	2323	1090	2440	1272
2128	1009	2327	1144	2441	1244
2129	1044	2336	1256	2443	1271
2153	1100	2337	1025	2444	1274
2156	1063	2338	1190	2447	1276

SENATE AND HOUSE FILES
AND JOINT RESOLUTIONS – Continued

HOUSE FILES – Continued

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
2449.....	1265	2459.....	1154	2466.....	1239
2451.....	1099	2460.....	1206	2469.....	1281
2452.....	1218	2461.....	1140	2470.....	1178
2453.....	1182	2462.....	1181	2471.....	1152
2456.....	1249	2463.....	1153	2473.....	1151
2457.....	1250	2464.....	1180	2476.....	1251
2458.....	1143	2465.....	1205	2477.....	1243

**CHAPTERS AND SECTIONS REPEALED OR AMENDED
CODE AND SUPPLEMENT 1987**

S immediately following Code chapter or section number indicates Code Supplement

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
2.10(1)S	1267,§13	15.108(7c)S	1273,§6,7	35A.6	1015,§1
2.10(2)S	1267,§12	15.108(7g)S	1273,§8	39.22(1)S	1119,§1; 1134,§18
2.10(7)S	1275,§29	15.110S	1273,§18	39.22(2a)S	1134,§19
2.32(6)	1128,§1	15A.2S	1134,§12	43	1119,§6;1121,§1
2.40	1267,§14	17.4(7)	1134,§13	43.4	1001,§1
2.49(5)	1134,§1	17.10	1134,§14	43.11(1)	1119,§2,44
7C.7(1)S	1134,§2	17A.6	1158,§2	43.20	1119,§4
7E.4(5)	1278,§21	17A.11	1109,§4	43.20(1)	1119,§3
7E.5	1277,§21	17A.16(2)	1100,§1	43.26S	1119,§5
7E.5(1t)	1277,§20	18.3(1)S	1277,§23	43.115	1119,§7
7E.6(5)	1277,§22	18.8	1158,§3;1277,§24	43.119	1001,§2
8.34	1134,§3	18.12S	1180,§1-3	44.4S	1119,§8;1246,§1
8.40	1134,§4	18.12(2)S	1277,§25	44.8	1119,§9
8.42	1134,§5	18.18(1)S	1185,§1	45.1	1119,§11
8.43	1134,§6	18.18(2)S	1185,§1	45.1(4a)	1119,§10
8.44	1134,§7	18.18(3)S	1185,§1	46	1094,§1
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10A.101(3)	1109,§1	18.74	1158,§4	48.11	1119,§13
10A.104	1273,§3	18.75	1275,§28	48.20S	1171,§1
10A.106(5)S	1134,§9	18.115S	1158,§5	48.29	1119,§14
10A.201(1)	1109,§2	18.163	1158,§6	49	1119,§16
10A.601(1)	1025,§1; 1162,§10	19.29	1275,§30	49.12S	1119,§15
10A.601(4)	1109,§3	19A.3S	1274,§27	49.43	1119,§17
10A.601(7)	1162,§10	19A.3(11)S	1161,§11	49.56	1119,§18
10A.701S	1134,§10	19A.12(2)	1275,§31	49.77(4)S	1119,§19
12.8	1242,§1	19A.14S	1235,§1	50.22S	1119,§20,44
12.26(2)	1134,§11	19B.11(1)	1284,§42	50.45	1119,§21
12.26(3)	1134,§11	19B.11(2)	1284,§42	51.1	1119,§22
12.43(1)S	1273,§4	20.6(4)	1109,§5	51.7	1119,§23
12.43(2)S	1273,§4	20.11(2)	1109,§6	52.22	1119,§24
12.44S	1273,§5	22.7S	1010,§1	52.25	1119,§25
13B	1161,§8-10	22.7(13)S	1256,§1	52.32	1119,§26
13B.1	1161,§1	25.6	1134,§15	52.32(2)	1119,§27
13B.2	1161,§2	25A.14	1068,§1	53	1119,§31
13B.3	1161,§3	27A.2	1158,§7	53.22(5)S	1119,§28
13B.4	1161,§4	28	1207,§1-18	53.38	1119,§29
13B.5	1161,§5	28.111	1136,§3	53.45(1)S	1119,§30
13B.6	1161,§6	28.112	1136,§3	53.45(4)S	1119,§30
13B.7	1161,§7	28.113	1136,§3	56.3(2)S	1158,§8
15	1098,§2;1210,§1; 1217,§1-8;1273,§9,10	28D.3(3)	1134,§16	64.3	1108,§4
15.103	1081,§1	28E	1004,§1;1057,§1	64.8	1108,§1
15.106(2)	1158,§1	28G.6	1134,§17	64.10	1108,§2
15.108S	1098,§1	29C	1190,§2	64.16	1108,§4
		29C.8(3)	1190,§1	64.17	1108,§4
		35	1011,§1		

CHAPTERS AND SECTIONS REPEALED OR AMENDED

CODE AND SUPPLEMENT 1987 – Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
64.24	1108,§3	89B.8(4)	1042,§6	97B.11	1242,§16
69.16AS	1150,§1	89B.8(5)	1042,§6	97B.15	1242,§17
73.16(2)	1273,§11	89B.9	1042,§7	97B.16	1242,§18
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508C.3(3d)S	1135,§2	519.9	1112,§109	534.515(13)	1158,§86
508C.5S	1135,§6	520	1111,§17	534.602(1)	1158,§87
508C.5(1)S	1135,§4	520.9	1111,§16	534.602(2)	1158,§87
508C.5(10)S	1135,§5	520.12	1112,§110	534.701	1158,§88
508C.6(1)S	1135,§8	520.19	1112,§305	534.702S	1149,§1
508C.6(1c)S	1135,§7	520.22	1111,§18	534.702(2)S	1158,§89
508C.8(8)S	1135,§9	521.5	1112,§702	534.702(3)S	1158,§89
508C.9(5)S	1135,§10	523C.1	1112,§703	534.702(4)S	1158,§89
508C.11(1c)S	1112,§203	523C.3(2b)	1112,§704	534.702(5)S	1158,§89
508C.12(1b)S	1112,§204	523C.5	1112,§705	534.702(6)S	1158,§89
508C.16S	1170,§9	523C.6	1112,§706	534.702(7)S	1158,§89
509.12	1255,§1	523C.11	1112,§708	534.702(8)S	1158,§89
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510	1112,§207	524.302(10)S	1170,§10	534.704	1149,§2
511.8(10a)S	1112,§205	524.901(3)S	1075,§1	534.705(1)	1158,§91
511.24(5)	1112,§303	533.1(8)S	1170,§11	534.705(3)	1158,§92
511.24(6)	1112,§206	533.4(16)S	1103,§1	535.16S	1023,§1
511.37	1255,§8	533.9S	1103,§2	535A.5(1)	1134,§96
512.17	1255,§2	533.26	1103,§3	535A.5(2)	1134,§96
512.29	1112,§105	534.102(32)	1134,§95	535A.12	1145,§6
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514F	1112,§604	534.403	1158,§80	542A.2	1148,§1
514F.1S	1199,§6	534.405	1158,§81	542A.7	1148,§2
515	1112,§406,407; 1176,§1	534.406	1158,§82	543.6(4b)S	1134,§98
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515.42	1112,§107	534.408(3)S	1158,§84	543A.5(2)S	1148,§4
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554.4104(1c)	1102,§1	601K.54	1150,§4	633.545	1134,§112
554.9403(5)	1275,§36	601K.121	1277,§29,31	633.647	1064,§7
554.9405(1)	1275,§37	601K.122	1277,§31	633.704(4)	1045,§1
554.9405(2)	1275,§37	601K.123	1185,§4; 1277,§31	642.14	1076,§1
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554.9407(3)	1275,§39	601K.126	1277,§31	674.13	1158,§98
556.18(3)	1175,§4	601K.127	1277,§31	682.11	1034,§1
557B.6S	1134,§99,100	602.1301(2a)	1271,§10	691.2	1029,§1
558.69S	1169,§16,17	602.1302(2)S	1161,§14	692.2(1c)S	1249,§19; 1252,§3
562B.13(3)	1138,§15	602.6405(1)S	1092,§1	692.3(2)S	1249,§20
562B.15	1158,§94	602.7103(3)	1095,§1	692.19(6)	1134,§113
562B.27	1138,§16	602.8102(4)S	1158,§97	702.7	1164,§1
570A.4(4)	1275,§40	602.8102(11)S	1134,§102	709	1252,§5
573.2	1032,§1	602.8102(23)S	1134,§103	709.12	1252,§4
595.5	1142,§1	602.8102(45)S	1134,§104	714	1274,§47
598	1142,§2	602.8103(4)	1030,§2	714.16(1)S	1016,§1
598.21(8k)	1141,§2	602.8103(4a)	1030,§1	714.16(2)S	1016,§2
598.22	1218,§6-8	602.8105(1a)S	1258,§1	715A.7S	1134,§114
598.23(2a)	1218,§9	602.9206	1109,§30	716.7	1212,§1
600.8(1a)S	1134,§101	610.2	1134,§105	722	1248,§13
601A.2(11)	1236,§1	610.3	1134,§106	723.4(2)	1093,§1
601A.6(1)S	1236,§2	613A.4	1177,§9,10	724.1	1164,§2
601A.15(3a)	1109,§27	622.10	1134,§107; 1262,§10	724.1(5)	1164,§3
601A.15(3b)	1109,§27	622B.1(2)	1134,§108	724.4S	1164,§4
601A.15(3c)	1109,§27	622B.4	1134,§109	725.15	1136,§2
601A.15(5)	1109,§28	625.29(1g)	1134,§110	729	1163,§1
601A.16(2)	1109,§29	626.50	1062,§1;1133,§3	730.4	1227,§1
601D	1067,§1	627.6	1255,§6	803	1167,§5
601E.1	1222,§2	627.6(1)	1255,§3	803.1	1167,§4
601E.6(1)S	1222,§3,4	627.6(3)	1255,§4	804.31	1134,§115
601E.6(2)S	1222,§5	627.6(5)	1255,§5	805	1167,§7
601E.6(3)S	1222,§8	627.6(6)	1255,§7	805.1(8)S	1158,§99; 1167,§6
601E.6(3a)S	1222,§6	631.6(1)	1258,§2	805.8(2s)S	1222,§11
601E.6(3b)S	1222,§7	633.31(2d)	1258,§3	811.2(1c)	1033,§1
601E.9	1222,§9	633.31(2e)	1258,§3	902	1091,§2
601E.10	1222,§10	633.31(2f)	1258,§3	903.1(1)S	1167,§8
601G.9(3)	1247,§1	633.236	1064,§1	903.1(3)S	1158,§100; 1167,§9
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601K.2	1158,§95	633.244	1064,§4	903A.3(2)	1109,§32
601K.3(1)	1277,§28	633.247	1064,§5	904A.4	1091,§3
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905.8	1160,§1	907.4	1168,§5	908.6	1091,§11
905.11	1021,§1	907.9	1168,§6	908.7	1091,§12
905.12	1160,§2	907.13(2)	1168,§7	908.8	1091,§15
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906.16	1091,§5	908.2	1091,§7	908.10	1091,§14
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9A.2	1248,§2	28.143	1207,§13	135I.2	1234,§2
9A.3	1248,§3	28.144	1207,§14	135I.3	1234,§3
9A.3A	1248,§4	28.145	1207,§15	135I.4	1234,§4
9A.4	1248,§5	28.146	1207,§16	135I.5	1234,§5
9A.5	1248,§6	28.147	1207,§17	136E.1	1237,§1
9A.5A	1248,§7	28.148	1207,§18	136E.2	1237,§2
9A.6	1248,§8	28E.20	1004,§1;1057,§1	136E.3	1237,§3
9A.7	1248,§9	29C.8A	1190,§2	136E.4	1237,§4
9A.8	1248,§10	35.6	1011,§1	136E.5	1237,§5
9A.9	1248,§11	43.37	1119,§6	148.13	1225,§14
9A.10	1248,§12	43.123	1121,§1	148A.5	1002,§2
13B.8	1161,§8	46.26	1094,§1	148C.5A	1225,§19
13B.9	1161,§9	49.41	1119,§16	148C.6A	1225,§20
13B.10	1161,§10	53.53	1119,§31	155A.38	1232,§3
15.107A	1210,§1	77.8	1006,§6	159.30	1182,§3
15.111	1273,§9	80A.18	1056,§1	170.6	1220,§3
15.235	1273,§10	88A.14	1042,§3	170.56	1220,§4
15.259	1098,§2	93.6	1179,§1	170.57	1220,§5
15.281	1217,§1	93.20B	1179,§3	170C.1	1220,§7
15.282	1217,§2	93.20C	1179,§4	170C.2	1220,§8
15.283	1217,§3	93.20D	1179,§5	170C.3	1220,§9
15.284	1217,§4	97B.80	1242,§54	170C.4	1220,§10
15.285	1217,§5	98.40	1005,§2	170C.5	1220,§11
15.286	1217,§6	99D.25A	1137,§13	170C.6	1220,§12
15.287	1217,§7	106.6A	1183,§2	172C.5A	1191,§5
15.288	1217,§8	109.68	1041,§1;1216,§25	172C.5B	1191,§6
22A.1	1256,§2	109.83	1216,§30	182.24	1284,§66
23A.1	1230,§1	109.124	1184,§1	190B.1	1195,§2
23A.2	1230,§2	110.38	1216,§43	190B.2	1195,§3
23A.3	1230,§3	111A.11	1193,§2	190B.3	1195,§4
28.131	1207,§1	135C.32	1037,§1	190B.4	1195,§5
28.132	1207,§2	135H.1	1224,§2	190B.5	1195,§6
28.133	1207,§3	135H.2	1224,§3	190B.6	1195,§7
28.134	1207,§4	135H.3	1224,§4	190B.7	1195,§8
28.135	1207,§5	135H.4	1224,§5	190B.8	1195,§9
28.136	1207,§6	135H.5	1224,§6	190B.9	1195,§10
28.137	1207,§7	135H.6	1224,§7	190B.10	1195,§11
28.138	1207,§8	135H.7	1224,§8	192.47	1152,§5
28.139	1207,§9	135H.8	1224,§9	192.48	1152,§6
28.140	1207,§10	135H.9	1224,§10	194.21	1152,§10
28.141	1207,§11	135H.10	1224,§11	203A.21	1231,§1

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206.32	1118,\$1	262.75	1266,\$4	321E.33	1208,\$5
217.11	1170,\$1	262A.6A	1261,\$3	327F.31	1079,\$1
217.41	1253,\$1	262B.1	1268,\$9	327F.39	1079,\$2
217.42	1253,\$2	262B.2	1268,\$10	328.56A	1063,\$12
220.131	1217,\$20	262B.3	1268,\$11	330.23	1229,\$1
220.132	1217,\$21	262B.4	1268,\$12	331.217	1229,\$3
220.133	1217,\$22	262B.5	1268,\$13	331.218	1229,\$4
220.134**	1217,\$23	263.8A	1284,\$44	331.219	1229,\$5
225C.18A	1245,\$6	269.3**	1284,\$67	331.220	1229,\$6
225C.18B	1245,\$7	270.11**	1284,\$68	331.221	1229,\$7
225C.23	1219,\$2	275.55A	1263,\$5	331.222	1229,\$8
225C.32	1245,\$8	275.59	1086,\$1	331.223	1229,\$9
225C.35	1122,\$2	277.5	1119,\$33	331.224	1229,\$10
225C.36	1122,\$3	279.50	1018,\$3,5,6	331.225	1229,\$11
225C.37	1122,\$4	280.9A	1129,\$1	331.226	1229,\$12
225C.38	1122,\$5	280.19	1114,\$4;1264,\$2	331.227	1229,\$13
225C.39	1122,\$6	281.15	1155,\$1	331.228	1229,\$14
225C.40	1122,\$7	282.18	1113,\$1	331.229	1229,\$15
225C.41	1122,\$8	305B.1	1117,\$1	331.230	1229,\$16
225C.42	1122,\$9	305B.2	1117,\$2	331.231	1229,\$17
228.7	1226,\$1	305B.3	1117,\$3	331.232	1229,\$18
232.83	1252,\$2	305B.4	1117,\$4	331.233	1229,\$19
232.167	1249,\$15	305B.5	1117,\$5	331.234	1229,\$20
237.13	1223,\$1	305B.6	1117,\$6	331.235	1229,\$21
237.23	1274,\$43	305B.7	1117,\$7	331.236	1229,\$22
239.21	1249,\$16	305B.8	1117,\$8	331.237	1229,\$23
246.515	1234,\$6	305B.9	1117,\$9	331.238	1229,\$24
246.815	1230,\$5	305B.10	1117,\$10	331.239	1229,\$25
249A.17	1249,\$17	305B.11	1117,\$11	331.240	1229,\$26
249C.18	1249,\$18	305B.12	1117,\$12	331.241	1229,\$27
255A.14	1277,\$10	305B.13	1117,\$13	357A.22	1170,\$2
256.11A	1262,\$3	307.39	1278,\$25	357E.1	1194,\$1
256.23	1078,\$1	307.40	1278,\$26	357E.2	1194,\$2
256.31	1264,\$1;1266,\$2	307B.25	1211,\$2,3	357E.3	1194,\$3
256A.1	1130,\$2	309.65	1254,\$1	357E.4	1194,\$4
256A.2	1130,\$3	312.2A	1278,\$31	357E.5	1194,\$5
256A.3	1130,\$4	314.15	1019,\$8;1278,\$51	357E.6	1194,\$6
258A.11	1274,\$40	314.20	1019,\$9	357E.7	1194,\$7
260.25	1266,\$3	315.11	1257,\$3	357E.8	1194,\$8
260.34	1114,\$2	321.372A	1203,\$1	357E.9	1194,\$9
261.46	1284,\$30	321A.3A	1278,\$40	357E.10	1194,\$10
262.71	1114,\$3	321E.32	1208,\$4	357E.11	1194,\$11

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357E.13	1194,§13	455D.5**	1244,§24	479A.23	1074,§23
357E.14	1194,§14	455D.6**	1244,§25	479A.24	1074,§24
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405A.2	1250,§2	455D.8**	1244,§27	479A.26	1074,§26
405A.3	1250,§3	455D.9**	1244,§28	497.34	1170,§6
405A.4	1250,§4	467F.1	1189,§2	498.36	1170,§7
405A.5	1250,§5	467F.2	1189,§3	499.5A	1172,§4
405A.6	1250,§6	467F.3	1189,§4	499.59A	1170,§8
405A.7	1250,§7	467F.4	1189,§5	505.16	1234,§7
405A.8	1250,§8	470.7	1179,§7	508.39	1112,§603
405A.9	1250,§9	476.56	1174,§3	509A.15	1112,§104
422.12A	1202,§1	476.66	1175,§3	512A.9	1111,§1
422B.11	1153,§6	477B.1	1177,§1	514C.3	1127,§1
442.26A	1087,§4	477B.2	1177,§2	514F.3	1112,§604
455B.113	1120,§1	477B.3	1177,§3	515.81A	1112,§406
455B.114	1120,§2	477B.4	1177,§4	515.81B	1112,§407
455B.115	1120,§3	477B.5	1177,§5	515.150	1176,§1
455B.291	1217,§10	477B.5A	1177,§6	515B.18	1112,§509
455B.292	1217,§11	477B.6	1177,§7	515E.1	1111,§2
455B.293	1217,§12	477B.7	1177,§8	515E.2	1111,§3
455B.294	1217,§13	479A.1	1074,§1	515E.3	1111,§4
455B.295	1217,§14	479A.2	1074,§2	515E.4	1111,§5
455B.296	1217,§15	479A.3	1074,§3	515E.5	1111,§6
455B.297	1217,§16	479A.4	1074,§4	515E.6	1111,§7
455B.298	1217,§17	479A.5	1074,§5	515E.7	1111,§8
455B.299	1217,§18	479A.6	1074,§6	515E.8	1111,§9
455B.314	1182,§2	479A.7	1074,§7	515E.9	1111,§10
455B.473A	1244,§3	479A.8	1074,§8	515E.10	1111,§11
455B.479A**	1244,§11	479A.9	1074,§9	515E.11	1111,§12
455B.479B**	1244,§12	479A.10	1074,§10	515E.12	1111,§13
455B.479C**	1244,§13	479A.11	1074,§11	515E.13	1111,§14
455B.479D**	1244,§14	479A.12	1074,§12	515E.14	1111,§15
455B.479E**	1244,§15	479A.13	1074,§13	516C.1	1147,§1
455B.479F**	1244,§16	479A.14	1074,§14	516C.2	1147,§2
455B.479G**	1244,§17	479A.15	1074,§15	516C.3	1147,§3
455B.479H**	1244,§18	479A.16	1074,§16	516C.4	1147,§4
455B.479I**	1244,§19	479A.17	1074,§17	516C.5	1147,§5
455B.490**	1244,§29	479A.18	1074,§18	516C.6	1147,§6
455D.1**	1244,§20	479A.19	1074,§19	520.9A	1111,§17
455D.2**	1244,§21	479A.20	1074,§20	535B.1	1146,§1
455D.3**	1244,§22	479A.21	1074,§21	535B.2	1146,§2

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535B.4	1146,§4	552.10	1221,§10	601K.132	1201,§2; 1277,§15
535B.5	1146,§5	552.11	1221,§11	601K.133	1201,§3; 1277,§16
535B.6	1146,§6	552.12	1221,§12	601K.134	1201,§4; 1277,§17
535B.7	1146,§7	552.13	1221,§13	601K.135	1201,§5; 1277,§18
535B.8	1146,§8	552.14	1221,§14	601K.136	1201,§6; 1277,§19
535B.9	1146,§9	552.15	1221,§15	601K.137	1201,§7
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