

**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~~ permanent 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

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## 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