State of Iowa

1989

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted At The

1989 REGULAR SESSION

Of The

Seventy-Third General Assembly

Of The

State Of Iowa

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

REGULAR SESSION BEGUN ON THE NINTH DAY OF JANUARY
AND ENDED ON THE SEVENTH DAY OF MAY, A.D. 1989

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by the
Legislative Service Bureau
GENERAL ASSEMBLY OF IOWA
Des Moines

PREFACE

CERTIFICATION

We, Diane E. Bolender, Acting Director, Legislative Service Bureau and JoAnn Brown, Iowa 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 1989 Regular Session of the Seventy-third 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 SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts at the back of the 1989 Iowa Code Supplement.

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 in appropriation Acts indicate material vetoed by the Governor; however, words stricken or underscored within the item veto are not italicized. Item vetoed text is also indicated by asterisks at the beginning and ending of the vetoed material. Asterisks may also indicate explanatory footnotes.

Effective dates. The Acts took effect on July 1, 1989, 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.

Orders for legal publications should be addressed to the Iowa State Printing Division, Grimes Building, Des Moines, Iowa 50319. Telephone 515-281-5232

CONTENTS

ELECTIVE OFFICERS

Name and Office	County from which originally chosen

GOVERNOR

TERRY E. BRANSTAD	Winnebago
Allan T. Thoms, 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 Monroe, Deputy Secretary of State	Des Moines
Allen Welsh, Deputy, Corporations	Polk
Tim Menke, Executive Assistant	Story

AUDITOR OF STATE

RICHARD D. JOHNSON	Polk
Richard C. Fish, Deputy, Administration Division	Polk
Kasey K. Kiplinger, Deputy, Audit Division	Polk
Warren G. Jenkins, Deputy, Technical Services 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
Steve Pedersen, 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, Agricultural 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, *Decatur*, Ringgold, Taylor, Union	71, 72, 72X, 72XX
Bruner, Charles H. ..... Ames	.....	37th—*Story*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Carr, Bob ..... Dubuque	Securities Broker ..	18th—*Dubuque*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Coleman, C. Joseph ..... Clare	Farmer, ... Businessman	7th—Hamilton, *Webster*	57, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Corning, Joy ..... Cedar Falls	Homemaker	12th—*Black Hawk*	71, 72, 72X, 72XX
Deluhery, Pat ..... Davenport	College Teacher ...	21st—*Scott*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Dieleman, Wm. W. (Bill) . Pella	Weekly Newspaper Publisher	35th—Jasper, *Marion*, ... Polk, Warren	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Doyle, Donald V. ..... Sioux City	Lawyer	2nd—Ida, Monona ..... *Woodbury*	57, 58, 61, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Drake, Richard F. ..... Muscatine	General Farming ..	28th—Des Moines, Louisa, .. *Muscatine*, Washington	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Fraise, Eugene S. ..... Fort Madison	Farmer, ... Legislator	31st—Des Moines, *Lee*, ... Van Buren	71(2nd), 72, 72X, 72XX
Fuhrman, Linn ..... Aurelia	Farmer	5th—*Buena Vista*, ... Calhoun, Pocahontas, Sac, Webster	72, 72X, 72XX
Gentleman, Julia ..... Des Moines	Housewife	41st—*Polk*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Gettings, Donald E. ..... Ottumwa	Retired—Deere .... & Co.	33rd—Appanoose, Davis, ... *Wapello*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Goodwin, Norman J. ..... DeWitt	Retired County .... Extension Director	19th—Cedar, *Clinton*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Gronstal, Michael E. ..... Council Bluffs	.....	50th—*Pottawattamie*	70, 71, 72, 72X, 72XX
Hagerla, Mark R. ..... West Burlington	Grocer	30th—*Des Moines*, Henry ...	None
Hannon, Beverly A. ..... Anamosa	Homemaker, ... Student	22nd—Cedar, *Jones*, Linn ...	71, 72, 72X, 72XX

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Hedge, H. Kay Fremont	Farmer	32nd—Jefferson, Keokuk, *Mahaska* Wapello	None
Hester, Jack W. Honey Creek	Farmer	49th—Cass, Harrison, *Pottawattamie*, Shelby	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Horn, Wally E. Cedar Rapids	Teacher	25th—*Linn*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Hultman, Calvin O. Red Oak	Businessman/ Real Estate	47th—Fremont, Mills, *Montgomery*, Page, Pottawattamie	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Husak, Emil J. Toledo	Farmer	38th—Benton, Black Hawk, Marshall, *Tama*	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Hutchins, Bill Audubon	Businessman	48th—*Audubon*, Carroll, Crawford, Shelby	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Jensen, John W. Plainfield	Farmer	11th—Black Hawk, *Bremer*, Butler, Grundy	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Kibbie, John P. Emmetsburg	Farmer	6th—Clay, Dickinson Emmet, *Palo Alto*	59, 60, 60X, 61, 62
Kinley, George R. Des Moines	Owner-Golf Sales & Sporting Goods	40th—*Polk*	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Lind, Jim Waterloo	Service Station Owner-Operator	13th—*Black Hawk*	71(2nd), 72, 72X, 72XX
Lloyd-Jones, Jean Iowa City	Legislator	23rd—*Johnson*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Mann, Thomas, Jr. Des Moines	Attorney	43rd—*Polk*	70, 71, 72, 72X, 72XX
Miller, Alvin V. Ventura	Insurance Agency	10th—*Cerro Gordo*, Winnebago, Worth	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Murphy, Larry Oelwein	Printing Broker, Writer	14th—Black Hawk, Buchanan, Chickasaw, *Fayette*	71, 72, 72X, 72XX
Nystrom, Jack Boone	Legislator	44th—*Boone*, Carroll, Greene, Story	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Palmer, William D. Des Moines	Insurance Executive	39th—*Polk*	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Pate, Paul D. Marion	President - Premier Group Corporation	24th—Buchanan, Delaware, *Linn*	None
Peterson, John A. Albia	Livestock Market Owner	34th—Clarke, Lucas, *Monroe*, Warren, Wayne	71(2nd), 72, 72X, 72XX
Priebe, Berl E. Algona	Farmer, Businessman	8th—Hancock, Humboldt, *Kossuth*, Palo Alto, Pocahontas, Winnebago	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Rensink, Wilmer Sioux Center	Farmer	3rd—Plymouth, *Sioux*, Woodbury	70, 71, 72, 72X, 72XX

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Rife, Jack Moscow	Farmer	29th—*Muscatine*, Scott	70, 71, 72, 72X, 72XX
Riordan, James R. Waukee	Nursery/Garden Center Owner	45th—Adair, *Dallas*, Guthrie, Madison	71(2nd), 72, 72X, 72XX
Running, Richard V. Cedar Rapids	Statistical Quality Control Trainer	26th—*Linn*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Scott, Kenneth D. Clear Lake	Realtor, Farmer, Auctioneer	15th—*Cerro Gordo*, Chickasaw, Floyd, Howard, Mitchell	64, 65, 66, 72, 72X, 72XX
Soorholtz, John E. Melbourne	Farmer-Pork Producer	36th—Jasper, *Marshall*	70(2nd), 71, 72, 72X, 72XX
Sturgeon, Al Sioux City	Legislator	1st—*Woodbury*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Szymoniak, Elaine Des Moines	Retired-Vocational Rehabilitation	42nd—*Polk*	None
Taylor, Ray Steamboat Rock	Farmer, Business	9th—Franklin, Hamilton, Hancock, *Hardin*, Wright	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Tieden, Dale L. Elkader	Retired	16th—Allamakee, *Clayton*, Winneshiek	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Tinsman, Maggie Bettendorf	Legislator	20th—*Scott*	None
Vande Hoef, Richard Harris	Farmer	4th—Cherokee, Clay, Lyon, O'Brien, *Osceola*, Sioux	69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Varn, Richard J. Solon	Lawyer, Consultant	27th—Iowa, *Johnson*, Poweshiek	70, 71, 72, 72X, 72XX
Welsh, Joe J. Dubuque	Businessman, Private Investigator	17th—*Dubuque*, Jackson, Jones	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX

REPRESENTATIVES

Name and Residence	Occupation	Representative District	Former Legislative Service
Adams, Janet Webster City	Teacher	14th—*Hamilton*, Webster	72, 72X, 72XX
Arnould, Robert C. Davenport	Legislator	42nd—*Scott*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Avenson, Donald D. Oelwein	Tool & Die Maker	28th—Chickasaw, *Fayette*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Banks, Bradly C. Westfield	Livestock and Grain Farmer	5th—*Plymouth*, Woodbury	None
Beaman, Jack Osceola	Self-employed	91st—Adair, Adams, Cass, *Clarke*, Union	72, 72X, 72XX
Beatty, Linda L. Indianola	Homemaker	68th—*Warren*	71, 72, 72X, 72XX
Bennett, Wayne Galva	Farmer	4th—*Ida*, Monona, Woodbury	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Bisignano, Tony Des Moines	President of AFSCME Local 1868	80th—*Polk*	72, 72X, 72XX
Black, Dennis H. Grinnell	Jasper County Conservation Board, Director	71st—*Jasper*, Marshall	70, 71, 72, 72X, 72XX
Blanshan, Eugene H. Scranton	Farmer	88th—Boone, Carroll, *Greene*	70, 71, 72, 72X, 72XX
Brammer, Philip E. Cedar Rapids	Insurance Agent	51st—*Linn*	70, 71, 72, 72X, 72XX
Brand, William J. Vinton	Administrator-Human Services	76th—*Benton*, Black Hawk	None
Branstad, Clifford O. Thompson	Farmer	16th—Hancock, Kossuth, *Winnebago*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Brown, Joel W. Charition	Legislator	67th—Clarke, Monroe *Lucas*, Wayne	None
Buhr, Florence D. Des Moines	Legislator	85th—*Polk*	70, 71, 72, 72X, 72XX
Carpenter, Dorothy F. West Des Moines	Legislator	82nd—*Polk*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Chapman, Kay Cedar Rapids	Lawyer	49th—*Linn*	70, 71, 72, 72X, 72XX
Clark, Betty Jean Rockwell	Legislator	29th—*Cerro Gordo*, Floyd, Mitchell	67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Cohoon, Dennis M. Burlington	Teacher	60th—*Des Moines*	72, 72X, 72XX
Connolly, Mike Dubuque	Teacher	35th—*Dubuque*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX

Name and Residence	Occupation	Representative District	Former Legislative Service
Connors, John H. ..... Des Moines	Retired Fire ..... Captain and Labor Arbitrator	79th—*Polk*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Corbett, Ron J. ..... Cedar Rapids	Insurance Agent...	52nd—*Linn*	72, 72X, 72XX
Daggett, Horace C. ..... Kent	Farmer	92nd—*Adams*, Decatur, ... Ringgold, Taylor	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
De Groot, Kenneth R. ... Doon	Farmer, ... Legislator	8th—*Lyon*, O'Brien, ... Osceola, Sioux	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Diemer, Marvin E. ..... Cedar Falls	Retired	23rd—*Black Hawk*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Doderer, Minnette ..... Iowa City	Self-employed	45th—*Johnson*	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Dvorsky, Robert E. ..... Coralville	Legislator, ... Employment Coordinator	54th—Iowa, *Johnson*	72, 72X, 72XX
Eddie, Russell J. ..... Storm Lake	Farmer, ... Pork Producer	10th—*Buena Vista*, ... Pocahontas	72, 72X, 72XX
Fey, Thomas H. ..... Davenport	Legislator	41st—*Scott*	69(2nd), 70, 71, 72, 72X, 72XX
Fogarty, Daniel P. ..... Cylinder	Farmer	11th—Clay, *Palo Alto*	70, 71, 72, 72X, 72XX
Fuller, Robert D. ..... Steamboat Rock	Farmer	18th—Franklin, Hamilton, .. *Hardin*	72, 72X, 72XX
Garman, Teresa ..... Ames	Farmer	87th—Boone, *Story*	72, 72X, 72XX
Groninga, John ..... Mason City	Educator	20th—*Cerro Gordo*	70, 71, 72, 72X, 72XX
Gruhn, Josephine ..... Spirit Lake	Farm Owner/ ..... Operator	12th—*Dickinson*, Emmet ...	70, 71, 72, 72X, 72XX
Halvorson, Rod ..... Fort Dodge	Real Estate ..... Salesman, Political Consultant	13th—*Webster*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Halvorson, Roger A. ..... Monona	Insurance- ..... Real Estate Broker	32nd—Allamakee, *Clayton* ..	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Hammond, Johnie ..... Ames	Legislator	74th—*Story*	70, 71, 72, 72X, 72XX
Hansen, Steve D. ..... Sioux City	Legislator, ... Youth Worker, Self-employed	1st—*Woodbury*	72, 72X, 72XX
Hanson, Darrell R. ..... Manchester	Legislator, ... Small Business Manager	48th—Buchanan, ... *Delaware*, Linn	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX

Name and Residence	Occupation	Representative District	Former Legislative Service
Harbor, William H. ..... Henderson	Grain Elevator .... Owner-Operator	94th—*Mills*, Montgomery, .. Pottawattamie	56, 57, 58, 62, 63, 64, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Harper, Patricia M. ..... Waterloo	Educator.....	26th—*Black Hawk*	72, 72X, 72XX
Hatch, Jack ..... Des Moines	Management ..... Consultant	81st—*Polk*	71, 72, 72X, 72XX
Haverland, Mark A..... Polk City	College Teacher ...	77th—*Polk*	70, 71, 72, 72X, 72XX
Hermann, Donald F. .... Bettendorf	Retired	40th—*Scott*	70, 71, 72, 72X, 72XX
Hester, Joan L..... Honey Creek	Farming-..... Retired	98th—Harrison, ... *Pottawattamie*	71, 72, 72X, 72XX
Hibbard, David ..... Booneville	Attorney.....	90th—Adair, Dallas ..... Guthrie, *Madison*	None
Holveck, Jack ..... Des Moines	Attorney.....	84th—*Polk*	70, 71, 72, 72X, 72XX
Jay, Daniel..... Moulton	Lawyer	66th—*Appanoose*, Davis,... Wapello	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Jesse, Glen ..... Mitchellville	Small Business .... Person	70th—*Jasper*, Marion..... Polk, Warren	None
Jochum, Thomas J. ..... Dubuque	Deere and ..... Company	36th—*Dubuque*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Johnson, Paul W..... Decorah	Farmer	31st—Allamakee, ... *Winneshiek*	71, 72, 72X, 72XX
Kistler, Robert L. ..... Fairfield	Educator.....	63rd—*Jefferson*, ... Keokuk, Wapello	None
Knapp, Donald J. ..... Cascade	Legislator.....	33rd—*Dubuque*, Jones.....	69(2nd), 70, 71, 72, 72X, 72XX
Koenigs, Deo A. ..... Osage	Farmer and ..... Legislator	30th—Chickasaw, Howard,. *Mitchell*	70, 71, 72, 72X, 72XX
Kremer, Joseph M. ..... Jesup	Retired Farmer....	27th—Black Hawk,..... *Buchanan*	71, 72, 72X, 72XX
Lageschulte, Raymond .. Waverly	Farm Manager,.... Insurance Adjuster	22nd—Black Hawk, ... *Bremer*, Butler	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Lundby, Mary A..... Marion	.....	47th—*Linn*	72, 72X, 72XX
Lykam, Jim ..... Davenport	Sales Manager	58th—*Scott*	None
Maulsby, Ruhl..... Rockwell City	Agriculture	9th—*Calhoun*, Sac,..... Webster	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
May, Dennis ..... Kensett	Farmer, Real..... Estate Broker	19th—Cerro Gordo, ... Winnebago, *Worth*	72, 72X, 72XX
McKean, Andrew J..... Anamosa	Lawyer, ... Graduate School Instructor	44th—*Jones*, Linn.....	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX

Name and Residence	Occupation	Representative District	Former Legislative Service
McKinney, Wayne H., Jr. Waukee	Attorney	89th—*Dallas*	72, 72X, 72XX
Mertz, Dolores M. Ottosen	Farm Owner-Operator	15th—Humboldt, *Kossuth*, Palo Alto, Pocahontas	None
Metcalf, Janet S. Des Moines	Legislator	83rd—*Polk*	71, 72, 72X, 72XX
Miller, Tom H. Cherokee	Journalist	7th—*Cherokee*, Clay, O'Brien	71, 72, 72X, 72XX
Muhlbauer, Louis J. Manilla	Agri-Business	96th—*Crawford*, Shelby	70, 71, 72, 72X, 72XX
Neuhauser, Mary Iowa City	Attorney	46th—*Johnson*	72, 72X, 72XX
Nielsen, Joyce Cedar Rapids	Financial Consultant	50th—*Linn*	None
Ollie, C. Arthur Clinton	Teacher	38th—*Clinton*	70, 71, 72, 72X, 72XX
Osterberg, David Mt. Vernon	Economic Consultant	43rd—Cedar, *Linn*	70, 71, 72, 72X, 72XX
Pavich, Emil S. Council Bluffs	Retired-Kellogg Cereal Company	100th—*Pottawattamie*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Pellett, Wendell C. Atlantic	Farmer	97th—*Cass*, Harrison, Pottawattamie, Shelby	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Peters, Michael R. Sioux City	Legislator	2nd—*Woodbury*	72, 72X, 72XX
Petersen, Daniel F. Muscatine	Farmer	57th—*Muscatine*, Scott	71(2nd), 72, 72X, 72XX
Peterson, Michael K. Carroll	Attorney, Legislator	95th—Audubon, *Carroll*, Shelby	71, 72, 72X, 72XX
Plasier, Lee J. Sioux Center	Business Manager	6th—Plymouth, *Sioux*	72, 72X, 72XX
Poncy, Charles N. Ottumwa	Retired School District Employee	65th—*Wapello*	62, 63, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Renaud, Dennis L. Altoona	D.M. Fire Dept., Barber Business	78th—*Polk*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Renken, Robert H. Aplington	Farmer	21st—Butler, *Grundy*	68(2nd), 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Rosenberg, Ralph Ames	Attorney	73rd—*Story*	69(2nd), 70, 71, 72, 72X, 72XX
Royer, Bill D. Essex	Real Estate Broker, Appraiser	93rd—Fremont, Mills, *Page*	70, 71, 72, 72X, 72XX
Schnekloth, Hugo Eldridge	Farmer	39th—*Scott*	67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX

Name and Residence	Occupation	Representative District	Former Legislative Service
Schrader, David Monroe	Small Business Owner	69th—*Marion*	72, 72X, 72XX
Shearer, Mark S. Columbus Junction	Newspaper Editor	55th—Des Moines, *Louisa*, Washington	None
Sherzan, Gary Des Moines	Parole Officer	86th—*Polk*	70, 71, 72, 72X, 72XX
Shoning, Don Sioux City	Legislator	3rd—*Woodbury*	71, 72, 72X, 72XX
Shoultz, Don Waterloo	Teacher	25th—*Black Hawk*	70, 71, 72, 72X, 72XX
Siegrist, Brent Council Bluffs	Teacher	99th—*Pottawattamie*	71, 72, 72X, 72XX
Spear, Clay R. Burlington	Retired Postal Service Employee	61st—*Des Moines*, Lee	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Spenner, Gregory A. Mt. Pleasant	Broadcaster	59th—Des Moines, *Henry*	None
Stromer, Delwyn D. Garner	Farmer, Legislator	17th—Franklin, *Hancock*, Wright	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Stueland, Vic Grand Mound	Farmer, Businessman	37th—Cedar, *Clinton*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Svoboda, E. Jane Clutier	Farm Wife- Homemaker, Sales	75th—Black Hawk, Marshall, *Tama*	72, 72X, 72XX
Swartz, Thomas E. Marshalltown	Teacher, Consultant	72nd—*Marshall*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Tabor, David M. Baldwin	Farmer	34th—Dubuque, *Jackson*	70, 71, 72, 72X, 72XX
Teaford, Jane Cedar Falls	Legislator	24th—*Black Hawk*	71, 72, 72X, 72XX
Trent, Bill Muscatine	Businessman, Lawyer	56th—Louisa, *Muscatine*	None
Tyrrell, Phil North English	Independent Insurance Agent	53rd—*Iowa*, Poweshiek	68, 69, 69X, 69XX, 72, 72X, 72XX
Van Maanen, Harold Oskaloosa	Farmer	64th—Keokuk, *Mahaska*, Wapello	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX
Wise, Philip L. Keokuk	Teacher	62nd—*Lee*, Van Buren	72, 72X, 72XX

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, 1996
Jerry Larson	Harlan	Dec. 31, 1996
Louis W. Schultz	Iowa City	Dec. 31, 1990
James H. Carter	Cedar Rapids	Dec. 31, 1992
Louis Lavorato	Des Moines	Dec. 31, 1996
Linda K. Neuman	Davenport	Dec. 31, 1996
Bruce M. Snell, Jr.	Ida Grove	Dec. 31, 1996
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, 1995
Leo E. Oxberger, C. J.	Des Moines	Dec. 31, 1995
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.
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(202) 224-3254

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

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

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

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

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

Suite 125
880 Locust Street
Dubuque, Iowa 52001
(319) 582-2130

Senator Charles Grassley (R)
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Washington, D.C. 20510
(202) 224-3744

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

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

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

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

116 Federal Building
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Davenport, Iowa 52801
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UNITED STATES REPRESENTATIVES

First District

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Davenport, Iowa 52801
(319) 326-1841

306 F & M Bank Bldg.
Third & Jefferson
Burlington, Iowa 52601
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(515) 682-8549

Second District

Congressman Thomas J. Tauke (R)
2244 Rayburn House Office Bldg.
Washington, D.C. 20515
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3271 Armar Drive
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Third District

Congressman David Nagle (D)
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Iowa City, Iowa 52240
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(515) 752-6701

Fourth District

Congressman Neal Smith (D)
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(202) 225-4426

544 Insurance Exchange Bldg.
Des Moines, Iowa 50309
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215 Post Office Bldg.
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UNITED STATES REPRESENTATIVES – Continued

Fifth District

Congressman James Lightfoot (R)
1222 Longworth House Office Building
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(202) 225-3806

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

105 Pearl Street
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220 West Salem
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(515) 961-0591

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(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, 1988

	Balance June 30, 1987	Total Receipts and Transfers	Total Available	Total Redemptions and Disbursements	Balance June 30, 1988
General Fund	$ 66,306,371	$ 3,439,658,123	$ 3,505,964,494	$ 3,481,751,120	$ 24,213,374
Special Revenue Fund	261,971,545	1,268,098,844	1,530,070,389	1,177,124,930	352,945,459
Capitol Project Fund	2,089,196	12,230,917	14,320,113	11,712,433	2,607,680
Debt Service Fund	1,320,646	12,706,096	14,026,742	12,902,155	1,124,587
Enterprise Fund	15,104,504	191,862,888	206,967,392	192,819,503	14,147,889
Internal Service Fund	6,881,397	35,525,778	42,407,175	33,955,927	8,451,248
Expendable Trust Fund	24,910,689	191,210,564	216,121,253	191,123,171	24,998,082
Non-Expendable Trust Fund	4,987,599	459,862	5,447,461	1,926,573	3,520,888
Pension Fund	3,442,512,992	518,864,314	3,961,377,306	182,702,012	3,778,675,294
Trust and Agency Fund	111,037,395	1,871,197,563	1,982,234,958	1,855,712,382	126,522,576
Totals	$ 3,937,122,334	$ 7,541,814,949	$ 11,478,937,283	$ 7,141,730,206	$ 4,337,207,077

Balance July 1, 1987	$ 3,937,122,334
Receipts and Transfers	7,541,814,949
Total Available	11,478,937,283
Redemptions and Disbursements	7,141,730,206
Balance June 30, 1988	$ 4,337,207,077

DEPARTMENT OF REVENUE AND FINANCE
July 14, 1989

ANALYSIS BY CHAPTERS

REGULAR SESSION

CH.	FILE		TITLE
211	HF	782	License revocation for OWI conviction
212	HF	791	Judge and magistrate applications and appointments
213	HF	721	Quad cities interstate metropolitan authority compact
214	HF	728	Official publications
215	HF	522	County vacancies
216	SF	220	Pari-mutuel wagering
217	SF	278	Retirement facilities
218	HF	448	Employment benefits
219	HF	549	Agricultural product advisory council
220	HF	550	Worker retraining programs
221	HF	127	Beer brewed for consumption on the premises
222	SF	295	School bus drivers' instruction
223	HF	641	AIDS-related procedures
224	SF	522	Radon abatement
225	HF	780	Law enforcement-related programs, including substance abuse, youth, income tax, and communication interception programs
226	HF	672	Harassment
227	SF	272	Insurance agents and administrators
228	SF	539	Taxation of retirement moneys
229	HF	688	Children in need of assistance
230	HF	690	Protection of children
231	HF	490	Inspections and appeals department duties and powers, including racing and gaming regulation
232	HF	770	Sales tax exemption for consumer rental purchase property
233	HF	771	Reimbursement for rent constituting property tax paid
234	HF	140	Linked investment programs
235	HF	293	Library division moneys
236	HF	769	Resource enhancement and protection
237	HF	88	Nonresident hunting licenses
238	HF	124	Wildlife habitat stamp fee
239	HF	166	County parks
240	SF	14	Practice profession and course of instruction regulation
241	SF	31	Health care facilities
242	SF	470	Environmental tests and waste minimization
243	HF	344	Substance abuse
244	HF	477	All-terrain vehicles and other vehicle use
245	HF	722	Infectious waste
246	HF	723	Roadside vegetation management
247	HF	745	Vehicle parking and handicapped parking
248	HF	146	County veteran affairs commissions
249	HF	578	Exclusion from income of Vietnam herbicide damages
250	SF	153	Income tax refund setoff
251	SF	154	State and local taxes
252	HF	758	Alcoholic beverages regulation
253	HF	556	Mortgage satisfaction acknowledgment
254	HF	643	Out-of-state contractor's bond
255	HF	776	Fire districts
256	HF	777	Homestead tax credit
257	HF	234	Banking and regulated loans
258	HF	686	International trade and technology
259	SF	215	Irrigation equipment sales tax exemption
260	SF	291	Mobile homes
261	SF	366	City civil action for damages
262	HF	71	Peer review court for youthful offenders

CH.	FILE	TITLE
312	HF 789	Appropriations for energy conservation and environmental protection
313	HF 795	Appropriations relating to agriculture and drought assistance
314	HF 785	Iowa plan fund appropriations
315	SF 517	Appropriations and provisions relating to state executive agencies and national organizations
316	HF 772	Corrections, courts, and justice department appropriations and provisions
317	SF 531	Appropriations and provisions relating to law enforcement, public defense, public safety, and transportation
318	SF 541	Human services appropriations and other provisions
319	HF 774	Appropriations and other provisions relating to educational and cultural programs
320	HF 775	Appropriations and other provisions relating to health, human rights, and elder affairs
321	HF 779	Appropriations and other provisions relating to state regulatory agencies and the public defender
322	HF 799	Appropriations and other provisions relating to human services, education, cultural affairs, transportation, personnel and finance
323	SJR 3	Natural resource commission rule on multiuse trail funding nullified
324	SJR 10	Rule on intermediate care facilities for mentally retarded nullified
325	HJR 5	Constitutional amendment to strike disqualification for dueling
326	HJR 7	Ratification of amendment to United States Constitution regarding congressional compensation
327	HJR 12	Equal rights amendment proposed
328	R.C.P. 253(a)	Petition to vacate or modify judgment
329	R.C.P. 144	Use of deposition of expert or health care practitioner
330	R.C.P. 297	Paying minor's share from partition sale
331	R.C.P. 125(a)	Discovery of experts, signed answers
332	R.Cr.P. 2(4)(d), 10(11)(a)	Preliminary hearing before magistrate, private; alibi defense notice
333	R.Prob.P. 7	Notice to creditors
334	R.Prob.P. 7	Notice to creditors — stricken

1989 Regular Session

Of The

Seventy-Third General Assembly

Of The

State Of Iowa

CHAPTER 1

ACCEPTANCE OF FEDERAL REHABILITATION AMENDMENTS OF 1986

S.F. 125

AN ACT relating to the acceptance of the provisions and benefits of federal rehabilitation acts.

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

Section 1. Section 259.1, Code 1989, is amended to read as follows:

259.1 ACCEPTANCE OF FEDERAL ACTS.

The state of Iowa, through its legislative authority, accepts the provisions and benefits of the Acts of Congress entitled "The Rehabilitation Act of 1973", ~~(~~Pub. L. No. 93-112~~)~~, "The Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978", ~~(~~Pub. L. No. 95-602~~)~~, ~~and~~ the "Rehabilitation Amendments of 1984", ~~(~~Pub. L. No. 98-221~~)~~, and the "Rehabilitation Amendments of 1986", Pub. L. No. 99-506, as codified in 29 U.S.C. § 701 et seq.

Approved February 17, 1989

CHAPTER 2

NOTICE TO CITY DEVELOPMENT BOARD OF URBAN REVITALIZATION PLANS

H.F. 72

AN ACT relating to the notification of the city development board of public hearings for proposed urban revitalization plans.

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

Section 1. Section 404.2, subsection 3, Code 1989, is amended to read as follows:

3. The city has scheduled a public hearing and notified all owners of record of real property located within the proposed area~~,~~ and the tenants living within the proposed area ~~and the city development board~~ in accordance with section 362.3. In addition to notice by publication, notification shall also be given by ordinary mail to the last known address of the owners of record. The city shall also send notice by ordinary mail addressed to the "occupants" of city addresses located within the proposed area, unless the city council, by reason of lack of a reasonably current and complete address list, or for other good cause, shall have waived ~~such~~ the

notice. Notwithstanding ~~the provisions of~~ section 362.3, ~~Code 1979, such~~ the notice shall be given by the thirtieth day prior to the public hearing.

Approved February 23, 1989

CHAPTER 3

PROFESSIONAL REGULATION

S.F. 89

AN ACT relating to professional licensing in the department of public health by revising certain rulemaking procedures and deleting requirements with respect to departmental approval of colleges in which the professions are taught.

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

Section 1. Section 157.14, Code 1989, is amended to read as follows:

157.14 RULES.

The board shall ~~promulgate~~ adopt rules ~~under the provisions of~~ pursuant to chapter 17A to administer the provisions of this chapter. ~~However, any rules adopted by the board shall first be submitted to the department for approval.~~

Sec. 2. Section 158.15, Code 1989, is amended to read as follows:

158.15 RULES.

The board shall ~~promulgate~~ adopt rules ~~under the provisions of~~ pursuant to chapter 17A to administer the provisions of this chapter. ~~However, any rules adopted by the board shall first be submitted to the department for approval.~~

Sec. 3. Section 147.32, Code 1989, is repealed.

Approved March 3, 1989

CHAPTER 4

COLLECTION OF DELINQUENT RAILWAY TAXES

S.F. 91

AN ACT to repeal the state department of transportation's authority to collect delinquent property taxes owed by railway companies.

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

Section 1. Section 307B.9, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Except as provided in this chapter, all obligations are payable solely out of the pledged receipts as designated in the bond proceedings. Tax funds which the authority receives from a political subdivision of the state shall not be pledged for payment of the obligations. Except for those tax funds deposited in the special railroad facility fund as provided in sections ~~307.29,~~ 307B.23, subsection 3, 435.9 and 324A.8, the state shall not appropriate tax funds, directly or

indirectly, to the authority for the purpose of payment of obligations of the authority. Obligations shall be authorized by resolution of the board and bond proceedings shall provide for the purpose of the obligations, the principal amount, the principal maturity or maturities, not exceeding twenty-five years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest on them, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. As much as is practicable within the legal and fiscal limitations inherent in bond issuance, a portion of the bonds shall be issued in denominations of five thousand dollars and smaller, in order to allow smaller investors in the state to purchase the bonds. The purpose of the obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings shall also provide, subject to other applicable bond proceedings, for the pledge of all or such part, as the authority may determine, of the pledged receipts to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims or payments, and may be made to secure the obligations on a parity with obligations issued at other times, if and to the extent provided in the bond proceedings. The pledged receipts so pledged and received by the authority are immediately subject to the lien of the pledge without physical delivery or further act, and the pledge of the pledged receipts is effective and these moneys may be applied to the purposes for which pledged without necessity for an Act of appropriation. Every pledge and every covenant and agreement with respect to a pledge made in the bond proceedings may be extended to the benefit of the owners and holders of obligations authorized by this chapter, and to any trustee for owners and holders, for the further security of the payment of the bond service charges. The authority shall issue a prospectus or official statement in connection with the offering of obligations. Obligations may be issued in coupon or in registered form, or both. Provision may be made for the registration of obligations with coupons attached as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached of any obligations registered as to both principal and interest, and for reasonable charges for registration, exchange, conversion and reconversion. Obligations may be sold at public or private sale at the price, in the manner, and at the time determined by the governing board. Chapter 75 and sections 23.12 to 23.16 do not apply to obligations issued under this chapter. All obligations are negotiable instruments.

Sec. 2. Section 307B.23, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

There is created in the office of the state treasurer a "special railroad facility fund". This fund shall include moneys credited to this fund under ~~sections 307.29,~~ section 435.9, and other moneys which by law may be credited to the special railroad facility fund. The moneys in the special railroad facility fund are 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, 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 special railroad facility fund to be used for the purposes set forth 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~~ the investment shall be credited to and deposited in the special railroad facility fund. This fund shall be administered by the authority and may be used to purchase or upgrade railroad right-of-way and trackage facilities or to purchase general or limited partnership interests in a partnership formed to purchase, upgrade, or operate railroad right-of-way and trackage facilities, to pay or secure obligations issued by the authority, to pay obligations, judgments, or debts for which the authority becomes liable in its capacity as a general partner, or for any other use authorized under this chapter. The fund may also be used to purchase

or upgrade railroad right-of-way and trackage facilities for the development of railroad passenger tourism.

Sec. 3. Section 307.29, Code 1989, is repealed.

Approved March 3, 1989

CHAPTER 5

EDUCATIONAL EXCELLENCE PROGRAM

S.F. 38

AN ACT relating to the payment of moneys to teachers under the educational excellence program, including calculation of payments, the frequency and manner of payments, eligibility for payments, and deadlines for submission of plans and reports of moneys expended.

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

Section 1. Section 294A.6, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the moneys allocated for phase I for a school year exceed the moneys required to pay the total minimum salary supplements to all school districts and area education agencies, the board of directors of a school district that has employed one or more additional teachers as a result of a whole grade sharing agreement completed under section 282.7 may request approval from the department of education for additional funding for its minimum salary supplement for that school year and succeeding school years if the other school district or districts that are parties to the sharing agreement have correspondingly reduced their number of teachers. If the department of education approves the payment of the additional salary supplement to a district, the department shall certify to the department of revenue and finance that the additional payment be made. The payment shall be equal to the amount of the difference between eighteen thousand dollars and the teacher's regular compensation, plus the amount required to make the payments on the additional salary moneys for the employer's share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under chapter 294. If the phase I moneys remaining are insufficient to pay the entire amount approved by the department of education, the department of revenue and finance shall prorate the payments to school districts.

Sec. 2. Section 294A.14, unnumbered paragraph 5, Code 1989, is amended to read as follows:

For school districts, a performance-based pay plan may provide for additional salary for individual teachers, for teachers assigned to a specific discipline, or ~~for additional salary~~ for all teachers assigned to an attendance center. For area education agencies, a performance-based pay plan may provide for additional salary for individual teachers, ~~or~~ for additional salary for all teachers assigned to a specific discipline within an area education agency, or for additional salary for individual teachers assigned to a multidisciplinary team within an area education agency. If the plan provides additional salary for all teachers assigned to an attendance center, ~~or~~ specific discipline, or multidisciplinary team, the receipt of additional salary by those teachers shall be determined on the basis of whether that attendance center, ~~or~~ specific discipline, or multidisciplinary team meets specific objectives adopted for that attendance center, ~~or~~ specific discipline, or multidisciplinary team. For school districts, the objectives may include,

but are not limited to, decreasing the dropout rate, increasing the attendance rate, or accelerating the achievement growth of students enrolled in that attendance center.

Sec. 3. Section 294A.15, Code 1989, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Effective July 1, 1989, a plan adopted by the board of directors of a school district or area education agency may include as a part of the plan a proposal that expands a performance-based pay plan or a supplemental pay plan, or a combination of the two pay plans, that meets the criteria listed in section 294A.14 and was in effect in the school district or area education agency prior to July 1, 1987. The budget for the plan submitted to the department of education shall include both the general fund moneys which must be equal to those used prior to July 1, 1987, and the phase III moneys which expand the activity and is for programs that would meet the criteria listed in section 294A.14.

Sec. 4. Section 294A.16, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A plan adopted by the board of directors of a school district or area education agency shall be submitted to the department of education not later than July 1 of a school year for that school year for a school district, and not later than September 1 of a school year for that school year for an area education agency. Amendments to multiple year plans may be submitted annually.

Sec. 5. Section 294A.16, unnumbered paragraph 2, Code 1989, is amended to read as follows:

If a school district uses teachers under a contract between the district and the area education agency in which the district is located and both the school district and the area education agency have approved phase III plans, the school district shall ~~make provision for those teachers under phase III~~ transmit to the employing area education agency a portion of its phase III moneys based upon the portion that the salaries of teachers employed by the area education agency and assigned to the school district for the school year bears to the total teacher salaries paid in the district for that school year, including the salaries of the teachers employed by the area education agency. If the area education agency has an approved phase III plan and the school district does not, the department of management shall transmit phase III moneys to the area education agency for those teachers from the phase III money that would have been paid to the school district if the school district had had an approved phase III plan using the formula that would have been used if the school district had had an approved phase III plan.

Sec. 6. Section 294A.16, unnumbered paragraph 4, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

A school district or area education agency, which receives money for a school year for an approved phase III plan, may retain up to fifty percent of the moneys allocated to the district or area education agency for the next succeeding school year, in order to continue the approved plan. Any of the retained phase III moneys remaining in the district or area education agency account after the second year of the plan shall revert to the general fund of the state as provided in section 8.33.

Any moneys allocated or retained for an approved phase III plan, and any interest accrued on the moneys, shall not be commingled with state aid payments made, under sections 442.25 and 442.26, to a school district or area education agency and shall be accounted for by the school district or area education agency separately from state aid payment accounts.

Sec. 7. Section 294A.19, Code 1989, is amended to read as follows:

294A.19 REPORT.

Each school district and area education agency receiving moneys for phase III during a school year shall file a report with the department of education. School district reports shall be filed by July 1 of the next following school year, and area education agency reports shall be filed by September 1 of the next following school year. The report shall describe the plan, its objectives, its implementation, ~~and~~ the expenditures made under the plan including the salary increases paid to each eligible employee, and the extent to which its objectives were

attained. The report may include any proposed amendments to the plan for the next following school year.

Annually, the department shall summarize the information contained in the reports filed by the school districts and area education agencies. The reports shall be available upon request.

Sec. 8. Section 294A.22, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Payments for each phase of the educational excellence program shall be made by the department of revenue and finance on a ~~quarterly~~ monthly basis~~, and the~~ commencing on October 15 and ending on June 15 of each fiscal year taking into consideration the relative budget and cash position of the state resources. The payments shall be separate from state aid payments made pursuant to sections 442.25 and 442.26. ~~For the school year beginning July 1, 1987, the first quarterly payment shall be made not later than October 15, 1987 taking into consideration the relative budget and cash position of the state resources.~~ The payments made under this section to a school district or area education agency may be combined and a separate accounting of the amount paid for each program shall be included.

Sec. 9. Section 294A.22, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Payments made to a teacher by a school district or area education agency under this chapter are wages for the purposes of chapter 91A except for payments made under an approved phase III plan where a modified payment plan has either been mutually agreed upon by the board of directors and the certified bargaining representative for certificated employees or for a district that is not organized for collective bargaining purposes where a modified payment plan is adopted by the board.

Sec. 10. Section 5 of this Act applies to phase III plans submitted for the school year beginning July 1, 1989.

Approved March 7, 1989

CHAPTER 6

INCOME TAX ESTIMATES AND WITHHOLDING, INHERITANCE TAXES, AND RAILWAY TAXES

S.F. 113

AN ACT relating to state taxes and tax administration by increasing the threshold for making estimated income tax payments, allowing an election by withholding agents to make estimated tax payments on behalf of nonresidents on incomes from agricultural products, providing for the adoption of federal estate tax values by agreement between the estate and the department, and the repealing of the railway vehicle fuel tax and railway mileage tax, and providing effective dates and applicability provisions.

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

Section 1. Section 307B.23, subsection 1, Code 1989, is amended to read as follows:

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~~ section 307.29~~, 435.9,~~ and other moneys which by law may be credited to the special railroad facility fund. The moneys in the special railroad facility fund are 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, 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 special railroad facility fund to be used for the purposes set forth 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.

Sec. 2. Section 307B.23, subsection 2, Code 1989, is amended by striking the subsection.

Sec. 3. Section 421.27, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The penalty provided for failure to remit at least ninety percent of the tax due or of the tax due with the filing of the deposit form or return or to pay at least ninety percent of the tax required to be shown on the return under section 98.28, 98.46, 324.65, 422.16, 422.25, 422.58, 422.66, 423.18, ~~435.5,~~ 450.63, 450A.12, or 451.12 shall not be assessed by the department under any of the following conditions:

Sec. 4. Section 422.16, subsection 11, paragraph a, Code 1989, is 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~~ two hundred dollars or more for the taxable year, except that, in the cases of farmers and fishermen, the exceptions provided in the Internal Revenue Code 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.

Sec. 5. Section 422.16, subsection 12, unnumbered paragraph 2, Code 1989, is amended to read as follows:

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. However, the withholding agents may elect to make estimated tax payments on behalf of the nonresidents on the basis of the net incomes of the nonresidents from the agricultural commodities or products, if the estimated tax payments are made on or before the last day of the first month after the end of the tax years of the nonresidents.

Sec. 6. Section 450.37, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Fair market value in the ordinary course of trade shall be established by agreement, including an agreement to accept the values as finally determined for federal estate tax purposes. The

agreement shall be between the department of revenue and finance, the personal representative, and the persons who have an interest in the property.

Sec. 7. Chapters 324A and 435, Code 1989, are repealed.

Sec. 8. EFFECTIVE DATES AND APPLICABILITY.

1. Section 4 of this Act takes effect January 1, 1990, and is applicable to tax years beginning on or after that date.
2. Section 5 of this Act applies retroactively to January 1, 1989, for tax years beginning on or after that date.
3. Section 6 of this Act is applicable to the estates of decedents dying on or after July 1, 1989.
4. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 7, 1989

CHAPTER 7

DISSOLUTION OF ELDORA CEMETERY SOCIETY
H.F. 69

AN ACT relating to the dissolution of the Eldora Cemetery Society, Incorporated and the disposition of its property, and providing effective dates.

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

Section 1. DISSOLUTION OF THE ELDORA CEMETERY SOCIETY, INC. Pursuant to sections 504.2 and 504.8, the Eldora Cemetery Society, Incorporated, a not for pecuniary profit corporation organized as a cemetery association under chapter 504, is dissolved effective May 1, 1989. On May 1, 1989, the operation and maintenance of the cemetery become the responsibility of the city of Eldora, Iowa. All real and personal properties of the corporation, subject to the rights of creditors to the corporation, are transferred to the city of Eldora, Iowa, effective May 1, 1989.

Sec. 2. This Act takes effect on April 15, 1989.

Approved March 8, 1989

CHAPTER 8

ELECTION OF STATE BOARD OF EDUCATION PRESIDENT
H.F. 133

AN ACT relating to the election of the president of the state board of education.

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

Section 1. Section 256.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Elect to a two-year term, from its members in each even-numbered year, a president of the state board, who shall serve until a successor is elected and qualified.

Approved March 8, 1989

CHAPTER 9

REVOLVING FARM FUND ACCOUNTING
H.F. 190

AN ACT relating to the time period for which an annual accounting report for the revolving farm fund is filed.

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

Section 1. Section 246.706, unnumbered paragraph 2, Code 1989, is amended to read as follows:

~~The~~ Notwithstanding section 8.36, the department shall annually prepare a financial statement covering the previous calendar year to provide for an accounting of the funds in the revolving farm fund. The financial statement shall be filed with the legislative fiscal bureau on or before February 1 each year.

Approved March 8, 1989

CHAPTER 10

CRIMINAL HISTORY TO CHILD-CARING AND
CHILD-PLACING AGENCIES AND ADOPTION INVESTIGATORS
H.F. 194

AN ACT relating to providing criminal history information to licensed private child-caring and child-placing agencies and certified adoption investigators.

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

Section 1. Section 692.2, subsection 1, Code 1989, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. g. Licensed private child-caring and child-placing agencies and certified adoption investigators for the purpose of section 237.8, subsection 2, and section 600.8, subsections 1 and 2.

Sec. 2. Section 692.2, subsection 6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department may charge a fee to any nonlaw-enforcement agency to conduct criminal history record checks and otherwise administer this section and other sections of the Code providing access to criminal history records. The fee shall be set by the commissioner of public safety equal to the cost incurred not to exceed twenty dollars for each individual check requested. Notwithstanding any other limitation, the department is authorized to use revenues generated from the fee to employ clerical personnel to process criminal history checks for nonlaw-enforcement purposes.

Approved March 8, 1989

CHAPTER 11

ASSIGNMENT OF UNEMPLOYMENT BENEFITS FOR CHILD SUPPORT
H.F. 195

AN ACT relating to a mandatory assignment of unemployment benefits by the child support recovery unit.

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

Section 1. Section 96.3, subsection 9, paragraph c, unnumbered paragraph 1, Code 1989, is amended to read as follows:

However, if the division is notified of an assignment of income by the child support recovery unit under chapter 252D or section 598.22 or 598.23 or is garnisheed by the child support recovery unit under chapter 642 and an individual's benefits are condemned to the satisfaction of the child support obligation being enforced by the child support recovery unit, the division shall deduct and withhold from the individual's benefits that amount required through legal process.

Sec. 2. Section 96.3, subsection 9, paragraph c, unnumbered paragraph 3, Code 1989, is amended to read as follows:

Notwithstanding section 96.15, benefits under this chapter are not exempt from income assignment, garnishment, attachment, or execution if assigned to or garnisheed by the child support recovery unit, established in section 252B.2, or if an assignment under section 598.22 or 598.23 is being enforced by the child support recovery unit to satisfy the child support obligation of an individual who is eligible for benefits under this chapter.

Approved March 8, 1989

CHAPTER 12

OPEN ENROLLMENT IN PUBLIC SCHOOLS
S.F. 59

AN ACT to provide a procedure for parents or guardians to enroll their children in the public schools of school districts other than the district of residence without cost to the parents or guardians and to provide an effective date.

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

Section 1. Section 282.18, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

282.18 OPEN ENROLLMENT.

For the school year commencing July 1, 1989, and each succeeding school year, a parent or guardian residing in a school district may enroll the parent's or guardian's child in a public school in another school district in the manner provided in this section.

By September 15 of the preceding school year the parent or guardian shall informally notify the district of residence, and not later than November 1 of the preceding school year, the parent or guardian shall send notification to the district of residence and to the department of education on forms prescribed by the department of education that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. The parent or guardian shall describe the reason that exists for enrollment in the receiving district that is not present in the district of residence. The board of the district of residence shall transmit a copy of the form to the receiving school district within five days after

Ch 12, §1 Amend
Ch 319, §81–89 Acts Item
Veto

its receipt. During the 1990-1991 school year, if the board of the district of residence determines that transmission of the request will result in a loss of greater than five percent of the district's certified enrollment for that year, the board of the district of residence may deny the request for the 1990-1991 school year. If, however, a failure to transmit a request will result in enrollment of students from the same nuclear family in different school districts, the request shall be transmitted to the receiving district for enrollment. The board of each school district shall adopt a policy relating to the order in which requests for enrollment in other districts shall be considered. The board of the receiving school district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil. In all districts involved with volunteer or court-ordered desegregation, minority and nonminority student ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to volunteer or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan. If, however, a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests. A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal under section 290.1.

A request under this section is for a period of not less than four years unless the pupil will graduate, the pupil's family moves to another school district, or the parent or guardian petitions the receiving district for permission to enroll the child in a different district within the four-year period. If the parent or guardian requests permission of the receiving district to enroll the child in a different district within the four-year period, the receiving district school board may transmit a copy of the request to the other school district within five days of the receipt of the request. The new receiving district shall enroll the pupil in a school in the district unless there is insufficient classroom space in the district or unless enrollment of the pupil would adversely affect court ordered or voluntary desegregation orders affecting a district. A denial of a request to change district enrollment within the four-year period shall be subject to appeal under section 290.1.

The board of directors of the district of residence shall pay to the receiving district the lower district cost per pupil of the two districts, plus any moneys received for the pupil as a result of non-English speaking weighting under section 442.4, subsection 6, for each school year. The district of residence shall also transmit the phase III moneys allocated to the district for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer. However, if the district of residence has outstanding obligations on school bonds, has entered into a rental or lease arrangement under section 279.26, or has entered into a loan agreement in anticipation of the collection of the schoolhouse tax under section 297.36, only fifty percent of the property tax portion of the district cost per pupil shall be paid to the receiving district for the first three years of the transfer, unless the debt is paid before the end of the three years. If the debt is paid in less than three years from the date of the transfer or if three years pass, from the date of the transfer, without retirement of the district of residence's debt obligation, whichever date is sooner, the full amount of the district cost per pupil shall then be paid to the receiving district. If a request filed under this section is for a child requiring special education under chapter 281, the request to transfer to the other district shall only be granted if the receiving district maintains a special education instructional program which is appropriate to meet the child's educational needs and the enrollment of the child in the receiving district's program would not cause the size of the class in that special education instructional program in the receiving district to exceed the maximum class size in rules adopted by the state board of education for that program. For pupils requiring special education, the board of directors of the district of residence shall pay

to the receiving district the actual costs incurred in providing the appropriate special education. Quarterly payments shall be made to the receiving district. If the transfer of a pupil from one district to another results in a transfer from one area education agency to another, the sending district shall forward a copy of the request to the sending district's area education agency. The receiving district shall forward a copy of the request to the receiving district's area education agency. Any moneys received by the area education agency of the sending district for the child who is the subject of the request shall be forwarded to the receiving district's area education agency. 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 receiving district shall not send school vehicles into the district of residence of the pupil using the open enrollment option under this section, for the purpose of transporting the pupil to and from school in the receiving district, unless the child meets the economic eligibility requirements, established under the federal National School Lunch and Child Nutrition Acts, 42 U.S.C. §1751-1785, for free or reduced price lunches. If the child meets those requirements, the sending district shall be responsible for providing transportation or paying the pro rata cost of the transportation to a parent or guardian for transporting the child to and from a point on a regular school bus route of a contiguous receiving district unless the cost of providing transportation or the pro rata cost of the transportation to a parent or guardian exceeds the average transportation cost per pupil transported for the previous school year in the district. If the cost exceeds the average transportation cost per pupil transported for the previous school year, the sending district shall only be responsible for that average per pupil amount. A sending district which provides transportation for a child to a contiguous receiving district under this paragraph may withhold from the district cost per pupil amount, that is to be paid to the receiving district, an amount which represents the average or pro rata cost per pupil for transportation, whichever is less.

A child, whose parent or guardian has submitted a request to enroll the child in a public school in another district, shall, if the request has resulted in the enrollment of the child in the other district, attend school in the other district which is the subject of the request. This requirement shall not apply, however, if the child's family moves out of the district of residence.

Every school district shall adopt a policy which defines the term "insufficient classroom space" for that district.

The board of directors of a school district subject to volunteer or court-ordered desegregation may vote not to participate in open enrollment under this section during the school year commencing July 1, 1990, and ending June 30, 1991. If a district chooses not to participate in open enrollment under this paragraph, the district shall develop a policy for implementation of open enrollment in the district for that following school year. The policy shall contain objective criteria for determining when a request would adversely impact the desegregation order or plan and criteria for prioritizing requests that do not have an adverse impact on the order or plan.

A student who attends a grade in grades nine through twelve in a school district other than the district of residence 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 other school district jointly participate or unless the sport in which the student wishes to participate is not offered in the district of residence. However, a pupil who has paid tuition and attended school, or has attended school pursuant to a mutual agreement between the two districts, in a district other than the pupil's district of residence for at least one school year prior to the effective date of this Act, shall be eligible to participate in interscholastic athletic contests and athletic competitions under this section, but only as a member of a team from the district that student had attended.

A student who has been paying tuition and attending school in a district other than the student's district of residence shall be permitted to attend school in the district where the student has been paying tuition, during the 1989-1990 school year, by filing a request to use the

open enrollment option under this section by August 1, 1989.

A student, whose district of residence, for the purposes of school attendance, changes during the 1989-1990 school year, shall be permitted to attend school during the 1989-1990 school year in the district in which the student attended during the 1988-1989 school year if a request to use the open enrollment option under this section is filed by August 1, 1989.

If a child, for which a request to transfer has been filed with the district of residence, has been suspended or expelled in the district of residence, the receiving district named in the request may refuse the request to transfer until the child has been reinstated in the district of residence.

A laboratory school under chapter 265 shall be exempt from the provisions of this section.

The director of the department of education shall recommend rules to the state board of education for the orderly implementation of this section. The state board shall adopt rules as needed for the implementation of this section.

Sec. 2. THREE-YEAR REPORT ON OPEN ENROLLMENT. The department of education shall conduct a three-year study of the implementation of open enrollment in the state. The study shall include, but not be limited to, a comparison of graduation rates before and after the effective date of this Act; a demographic study of the use of the open enrollment option relating to the number of students using the open enrollment option, the effect of open enrollment on staffing patterns and curricular offerings, the effect of open enrollment on district ability to comply with desegregation orders or plans and minimum school standards, and the effect of open enrollment on the actual student populations within affected districts; the effect of open enrollment on student participation in interscholastic athletics; and the average number of school days missed by open enrollment participants. The data collected, together with any conclusions, shall be submitted in annual reports to the general assembly until and including the general assembly which meets in 1993.

Sec. 3. Section 280.16, Code 1989, is repealed effective July 1, 1990.

Sec. 4. Section 290.1, Code 1989, is amended to read as follows:

290.1 APPEAL TO STATE BOARD.

A person aggrieved by a decision or order of the board of directors of a school corporation in a matter of law or fact, or a decision or order of a board of directors under section ~~280.16~~ 282.18 may, within thirty days after the rendition of the decision or the making of the order, appeal the decision or order to the state board of education; the basis of the proceedings shall be an affidavit filed with the state board by the party aggrieved within the time for taking the appeal, which affidavit shall set forth any error complained of in a plain and concise manner.

For purposes of section 282.11, a "person aggrieved" or "party aggrieved" means the "parent or guardian of an affected pupil".

Sec. 5. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 10, 1989

CHAPTER 13

JUDGMENT FOR CRIMINAL RESTITUTION PAYMENTS
H.F. 9

AN ACT relating to the imposition of judgment, upon which execution will lie, against a criminal offender on probation who fails to comply with a court-ordered plan of restitution.

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

Section 1. Section 910.4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When restitution is ordered by the sentencing court and the offender is placed on probation, restitution shall be a condition of probation. Failure of the offender to comply with the plan of restitution, plan of payment, or community service requirements when community service is ordered by the court as restitution, shall constitute a violation of probation and shall constitute contempt of court. The court may hold the offender in contempt, revoke probation, or ~~may~~ extend the period of probation ~~in such circumstances~~, or upon notice of such noncompliance and hearing thereon, the court may enter a civil judgment against the offender for the outstanding balance of payments under the plan of restitution and such judgment shall be governed by the law relating to judgments, judgment liens, executions, and other process available to creditors for the collection of debts. However, if the period of probation is extended it shall not be for more than the maximum period of probation for the offense committed as provided in section 907.7.

Approved March 15, 1989

CHAPTER 14

MINIMUM WAGE LAW
H.F. 17

AN ACT relating to minimum wage requirements.

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

Section 1. NEW SECTION. 91D.1 MINIMUM WAGE REQUIREMENTS — EXCEPTIONS.

1. a. The hourly wage stated in the federal minimum wage law, pursuant to 29 U.S.C.§ 206, shall be increased to $3.85 on January 1 of 1990, $4.25 on January 1 of 1991, and $4.65 on January 1 of 1992.

b. Every employer, as defined in the federal Fair Labor Standards Act, shall pay to each of the employer's employees, as defined in the federal Fair Labor Standards Act, wages of not less than the current federal minimum wage, pursuant to 29 U.S.C.§ 206, or the wage rate stated in paragraph "a", whichever is greater.

c. For purposes of determining whether an employee of a restaurant, hotel, motel, inn, or cabin, who customarily and regularly receives more than thirty dollars a month in tips is receiving the minimum hourly wage rate prescribed by this section, the amount paid the employee by the employer shall be deemed to be increased on account of the tips by an amount determined by the employer, not to exceed forty percent of the applicable minimum wage. An employee may file a written appeal with the labor commissioner if the amount of tips received by the employee is less than the amount determined by the employer under this subsection.

d. An employer is not required to pay an employee the applicable minimum wage provided in paragraph "a" until the employee has completed ninety calendar days of employment with

the employer. An employee who has completed ninety calendar days of employment with the employer prior to January 1 of 1990, 1991, or 1992, shall earn the applicable hourly minimum wage. An employer shall pay an employee who has not completed ninety calendar days of employment with the employer an hourly wage of at least $3.35 as of January 1 of 1990, $3.85 as of January 1 of 1991, and $4.25 as of January 1 of 1992.

2. The exemptions from the minimum wage requirements stated in 29 U.S.C.§ 213 shall apply, except that the exemption in 29 U.S.C.§ 213(a)(2) shall only apply to an enterprise which is comprised of one or more retail or service establishments whose annual gross volume of sales made or business done is less than sixty percent of the amount stated in 29 U.S.C.§ 203(s)(2), exclusive of excise taxes at the retail level that are separately stated.

3. The labor commissioner shall adopt rules to implement and administer this section.

4. This section shall be enforced pursuant to chapter 91A.

Approved March 17, 1989

CHAPTER 15

ANIMAL KENNEL, AUCTION, AND DEALER LICENSE FEES

H.F. 292

AN ACT relating to increasing license fees for certain persons engaged in the commercial care of animals.

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

Section 1. Section 162.6, Code 1989, is amended to read as follows:

162.6 COMMERCIAL KENNEL OR PUBLIC AUCTION LICENSE.

A person shall not operate a commercial kennel or public auction 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 expire one year from date of issue unless revoked. The license fee is forty dollars per year and the certification fee is ~~five~~ twenty 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 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. 2. Section 162.7, Code 1989, is amended to read as follows:

162.7 DEALER LICENSE.

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 expire one year from date of issue unless revoked. The license fee is one hundred dollars per year and the certification fee is ~~five~~ twenty dollars per year. The license may be renewed upon application and payment of the fee in the manner provided by the secretary if the licensee has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the fee in the manner provided by the secretary.

Approved March 17, 1989

CHAPTER 16

INSURANCE RESERVES FOR DEMOLITION COSTS
S.F. 158

AN ACT relating to demolition insurance reserves for property in cities.

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

Section 1. Section 515.150, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. The property is located within the corporate limits of a city ~~with a population of twenty thousand or more~~.

Approved March 24, 1989

CHAPTER 17

PERSONALIZED REGISTRATION PLATES
S.F. 179

AN ACT allowing the issuance of seven-alphanumeric character personalized registration plates upon its enactment.

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

Section 1. Notwithstanding 1988 Iowa Acts, chapter 1215, section 12, section 321.34, subsection 5, paragraph "a", Code Supplement 1987, as amended by 1988 Iowa Acts, chapter 1215, section 1, takes effect upon enactment of this Act.

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

Approved March 24, 1989

CHAPTER 18

NOTICE TO JUDICIAL NOMINATING COMMISSION OF VACANCY ON COURT
S.F. 202

AN ACT relating to the timely notification of the chairperson of the proper judicial nominating commission of a vacancy in the supreme court, the court of appeals, or the district court.

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

Section 1. Section 46.12, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When a vacancy occurs or will occur within ~~sixty~~ one hundred twenty days in the supreme court, the court of appeals or district court, the state commissioner of elections shall forthwith so notify the chairperson of the proper judicial nominating commission. The chairperson shall

call a meeting of the commission within ten days after such notice; if the chairperson fails to do so, the chief justice shall call such meeting.

Approved March 24, 1989

CHAPTER 19

JUVENILE COURT-RELATED REPORTS
S.F. 128

AN ACT relating to the collection and compilation of information regarding juvenile court activities.

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

Section 1. Section 235.3, subsection 6, Code 1989, is amended to read as follows:

6. Receive and keep on file annual reports ~~from the juvenile courts of the state, and~~ from all institutions to which ~~neglected, dependent and delinquent~~ children subject to the jurisdiction of the juvenile court are committed; compile statistics regarding juvenile delinquency, make reports regarding ~~the same~~ juvenile delinquency and study prevention and cure of juvenile delinquency.

Sec. 2. Section 602.1209, subsection 6, Code 1989, is amended to read as follows:

6. Collect and compile information and statistical data, and submit reports relating to judicial business, including juvenile court activities, and other matters relating to the department.

Approved March 27, 1989

CHAPTER 20

RELOCATION OF DISPLACED PERSONS
S.F. 152

AN ACT relating to relocation payments and relocation advisory assistance for displaced persons, and real property acquisition, and providing an effective date.

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

Section 1. Section 316.1, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. "Displaced person" means:

a. A person who moves from real property or moves the person's personal property from real property in either of the following circumstances:

(1) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, the real property in whole or in part for a program or project undertaken with federal financial assistance.

(2) The person moved or moved the person's personal property from real property on which the person is either a residential tenant or conducts a small business, a farm operation, or a

business as defined in section 316.1, subsection 3, paragraph "d", as a direct result of rehabilitation or demolition for a program or project undertaken with federal financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

b. For purposes of section 316.4, subsections 1 and 2, and section 316.7, a person who moves from real property, or moves the person's personal property from real property in either of the following circumstances:

(1) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, other real property in whole or in part if the person conducts a business or farm operation on the other real property for a program or project undertaken with federal financial assistance.

(2) As a direct result of rehabilitation or demolition of other real property on which the person conducts a business or a farm operation for a program or project undertaken with federal financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

c. The term "displaced person" does not include any of the following:

(1) A person who has been determined to be either in unlawful occupancy of the real property or who has occupied the real property for the purpose of obtaining assistance under this chapter.

(2) A person, other than the person who was the occupant of the real property at the time it was acquired, who occupies the real property on a rental basis for a short term or a period subject to termination when the real property is needed for the program or project.

(3) An owner-occupant who voluntarily sells the owner-occupant's property, after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached the state agency will not acquire the property.

(4) A person who retains the right of use and occupancy of the real property for life following its acquisition by a state agency.

Sec. 2. Section 316.1, subsection 3, paragraph d, Code 1989, is amended to read as follows:

d. Solely for the purposes of section 316.4, ~~subsection 1,~~ for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not ~~such~~ the display or displays are located on the premises on which any of the above activities are conducted.

Sec. 3. Section 316.1, subsection 6, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

6. "Displacing agency" means the state or a state agency carrying out a program or project, or any person carrying out a program or project with federal financial assistance, which causes a person to be a displaced person.

Sec. 4. Section 316.1, subsection 8, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

8. "State agency" means any of the following:

a. A department, agency, or instrumentality of the state or of a political subdivision of the state.

b. A department, agency, or instrumentality of two or more political subdivisions of the state, or states.

c. A person who has the authority to acquire property by eminent domain under state law.

Sec. 5. Section 316.1, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 10. "Federal Uniform Relocation Act" means the federal 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.

NEW SUBSECTION. 11. "Federal financial assistance" means a grant, loan, or contribution provided by the United States, however, "federal financial assistance" does not include

any federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

NEW SUBSECTION. 12. "Comparable replacement dwelling" means any single family residential unit that is all of the following:

a. Decent, safe, and sanitary.

b. Adequate in size to accommodate the occupants.

c. Within the financial means of the displaced person.

d. Functionally equivalent to the displaced person's dwelling.

e. In an area not subject to unreasonably adverse environmental conditions.

f. In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

Sec. 6. Section 316.2, subsection 3, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. A payment made or to be made under the authority granted in this chapter shall be for compensating or reimbursing the displaced person or owner of real property in accordance with the requirements of the federal Uniform Relocation Act and this chapter and the payments shall not for any purpose be deemed or considered compensation for real property acquired or compensation for damages to remaining property.

Payments authorized to be made by the federal Uniform Relocation Act and this chapter shall be made as relocation payments and in order to prevent unjust enrichment or a duplication of payments to any condemnee in any condemnation proceeding or appeal from any condemnation proceeding, an allowance shall not be made in determining just compensation in a condemnation proceeding for any damages, for any item of damage, or any cost, which is authorized to be paid as a relocation payment.

Moving cost payments and allowances for personal property which is damaged or destroyed or reduced in value by an acquisition of property authorized under section 472.14 or any other provision of the Code under the powers of eminent domain on projects where relocation assistance payments are paid under this chapter shall be those payments and allowances authorized by this chapter and shall not be made or included as part of an award of damages in any condemnation proceeding or appeal from any condemnation proceeding.

Sec. 7. Section 316.3, Code 1989, is amended to read as follows:

316.3 DECLARATION OF POLICY — AUTHORIZATION — DIVISIBILITY OF APPLICATION.

1. The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of ~~state and~~ federally assisted ~~highway~~ programs or projects in order that ~~such~~ the persons shall not suffer disproportionate injuries as a result of programs or projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on the persons. The general assembly declares that ~~replacement housing~~ relocation assistance for persons displaced by ~~highway~~ programs and projects is a necessary and essential part of ~~such highway~~ the programs and projects. This chapter shall be known and may be cited as the "~~Highway~~ Relocation Assistance Law."

2. If a displacing agency subject to the provisions of the federal Uniform Relocation Act, or if another entity required or electing to provide any of the programs or payments authorized by this chapter, undertakes a project which results in the acquisition of real property or in a person being displaced from the person's home, business, or farm, the displacing agency or other entity may provide relocation assistance, and make relocation payments to the displaced person and do the other acts and follow the procedures and practices as may be necessary to comply with the provisions of the federal Uniform Relocation Act and this chapter. Displacing agencies may provide all or a part of the program and payments authorized under this chapter to persons displaced by any program or project regardless of the funding

source. However, to the extent a program or a payment is provided, the program or payment shall be provided on a uniform basis to all displaced persons.

3. If a provision, clause, or phrase of this chapter, or application of this chapter to a person or circumstance is adjudged invalid by any court of competent jurisdiction, the judgment shall not invalidate the remainder of the chapter, and the application of the chapter to other persons or circumstances shall not be affected by the adjudication.

Sec. 8. Section 316.4, Code 1989, is amended to read as follows:

316.4 MOVING AND RELATED EXPENSES.

1. ~~Whenever the acquisition of real property for~~ If a program or project undertaken by ~~the department~~ a displacing agency will result in the displacement of ~~any~~ a person, the ~~department~~ displacing agency shall make a payment to ~~any~~ the displaced person, upon proper application as approved by ~~such department~~ the displacing agency, for:

~~a.~~ ~~Actual~~ actual reasonable and necessary expenses incurred in moving the person, the person's family, business, farm operation, or other personal property;

~~b.~~ ~~Actual~~ subject to rules and limits established by the department. The payment may also provide for actual direct losses of tangible personal property, ~~as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the department;~~ and

~~c.~~ ~~Actual reasonable expenses~~ purchase of substitute personal property, business reestablishment expenses, storage expenses, and expenses incurred in searching for a replacement business or farm.

2. ~~Any~~ A displaced person eligible for payments under subsection 1, who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection 1, may receive a moving expense and dislocation allowance, determined according to a schedule established by the department ~~not to exceed three hundred dollars; and a dislocation allowance of two hundred dollars~~.

3. ~~Any~~ A displaced person, as defined in section 316.1, subsection 2, paragraph "a", eligible for payments under subsection 1, who is displaced from the person's place of business or farm operation and who ~~elects~~ is eligible, may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1, ~~may receive~~. The payment shall consist of a fixed payment in an amount ~~equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars~~ to be determined according to criteria established by the department. ~~In the case of a business, no payment shall be made under this subsection unless the department is satisfied that the business cannot be relocated without a substantial loss of its existing patronage, and is not a part of a commercial enterprise having at least one other establishment not being acquired for a highway project which is engaged in the same or similar business. For purposes of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before federal, state, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the department determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, the owner's spouse, or the owner's dependents during such period~~ A person whose sole business at the displaced dwelling is the rental of the real property does not qualify for a payment under this subsection.

Sec. 9. Section 316.5, Code 1989, is amended to read as follows:

316.5 REPLACEMENT HOUSING FOR HOMEOWNER.

1. In addition to payments otherwise authorized by this chapter, the ~~department~~ displacing agency shall make an additional payment ~~not in excess of fifteen thousand dollars~~ to ~~any~~ a displaced person who is displaced from a dwelling actually owned and occupied by ~~such~~ the

displaced person for not less than one hundred eighty days immediately prior to the initiation of negotiations for the acquisition of the property. ~~Such~~ All determinations to carry out this section shall be made in accordance with administrative rules adopted by the department. The additional payment shall include the following elements:

a. The amount, if any, which when added to the acquisition cost of the dwelling acquired by the ~~department~~ displacing agency, equals the reasonable cost of a comparable replacement dwelling ~~which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this paragraph shall be made in accordance with administrative rules established by the department in making these additional payments.~~

b. The amount, if any, which will compensate ~~such~~ the displaced person for any increased interest costs and other debt service costs which ~~such~~ the displaced person is required to pay for financing the acquisition of ~~any such~~ a comparable replacement dwelling. ~~Such~~ The amount shall be paid only if the dwelling acquired by the ~~department~~ displacing agency was encumbered by a bona fide mortgage which was a valid lien on ~~such~~ the dwelling for not less than one hundred and eighty days immediately prior to the initiation of negotiations for the acquisition of ~~such~~ the dwelling. ~~Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.~~

c. ~~Reasonable~~ Actual, reasonable, and necessary expenses incurred by ~~such~~ the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of ~~the~~ a replacement dwelling, but not including prepaid expenses.

2. The additional payment authorized by this section shall be made only to ~~such~~ a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling ~~which is decent, safe, and sanitary not later than the end of the one-year period beginning on~~ within one year after the date on which the person receives ~~from the department~~ final payment from the displacing agency of all costs of the acquired dwelling, or on the date on which the ~~person moves from the acquired dwelling~~ obligation of the displacing agency under section 316.8 is met, whichever is the later, ~~date~~ except that the displacing agency may extend the eligibility period for good cause. If the period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one year of the applicable date.

Sec. 10. Section 316.6, Code 1989, is amended to read as follows:

316.6 REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.

In addition to amounts otherwise authorized by this chapter, the ~~department~~ displacing agency shall make a payment to or for ~~any~~ a displaced person, displaced from ~~any~~ a dwelling, not eligible to receive a payment under section 316.5, which dwelling was actually and lawfully occupied by ~~such~~ the displaced person for not less than ninety days immediately prior to the initiation of negotiations for acquisition of ~~such~~ the dwelling, or as a result of the written order of the displacing agency to vacate the real property. ~~Such payment shall be~~ All determinations to carry out this section shall be made in accordance with administrative rules adopted by the department. The displaced person may elect either of the following:

1. The amount necessary to enable ~~such~~ the displaced person to lease or rent ~~for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to the person's place of employment, but not to exceed four thousand dollars, or~~ a comparable replacement dwelling. At the discretion of the displacing agency, a payment under this subsection may be made in periodic installments. Computations of a payment under this subsection to a low-income displaced person

for a comparable replacement dwelling shall take into account the person's income.

2. The amount necessary to enable ~~such~~ the person to make a down payment, including incidental expenses described in section 316.5, subsection 1, paragraph "c", on the purchase of a decent, safe, and sanitary dwelling ~~of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed four thousand dollars, except that if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment~~. The person may, at the discretion of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection 1, except that, in the case of a displaced homeowner who has owned and occupied the displaced dwelling for at least ninety days but not more than one hundred and eighty days immediately prior to the initiation of negotiations for the acquisition of the dwelling, the payment shall not exceed the payment the person would otherwise have received under section 316.5, subsection 1, had the person owned and occupied the displaced dwelling for one hundred and eighty days immediately prior to the initiation of the negotiations.

Sec. 11. Section 316.7, Code 1989, is amended to read as follows:

316.7 RELOCATION ASSISTANCE ADVISORY SERVICES.

1. ~~Whenever the acquisition of real property for a highway project undertaken by the department will result in the displacement of any person, the department shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection 3~~ A displacing agency shall ensure that relocation assistance advisory services are made available to all persons displaced by the displacing agency. If the ~~department~~ displacing agency determines that ~~any~~ a person occupying property ~~immediately~~ adjacent to the real property ~~acquired~~ where the displacing activity occurs, is caused substantial economic injury ~~because~~ as a result of the ~~acquisition~~ displacing activity, the ~~department~~ displacing agency may offer ~~such~~ the person relocation assistance advisory services ~~under such program~~.

2. The ~~department~~ displacing agency shall co-operate to the maximum extent feasible with federal, state, or local agencies to ~~assure~~ ensure that ~~such~~ the displaced persons receive the maximum assistance available to them.

3. Each relocation assistance advisory program required by subsection 1 shall include such measures, facilities, or services as may be necessary or appropriate in order to:

~~a. Determine the need, if any, of displaced persons, for relocation assistance;~~

~~b. Provide current and continuing information on the availability, prices, and rentals, of comparable decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;~~

~~c. Assure that, within a reasonable period of time, prior to displacement there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by the department, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment, except that the department may prescribe by departmental rules situations when such assurances may be waived;~~

~~d. Assist a displaced person displaced from the person's business or farm operation in obtaining and becoming established in a suitable replacement location;~~

~~e. Supply information concerning federal and state housing programs, and other federal or state programs offering assistance to displaced persons; and~~ comply with the provisions of the federal Uniform Relocation Act and this chapter.

~~f~~ 4. ~~Provide~~ The displacing agency shall provide other advisory services to displaced persons in order to minimize hardships to ~~such~~ the displaced persons in adjusting to relocation.

~~4~~ 5. The ~~department~~ displacing agency shall co-ordinate relocation activities with project work, and other planned or proposed governmental actions or displacing activities in the community or nearby areas which may affect the carrying out of relocation assistance programs.

Sec. 12. Section 316.8, Code 1989, is amended to read as follows:

316.8 HOUSING REPLACEMENT BY ~~DEPARTMENT~~ THE DISPLACING AGENCY AS LAST RESORT.

1. If a ~~highway~~ project cannot proceed ~~to actual construction~~ on a timely basis because comparable replacement ~~sale or rental housing is~~ dwellings are not available, and the ~~department~~ displacing agency determines that such ~~housing~~ dwellings cannot otherwise be made available, the ~~department~~ displacing agency may take such action as is necessary or appropriate to provide ~~such housing~~ the dwellings by use of funds authorized for ~~such~~ the program or project. The ~~department~~ displacing agency may let contracts for the construction of ~~said housing to~~ the dwellings, approve plans and specifications for the building ~~thereof~~ of the dwellings, and ~~to~~ supervise, inspect, and approve the ~~housing~~ dwellings once constructed in order that the ~~housing~~ dwellings so constructed ~~complies~~ comply with the terms and conditions of this chapter. The displacing agency may under this section exceed the maximum amounts which may be paid under sections 316.5 and 316.6 on a case by case basis for good cause as determined in accordance with administrative rules adopted by the department.

2. ~~No~~ A person shall not be required to move from the person's dwelling on or after July 1, 1971, on account of any ~~highway~~ program or project, unless the ~~department~~ displacing agency is satisfied that a comparable replacement ~~housing, in accordance with section 316.7, subsection 3, paragraph "c",~~ dwelling is available to ~~such~~ the person.

Sec. 13. Section 316.9, subsection 4, Code 1989, is amended to read as follows:

4. ~~Any~~ A person aggrieved by a determination as to eligibility for assistance or a payment authorized by this chapter, or the amount of a payment, upon application may have the ~~person's application~~ matter reviewed ~~by the department~~. Rules governing reviews shall provide for a prompt one-step uncomplicated fact-finding process. Such a review is an appeal of an agency action as defined in section 17A.2, subsection 9, and is not a contested case. The decision rendered shall be the displacing agency's final agency action.

Sec. 14. Section 316.12, Code 1989, is amended to read as follows:

316.12 PAYMENTS TO DISPLACED PERSONS NOT TO BE CONSIDERED AS INCOME.

~~No~~ Except for any federal or state law providing low-income housing assistance, a payment received by a displaced person under this chapter shall not be considered as income for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any federal or state law or for the purposes of chapter 422.

Sec. 15. Section 316.13, Code 1989, is amended to read as follows:

316.13 ADMINISTRATION.

In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, the ~~department~~ displacing agency may enter into contracts with any individual, firm, association, or corporation for services in connection with ~~such~~ the programs, or may carry out its functions through any governmental agency, political subdivision, or instrumentality having an established organization for conducting relocation assistance programs. ~~The department shall, in carrying out the relocation assistance activities described in section 316.8 whenever~~ If practicable, ~~utilize~~ the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities shall be used.

Sec. 16. Section 316.14, Code 1989, is amended to read as follows:

316.14 FUNDING.

Funds appropriated or otherwise available to any state agency for a program or project shall also be available to carry out the provisions of this chapter.

Payments and expenditures under this chapter for highway projects are incident to and arise out of the construction, maintenance, and supervision of public highways and streets, and, in the case of any federal-aid highway project, may be made by the department from the primary road fund and funds made available by the federal government for the purpose of carrying

out this chapter. Payments made under ~~section 316.10~~ this chapter may be made from the primary road fund in case of a primary road project only, and in other cases may be made from appropriate funds under the control of a political subdivision.

Sec. 17. Section 331.382, subsection 1, paragraph h, Code 1989, is amended to read as follows:

h. Provision of relocation programs and payments as provided in ~~sections 316.10 and 316.11~~ chapter 316.

Sec. 18. Section 472.42, Code 1989, is amended to read as follows:

472.42 EMINENT DOMAIN — PAYMENT TO DISPLACED PERSONS.

1. ~~Any~~ A utility or railroad subject to section 327C.2, chapter 479, or chapter 476, authorized by law to acquire property by condemnation, ~~that does acquire~~ which acquires the property of ~~any~~ a person ~~who is displaced thereby after July 1, 1971~~ or displaces a person for a program or project which has received or will receive federal financial assistance as defined in section 316.1, shall ~~pay~~ provide to ~~such~~ the person in addition to ~~all~~ any other sums of money in payment of just compensation, the payments and assistance required by law, ~~a displacement allowance~~ in accordance with ~~and in the same manner as provided for acquisition for highway projects in sections 316.4, 316.5, 316.6 and 316.8~~ chapter 316.

2. ~~The displacement allowance to be paid by a utility subject to the provisions of chapter 479 or 476, shall be paid in the manner provided in sections 316.4, 316.5, 316.6, and 316.8 and pursuant to rules promulgated by the Iowa state commerce commission.~~ ~~Any~~ A person aggrieved by a determination made by a utility as to eligibility for relocation assistance, a payment, or the amount of the payment ~~may~~, upon application, may have the matter reviewed by the ~~Iowa state~~ utilities division of the department of commerce ~~commission~~. ~~The decision of the Iowa state commerce commission upon review shall be final as to all parties.~~

3. ~~The displacement allowance to be paid by a railroad subject to section 327C.2, shall be paid in the manner provided in sections 316.4, 316.5, 316.6, and 316.8 and pursuant to rules promulgated by the transportation regulation authority.~~ ~~Any~~ A person aggrieved by a determination made by a railroad as to eligibility for relocation assistance, a payment, or the amount of the payment ~~may~~, upon application, may have the matter reviewed by the state department of transportation ~~regulation authority~~. ~~The decision of the transportation regulation authority upon review shall be final as to all parties.~~

4. ~~Any~~ A utility or railroad subject to ~~the provisions of~~ this section that proposes to ~~acquire the property of any~~ displace a person ~~who will be displaced by such acquisition~~ shall inform the person of the person's right to receive ~~a displacement allowance and, if the person's right to the displacement allowance or the amount of the allowance is in dispute, the~~ relocation assistance and payments, and of an aggrieved person's right to appeal to the ~~Iowa state~~ utilities division of the department of commerce ~~commission~~ or the state department of transportation ~~regulation authority~~.

Sec. 19. NEW SECTION. 472.54 FEDERALLY ASSISTED PROJECT AND DISPLACING ACTIVITIES — ACQUISITION POLICIES.

If a project or displacing activity has received or will receive federal financial assistance as defined in section 316.1, an acquiring agency shall be guided by the following policies:

1. Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

2. Real property shall be appraised as required by section 472.45 before the initiation of negotiations, and the owner or the owner's designated representative shall be given an opportunity to accompany at least one appraiser of the acquiring agency during an inspection of the property, except that the state department of transportation may prescribe a procedure to waive the appraisal in cases involving the acquisition of property with a low fair market value.

3. Before the initiation of negotiations for real property, the acquiring agency shall establish an amount which it believes to be just compensation for the real property, and shall make a prompt offer to acquire the property for the full amount established by the agency. In no event shall the amount be less than the agency's approved appraisal of the fair market value of the property.

4. The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move the person's business or farm operation without at least ninety days' written notice of the date by which the move is required.

5. If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

6. In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

7. If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of the owner's real property.

8. If the acquisition of only a portion of property would leave the owner with an uneconomical remnant, the head of the agency concerned shall offer to acquire that remnant. For the purposes of this chapter, an "uneconomical remnant" is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property where the head of the agency concerned determines that the parcel has little or no value or utility to the owner.

9. A person whose real property is being acquired in accordance with this chapter, after the person has been fully informed of the person's right to receive just compensation for the property, may donate the property, any part of the property, any interest in the property, or any compensation paid for it to any agency as the person may determine.

10. As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is earlier, the acquiring agency shall reimburse the owner, to the extent the acquiring agency deems fair and reasonable, for expenses the owner necessarily incurred for all of the following:

a. Recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the acquiring agency.

b. Penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property.

Payments and expenditures under this subsection are incident to and arise out of the program or project for which the acquisition activity takes place. Such payments and expenditures may be made from the funds made available for the program or project.

A person aggrieved by a determination as to the eligibility for or amount of a reimbursement may have the matter reviewed in accordance with section 316.9.

11. An owner shall not be required to surrender possession of real property before the acquiring agency concerned pays the agreed purchase price.

Sec. 20. NEW SECTION. 472.55 BUILDINGS, STRUCTURES, AND IMPROVEMENTS ON FEDERALLY ASSISTED PROGRAMS AND PROJECTS.

If a program or project has received or will receive federal financial assistance as defined in section 316.1, an acquiring agency shall be guided by the following policies:

1. If an interest in real property is acquired, the acquiring agency shall acquire an equal interest in all buildings, structures, or other improvements located upon the real property which are required to be removed from the real property or which are determined to be adversely affected by the use to which the real property will be put.

2. For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired under this section, the building, structure, or other improvement shall be deemed to be a part of the real property to be acquired, notwithstanding the right or obligation of a tenant of the lands, as against the owner of any other interest in the real property, to remove the building, structure, or improvement at the

expiration of the tenant's term. The fair market value which the building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of the building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the owner of the building, structure, or improvement.

3. Payment for the building, structure, or improvement under this section shall not result in duplication of any payments otherwise authorized by state law. The payment shall not be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release all the tenant's right, title, and interest in and to the improvements. Nothing with regard to the above-mentioned acquisition of buildings, structures, or other improvements shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for the property interests in accordance with other laws of this state.

Sec. 21. Sections 316.10 and 316.11, Code 1989, are repealed.

Sec. 22. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 27, 1989

CHAPTER 21

CIVIL SERVICE COMMISSIONERS' INTEREST IN CITY CONTRACTS
S.F. 159

AN ACT relating to the sale or contracting for goods and services between a civil service commissioner and a city.

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

Section 1. Section 400.2, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Civil service commissioners shall not ~~buy from,~~ sell to, or in any manner become parties, directly, to any contract to furnish supplies, material, or labor to the city in which they are commissioners except as provided in section 362.5. A violation of this conflict of interest provision is a simple misdemeanor.

Approved March 27, 1989

CHAPTER 22

CITY INCORPORATION, DISCONTINUANCE, OR BOUNDARY ADJUSTMENT
H.F. 404

AN ACT relating to the effective date of a city incorporation, annexation, discontinuance, or boundary adjustment proposal, and providing an effective date.

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

Section 1. Section 368.20, subsection 2, Code 1989, is amended to read as follows:

2. File with the secretary of state, the clerk of each city incorporated or involved in a boundary

adjustment, and with the recorder of each county which contains a portion of any city or territory involved, copies of the proceedings including the original petition or plan and any amendments, the order of the board approving the petition or plan, proofs of service and publication of required notices, certification of the election result, and any other material deemed by the board to be of primary importance to the proceedings. Upon proper filing and expiration of time for appeal, ~~or upon a subsequent date as provided in the proposal,~~ the incorporation, discontinuance, or boundary adjustment is complete~~, except that~~. However, if an appeal to any of the proceedings is pending, completion does not occur until the appeal is decided, unless a subsequent date is provided in the proposal. The board shall also file with the state department of transportation a copy of the map and legal land description of each completed incorporation or corporate boundary adjustment completed under sections 368.11 ~~to~~ through 368.22 or approved annexation within an urbanized area.

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

Approved March 28, 1989

CHAPTER 23

HEALTH DATA COMMISSION EXTENSION AND PROHIBITIONS

S.F. 96

AN ACT extending the existence of the Iowa health data commission, prohibiting contracting in cases of conflicts of interest, and providing requirements regarding the installation of computerized severity of illness systems.

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

Section 1. Section 145.3, subsection 4, paragraph d, Code 1989, is amended to read as follows:

d. Additional or alternative information related to the intent and purpose of this chapter as outlined in section 145.1 be submitted to the commission, except that in no event shall hospitals with fewer than one hundred licensed acute care beds be required to install computerized severity of illness systems before July 1, 1991.

Sec. 2. Section 145.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The health data commission shall not contract with a corporation, association, or other entity that engages in whole or in part in the provision of health care services or a corporation, association, or entity that has a material or financial interest in the provision of health care services.

Sec. 3. Section 145.6, Code 1989, is amended to read as follows:

145.6 REPORTS AND TERMINATION OF COMMISSION.

The commission shall submit an annual report on the actions taken by the commission to the legislature not later than January 15 of each year. ~~The commission shall be terminated July 1, 1989. If the legislature does not extend the date for termination, a final report shall be submitted to the legislature by July 1, 1989.~~

Approved March 30, 1989

CHAPTER 24

REPORTING ABUSE OF CHILDREN AND DEPENDENT ADULTS
S.F. 105

AN ACT relating to the reporting of abuse of children and dependent adults.

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

Section 1. Section 232.68, subsection 4, Code 1989, is amended to read as follows:

4. "Health practitioner" includes a licensed physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, optometrist, podiatrist or chiropractor; a resident or intern in any of such professions; a licensed dental hygienist; and ~~any~~ a registered nurse or licensed practical nurse.

Sec. 2. Section 235B.1, subsection 7, paragraph a, unnumbered paragraph 3, Code 1989, is amended to read as follows:

Any other person, including but not limited to a volunteer, who believes that a dependent adult has suffered abuse may report the suspected abuse to the department of human services.

Sec. 3. Section 235B.1, subsection 7, paragraph b, Code 1989, is amended to read as follows:

b. The department of human services shall inform the appropriate county attorneys of any reports. ~~County attorneys, law enforcement agencies, multidisciplinary teams, and social services agencies in the state shall cooperate and assist in the evaluation upon the request of the department.~~ County attorneys and appropriate law enforcement agencies shall ~~also~~ take any ~~other~~ lawful action necessary or advisable for the protection of the dependent adult.

The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency, or a person required to report suspected abuse under this subsection, shall provide the information and assist in the evaluation upon the request of the department.

Approved April 3, 1989

CHAPTER 25

SMALL ESTATE ADMINISTRATION
S.F. 506

AN ACT relating to the administration of small estates.

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

Section 1. Section 635.1, Code 1989, is amended to read as follows:

635.1 WHEN APPLICABLE.

1. When the gross value of the probate and nonprobate property of a decedent subject to the jurisdiction of this state does not exceed fifty thousand dollars in property subject to taxation under section 450.3, upon the petition of the spouse or a child of the decedent, the clerk shall issue to a resident of the state of Iowa designated by the petitioner letters of appointment of executor or administrator for administration of a small estate if either of the following occur:

a. The decedent dies intestate and is survived by a spouse, or children, or both.

b. The decedent leaves a last will and testament ~~and that will is admitted to probate but there is no present administration~~ and the only beneficiaries are a spouse, or children, or both.

2. When the gross value of the probate and nonprobate property of a decedent subject to the jurisdiction of this state does not exceed fifteen thousand dollars in property subject to taxation under section 450.3, upon the petition of a parent or grandchild of the decedent the clerk shall issue to a resident of the state of Iowa designated by the petitioner, letters of appointment as executor or administrator for administration of a small estate if either of the following occur:

a. The decedent dies intestate without a surviving spouse or ~~issue~~ children but with a surviving parent or parents or surviving grandchild or grandchildren.

b. The decedent dies without a surviving spouse or ~~issue~~ children and leaves a last will and testament ~~and that will is admitted to probate but there is no present administration~~ and the only beneficiaries are a surviving parent or parents or surviving grandchild or grandchildren.

3. When the entire estate of the decedent does not exceed the sum of ten thousand dollars after deducting the debts, as defined in chapter 450, upon the petition of a person related within the fourth degree of consanguinity to the decedent, the clerk shall issue to a resident of the state of Iowa designated by the petitioner, letters of appointment as executor or administrator for administration of a small estate if either of the following occur:

a. The decedent dies intestate without a surviving spouse, issue, or parent, but with heirs that are all within the fourth degree of consanguinity.

b. The decedent dies without a surviving spouse, issue, or parent, and leaves a last will and testament ~~and that will is admitted to probate but there is no present administration~~ and the only beneficiaries are surviving persons related to the decedent within the fourth degree of consanguinity.

Sec. 2. Section 635.2, Code 1989, is amended to read as follows:

635.2 PETITION REQUIREMENTS.

The petition for administration of a small estate must contain the following:

1. The name, domicile, and date of death of the decedent.

2. The name and address of the surviving spouse, if any, the name and address of each child of the decedent, ~~and~~ the name and address of each parent of the decedent, if the parent is an heir or beneficiary of the decedent, and the name and address of each grandchild of the decedent if the grandchild is an heir or beneficiary of the decedent, unless none are beneficiaries under the will of the decedent and the name and address of each relative within the fourth degree of consanguinity of the decedent who is an heir or beneficiary of the decedent, unless none are beneficiaries under the will of the decedent.

3. Whether ~~a will has been admitted without present administration~~ the decedent died intestate or testate, and, if testate, the date of the will.

4. A statement that the probate and nonprobate property of the decedent subject to the jurisdiction of this state does not have an aggregate gross value of more than the amount permitted under the provisions of section 635.1.

5. ~~A statement that petitioner agrees to be personally liable for the payment of debts and charges against the estate to the extent the assets of the estate would be subject to the payment of those debts and charges under estate administration other than for a small estate.~~ The name and address of the proposed executor or administrator.

~~6. A statement that petitioner agrees to account to any personal representative for all assets of the estate coming into the possession of petitioner, if a personal representative is appointed for administration of the estate other than for a small estate.~~

Sec. 3. Section 635.7, Code 1989, is amended to read as follows:

635.7 REPORT AND INVENTORY — SHOWING GREATER GROSS VALUE.

The executor or administrator is required to file the report and inventory for which provision is made in section 633.361. Nothing in sections 635.1 to 635.3 shall exempt the executor or administrator from complying with the requirements of section 422.27, 450.22 or 450.58, or the clerk from complying with the requirements of section 633.481. ~~However, the executor or administrator is exempted from filing the certificate of the county treasurer in the county~~

~~in which the estate is pending that all personal taxes due and to become due have been paid in full.~~ If the inventory and report shows assets subject to the jurisdiction of this state which exceed the total gross value of the amount permitted the small estate under the applicable provision of section 635.1, the clerk shall terminate the letters issued under section 635.1 without prejudice to the rights of persons who delivered property as permitted under section 635.3. The executor or administrator shall then be required to petition for administration of the estate as provided in chapter 633.

Sec. 4. Section 635.8, Code 1989, is amended to read as follows:

635.8 CLOSING BY SWORN STATEMENT.

1. Unless an interested person petitions for administration of the estate on a basis other than for a small estate within ~~one year~~ four months after letters of administration for a small estate are issued, if those letters of administration are not terminated under the provisions of section 635.7, any property of the estate shall then be free of debts and charges, unless a claim has been filed as provided in section 635.13. ~~However, the executor or administrator of the small estate shall not be exonerated from debts and charges of the estate except as otherwise provided in this chapter, and shall be subject to personal liability to the extent provided in section 635.2, subsection 5, for the period of time otherwise provided by law.~~ The executor or administrator is personally liable for the payment of debts and charges against the estate to the extent the assets of the estate would be subject to the payment of those debts and charges under estate administration other than a small estate.

2. The executor or administrator shall file with the court a closing statement within ~~nine~~ six months from the date of issuance of the letters of appointment, and the closing statement shall be verified or affirmed under penalty of perjury, stating all of the following:

a. To the best knowledge of the person, the gross value of the estate subject to the jurisdiction of this state does not exceed the amount permitted the small estate under the applicable provision of section 635.1.

b. The estate has been fully administered, dispersed, and distributed to persons entitled ~~thereto~~ to the estate and a description of the disbursement and distribution of the estate including an accurate description of all the real estate of which the decedent died seized, stating the nature and extent of the interest ~~therein~~ in the real estate and its disposition.

c. A copy of the closing statement has been sent to all distributees of the estate and to all known creditors and a full account in writing of the administration of the estate has been furnished to the distributees whose interests are affected.

3. If no actions or proceedings involving the estate are pending in the court ~~one year~~ sixty days after the closing statement is filed, the estate shall close and the clerk shall discharge the administrator or executor.

4. The closing statement shall include a statement as to the amount of fees paid for services rendered by the executor or administrator and the executor's or administrator's attorney in administration of the estate. The fees for the executor or administrator and the executor's or administrator's attorney shall not be in excess of the fees permitted by section 633.197.

5. A closing statement filed under this section has the same effect as final settlement of the estate under chapter 633.

Sec. 5. Section 635.9, Code 1989, is amended to read as follows:

635.9 PETITION FOR ADMINISTRATION ON OTHER BASIS.

At any time within ~~one year~~ four months after letters of administration are issued for a small estate, any interested person may petition for appointment of an executor or administrator for administration of the estate other than as a small estate. In that event the clerk shall notify the person holding letters of appointment for administration of a small estate by ordinary mail not less than ten days before a hearing on the petition. The notice shall be directed to the executor or administrator of the small estate at the executor's or administrator's last known address as reflected in the petition filed under section 635.2 or the report and inventory filed under section 633.361, whichever is filed later.

Sec. 6. Section 635.13, Code 1989, is amended to read as follows:

635.13 NOTICE — CLAIMS.

~~The executor or administrator of a small estate may publish notice pursuant to section 633.230 or section 633.304.~~ If a petition for administration of a small estate of a decedent is granted, the notice as provided in section 633.230 or section 633.304 shall indicate administration as a small estate. Creditors having claims against the estate must file them with the clerk within four months from the second publication of the notice. The notice has the same force and effect as in chapter 633.

Sec. 7. Section 635.14, Code 1989, is amended to read as follows:

635.14 MINIMUM TIME BEFORE DISTRIBUTION.

The executor or administrator shall not distribute property of the estate not exempt from execution, prior to ~~sixty days~~ four months after the issuance of the letters of appointment.

Approved April 14, 1989

CHAPTER 26

LABOR COMMISSIONER RULES

H.F. 301

AN ACT relating to the rulemaking authority of the labor commissioner.

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

Section 1. NEW SECTION. 91.6 RULES.

The commissioner shall adopt rules pursuant to chapter 17A for the purpose of administering this chapter and all other chapters under the commissioner's jurisdiction.

Approved April 18, 1989

CHAPTER 27

HANDICAPPED IDENTIFICATION

H.F. 332

AN ACT allowing a physician, as defined in section 135.1, to issue a statement attesting to a person's handicap for the purpose of issuing a handicapped plate, identification device, or sticker, 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 1989, 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~~ as defined in section 135.1, 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. If the application is approved by the department 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 is five dollars which 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 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 person as defined in section 601E.1.

Sec. 2. Section 601E.6, subsection 1, unnumbered paragraph 4, Code 1989, is amended to read as follows:

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~~ as defined in section 135.1, 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. 3. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 18, 1989

CHAPTER 28

CONSERVATION CORPS

H.F. 375

AN ACT relating to the Iowa conservation corps program.

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

Section 1. Section 15.225, subsection 1, paragraph d, Code 1989, is amended to read as follows:

d. A youth volunteer program to be known as the "~~volunteer program~~ Iowa corps".

Sec. 2. Section 15.227, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. A person participating in the "in-school program", the "summer youth program", or the "~~volunteer program~~ Iowa corps" shall be enrolled in a secondary school or have been graduated from one no more than sixty days prior to entry into a corps program.

Sec. 3. Section 15.228, subsection 2, Code 1989, is amended to read as follows:

2. Not less than fifteen percent of the total project budget for the "in-school", "summer youth", ~~"volunteer"~~, and "green thumb" programs.

Sec. 4. Section 15.228, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Student volunteer projects approved under the "Iowa corps" are exempt from the thirty-five percent matching requirement of this section.

Sec. 5. Section 15.229, Code 1989, is amended to read as follows:

15.229 ACCOUNT CREATED.

The Iowa conservation corps account is established within the office of the ~~state treasurer~~ treasurer of state to be administered by the director of the regulating authority. The account shall include all appropriations made to the programs administered by the corps, and may also include moneys contributed by a private individual or organization, or a public entity for the purpose of implementing corps programs and projects. The regulating authority may establish an escrow account within the office of the treasurer of state for tuition payments to be made beyond the term of any fiscal year. Interest earned on moneys in the account shall be credited to the account.

Sec. 6. Section 15.230, Code 1989, is amended to read as follows:

15.230 INCENTIVES FOR THE YOUNG ADULT PROGRAM AND IOWA CORPS.

The regulating authority shall cooperate with colleges and universities and lending institutions throughout the state on the development of a system of academic credit, tuition grant, and deferred loan repayment incentives for young adults to enroll and complete one year's participation in the "young adult program" of the corps and students who complete one year's participation in the "Iowa corps". The regulating authority shall adopt rules under chapter 17A designed to implement any such incentive programs agreed upon.

Approved April 18, 1989

CHAPTER 29

REAL ESTATE BROKERS AND SALESPERSONS

H.F. 380

AN ACT relating to real estate practices, permitting certain activities to be conducted through a corporation owned by a real estate broker associate or salesperson, and providing properly related matters.

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

Section 1. Section 117.34, subsections 5 and 9, Code 1989, are amended to read as follows:

5. Accepting a commission or valuable consideration as a real estate broker associate or salesperson for the performance of any of the acts specified in this chapter, from any person, except the broker associate's or salesperson's employer, who must be a licensed real estate broker. However, a broker associate or salesperson may, without violating this subsection, accept a commission or valuable consideration from a corporation which is wholly owned, or owned with a spouse, by the broker associate or salesperson if the conditions described in subsection 9 are met.

9. Paying a commission or any part of a commission for performing any of the acts specified in this chapter to ~~any~~ a person who is not a licensed broker or salesperson under this chapter or who is not engaged in the real estate business in another state. However, a broker may pay a commission to a corporation which is wholly owned, or owned with a spouse, by a salesperson or broker associate employed by or otherwise associated with the broker, if all of the following conditions are met:

a. The corporation does not engage in real estate transactions as a third-party agent or in any other activity requiring a license under this chapter.

b. The employing broker is not relieved of any obligation to supervise the employed licensee or any other requirement of this chapter or the rules adopted pursuant to this chapter.

c. The employed broker associate or salesperson is not relieved from any personal civil liability for any licensed activities by interposing the corporate form.

Approved April 18, 1989

CHAPTER 30

PROPOSITIONS SUBMITTED AT SCHOOL ELECTIONS
H.F. 418

AN ACT relating to the number of elector signatures required to authorize inclusion of a proposition relating to school districts on a regular election ballot.

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

Section 1. Section 278.2, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

278.2 SUBMISSION OF PROPOSITION.

The board may, and upon the written request of one hundred eligible electors or a number of electors which equals thirty percent of the number of votes cast in the last school board election, whichever number is greater, shall direct the county commissioner of elections to provide in the notice of the regular election for the submission of any proposition authorized by law to the voters. When the board has directed the commissioner to submit to the voters a proposition authorized by section 278.1, subsection 8 or 9, it shall not thereafter direct the commissioner to submit at the same election any other proposition under either of these subsections.

Approved April 18, 1989

CHAPTER 31

POSTSECONDARY ENROLLMENT OPTIONS CONTINUED
H.F. 666

AN ACT to repeal the provision repealing the postsecondary options Act.

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

Section 1. 1987 Iowa Acts, chapter 224, section 80, is repealed.

Approved April 18, 1989

CHAPTER 32

SPECIAL MOBILE EQUIPMENT FEE REFUNDS
H.F. 475

AN ACT providing for the refund of unexpired registration fees for certain vehicles registered as special mobile equipment and providing an effective date.

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

Section 1. Section 321.21, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. a. If a vehicle was registered as special mobile equipment prior to July 1, 1988, and the vehicle, as of July 1, 1988, no longer was required to be registered as special mobile equipment pursuant to 1988 Iowa Acts, chapter 1083, sections 1 and 2, the owner in whose name the vehicle was registered may make claim to the state department of transportation for a refund of the vehicle's registration fee subject to the following:

(1) The refund shall be computed on the basis of the number of unexpired months remaining in the registration year on July 1, 1988, and shall be rounded to the nearest whole dollar. Section 321.127, subsection 1, does not apply.

(2) The refund shall only be allowed if the owner provides the credit copy of the registration receipt for the vehicle.

(3) The refund computed under subparagraph (1) shall only be allowed to the extent the amount computed exceeds five dollars.

b. This subsection is repealed effective July 1, 1992.

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

Approved April 20, 1989

CHAPTER 33

WORKERS' COMPENSATION SECOND INJURY FUND
H.F. 655

AN ACT relating to the second injury fund, by increasing payments to the fund in event of a job-related death, and providing an effective date.

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

Section 1. Section 85.65, Code 1989, is amended to read as follows:

85.65 PAYMENTS TO SECOND INJURY FUND.

The employer, or, if insured, the insurance carrier in each case of compensable injury causing death, shall pay to the treasurer of state for the second injury fund the sum of ~~two~~ four thousand dollars in a case where there are dependents and ~~five~~ fifteen thousand dollars in a case where there are no dependents. The payment shall be made at the time compensation payments are begun, or at the time the burial expenses are paid in a case where there are no dependents. However, the payments shall be required only in cases of injury resulting in death coming within the purview of this chapter and occurring after July 1, 1978. These payments shall be in addition to any payments of compensation to injured employees or their dependents, or of burial expenses as provided in this chapter.

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

Approved April 20, 1989

CHAPTER 34

VEHICLE ALLOWABLE LENGTHS

S.F. 120

AN ACT relating to the allowable length of stinger-steered automobile transporters and certain semitrailers when operated on highways designated by the state transportation commission.

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

Section 1. Section 321.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 89. "Stinger-steered automobile transporter" means any vehicle combination designed and used specifically for the transport of assembled highway vehicles, recreational vehicles, or boats in which the fifth wheel is located on a drop frame located below and behind the rearmost axle of the power unit.

Sec. 2. Section 321.457, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of twenty-eight feet six inches when operating in a truck tractor-semitrailer-trailer combination or truck tractor-semitrailer-semitrailer combination. When the semitrailers in a truck tractor-semitrailer-semitrailer combination are connected by a rigid frame extension including a fifth-wheel connection point attached to the rear frame of the first semitrailer, the length of the frame extension shall not be included when determining the overall length of the first semitrailer.

Sec. 3. Section 321.457, subsection 3, paragraph d, Code 1989, is amended to read as follows:

d. In a combination of vehicles used principally for hauling livestock or a stinger-steered automobile transporter operating under this subsection and section 321.454, subsection 2, the combination of vehicles used principally for hauling livestock or the stinger-steered automobile transporter 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. 4. Section 321.457, subsection 3, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A stinger-steered automobile transporter shall not have an overall length exceeding seventy-five feet, except that the load may extend up to three feet beyond the front bumper and up to four feet beyond the rear bumper.

Sec. 5. Section 321.457, subsection 3, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The commission shall adopt rules to designate the highways. The rules adopted by the department under this paragraph are exempt from chapter 17A, the Iowa administrative procedure Act.

Approved April 20, 1989

CHAPTER 35

PROBATE CODE AMENDMENTS

S.F. 275

AN ACT relating to the administration of an estate and changing certain notice provisions.

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

Section 1. Section 633.35, Code 1989, is amended to read as follows:

633.35 REPORTS AND APPLICATIONS FOR ORDERS.

All petitions, reports, and applications for orders in probate must be in writing, verified, acknowledged or certified, and self-explanatory, ~~so that the clerk or court from a perusal thereof may understand the relief sought without explanations~~. If the petition, report, or application is certified, substantially the following language shall be used: "I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct."

Sec. 2. Section 633.230, Code 1989, is amended to read as follows:

633.230 NOTICE IN INTESTATE ESTATES.

In intestate matters, the administrator ~~shall~~, as soon as letters are issued, shall cause to be published once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the estate is pending, and at any time during the pendency of administration that the administrator has knowledge of the name and address of a person believed to own or possess a claim which will not or may not be paid or otherwise satisfied during administration, provide by ordinary mail to each such claimant at the claimant's last known address, a notice of appointment which shall be in substantially the following form:

NOTICE OF APPOINTMENT OF ADMINISTRATOR AND NOTICE TO CREDITORS

In the District Court of Iowa
in and for ..... County.
In the Estate of .....
deceased
Probate No. .....

To All Persons Interested in the Estate of .....
.....
deceased, who died on or about ....., 19...:

You are hereby notified that on the ..... day of ....., 19..., the undersigned was appointed administrator of ~~said~~ the estate.

Notice is hereby given that all persons indebted to the estate are requested to make immediate payment to the undersigned, and creditors having claims against the estate shall file them with the clerk of the above named district court, as provided by law, duly authenticated, for allowance, and unless so filed ~~within~~ by the later to occur of four months from the second publication of this notice or one month from the date of the mailing of this notice (unless otherwise allowed or paid) a claim is thereafter forever barred.

Dated this ..... day of ....., 19...

.....
Administrator of ~~said~~ the estate

.....
Address

.....
Attorney for ~~said~~ the administrator

.....
Address

Date of second publication
..... day of ....., 19...
(Date to be inserted by publisher)

Sec. 3. Section 633.304, Code 1989, is amended to read as follows:

633.304 NOTICE OF PROBATE OF WILL WITH ADMINISTRATION.

On admission of a will to probate, the executor ~~shall~~, as soon as letters are issued, shall cause to be published once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the estate is pending~~,~~ and at any time during the pendency of administration that the executor has knowledge of the name and address of a person believed to own or possess a claim which will not or may not be paid or otherwise satisfied during administration, provide by ordinary mail to each such claimant at the claimant's last known address, and as soon as practicable give notice, except to any executor, by ordinary mail to the surviving spouse, each heir of the decedent and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses, a notice of admission of the will to probate and of the appointment of the executor, in which shall be included a notice that any action to set aside the probate of the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice or thereafter be forever barred, and in which shall be included a notice to debtors to make payment, and to creditors having claims against the estate to file them with the clerk within four months from the second publication of the notice, or thereafter be forever barred.

The notice shall be substantially in the following form:

Notice of Probate of Will, of Appointment of Executor, and Notice to Creditors

In the District Court of Iowa
in and for ..... County. Probate No. .....
In the Estate of ....., Deceased
To All Persons Interested in the Estate of .....,
Deceased, who died on or about ....., 19...:

You are hereby notified that on the ..... day of ....., 19..., the last will and testament of ....., deceased, bearing date of the ..... day of ....., 19..., was admitted to probate in the above named court and that ..... was appointed executor of the estate. Any action to set aside the will must be brought in the district court of said county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

Notice is further given that all persons indebted to the estate are requested to make immediate payment to the undersigned, and creditors having claims against the estate shall file them with the clerk of the above named district court, as provided by law, duly authenticated, for allowance, and unless so filed ~~within~~ by the later to occur of four months from the second publication of this notice or one month from the date of mailing of this notice (unless otherwise allowed or paid) a claim is thereafter forever barred.

Dated this ..... day of ....., 19...

.....
Executor of estate

.....
Address

.....
Attorney for executor

.....
Address
Date of second publication
..... day of ....., 19...
(Date to be inserted by publisher)

Sec. 4. Section 633.305, Code 1989, is amended to read as follows:

633.305 NOTICE IF NO ADMINISTRATION.

On admission of a will to probate without administration of the estate, and upon advanced payment of the costs by the proponent, the clerk shall cause to be published, in the manner prescribed in the preceding section, a notice of the admission of the will to probate. ~~in which~~ As soon as practicable following the admission of the will to probate, the proponent shall give notice of the admission of the will to probate by ordinary mail addressed to the surviving spouse, each heir of the decedent, and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses. The notice of the admission of the will to probate shall ~~be included~~ include a notice that any action to set aside the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice, or thereafter be barred.

The notice shall be substantially in the following form:

Notice of Proof of Will
Without Administration

In the District Court of Iowa
in and for ..... County. Probate No. .....
In the Estate of ....., Deceased
To All Persons Interested in the Estate of.....,
Deceased, who died on or about ....., 19...:

You are hereby notified that on the ..... day of ....., 19..., the last will and testament of ....., deceased, bearing date of the ..... day of ....., 19..., was admitted to probate in the above named court and there will be no present administration of the estate. Any action to set aside the will must be brought in the district court of ~~said~~ the county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

Dated this ..... day of ....., 19...

.....
Clerk of the district court

.....
Attorney for estate

.....
Address
Date of second publication
..... day of ....., 19...
(Date to be inserted by publisher)

Sec. 5. Section 633.309, Code 1989, is amended to read as follows:

633.309 TIME WITHIN WHICH ACTION MUST BE COMMENCED.

An action to contest or set aside the probate of a will must be commenced in the court in which the will was admitted to probate within the later to occur of four months from the date of second publication of notice of admission of the will to probate or one month following the mailing of the notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, at such persons' last known addresses.

Sec. 6. Section 633.410, Code 1989, is amended to read as follows:

633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S ESTATE.

All claims against a decedent's estate, other than charges, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise, are forever barred against the estate, the personal representative, and the distributees of the estate, unless

filed with the clerk within the later to occur of four months after the date of the second publication of the notice to creditors or, as to each claimant whose identity is reasonably ascertainable, one month after service of notice by ordinary mail to the claimant's last known address. However, notice is not required to be given by mail to any creditor whose claim will be paid or otherwise satisfied during administration and the personal representative may waive ~~this~~ the limitation on filing provided under this section. This section does not bar claims for which there is insurance coverage, to the extent of the coverage, or claimants entitled to equitable relief due to peculiar circumstances.

Sec. 7. Section 633.434, Code 1989, is amended to read as follows:

633.434 PAYMENT OF DEBTS AND CHARGES AFTER EXPIRATION OF FOUR MONTHS' PERIOD.

The personal representative shall, as soon as practicable following appointment, make reasonably diligent efforts to ascertain the names and addresses of all persons believed to own or possess claims against a decedent's estate.

Upon the expiration of the later to occur of four months after the date of the second publication of notice to creditors or one month after the service of the notice by ordinary mail upon all claimants whose identities are reasonably ascertainable, at their last known addresses and whose claims will not or may not be paid or otherwise satisfied during administration, the personal representative shall pay the debts and charges against the estate in accordance with this code. If it appears at any time that the estate is or may be insolvent, that there are insufficient funds on hand, or that there is other good and sufficient cause, the personal representative may report that fact to the court and apply for any order that the personal representative deems necessary.

Sec. 8. Section 633.477, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A statement as to whether all statutory requirements pertaining to claims have been complied with and a statement as to whether all claims, including charges, have been paid and whether a lien continues to exist on any property as security for any claim.

Approved April 20, 1989

CHAPTER 36

RECORDING OF FEDERAL LIENS

S.F. 276

AN ACT relating to the registration of federal liens.

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

Section 1. Section 331.609, Code 1989, is amended to read as follows:

331.609 FEDERAL ~~TAX~~ LIENS.

1. a. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed or recorded in accordance with this section.

~~1~~ b. Notices of liens upon real property for ~~taxes~~ obligations payable to the United States, and certificates and notices affecting the liens shall be ~~filed~~ recorded in the office of the recorder of the county in which the real property subject to a federal ~~tax~~ lien is situated.

~~2~~ c. Notices of federal liens upon tangible or intangible personal property for ~~taxes~~ obligations payable to the United States and certificates and notices affecting the liens shall be filed or recorded as follows:

~~a.~~ (1) If the person against whose interest the ~~tax~~ lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.

~~b.~~ (2) In all other cases, in the office of the recorder of the county where the ~~taxpayer~~ person against whose interest the lien applies resides at the time of ~~filing~~ recording of the notice of lien.

~~3~~ 2. Certification ~~by the secretary of the treasury of the United States, or a designee of the secretary,~~ of notices of liens, certificates, or other notices affecting ~~tax~~ federal liens by the secretary of the treasury of the United States, or a designee of the secretary, or by any official or entity of the United States responsible for the filing or certification of any other lien, entitles them to be filed or recorded, and no other attestation, certification, or acknowledgment is necessary.

~~4~~ 3. a. If a notice of federal ~~tax~~ lien, a refiling or rerecording of a notice of ~~tax~~ lien, or a notice of revocation of a certificate described in ~~subsection 5~~ paragraph "b" is presented to the filing officer:

~~a.~~ (1) If the filing officer is the secretary of state, the secretary shall cause the notice to be marked, held, and indexed in accordance with section 554.9403, subsection 4, as if the notice were a financing statement within the meaning of that section.

~~b.~~ (2) If the filing officer is a recorder, the recorder shall endorse on the notice the recorder's identification and the date and time of receipt and ~~file~~ record it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, ~~the identification number of the internal revenue service~~ the title and address of the official or entity certifying the lien, and the total ~~unpaid balance of the assessment~~ appearing on the notice of lien.

~~5~~ b. If a certificate of release, nonattachment, discharge, or subordination of a ~~tax~~ lien is presented to the secretary of state for filing, the secretary shall:

~~a.~~ (1) Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the uniform commercial code, except that the notice of lien to which the certificate relates shall not be removed from the files.

~~b.~~ (2) Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the uniform commercial code.

~~6~~ c. If a refiled notice of federal ~~tax~~ lien referred to in ~~subsection 4~~ paragraph "a" or any of the certificates or notices referred to in ~~subsection 5~~ paragraph "b" is presented for ~~filing~~ recording with a recorder, the recorder shall permanently attach the refiled notice or the certificate to the original notice of lien and shall enter the refiled notice or the certificate with the date of ~~filing~~ recording in an alphabetical ~~federal tax lien~~ index ~~on the line where the original notice of lien is entered~~.

~~7~~ d. Upon request of a person, the filing or recording officer shall issue a certificate showing whether there is on file or recorded, on the date and hour stated, a notice of federal ~~tax~~ lien or certificate or notice affecting the lien, filed or recorded on or after July 1, ~~1970~~ 1989, naming a particular person, and if a notice or certificate is on file or recorded, giving the date and hour of filing or recording of each notice or certificate. The fee for a certificate is six dollars. Upon request the filing or recording 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.

~~8~~ 4. The fee for filing or recording, and indexing each notice of lien or certificate or notice affecting the ~~tax~~ lien shall be as provided in section 331.604. The officer shall bill the internal revenue service or any other appropriate federal agency on a monthly basis for fees for documents filed or recorded by ~~them~~ it.

~~9~~ 5. Filing or recording officers with whom notices of federal tax liens, certificates, and notices affecting the liens have been filed or recorded on or before July 1, 1970, shall, after that date, continue to maintain a file labeled "federal tax lien notices filed prior to July 1, 1970" containing notices and certificates filed in numerical order of receipt. If a notice of lien was filed or

recorded on or before July 1, 1970, a certificate or notice affecting the lien shall be filed or recorded in the same office.

6. Filing or recording officers with whom notices of federal tax liens, certificates, and notices affecting the liens have been filed or recorded after July 1, 1970, and before July 1, 1989, shall, after July 1, 1989, continue to maintain a file labeled "federal tax lien notices filed after July 1, 1970 and before July 1, 1989" containing notices and certificates filed or recorded in numerical order of receipt. If a notice of lien was filed or recorded on or after July 1, 1970, and before July 1, 1989, a certificate or notice affecting the lien shall be filed or recorded in the same office.

~~10~~ 7. This section may be cited as the uniform federal ~~tax~~ lien registration Act.

Approved April 20, 1989

CHAPTER 37

MEDICAL ASSISTANCE ADVISORY COUNCIL MEMBERS

S.F. 402

AN ACT relating to the membership of the medical assistance advisory council.

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

Section 1. Section 249A.4, subsection 8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Shall advise and consult at least semiannually with a council composed of the president, or the president's representative who is a member of the professional organization represented by the president, of the Iowa medical society, the Iowa osteopathic medical association, the Iowa state dental society, the Iowa state nurses association, the Iowa pharmacists association, the Iowa podiatry society, the Iowa optometric association, the community mental health centers association of Iowa, the Iowa psychological association, the Iowa hospital association, the Iowa osteopathic hospital association, opticians' association of Iowa, Inc., the Iowa hearing aid society, the Iowa speech, language, and hearing association, the Iowa health care association, the Iowa association for home care, the Iowa council of health care centers, and the Iowa association of homes for the aging, together with one person designated by the Iowa state board of chiropractic examiners; one state representative from each of the two major political parties appointed by the speaker of the house, one state senator from each of the two major political parties appointed by the majority leader of the senate, each for a term of two years; the president or the president's representative of the association for retarded citizens; four public representatives, appointed by the governor for staggered terms of two years each, none of whom shall be members of, or practitioners of, or have a pecuniary interest in any of the professions or businesses represented by any of the several professional groups and associations specifically represented on the council under this subsection, and at least one of whom shall be a recipient of medical assistance; the director of public health, or a representative designated by the director, and the dean of the college of medicine, university of Iowa, or a representative designated by the dean.

Approved April 20, 1989

CHAPTER 38

ASBESTOS PROJECT REGULATIONS

S.F. 435

AN ACT relating to state licensing of asbestos professionals who perform work in schools.

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

Section 1. Section 88B.1, subsections 4 and 6, Code 1989, are amended to read as follows:

4. "~~Certificate~~ License" means an authorization issued by the division permitting an individual person, including a supervisor or contractor, to work on an asbestos project, to inspect buildings for asbestos-containing building materials, to develop management plans, and to act as an asbestos project designer.

6. "~~License~~ Permit" means an authorization issued by the division permitting a business entity to remove or encapsulate asbestos.

Sec. 2. Section 88B.2, Code 1989, is amended to read as follows:

88B.2 ~~LICENSE~~ PERMIT REQUIRED – EXCEPTIONS.

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

Sec. 3. Section 88B.4, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

88B.4 QUALIFICATION FOR PERMIT.

To qualify for a permit, a business entity shall submit an application to the division in the form required by the division and shall pay the fee prescribed by the division.

Sec. 4. Section 88B.5, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. The application shall include information prescribed by rules adopted by the commissioner.

Sec. 5. Section 88B.6, Code 1989, is amended to read as follows:

88B.6 TERM AND RENEWAL.

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

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

a. The date on which the current ~~license~~ permit expires.

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

c. The amount of the renewal fee.

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

a. Otherwise is entitled to ~~be licensed~~ a permit.

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

c. Pays the renewal fee prescribed by the division.

Sec. 6. Section 88B.7, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

88B.7 RECORDS REQUIRED.

The permittee shall keep a record of each asbestos project it performs and shall make the record available to the division or department of education at any reasonable time. Records shall contain information and be kept for a time prescribed by the division in rules adopted by the division.

Sec. 7. Section 88B.8, Code 1989, is amended to read as follows:

88B.8 REPRIMANDS, SUSPENSIONS AND REVOCATIONS.

1. The division may reprimand a permittee or licensee or suspend or revoke a permit or license, in accordance with chapter 17A, if the permittee or licensee:

~~1~~ a. Fraudulently or deceptively obtains or attempts to obtain a permit or license.

~~2~~ b. Fails at any time to meet the qualifications for a permit or license or to comply with a rule adopted by the commissioner under this chapter.

~~3~~ c. Fails to meet any applicable federal or state standard for removal or encapsulation of asbestos.

~~4~~ d. Employs or permits an ~~uncertified~~ unlicensed person to work on an asbestos project.

2. The department of education may reprimand a training institution or suspend or revoke a training institution authorization in accordance with chapter 17A, if the training institution:

a. Fraudulently or deceptively obtains or attempts to obtain a training authorization.

b. Fails at any time to meet the qualifications for authorization or to comply with a rule adopted by the director of the department of education under this chapter.

c. Fails to meet any applicable federal or state standard for training.

Sec. 8. Section 88B.9, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The division shall not approve any waivers on work conducted at a school unless the request is accompanied by a recommendation from an asbestos project designer.

Sec. 9. Section 88B.10, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

88B.10 LICENSING OF ASBESTOS WORKERS.

1. An individual person is not eligible to be a contractor or supervisor, or to work on an asbestos project unless the person holds a license issued by the division.

2. An individual person is not eligible to be an inspector for asbestos-containing building material in a school unless the person holds a license issued by the division.

3. An individual person is not eligible to be an asbestos management planner for a school unless the person holds a license issued by the division.

4. An individual person is not eligible to be an asbestos project designer for a school unless the person holds a license issued by the division.

5. To qualify for a license, the applicant must have successfully completed training as established by the department of education, paid a fee, and met other requirements as specified by the division by rule.

6. To qualify for a license as an asbestos abatement worker, supervisor, or contractor, the applicant must have been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator.

7. A license is valid for one year and may be renewed by providing information as required in subsections 5 and 6.

8. The division may suspend or revoke a license, in accordance with chapter 17A, for failure of the licensee to comply with applicable rules.

Sec. 10. NEW SECTION. 88B.13 APPROVAL OF TRAINING COURSES.

The department of education shall approve training courses and shall adopt rules pursuant to chapter 17A on the qualifications for training courses, fees to be charged for approval of

training courses by the department of education, and testing of applicants to verify successful completion of training courses.

Approved April 20, 1989

CHAPTER 39

CITY AND COUNTY AMENDMENTS

S.F. 500

AN ACT relating to the powers and duties of certain local governmental bodies, by providing for the use of ordinances in certain instances, by changing procedures for certain city elections, by requiring written veto messages, by changing filing procedures for a special assessment, and by specifying the duties of city finance offices.

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

Section 1. Section 103A.10, subsection 2, paragraph b, Code 1989, is amended to read as follows:

b. In each governmental subdivision where the governing body has ~~adopted~~ a ~~resolution~~ enacted an ordinance accepting the application of the code.

Sec. 2. Section 103A.12, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

The state building code ~~shall be~~ is applicable in each governmental subdivision of the state in which the governing body has ~~adopted or~~ enacted a ~~resolution or~~ an ordinance accepting the applicability of the code and ~~shall have~~ has filed a certified copy of the ~~resolution or~~ ordinance in the office of the commissioner and in the office of the secretary of state. The state building code ~~shall become~~ becomes effective in the governmental subdivision upon the date fixed by the governmental subdivision ~~resolution or~~ ordinance, if the date is not more than six months after the date of adoption of the ~~resolution or~~ ordinance.

A governmental subdivision in which the state building code is applicable may by ~~resolution or~~ ordinance, at any time after one year has elapsed since the code became applicable, withdraw from the application of the code, if before the ~~resolution or~~ ordinance is voted upon, the local governing body holds a public hearing after giving not less than four nor more than twenty days' public notice, together with written notice to the commissioner of the time, place, and purpose of the hearing. A certified copy of the vote of the local governing body shall be transmitted within ten days after the vote is taken to the commissioner and to the secretary of state for filing. The ~~resolution or~~ ordinance ~~shall become~~ becomes effective at a time to be specified in it, which ~~shall~~ must be not less than one hundred eighty days after the date of adoption. Upon the effective date of the ~~resolution or~~ ordinance, the state building code ~~shall cease~~ ceases to apply to the governmental subdivision except that construction of ~~any~~ a building or structure pursuant to a permit previously issued ~~shall~~ is not ~~be~~ affected by the withdrawal.

Sec. 3. NEW SECTION. 103A.25 PRIOR RESOLUTIONS.

A resolution accepting the state building code, which was adopted before the effective date of this Act, is an ordinance for the purpose of this chapter.

Sec. 4. Section 327G.32, unnumbered paragraph 3, Code 1989, is amended to read as follows:

~~This~~ Other portions of this section notwithstanding, a political subdivision may pass a ~~resolution or~~ an ordinance regulating the length of time a specific crossing may be blocked if the political subdivision demonstrates that ~~a resolution or~~ an ordinance is necessary for public

safety or convenience. If ~~a resolution or~~ an ordinance is passed the political subdivision shall, within thirty days of the effective date of the ~~resolution or~~ ordinance, notify the department and the railroad corporation using the crossing affected by the ~~resolution or~~ ordinance. The ~~resolution or~~ ordinance ~~shall~~ does not become effective unless the department and the railroad corporation are notified within thirty days. The ~~resolution or~~ ordinance ~~shall become~~ becomes effective thirty days after notification unless a person files an objection to the ~~resolution or~~ ordinance with the department. If an objection is filed the department shall notify the department of inspections and appeals which shall hold a hearing. ~~The~~ After a hearing by the department of inspections and appeals, the state department of transportation may disapprove the ~~resolution or~~ ordinance if public safety or convenience does not require ~~a resolution or~~ the ordinance. The decision of the state department of transportation is final agency action. The ~~resolution or~~ ordinance approved by the political subdivision is ~~prima facie~~ prima facie evidence that the ~~resolution or~~ ordinance is adopted to preserve public safety or convenience.

Sec. 5. Section 327G.32, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A resolution regulating the length of time a specific crossing may be blocked, which was adopted before the effective date of this Act, is an ordinance for the purposes of this section.

Sec. 6. Section 372.2, subsections 1 and 2, Code 1989, are amended to read as follows:

1. Eligible electors of the city, equal in number to at least twenty-five percent of the persons who voted at the last regular city election, may petition the ~~mayor~~ council to ~~adopt~~ submit to the electors the question of adopting a different form of city government.

2. Within ~~one week~~ fifteen days after receiving a valid petition, the ~~mayor~~ council shall proclaim a special city election to be held within sixty days to determine whether the city shall change to a different form of government. The ~~mayor~~ council shall notify the county commissioner of elections to publish notice of the election and conduct the election pursuant to ~~the provisions of~~ chapters 39 to 53. The county commissioner of elections shall certify the results of the election to the ~~mayor~~ council.

Sec. 7. Section 372.2, subsection 5, paragraph b, Code 1989, is amended to read as follows:

b. The change of form does not alter any right or liability of the city in effect ~~at the time of the special election at which the form was adopted~~ when the new form takes effect.

Sec. 8. Section 372.9, subsection 3, Code 1989, is amended to read as follows:

3. The proposed home rule charter must be submitted at a special city election on a date selected by the mayor ~~after consulting regarding the date on which the election may most conveniently be held with the county commissioner of elections who will be responsible for conducting the election~~ and council in accordance with section 47.6. However, the date of the election must be not less than thirty nor more than sixty days after the last publication of the proposed home rule charter.

Sec. 9. Section 372.13, subsection 8, Code 1989, is amended to read as follows:

8. By ordinance, the council shall prescribe the compensation of the mayor, council members, and other elected city officers, but a change in the compensation of the mayor ~~shall~~ does not become effective during the term in which the change is adopted, and the council shall not adopt ~~such~~ an ordinance changing the compensation of the mayor, ~~or~~ council members, or other elected officers during the months of November and December ~~immediately following~~ in the year of a regular city election. A change in the compensation of council members ~~shall become~~ becomes effective for all council members at the beginning of the term of the council members elected at the election next following the change in compensation. Except as provided in section 362.5, an elected city officer ~~shall~~ is not entitled to receive any other compensation for any other city office or city employment during that officer's tenure in office, but may be reimbursed for actual expenses incurred. However, if the mayor pro tem performs the duties of the mayor during the mayor's absence or disability for a continuous period of

fifteen days or more, the mayor pro tem may be paid for that period ~~such~~ the compensation ~~as~~ determined by the council, based upon the mayor pro tem's performance of the mayor's duties and upon the compensation of the mayor.

Sec. 10. Section 380.6, subsection 2, Code 1989, is amended to read as follows:

2. If the mayor vetoes the measure, the mayor shall explain the reasons for the veto in a written message to the council at the time of the veto. Within thirty days after the mayor's veto, the council may pass the measure again by a vote of not less than two-thirds of the council members. If the mayor vetoes a measure and the council repasses the measure after the mayor's veto, a resolution becomes effective immediately upon repassage, and an ordinance or amendment becomes a law when published, unless a subsequent effective date is provided within the measure.

Sec. 11. Section 384.51, unnumbered paragraph 3, Code 1989, is amended to read as follows:

After adopting the resolution of necessity, the clerk shall certify to the county treasurer of each county in which the ~~city~~ assessed property is located, a copy of the resolution of necessity, the plat, and the schedule of assessments. In counties in which taxes are collected in two or more places, the resolution of necessity, the plat, and the schedule of assessments shall be certified to the office of county treasurer where the special assessments are collected. The county treasurer shall preserve the resolution, plat, and schedule as a part of the records of the office until the city certifies the final assessment schedule as provided in section 384.60 or certifies that the public improvement has been abandoned.

Sec. 12. Section 453.1, subsection 1, Code 1989, is amended to read as follows:

1. All funds held in the hands of the following officers or institutions shall be deposited in one or more depositories first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, and sheriff, by the board of supervisors; for the city treasurer or other designated financial officer of a city, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter 303B, by the regional board of library trustees; and for an electric power agency as defined in section 28F.2, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision or the designated financial officer of a city shall invest all funds not needed for current operating expenses in time certificates of deposit in approved depositories pursuant to this chapter or in investments permitted by section 452.10. The list of public depositories and the amounts severally deposited in the depositories are matters of public record. This subsection does not limit the definition of "public funds" contained in subsection 2.

Approved April 20, 1989

CHAPTER 40

DISTRICT COURT CLERKS' SALARIES

S.F. 397

AN ACT relating to salaries of the clerks of the district court.

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

Section 1. Section 602.1505, Code 1989, is amended to read as follows:

602.1505 DISTRICT COURT CLERK OFFICES — SALARY LIMITATION.

~~1.~~ The ~~chief judge of each judicial district~~ state court administrator shall set the salaries of the clerks of the district court ~~within the judicial district~~ in accordance with the pay plan established under section 602.1401 and within the funds appropriated by the general assembly for that purpose. ~~A clerk of the district court shall not receive a salary in excess of the highest salary paid to the county auditor, the county treasurer, or the county recorder in the county in which the clerk serves.~~

~~2. The annual salary of a deputy to a clerk of the district court shall not exceed eighty percent of the annual salary of the clerk of the district court.~~

~~3. A clerk of the district court shall set the salaries of the deputy clerks and employees of that office, subject to subsection 2 and to the approval of the chief judge of the judicial district.~~

Approved April 20, 1989

CHAPTER 41

CRIME OF HAZING STUDENTS

H.F. 13

AN ACT relating to conduct which endangers the physical health or safety of a student and which is a condition of association with a student group or organization, and providing penalties.

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

Section 1. NEW SECTION. 708.10 HAZING.

1. a. A person commits an act of hazing when the person intentionally or recklessly engages in any act or acts involving forced activity which endanger the physical health or safety of a student for the purpose of initiation or admission into, or affiliation with, any organization operating in connection with a school, college, or university. Prohibited acts include, but are not limited to, any brutality of a physical nature such as whipping, forced confinement, or any other forced activity which endangers the physical health or safety of the student.

b. For purposes of this section, "forced activity" means any activity which is a condition of initiation or admission into, or affiliation with, an organization, regardless of a student's willingness to participate in the activity.

2. A person who commits an act of hazing is guilty of a simple misdemeanor.

3. A person who commits an act of hazing which causes serious bodily injury to another is guilty of a serious misdemeanor.

Approved April 25, 1989

CHAPTER 42

LEGALIZING CONSTRUCTION CONTRACT OF BELLEVUE

H.F. 631

AN ACT to legalize proceedings of the City Council of the City of Bellevue relating to the letting of a construction contract.

WHEREAS, the City Council of the City of Bellevue undertook the construction of certain improvements to Second Street in the city in 1988; and

WHEREAS, the City Council published a notice to bidders, pursuant to section 384.96, on May 5 and May 19, 1988, received sealed bids from prospective contractors, and subsequently awarded a contract, dated May 24, 1988, to the lowest responsible bidder, Horsfield Construction, Inc.; and

WHEREAS, after construction work had begun, it was determined that a notice of public hearing on the proposed plans, specifications, form of contract, and estimate of cost had not been published in accordance with section 384.102; and

WHEREAS, doubts have arisen as to the validity of the contract dated May 24, 1988, between the City of Bellevue and Horsfield Construction, Inc., and it is deemed advisable to remove forever such doubts as to the validity of this contract; NOW, THEREFORE,

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

Section 1. All proceedings taken by the City Council of the City of Bellevue pertaining to the letting of a contract dated May 24, 1988, between the City of Bellevue and Horsfield Construction, Inc., for the construction of improvements to Second Street in the City of Bellevue are hereby legalized and the contract let constitutes a legal and binding agreement between the City of Bellevue and Horsfield Construction, Inc.

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

Approved April 25, 1989

CHAPTER 43

PODIATRY LICENSE REQUIREMENT

H.F. 717

AN ACT relating to requirements for a license to practice podiatry by requiring successful completion of a residency or preceptorship for applicants graduating from podiatric college in 1995 or thereafter.

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

Section 1. Section 149.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Have successfully completed a one-year residency or preceptorship approved by the board of podiatry examiners. This subsection applies to all applicants who graduate from podiatric college on or after January 1, 1995.

Approved April 25, 1989

CHAPTER 44

PLASTIC BEVERAGE CAN PROHIBITION
S.F. 83

AN ACT relating to the prohibition of plastic beverage cans, and providing a penalty.

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

Section 1. NEW SECTION. 455C.15 PLASTIC CANS PROHIBITED.

1. A person shall not manufacture, offer for sale, or sell any single-serving beverage container which is a plastic can nor offer for sale or sell any beverage packaged in a single-serving plastic can. For the purposes of this section, a "plastic can" means a beverage container which, in addition to the closure mechanism, is composed of plastic and metal.

2. A person violating this section is guilty of a serious misdemeanor.

Approved April 25, 1989

CHAPTER 45

MILK PRODUCTS WHOLESALER PERMIT
S.F. 317

AN ACT relating to the sale of milk products, by providing for the issuance of permits.

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

Section 1. Section 192A.30, Code 1989, is amended to read as follows:

192A.30 PERMIT FEES.

For the purpose of administering and enforcing ~~the provisions of~~ this chapter, ~~each~~ a processor or a person purchasing milk products from a processor for wholesale distribution shall obtain a permit, as provided by departmental rule, before milk products are sold by the person or wholesale purchaser in this state. The processor or wholesale purchaser shall pay to the secretary a permit ~~fees~~ fee in an amount~~, as from time to time~~ set by the secretary, not to exceed five mills per hundredweight on milk processed into dairy products as defined in section 192A.1, and sold within the state of Iowa~~, except~~. However, the permit fee for the sale of ice cream ~~and its~~ or an additive ~~variants and nonmilk fat imitations which amount~~ variant of ice cream or nonmilk-fat imitation shall not ~~be in excess of~~ exceed three mills per gallon ~~thereof~~. Products upon which fees have been paid ~~shall be~~ are exempt from further fees in successive transactions. The fees for each month thus computed shall be paid ~~by the dealer~~ to the secretary on or before the twenty-fifth day of the following month.

Approved April 25, 1989

CHAPTER 46

PROPERTY OF DECEASED INMATE OF CORRECTIONAL INSTITUTION

S.F. 339

AN ACT providing for delivering of deceased inmate's property to a designated person by the department of corrections.

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

Section 1. Section 246.508, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Upon the death of an inmate, the superintendent of the institution shall immediately take possession of the decedent's property left at the institution and shall deliver the property to the ~~duly appointed representative of the deceased~~ person designated by the inmate to be contacted in case of an emergency. However, if ~~administration is not granted within one year from the date of the death of the decedent and the value of the estate of decedent is so small as to make the granting of administration inadvisable, then delivery of the money and other~~ the property left by the decedent cannot be delivered to the designated person, delivery may be made to the surviving spouse or an heir of the decedent. If ~~administration is not granted within one year from the death of decedent~~ the decedent's property cannot be delivered to the designated person and no surviving spouse or heir is known, the superintendent shall ~~convert~~ deliver the property ~~into money~~ to the treasurer of state for disposition as unclaimed property pursuant to chapter 556, after deducting expenses incurred in disposing of the decedent's body or property.

Approved April 25, 1989

CHAPTER 47

THEFT OF A VETERAN'S GRAVE MARKER

S.F. 360

AN ACT prohibiting the theft of a veteran's grave marker, and providing a penalty.

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

Section 1. NEW SECTION. 714.7A VETERANS' GRAVE MARKERS.

A person commits a simple misdemeanor when the person takes possession or control of a veteran's grave marker which was provided pursuant to section 250.16, with the intention to deprive the owner of the marker, regardless of the value of the marker. The person shall also be liable for restitution in an amount equal to three times the cost of the marker to be paid to the county commission of veteran affairs or other person who furnished the marker.

Approved April 25, 1989

CHAPTER 48

ADVERTISING A LOTTERY OR OTHER ACTIVITY
H.F. 201

AN ACT relating to the regulation of lotteries, lottery tickets, and other games of chance, or contest, by amending provisions relating to advertising, and providing an effective date.

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

Section 1. Section 725.12, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If any person make or aid in making or establishing, or advertise or make public a scheme for a lottery; or advertise, offer for sale, sell, negotiate, dispose of, purchase, or receive a ticket or part of a ticket in a lottery or number of a ticket in a lottery; or have in the person's possession a ticket, part of a ticket, or paper purporting to be the number of a ticket of a lottery, with intent to sell or dispose of the ticket, part of a ticket, or paper on the person's own account or as the agent of another, the person commits a serious misdemeanor. However, this section does not prohibit the advertising of a lottery or possession by a person of a lottery ticket, part of a ticket, or number of a lottery ticket from a lottery legally operated or permitted under the laws of another jurisdiction. This section also does not prohibit the advertising of a lottery, game of chance, contest, or activity conducted by a not-for-profit organization that would qualify as tax exempt under section 501 of the Internal Revenue Code, as defined in section 422.3, or conducted as a promotional activity by a commercial organization which is clearly occasional and ancillary to the primary business of that organization.

Sec. 2. This Act takes effect May 1, 1990.

Approved April 26, 1989

CHAPTER 49

STATE BANK INVESTMENTS
H.F. 575

AN ACT relating to the investment authority of state banks.

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

Section 1. Section 524.901, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 7. a. A state bank may invest in real estate as set forth in paragraph "b", subject to the following limitations:

(1) The investment shall be approved by the superintendent.

(2) The investment shall be for economic or community development purposes only.

(3) The total aggregate amount invested shall not exceed twenty percent of the capital and surplus of the state bank.

(4) The real estate purchased shall not be agricultural-zoned land.

b. The state bank may acquire real estate as follows:

(1) At a sheriff's sale or any other sale of real estate against which the state bank has a legal or equitable lien or claim.

(2) In satisfaction of any obligation to the state bank.

(3) Upon contracts for sale or improvement and sale, at the cost of the land and improvements, if the contracts are executed concurrently or prior to the purchase. However, the transaction is subject to the limitations on real estate loans.

(4) In exchange for real estate owned by the state bank.

(5) In connection with salvaging the value of property owned by the state bank.

(6) For the purpose of producing income through the improvement or erection of a building and the sale or rental of the property.

NEW SUBSECTION. 8. If approved by the superintendent, a state bank may invest in a community development corporation. A state bank shall have the same authority to invest in a community development corporation as does a federal bank pursuant to Title XII of the United States Code.

Approved April 26, 1989

CHAPTER 50

NOTARIES PUBLIC

H.F. 693

AN ACT relating to notaries public and other notarial officers and notarial acts, and providing an applicability date and an effective date.

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

Section 1. NEW SECTION. 77A.1 TITLE.

This chapter shall be known as the "Iowa Law on Notarial Acts".

Sec. 2. NEW SECTION. 77A.2 DEFINITIONS.

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

1. "Notarial act" means any act that a notary public of this state is authorized to perform, and includes, but is not limited to, taking an acknowledgment, administering an oath or affirmation, taking verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

2. "Acknowledgment" means a declaration by a person that the person has executed an instrument for the purposes stated in the document and, if the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified in the document.

3. "Verification upon oath or affirmation" means a declaration that a statement is true, made by a person upon oath or affirmation.

4. "Representative capacity" means any of the following:

a. A representative on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative.

b. A public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument.

c. An attorney in fact for a principal.

d. Any other capacity as an authorized representative of another.

5. "Notarial officer" means a notary public or other officer authorized to perform notarial acts.

Sec. 3. NEW SECTION. 77A.3 APPOINTMENT — REVOCATION.

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

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

3. The secretary of state may appoint as a notary public a resident of a state bordering Iowa

if that person's place of work or business is within the state of Iowa. If a notary who is a resident of a state bordering Iowa ceases to work or maintain a place of business in Iowa, the notary commission expires.

Sec. 4. NEW SECTION. 77A.4 TERM OF COMMISSION.

The term of a notary public 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. 5. NEW SECTION. 77A.5 NOTICE OF EXPIRATION OF TERM.

The secretary of state shall, two months preceding the expiration of a commission, notify the notary public of the expiration date and furnish a blank application for reappointment.

Sec. 6. NEW SECTION. 77A.6 APPLICATION – FEE.

1. Before a commission is delivered to a person appointed as a notary public, the person shall:

a. Complete an application for appointment as a notary public on a form prescribed by the secretary of state.

b. Remit the sum of thirty dollars to the secretary of state. However, persons appointed as notaries public under section 77A.3, subsection 2, are not subject to the fee imposed by this subsection.

2. When the secretary of state determines that the requirements of this section are satisfied, the secretary shall execute and deliver a certificate of commission to the person appointed.

3. A notary public may procure a seal or stamp for use in performing notarial acts. A seal or stamp used by a notary public in the performance of notarial acts shall contain the words "Notarial Seal" and the word "Iowa". The stamp may include the name of the notary public. However, a notarial act is not invalid if a seal or stamp used in the performance of a notarial act fails to meet the requirements of this subsection. This subsection does not require the use of a seal or stamp in the performance of a notarial act.

Sec. 7. NEW SECTION. 77A.7 REVOCATION – NOTICE AND HEARING – RULES.

If the commission of a person appointed notary public is revoked by the secretary of state, the secretary shall immediately notify 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. 8. NEW SECTION. 77A.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. 9. NEW SECTION. 77A.9 NOTARIAL ACTS.

1. In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the acknowledgment is the person whose true signature is on the instrument.

2. In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

3. In witnessing or attesting a signature, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person

appearing before the officer and named on the instrument.

4. In certifying or attesting a copy of a document or other item, the notarial officer must determine that the copy is a full, true, and accurate transcription or reproduction of that which was copied.

5. In making or noting a protest of a negotiable instrument, the notarial officer must determine the matters set forth in section 554.3509.

6. A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document in any of the following circumstances:

a. The person is personally known to the notarial officer.

b. The person is identified upon the oath or affirmation of a credible witness personally known to the notarial officer.

c. The person is identified on the basis of identification documents.

Sec. 10. NEW SECTION. 77A.10 NOTARIAL ACTS IN THIS STATE.

1. A notarial act may be performed within this state by the following persons:

a. A notary public appointed by the secretary of state pursuant to section 77A.3.

b. A judge, clerk, or deputy clerk of a court of this state.

c. A person authorized by the law of this state to administer oaths.

d. Any other person authorized to perform the specific act by the law of this state.

2. Notarial acts performed within this state under federal authority have the same effect as if performed by a notarial officer of this state.

3. The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

Sec. 11. NEW SECTION. 77A.11 CERTIFICATION BY SECRETARY OF STATE.

The secretary of state shall collect the following fees, for use in offsetting the cost of administering this chapter:

1. For furnishing a certified copy of any document, instrument, or paper relating to a notary public, one dollar per page and five dollars for the certificate.

2. For furnishing an uncertified copy of any document, instrument, or paper relating to a notary public, one dollar per page.

3. For certifying, under seal of the secretary of state, a statement as to the status of a notary commission which would not appear from a certified copy of documents on file in the secretary of state's office, five dollars.

Sec. 12. NEW SECTION. 77A.12 POWERS OF THE SECRETARY OF STATE.

The secretary of state has the power and authority reasonably necessary to administer this chapter efficiently and to perform the duties imposed upon the secretary of state. This power and authority includes rulemaking authority to provide for reciprocity in recognizing notarial acts performed under any other jurisdiction.

Sec. 13. Section 602.8102, subsection 21, Code 1989, is amended by striking the subsection.

Sec. 14. Chapter 77, Code 1989, is repealed.

Sec. 15. The secretary of state is given the authority until June 30, 1990, to extend the commissions of notaries public for a period not to exceed nine months, for the purpose of staggering commission expiration dates in a manner to more evenly distribute the notary renewal process.

Sec. 16. This Act, being deemed of immediate importance, takes effect upon enactment and applies to notarial acts performed on or after its effective date.

Approved April 26, 1989

CHAPTER 51

STATE PUBLIC DEFENDER AND APPELLATE DEFENDER
H.F. 699

AN ACT relating to the state public defender and the appointment of a state appellate defender.

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

Section 1. Section 13B.4, Code 1989, is amended to read as follows:

13B.4 ~~JURISDICTION~~ DUTIES OF STATE PUBLIC DEFENDER.

1. The state public defender shall ~~represent~~ coordinate the provision of legal representation of indigents under arrest or charged with a crime, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ~~appointed~~ ordered to do so by the district court in which the judgment or order was issued, and may ~~represent~~ provide for the representation of 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 state public defender to represent the indigent on appeal or on appeal in postconviction proceedings.~~ The state public defender may represent an indigent under arrest or charged with a crime at the discretion of the state public defender or upon the request of a local public defender.

2. The state public defender may contract with persons admitted to practice law in this state for the provision of legal services to indigents where there is no local public defender office in the area.

Sec. 2. NEW SECTION. 13B.11 STATE APPELLATE DEFENDER.

The state public defender shall appoint a state appellate defender who 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 when required to do so by the state public defender, and shall not engage in the private practice of law.

Approved April 26, 1989

CHAPTER 52

LONG-TERM CARE COORDINATING UNIT MEMBERSHIP
H.F. 270

AN ACT relating to the membership of the long-term care coordinating unit within the department of elder affairs.

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

Section 1. Section 249D.58, subsection 1, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. The director of the department of inspections and appeals.

NEW PARAGRAPH. e. Two members appointed by the governor.

Approved April 26, 1989

CHAPTER 53

RECREATIONAL LAKE DISTRICT PETITIONERS

H.F. 319

AN ACT relating to the establishment of benefited recreational lake districts and providing an effective date.

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

Section 1. Section 357E.3, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The supervisors shall, on the petition of twenty-five percent of the ~~resident~~ property owners ~~in~~ of 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:

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

Approved April 26, 1989

CHAPTER 54

DEAF SERVICES DIVISION OFFICE SPACE

H.F. 399

AN ACT relating to restrictions on the power of the division of deaf services of the department of human rights to obtain office space for utilization in carrying out service projects for deaf persons, and providing an effective date.

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

Section 1. Section 601K.114, subsection 2, Code 1989, is amended to read as follows:

2. Obtain without additional cost to the state available office space in public and private agencies which service providers may utilize in carrying out service projects for deaf persons. However, if space is not available in a specific service area without additional cost to the state, the commission may obtain other office space which is colocated with public or private agencies. The space shall be obtained at the lowest cost available and the terms of the lease must be approved by the director of general services.

Sec. 2. This Act, being deemed of immediate importance, is effective upon enactment.

Approved April 26, 1989

CHAPTER 55

COUNTY ZONING VARIANCE REVIEW
H.F. 420

AN ACT authorizing the board of supervisors to review and remand a decision of the board of adjustment.

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

Section 1. Section 358A.10, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board of supervisors may provide for its review of variances granted by the board of adjustment before their effective date. The board of supervisors may remand a decision to grant a variance to the board of adjustment for further study. If remanded, the effective date of the variance is delayed for thirty days from the date of the remand.

Approved April 26, 1989

CHAPTER 56

ACCOUNTANCY EXAMINING BOARD
H.F. 698

AN ACT relating to the accountancy examining board, including its membership, the use of the accountancy practitioner advisory council, and requirements for licensure as an accounting practitioner.

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

Section 1. Section 116.3, subsection 1, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

An accountancy examining board is created within the professional licensing and regulation division of the department of commerce. The board consists of eight members, five of whom shall be certified public accountants, one of whom shall be ~~from the~~ a licensed accounting practitioner ~~advisory council~~, and two of whom shall not be certified public accountants or licensed accounting practitioners and ~~who~~ shall represent the general public. A certified or licensed member shall be actively engaged in practice as a certified public accountant or accounting practitioner and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. Professional associations or societies composed of certified public accountants or licensed accounting practitioners may recommend the names of potential board members 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 certified public accountants or licensed accounting practitioners. Members, ~~except the member from the accounting practitioner advisory council,~~ shall be appointed by the governor to staggered terms, subject to confirmation by the senate. ~~The board member from the accounting practitioner advisory council shall serve a one year term and must be the most senior member of the accounting practitioner advisory council who has not served a term on the board in the previous two years.~~

As used in this chapter, "board" means the accountancy examining board established by this section. Upon the expiration of each ~~of the terms and of each succeeding~~ term, ~~except that of the member from the accounting practitioner advisory council,~~ a successor shall be

appointed for a term of three years beginning and ending as provided in section 69.19. Members, ~~except the member from the accounting practitioner advisory council,~~ shall serve a maximum of three terms or nine years, whichever is less. Vacancies occurring in the membership of the board for any cause shall be filled in the same manner as original appointments are made by the governor, for the unexpired term and subject to senate confirmation. The public members of the board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

Sec. 2. Section 116.11, unnumbered paragraph 3, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

The examination shall be prescribed by the board and shall be designed and given in a manner as to fairly test the applicant's knowledge of accounting. The examination shall not include questions relating to the subject of auditing.

Sec. 3. Section 116.9, Code 1989, is repealed.

Sec. 4. The term of office of the member of the accountancy board who represents the advisory council shall expire June 30, 1989. The term of office of the member of the board who is a licensed accounting practitioner shall commence July 1, 1989, and expire April 30, 1992.

Approved April 26, 1989

CHAPTER 57

COMMON CARRIER FILINGS

S.F. 169

AN ACT relating to the rate filing requirements of common carriers.

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

Section 1. Section 327D.66, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Every common carrier <u>except railway corporations</u>, subject to the provisions of this chapter shall file with the department and shall print schedules showing the rates for the transportation within this state of persons and property from each point upon its route to all other points on the route and from all points upon its route to all points upon every other route leased, operated, or controlled by it; and from each point on its route or upon any route leased, operated, or controlled by it to all points upon the route of any other common carrier, whenever a through route and a joint rate has been established or ordered between any two points. If no joint rate over a through route has been established, the schedules of the several carriers in the through route shall show the separately established rates, applicable to the through transportation.

Sec. 2. Section 327D.66, Code 1989, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. Railway corporations shall maintain a copy of schedules and rates on file in the office of the carrier readily accessible to and for inspection by the public.

Sec. 3. Section 327D.72, Code 1989, is amended to read as follows:

327D.72 INTERSTATE COMMERCE SCHEDULES.

When schedules and classifications required by the interstate commerce commission contain in whole or in part the information required by the provisions of this chapter, the posting and filing of a copy of such schedules and classifications with the ~~department~~ interstate commerce commission shall be deemed a compliance with the filing requirements of this chapter insofar as such schedules and classifications contain the information required by this chapter, and any additional or different information may be posted and filed in a supplementary schedule.

Approved April 26, 1989

CHAPTER 58

UTILITIES BOARD REJECTION OF APPLICATIONS

S.F. 225

AN ACT allowing the utilities board to reject an application for new or changed rates, charges, schedules, or regulations by a public utility without a hearing in certain circumstances.

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

Section 1. Section 476.6, subsection 7, Code 1989, is amended to read as follows:

7. HEARING SET. After the filing of an application for new or changed rates, charges, schedules, or regulations by a public utility subject to rate regulation, the board, prior to the expiration of thirty days after the filing date, shall docket the case as a formal proceeding and set the case for hearing unless the new or changed rates, charges, schedules, or regulations are approved by the board. However, if an application presents no material issue of fact subject to dispute, and the board determines that the application violates a relevant statute, or is not in substantial compliance with a board rule lawfully adopted pursuant to chapter 17A, the application may be rejected by the board without prejudice and without a hearing, provided that the board issues a written order setting forth all of its reasons for rejecting the application. In the case of a gas public utility having less than two thousand customers, the board shall docket a case as a formal proceeding and set the case for hearing as provided in section 476.1C. In the case of a rural electric cooperative, the board may docket the case as a formal proceeding and set the case for hearing prior to the proposed effective date of the tariff. The board shall give notice of formal proceedings as it deems appropriate. The docketing of a case as a formal proceeding suspends the effective date of the new or changed rates, charges, schedules, or regulations until the rates, charges, schedules, or regulations are approved by the board, except as provided in subsection 13.

Approved April 26, 1989

CHAPTER 59

UTILITIES BOARD FORMAL PROCEEDINGS

S.F. 229

AN ACT allowing a complainant or public utility to petition the utilities board to initiate a formal proceeding.

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

Section 1. Section 476.3, subsection 1, Code 1989, is amended to read as follows:

1. A public utility shall furnish reasonably adequate service at rates and charges in accordance with tariffs filed with the board. When there is filed with the board by any person or body politic, or filed by the board upon its own motion, a written complaint requesting the board to determine the reasonableness of the rates, charges, schedules, service, regulations, or anything done or omitted to be done by a public utility subject to this chapter in contravention of this chapter, the written complaint shall be forwarded by the board to the public utility, which shall be called upon to satisfy the complaint or to answer it in writing within a reasonable time to be specified by the board. Copies of the written complaint forwarded by the board to the public utility and copies of all correspondence from the public utility in response to the complaint shall be provided by the board in an expeditious manner to the consumer advocate. If the board determines the public utility's response is inadequate and there appears to be any reasonable ground for investigating the complaint, the board shall promptly initiate a formal proceeding. If the consumer advocate determines the public utility's response to the complaint is inadequate, the consumer advocate may file a petition with the board which shall promptly initiate a formal proceeding if the board determines that there is any reasonable ground for investigating the complaint. The complainant or the public utility also may petition the board to initiate a formal proceeding which petition shall be granted if the board determines that there is any reasonable ground for investigating the complaint. The formal proceeding may be initiated at any time by the board on its own motion. If a proceeding is initiated upon petition filed by the consumer advocate, complainant, or the public utility, or upon the board's own motion, the board shall set the case for hearing and give notice as it deems appropriate. When the board, after a hearing held after reasonable notice, finds a public utility's rates, charges, schedules, service, or regulations are unjust, unreasonable, discriminatory, or otherwise in violation of any provision of law, the board shall determine just, reasonable, and nondiscriminatory rates, charges, schedules, service, or regulations to be observed and enforced.

Approved April 26, 1989

CHAPTER 60

INDUSTRIAL SERVICES PERSONNEL AND DUTIES

S.F. 444

AN ACT relating to the industrial services division of the department of employment services, revising provisions governing deputy industrial commissioners, expanding provisions governing settlements in workers' compensation cases, and providing properly related matters.

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

Section 1. Section 19A.3, subsection 21, Code 1989, is amended to read as follows:

21. ~~A chief~~ Chief deputy industrial ~~commissioner~~ commissioners.

Sec. 2. Section 85.35, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A substantial portion of the claimed disability is related to physical or mental conditions other than those caused by the injury.

Sec. 3. Section 86.2, Code 1989, is amended to read as follows:

86.2 APPOINTMENT OF DEPUTIES.

The commissioner may appoint: ~~deputy~~

1. Chief deputy industrial commissioners for whose acts the commissioner is responsible, who are exempt from the merit system provisions of chapter 19A, and who shall serve at the pleasure of the commissioner.

2. Deputy industrial commissioners for whose acts the commissioner ~~shall be~~ is responsible and who shall serve ~~during~~ at the pleasure of the commissioner~~, and all such~~.

All chief deputies and deputies must be lawyers admitted to practice in this state.

Approved April 26, 1989

CHAPTER 61

APPEALS FROM PURCHASING DECISIONS

S.F. 482

AN ACT relating to the appeal process for bidders aggrieved by awards of the purchasing division of the department of general services, and providing properly related matters.

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

Section 1. Section 18.7, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

18.7 APPEAL.

A bidder whose bid is timely filed, and who is aggrieved by the award of the purchasing division of the department, may appeal the decision to the director by filing a written appeal stating the grounds for appeal, and delivering the appeal to the department within five days after receipt of the "notice of intent to award", exclusive of Saturdays, Sundays, and legal holidays. The director shall conduct a hearing and determine the appeal within twenty days after the appeal is filed. The decision of the director is final.

Disputes arising between the department of corrections and a purchasing department or agency over the procurement of products from Iowa state industries as described in section 246.808 shall be referred to the director. The decision of the director is final unless a written appeal is filed with the executive council within five days of receipt of the decision of the director, excluding Saturdays, Sundays, and legal holidays. If an appeal is filed, the executive council shall hear and determine the appeal within thirty days. The decision of the executive council is final.

Approved April 26, 1989

CHAPTER 62

JAILER TRAINING

S.F. 76

AN ACT providing for jailer training programs to be administered by the Iowa law enforcement academy.

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

Section 1. Section 80B.11, subsection 1, Code 1989, is amended to read as follows:

1. Minimum entrance requirements, ~~minimum qualifications for instructors,~~ course of study, attendance requirements, and equipment and facilities required at approved law enforcement training schools. Minimum age requirements for entrance to approved law enforcement training schools shall be eighteen years of age.

Sec. 2. Section 80B.11, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Minimum qualifications for instructors in law enforcement and jailer training schools.

Sec. 3. NEW SECTION. 80B.11A JAILER TRAINING STANDARDS.

The director of the academy, subject to the approval of the council, and in consultation with the Iowa department of corrections, Iowa state sheriffs' and deputies' association, and the Iowa association of chiefs of police and peace officers, shall adopt rules in accordance with this chapter and chapter 17A establishing minimum standards for training of jailers.

Sec. 4. Section 80B.13, subsections 1 and 3 through 6, Code 1989, are amended to read as follows:

1. Designate members to visit and inspect any law enforcement or jailer training ~~school~~ schools, or examine the curriculum or training procedures, for which application for approval has been made.

3. Issue certificates to law enforcement officers and jailers who have met the requirements of this chapter and rules ~~promulgated~~ adopted under ~~provisions of~~ chapter 17A relative to hiring and training standards.

4. Make recommendations to the governor, the attorney general, the commissioner of public safety and the legislature on matters pertaining to qualification and training of law enforcement officers and jailers and other matters considered necessary to improve law enforcement services and jailer training.

5. Co-operate with federal, state, and local enforcement agencies in establishing and conducting local or area schools, or regional training centers for instruction and training of law enforcement officers and jailers.

6. Direct research in the field of law enforcement and jailer training and accept grants for such purposes.

Approved April 27, 1989

CHAPTER 63

DENTAL HYGIENE STUDENTS
S.F. 90

AN ACT relating to the regulation of the practice of dentistry by providing that students of dental hygiene are not engaged in the practice of dentistry.

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

Section 1. Section 153.14, subsection 1, Code 1989, is amended to read as follows:

1. Students of dentistry who practice dentistry upon patients at clinics in connection with their regular course of instruction at the state dental college and students of dental hygiene who practice upon patients at clinics in connection with their regular course of instruction at state-approved schools.

Approved April 27, 1989

CHAPTER 64

FOSTER CARE REVIEW
S.F. 110

AN ACT relating to foster care review by establishing certain reporting requirements.

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

Section 1. Section 237.20, subsection 1, unnumbered paragraph 2, Code 1989, is amended to read as follows:

During each six month review, the agency responsible for the placement of the child shall attend the review and the local board shall review all of the following:

Sec. 2. Section 237.20, subsection 1, unnumbered paragraph 5, Code 1989, is amended to read as follows:

An agency or individual providing services to the child shall submit testimony as requested by the board. The testimony may be written or oral, or may be a tape recorded telephone call. Written testimony from other interested parties may also be considered by the board in its review.

Sec. 3. Section 237.20, subsection 2, Code 1989, is amended to read as follows:

2. Submit to the appropriate court within fifteen days after the review under subsection 1, the findings and recommendations of the review. The local board shall ensure that the most recent report is available for a court hearing. 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. 4. Section 237.21, subsection 2, Code 1989, is amended to read as follows:

2. Information and records relating to a child receiving foster care and to the child's family shall be provided to a local board or the state board by the department or child-care agency receiving purchase of service funds from the department 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.

Approved April 27, 1989

CHAPTER 65

RELEASE OF CHILD ABUSE INFORMATION
S.F. 129

AN ACT relating to the release of child abuse information to certain individuals.

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

Section 1. Section 235A.15, subsection 2, paragraph d, Code 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) To a probation or parole officer, juvenile court officer, or adult correctional officer having custody or supervision of, or conducting an investigation for a court or the board of parole regarding, a person named in a report as a victim of child abuse or as having abused a child.

Approved April 27, 1989

CHAPTER 66

NOTICE OF EXPIRATION OF RIGHT OF REDEMPTION FROM TAX SALES
S.F. 176

AN ACT relating to service of notice of expiration of the right of redemption from tax sales.

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

Section 1. Section 447.9, Code 1989, is amended to read as follows:

447.9 NOTICE OF EXPIRATION OF RIGHT OF REDEMPTION.

After two years and nine months from the date of sale, or after nine months from the date of a sale made under section 446.18, 446.38 or 446.39, the holder of the certificate of purchase may cause to be served upon the person in possession of the real estate, and also upon the person in whose name the real estate is taxed, in the manner provided for the service of original notices in R.C.P. 56.1, if the person resides in Iowa, or otherwise as provided in section 446.9, subsection 1, a notice signed by the certificate holder or the certificate holder's agent or attorney, stating the date of sale, the description of the property sold, the name of the purchaser, and that the right of redemption will expire and a deed for the land be made unless redemption is made within ninety days from the completed service of the notice. When the notice is given by a county as a holder of a certificate of purchase the notice shall be signed by the county treasurer or the county attorney, and when given by a city, it shall be signed by the city officer designated by resolution of the council. When the notice is given by the Iowa

finance authority or a city or county agency holding the property as part of an Iowa homesteading project, it shall be signed on behalf of the agency or authority by one of its officers, as authorized in rules of the agency or authority.

Service of the notice shall also be made by mail on any mortgagee having a lien upon the real estate, a vendor of the real estate under a recorded contract of sale, a lessor who has a recorded lease or memorandum of a recorded lease, and any other person who has an interest of record, at the person's last known address, if the mortgagee, vendor, lessor, or other person has filed a request for notice, as prescribed in section 446.9, subsection 3, and on the state of Iowa in case of an old-age assistance lien by service upon the state department of human services. The notice shall also be served on any city where the real estate is situated.

Sec. 2. Section 447.12, Code 1989, is amended to read as follows:

447.12 WHEN SERVICE DEEMED COMPLETE — PRESUMPTION.

Service is complete only after an affidavit has been filed with the treasurer, showing the making of the service, the manner of service, the time when and place where made, and under whose direction the service was made. The affidavit shall be made by the holder of the certificate or by the holder's agent or attorney, and in either of the latter cases stating that the affiant is the agent or attorney~~,~~ of the holder of the certificate. The affidavit shall be filed by the treasurer and entered upon the sale book opposite the entry of the sale, and the record or affidavit is presumptive evidence of the completed service of the notice. The right of redemption shall not expire until ninety days after service is complete. When the property is held by a city or county, a city or county agency, or the Iowa finance authority, for use in an Iowa homesteading project, whether or not the property is the subject of a conditional conveyance granted under the project, the affidavit shall be made by the treasurer of the county or the county attorney, a city officer designated by resolution of the council, or on behalf of the agency or authority, by one of its officers as authorized in rules of the agency or authority.

Approved April 27, 1989

CHAPTER 67

EXCURSION BOAT GAMBLING

S.F. 124

AN ACT relating to gambling and the regulation of gambling devices and systems, by authorizing limited gambling on excursion boats, by imposing a tax on adjusted gross receipts from gambling, by authorizing and imposing fees on admissions, by allocating revenue, by requiring licenses and imposing fees, by making corresponding amendments to the Code, and by providing penalties for violations.

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

Section 1. NEW SECTION. 99F.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Applicant" means any person applying for an occupational license or applying for a license to operate an excursion gambling boat, or the officers and members of the board of directors of a qualified sponsoring organization located in Iowa applying for a license to conduct gambling games on an excursion gambling boat.

2. "Commission" means the state racing and gaming commission created under section 99D.5.

3. "Holder of occupational license" means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license to engage in excursion boat gambling in Iowa.

4. "Licensee" means any person licensed under section 99F.7.

5. "Gambling game" means twenty-one, dice, slot machine, video game of chance or roulette wheel.

6. "Excursion gambling boat" means a self-propelled excursion boat on which lawful gambling is authorized and licensed as provided in this chapter.

7. "Gambling excursion" means the time during which gambling games may be operated on an excursion gambling boat whether docked or during a cruise.

8. "Excursion season" includes the months of April through October.

9. "Off season" includes the months of November through March.

10. "Dock" means the location where an excursion gambling boat moors for the purpose of embarking passengers for and disembarking passengers from a gambling excursion.

11. "Gross receipts" means the total sums wagered under this chapter.

12. "Adjusted gross receipts" means the gross receipts less winnings paid to wagerers.

13. "Cheat" means to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game.

14. "Qualified sponsoring organization" means a person or association that can show to the satisfaction of the commission that the person or association is eligible for exemption from federal income taxation under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in section 422.3.

15. "Distributor" means a person who sells, markets, or otherwise distributes gambling games or implements of gambling which are usable in the lawful conduct of gambling games pursuant to this chapter, to a licensee authorized to conduct gambling games pursuant to this chapter.

16. "Manufacturer" means a person who designs, assembles, fabricates, produces, constructs, or who otherwise prepares a product or a component part of a product of any implement of gambling usable in the lawful conduct of gambling games pursuant to this chapter.

Sec. 2. NEW SECTION. 99F.2 SCOPE OF PROVISIONS.

This chapter does not apply to the pari-mutuel system of wagering used or intended to be used in connection with the horse-race or dog-race meetings as authorized under chapter 99D, lottery or lotto games authorized under chapter 99E, or bingo or games of skill or chance authorized under chapter 99B.

Sec. 3. NEW SECTION. 99F.3 EXCURSION BOAT GAMBLING AUTHORIZED.

The system of wagering on a gambling game as provided by this chapter is legal, when conducted on an excursion gambling boat at authorized locations by a licensee as provided in this chapter.

Ch 67, 84 Acts
Ch 139, 81–89 Acts

Sec. 4. NEW SECTION. 99F.4 POWERS AND AUTHORITY.

The commission shall have full jurisdiction over and shall supervise all gambling operations governed by this chapter. The commission shall have the following powers and shall adopt rules pursuant to chapter 17A to implement this chapter:

1. To investigate applicants and determine the eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Iowa.

2. To license qualified sponsoring organizations, to license the operators of excursion gambling boats, to identify occupations within the excursion gambling boat operations which require licensing, and to adopt standards for licensing the occupations including establishing fees for the occupational licenses and licenses for qualified sponsoring organizations. The fees shall be paid to the commission and deposited in a special account of the general fund of the state. All revenue received by the commission from license fees and admission fees shall be deposited in the special account in the general fund of the state.

3. To adopt standards under which all excursion gambling boat operations shall be held and standards for the facilities within which the gambling operations are to be held. The commission may authorize the operation of gambling games on an excursion gambling boat which is also licensed to sell or serve alcoholic beverages, wine, or beer as defined in section 123.3.

4. To regulate the wagering structure for gambling excursions including providing a maximum wager of five dollars per hand or play and maximum loss of two hundred dollars per individual player per gambling excursion.

5. To enter the office, excursion gambling boat, facilities, or other places of business of a licensee to determine compliance with this chapter.

6. To investigate alleged violations of this chapter or the commission rules, orders, or final decisions and to take appropriate disciplinary action against a licensee or a holder of an occupational license for a violation, or institute appropriate legal action for enforcement, or both.

7. To require a licensee, an employee of a licensee or holder of an occupational license to remove a person violating a provision of this chapter or the commission rules, orders, or final orders, or other person deemed to be undesirable from the excursion gambling boat facilities.

8. To require the removal of a licensee, an employee of a licensee, or a holder of an occupational license for a violation of this chapter or a commission rule or engaging in a fraudulent practice.

9. To require a licensee to file an annual balance sheet and profit and loss statement pertaining to the licensee's gambling activities in this state, together with a list of the stockholders or other persons having any beneficial interest in the gambling activities of each licensee.

10. To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other pertinent documents in accordance with chapter 17A, and to administer oaths and affirmations to the witnesses, when, in the judgment of the commission, it is necessary to enforce this chapter or the commission rules.

11. To keep accurate and complete records of its proceedings and to certify the records as may be appropriate.

12. To assess a fine and revoke or suspend licenses.

13. To take any other action as may be reasonable or appropriate to enforce this chapter and the commission rules.

14. To require all licensees of gambling game operations to utilize a cashless wagering system whereby all players' money is converted to tokens, electronic cards, or chips which only can be used for wagering on the excursion gambling boat.

15. To determine the payouts from the gambling games authorized under this chapter. In making the determination of payouts, the commission shall consider factors that provide gambling and entertainment opportunities which are beneficial to the gambling licensees and the general public.

Sec. 5. NEW SECTION. 99F.5 LICENSES FOR CONDUCTING GAMBLING GAMES ON AN EXCURSION BOAT AND FOR BOAT OPERATORS — APPLICATIONS.

1. A qualified sponsoring organization may apply to the commission for a license to conduct gambling games on an excursion gambling boat as provided in this chapter. A person may apply to the commission for a license to operate an excursion gambling boat. The application shall be filed with the administrator of the commission at least ninety days before the first day of the next excursion season as determined by the commission, shall identify the excursion gambling boat upon which gambling games will be authorized, shall specify the exact location where the excursion gambling boat will be docked, and shall be in a form and contain information as the commission prescribes.

2. The annual license fee to operate an excursion gambling boat shall be based on the passenger-carrying capacity including crew, for which the excursion gambling boat is registered. The annual fee shall be five dollars per person capacity.

Sec. 6. NEW SECTION. 99F.6 REQUIREMENTS OF APPLICANT — PENALTY.

1. A person shall not be issued a license to conduct gambling games on an excursion gambling boat or a license to operate an excursion gambling boat under this chapter, an occupational license, a distributor license, or a manufacturer license unless the person has completed and signed an application on the form prescribed and published by the commission. The application shall include the full name, residence, date of birth and other personal identifying

information of the applicant that the commission deems necessary. The application shall also indicate whether the applicant has any of the following:

a. A record of conviction of a felony.

b. An addiction to alcohol or a controlled substance.

c. A history of mental illness.

2. An applicant shall submit pictures, fingerprints, and descriptions of physical characteristics to the commission in the manner prescribed on the application forms.

3. The commission shall charge the applicant a fee set by the department of public safety, division of criminal investigation and bureau of identification, to defray the costs associated with the search and classification of fingerprints required in subsection 2 and background investigations conducted by agents of the division of criminal investigation. This fee is in addition to any other license fee charged by the commission.

4. Before a license is granted, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the applicant for a license to operate a gambling game operation on an excursion gambling boat. The applicant shall provide information on a form as required by the division of criminal investigation. Before a qualified sponsoring organization is licensed to operate gambling games under this chapter, the qualified sponsoring organization shall certify that the receipts of all gambling games, less reasonable expenses, charges, taxes, fees, and deductions allowed under this chapter, will be distributed as winnings to players or participants or will be distributed for educational, civic, public, charitable, patriotic, or religious uses as defined in section 99B.7, subsection 3, paragraph "b". A qualified sponsoring organization shall not make a contribution to a candidate, political committee, candidate's committee, state statutory political committee, county statutory political committee, national political party, or fund-raising event as these terms are defined in section 56.2. The membership of the board of directors of a qualified sponsoring organization shall represent a broad interest of the communities.

5. Before a license is granted, an operator of an excursion gambling boat shall work with the department of economic development to promote tourism throughout Iowa. Tourism information from local civic and private persons may be submitted for dissemination.

6. A person who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

7. For the purposes of this section, applicant includes each member of the board of directors of a qualified sponsoring organization.

8. The licensee or a holder of an occupational license shall consent to agents of the division of criminal investigation of the department of public safety or commission employees designated by the secretary of the commission to the search without a warrant of the licensee or holder's person, personal property and effects, and premises which are located within the area of the excursion gambling boat where gambling is permitted for criminal violations of this chapter or violations of rules adopted by the commission.

Ch 67, 87 Amend
Ch 139, §2-5-89 Acts

Sec. 7. NEW SECTION. 99F.7 LICENSES — TERMS AND CONDITIONS — REVOCATION.

1. If the commission is satisfied that this chapter and its rules adopted under this chapter applicable to licensees have been or will be complied with, the commission shall issue a license for a period of not more than three years to an applicant to own a gambling game operation and for a period of not more than five years to an applicant to operate an excursion gambling boat. The commission may decide which of the gambling games authorized under this chapter it will permit. The commission shall decide the number, location, and type of excursion gambling boats licensed under this chapter for operation on the rivers, lakes, and reservoirs of this state. The license shall set forth the name of the licensee, the type of license granted, the place where the excursion gambling boats will operate and dock, and the time and number of days during the excursion season and the off season when gambling may be conducted by the licensee. The commission shall not allow a licensee to conduct gambling games on an excursion gambling boat while docked during the off season if the licensee does not operate

gambling excursions for a minimum number of days during the excursion season.

2. A license shall only be granted to an applicant upon the express conditions that:

a. The applicant shall not, by a lease, contract, understanding, or arrangement of any kind, grant, assign, or turn over to a person the operation of an excursion gambling boat licensed under this section or of the system of wagering described in section 99F.9. This section does not prohibit a management contract approved by the commission.

b. The applicant shall not in any manner permit a person other than the licensee to have a share, percentage, or proportion of the money received for admissions to the excursion gambling boat.

3. The commission shall require, as a condition of granting a license, that an applicant to operate an excursion gambling boat, develop, and as nearly as practicable, recreate boats that resemble Iowa's riverboat history.

4. The commission shall require that an applicant utilize Iowa resources, goods and services in the operation of an excursion gambling boat. The commission shall develop standards to assure that a substantial amount of all resources and goods used in the operation of an excursion gambling boat come from Iowa and that a substantial amount of all services and entertainment be provided by Iowans.

5. The commission shall, as a condition of granting a license, require an applicant to provide written documentation that, on each excursion gambling boat:

a. No more than 30% of the square footage shall be used for gambling activity.

b. An applicant shall make every effort to ensure that a substantial number of the staff and entertainers employed are residents of Iowa.

c. A section is reserved solely for activities and interests of children under the age of 18 and is staffed to provide adequate supervision.

d. A section is reserved for promotion and sale of arts, crafts, and gifts native to and made in Iowa.

6. It is the intent of the general assembly that employees be paid at least 25% above the federal minimum wage level.

7. A license shall not be granted if there is substantial evidence that any of the following apply:

a. The applicant has been suspended from operating a game of chance or gambling operation in another jurisdiction by a board or commission of that jurisdiction.

b. The applicant has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed.

c. The applicant is not the true owner of the enterprise proposed.

d. The applicant is not the sole owner, and other persons have ownership in the enterprise, which fact has not been disclosed.

e. The applicant is a corporation and ten percent of the stock of the corporation is subject to a contract or option to purchase at any time during the period for which the license is to be issued unless the contract or option was disclosed to the commission and the commission approved the sale or transfer during the period of the license.

f. The applicant has knowingly made a false statement of a material fact to the commission.

g. The applicant has failed to meet a monetary obligation in connection with an excursion gambling boat.

8. A license shall not be granted if there is substantial evidence that the applicant is not of good repute and moral character.

9. A licensee shall not loan to any person money or any other thing of value for the purpose of permitting that person to wager on any game of chance.

10. a. A license to conduct gambling games on an excursion gambling boat in a county shall be issued only if the county electorate approves the conduct of the gambling games as provided in this subsection. The board of supervisors, upon receipt of a valid petition meeting the requirements of section 331.306, shall direct the commissioner of elections to submit to the qualified voters of the county a proposition to approve or disapprove the conduct of gambling games

on an excursion gambling boat in the county. The proposition shall be submitted at a general election or at a special election called for that purpose. To be submitted at a general election, the petition must be received by the board of supervisors at least sixty days before the election. If a majority of the county voters voting on the proposition favor the conduct of gambling games, the commission may issue one or more licenses as provided in this chapter. If a majority of the county voters voting on the proposition do not favor the conduct of gambling games, a license to conduct gambling games in the county shall not be issued. After a referendum has been held, another referendum requested by petition shall not be held for at least two years.

b. If a license to conduct gambling games is in effect, pursuant to a referendum as set forth in this section and is subsequently disapproved by a referendum of the county electorate, the license shall be canceled as of the succeeding July 1.

11. If a docking fee is charged by a city or a county, a licensee operating an excursion gambling boat shall pay the docking fee one year in advance.

12. A licensee shall not be delinquent in the payment of property taxes or other taxes or fees or in the payment of any other contractual obligation or debt due or owed to a city or county.

13. An excursion gambling boat operated on inland waters of this state shall meet all of the requirements of chapter 106 and is subject to an inspection of its sanitary facilities to protect the environment and water quality before a certificate of registration is issued by the department of natural resources or a license is issued under this chapter.

14. If a licensed excursion boat stops at more than one harbor and travels past a county without stopping at any port in that county, the commission shall require the excursion boat operator to develop a schedule for ports of call in which a county referendum has been approved, and the port of call has the necessary facilities to handle the boat. The commission may limit the schedule to only one port of call per county.

15. Upon a violation of any of the conditions listed in this section, the commission shall immediately revoke the license.

Sec. 8. NEW SECTION. 99F.8 BOND OF LICENSEE.

A licensee licensed under section 99F.7 shall post a bond to the state of Iowa before the license is issued in a sum as the commission shall fix, with sureties to be approved by the commission. The bond shall be used to guarantee that the licensee faithfully makes the payments, keeps its books and records and makes reports, and conducts its gambling games in conformity with this chapter and the rules adopted by the commission. The bond shall not be canceled by a surety on less than thirty days' notice in writing to the commission. If a bond is canceled and the licensee fails to file a new bond with the commission in the required amount on or before the effective date of cancellation, the licensee's license shall be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

Sec. 9. NEW SECTION. 99F.9 WAGERING — MINORS PROHIBITED. Ch 67, §9 Amend Ch 139, §6–89 Acts

1. Except as permitted in this section, the licensee shall permit no form of wagering on gambling games.

2. Licensees shall only allow a maximum wager of five dollars per hand or play and a maximum loss of two hundred dollars per person during each gambling excursion. However, the commission may adopt rules allowing additional wagers consistent with generally accepted wagering options in the games of twenty-one and dice.

3. The licensee may receive wagers only from a person present on a licensed excursion gambling boat.

4. The licensee shall exchange the money of each wagerer for tokens, chips, or other forms of credit to be wagered on the gambling games. The licensee shall exchange the gambling tokens, chips, or other forms of wagering credit for money at the request of the wagerer.

5. Wagering shall not be conducted with money or other negotiable currency.

6. A person under the age of eighteen years shall not make a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted.

7. A licensee shall not conduct gambling games while the excursion gambling boat is docked unless it is temporarily docked for embarking or disembarking passengers, crew or supplies during the course of an excursion cruise, for mechanical problems, adverse weather, or other conditions adversely affecting safe navigation, during the duration of the problem or condition, or as authorized by the commission during off season.

Sec. 10. NEW SECTION. 99F.10 ADMISSION FEE – TAX – LOCAL FEES.

1. A qualified sponsoring organization conducting gambling games on an excursion gambling boat licensed under section 99F.7 shall pay the tax imposed by section 99F.11.

2. An excursion boat licensee shall pay to the commission an admission fee for each person embarking on an excursion gambling boat with a ticket of admission. The admission fee shall be set by the commission.

a. If tickets are issued which are good for more than one excursion, the admission fee shall be paid for each person using the ticket on each excursion that the ticket is used.

b. If free passes or complimentary admission tickets are issued, the licensee shall pay the same fee upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate.

c. However, the excursion boat licensee may issue fee-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat.

d. The issuance of fee-free passes is subject to the rules of the commission, and a list of all persons to whom the fee-free passes are issued shall be filed with the commission.

3. In addition to the admission fee charged under subsection 2 and subject to approval of excursion gambling boat docking by the voters, a city may adopt, by ordinance, an admission fee not exceeding fifty cents for each person embarking on an excursion gambling boat docked within the city or a county may adopt, by ordinance, an admission fee not exceeding fifty cents for each person embarking on an excursion gambling boat docked outside the boundaries of a city. The admission revenue received by a city or a county shall be credited to the city general fund or county general fund as applicable.

4. In determining the license fees and state admission fees to be charged as provided under section 99F.4 and this section, the commission shall use the amount appropriated to the commission as the basis for determining the amount of revenue to be raised from the license fees and admission fees.

5. No other license tax, permit tax, occupation tax, excursion fee, or taxes on fees shall be levied, assessed, or collected from a licensee by the state or by a political subdivision, except as provided in this chapter.

6. No other excise tax shall be levied, assessed, or collected from the licensee relating to gambling excursions or admission charges by the state or by a political subdivision, except as provided in this chapter.

Ch 67, §11 Amend
Ch 139, §7–89 Acts

Sec. 11. NEW SECTION. 99F.11 WAGERING TAX – RATE – CREDIT.

A tax is imposed on the adjusted gross receipts received annually from gambling games authorized under this chapter at the rate of five percent on the first one million dollars of adjusted gross receipts, at the rate of ten percent on the next two million dollars of adjusted gross receipts, and at the rate of twenty percent on any amount of adjusted gross receipts over three million dollars. The taxes imposed by this section shall be paid by the licensee to the treasurer of state within ten days after the close of the day when the wagers were made and shall be distributed as follows:

1. If the gambling excursion originated at a dock located in a city, one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the city in which the dock is located and shall be deposited in the general fund of the city. Another one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the county in which the dock is located and shall be deposited in the general fund of the county.

2. If the gambling excursion originated at a dock located in a part of the county outside a city, one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the county in which the dock is located and shall be deposited in the general fund of the county. Another one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the Iowa city nearest to where the dock is located and shall be deposited in the general fund of the city.

3. One-half of one percent of the adjusted gross receipts shall be deposited in the gamblers assistance fund specified in section 99E.10, subsection 1, paragraph "a".

4. The remaining amount of the adjusted gross receipts tax shall be credited to the general fund of the state.

Ch 67, §12 Amend
Ch 139, §8–89 Acts

Sec. 12. NEW SECTION. 99F.12 LICENSEES – RECORDS – REPORTS – SUPERVISION.

A licensee shall keep its books and records so as to clearly show all of the following:

1. The total number of admissions to gambling excursions conducted by the licensee on each day, including the number of admissions upon free passes or complimentary tickets.

2. The amount received daily from admission fees.

3. The total amount of money wagered during each excursion day and the adjusted gross receipts for the day.

The licensee shall furnish to the commission reports and information as the commission may require with respect to its activities. The commission may designate a representative to board a licensed excursion gambling boat, who shall have full access to all places within the enclosure of the boat and who shall supervise and check the admissions. The compensation of the representative shall be fixed by the commission but shall be paid by the licensee.

The books and records kept by a licensee as provided by this section are public records and the examination, publication, and dissemination of the book and record are governed by the provisions of chapter 22.

Sec. 13. NEW SECTION. 99F.13 AUDIT OF LICENSEE OPERATIONS.

Within ninety days after the end of each month, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's operations conducted under this chapter. Additionally, within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's total operations. All audits shall be conducted by certified public accountants registered or licensed in the state of Iowa under chapter 116.

Sec. 14. NEW SECTION. 99F.14 ANNUAL REPORT OF COMMISSION.

The commission shall make an annual report to the governor, for the period ending December 31 of each year. Included in the report shall be an account of the commission's actions, its financial position and results of operation under this chapter, the practical results attained under this chapter, and any recommendations for legislation which the commission deems advisable.

Ch 67, §15 Amend
Ch 139, §9–89 Acts

Sec. 15. NEW SECTION. 99F.15 PROHIBITED ACTIVITIES – PENALTY.

1. A person is guilty of an aggravated misdemeanor for any of the following:

a. Operating a gambling excursion where wagering is used or to be used without a license issued by the commission.

b. Operating a gambling excursion where wagering is permitted other than in the manner specified by section 99F.9.

c. Acting, or employing a person to act, as a shill or decoy to encourage participation in a gambling game.

2. A person knowingly permitting a person under the age of eighteen years to make a wager is guilty of a simple misdemeanor.

3. A person wagering or accepting a wager at any location outside the excursion gambling boat is in violation of section 725.7.

4. A person commits a class "D" felony and, in addition, shall be barred for life from excursion gambling boats under the jurisdiction of the commission, if the person does any of the following:

a. Offers, promises, or gives anything of value or benefit to a person who is connected with an excursion gambling boat operator including, but not limited to, an officer or employee of a licensee or holder of an occupational license pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission.

b. Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with an excursion gambling boat including, but not limited to, an officer or employee of a licensee, or holder of an occupational license, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission.

c. Uses a device to assist in any of the following:

(1) In projecting the outcome of the game.

(2) In keeping track of the cards played.

(3) In analyzing the probability of the occurrence of an event relating to the gambling game.

(4) In analyzing the strategy for playing or betting to be used in the game except as permitted by the commission.

d. Cheats at a gambling game.

e. Manufacturers,* sells, or distributes any cards, chips, dice, game or device which is intended to be used to violate any provision of this chapter.

f. Instructs a person in cheating or in the use of a device for that purpose with the knowledge or intent that the information or use conveyed may be employed to violate any provision of the chapter.

g. Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before it is revealed to the players.

h. Places a bet after acquiring knowledge, not available to all players, of the outcome of the gambling game which is the subject of the bet or to aid a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome.

i. Claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from the gambling games, with intent to defraud, without having made a wager contingent on winning a gambling game, or claims, collects, or takes an amount of money or thing of value of greater value than the amount won.

j. Knowingly entices or induces a person to go to any place where a gambling game is being conducted or operated in violation of the provisions of this chapter with the intent that the other person plays or participates in that gambling game.

k. Uses counterfeit chips or tokens in a gambling game.

l. Knowingly uses, other than chips, tokens, coin, or other methods or credit approved by the commission, legal tender of the United States of America, or to use coin not of the denomination as the coin intended to be used in the gambling games.

m. Has in the person's possession any device intended to be used to violate a provision of this chapter.

n. Has in the person's possession, except a gambling licensee or employee of a gambling licensee acting in furtherance of the employee's employment, any key or device designed for the purpose of opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or mechanical device connected with the gambling game or for removing coins, tokens, chips or other contents of a gambling game.

5. The possession of more than one of the devices described in subsection 4, paragraphs "c", "e", "m", or "n", permits a rebuttable inference that the possessor intended to use the devices for cheating.

*"Manufactures" probably intended

6. Except for wagers on gambling games or exchanges for money as provided in section 99F.9, subsection 4, a licensee who exchanges tokens, chips, or other forms of credit to be used on gambling games for anything of value commits a simple misdemeanor.

Sec. 16. NEW SECTION. 99F.16 FORFEITURE OF PROPERTY.

1. Anything of value, including all traceable proceeds including but not limited to real and personal property, moneys, negotiable instruments, securities, and conveyances, is subject to forfeiture to the state of Iowa if the item was used for any of the following:

a. In exchange for a bribe intended to affect the outcome of a gambling game.

b. In exchange for or to facilitate a violation of this chapter.

2. All moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

3. Subsections 1 and 2 do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

Sec. 17. NEW SECTION. 99F.17 DISTRIBUTORS AND MANUFACTURERS — LICENSES.

1. A manufacturer or distributor of gambling games or implements of gambling shall annually apply for a license upon a form prescribed by the commission before the first day of April in each year and shall submit the appropriate license fee. An applicant shall provide the necessary information as the commission requires. The license fee for a distributor is one thousand dollars, and the license fee for a manufacturer is two hundred fifty dollars. The license fees shall be credited to the special account provided for in section 99F.4, subsection 2.

2. A licensee shall acquire all gambling games or implements of gambling from a distributor licensed pursuant to this chapter. A licensee shall not sell or give gambling games or implements of gambling to another licensee.

3. A licensee shall not be a manufacturer or distributor of gambling games or implements of gambling.

4. The commission may suspend or revoke the license of a distributor or manufacturer for a violation of this chapter or a rule adopted pursuant to this chapter committed by the distributor or manufacturer or an officer, director, employee, or agent of the manufacturer or distributor.

5. A manufacturer or distributor of gambling games who has been granted a license under this section shall have a representative within this state to take delivery of gambling games or implements of gambling prior to delivery to a licensee. The manufacturer or distributor shall provide the commission with a copy of the invoice showing the items shipped and a copy of the bill of lading. When received, the gambling games or implements of gambling shall be stored in a public warehouse in this state until delivered to the licensee or, after delivery is complete, the shipment may be transferred to a licensee.

Sec. 18. REPORT OF IMPLEMENTATION.

The state racing and gaming commission shall report to the general assembly by April 1, 1990, the number of excursion gambling boat licenses which the commission has issued. No license issued shall take effect before April 1, 1991. The report shall also include the administrative rules which the commission proposes or has adopted to implement the provisions of chapter 99F.

Sec. 19. Section 80.25A, Code 1989, is amended to read as follows:

80.25A PARI-MUTUEL ENFORCEMENT.

The commissioner of public safety shall direct the chief of the division of criminal investigation and bureau of identification to establish a subdivision to be the primary criminal investigative and enforcement agency for the purpose of enforcement of ~~chapter~~ chapters 99D and 99F. The commissioner of public safety shall appoint or assign other agents to the division

as necessary to enforce ~~chapter~~ chapters 99D and 99F. All enforcement officers, assistants, and agents of the division are subject to section 80.15 except clerical workers.

Sec. 20. Section 99B.6, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Except as provided in subsections 5, 6, ~~and~~ 7, and 8, gambling is unlawful on premises for which a class "A", class "B", class "C", or class "D" liquor control license, or class "B" beer permit has been issued pursuant to chapter 123 unless all of the following are complied with:

Sec. 21. Section 99B.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Gambling games authorized under chapter 99F may be conducted on an excursion gambling boat which is licensed as an establishment that serves or sells alcoholic beverages, wine, or beer as defined in section 123.3 if the gambling games are conducted pursuant to chapter 99F and rules adopted under chapter 99F. Notwithstanding section 123.3, subsection 12, paragraph "b", a person holding a federal gambling permit and licensed to conduct gambling games pursuant to chapter 99F may hold a liquor license.

Sec. 22. Section 99B.15, Code 1989, is amended to read as follows:

99B.15 APPLICABILITY OF CHAPTER.

It is the intent and purpose of this chapter to authorize gambling in this state only to the extent specifically permitted by a section of this chapter or chapter 99D, ~~or~~ 99E, or 99F. Except as otherwise provided in this chapter, the knowing failure of any person to comply with the limitations imposed by this chapter constitutes unlawful gambling, a serious misdemeanor.

Sec. 23. Section 99D.2, subsection 3, Code 1989, is amended to read as follows:

3. "Commission" means the state racing and gaming commission created under section 99D.5.

Sec. 24. Section 99D.5, subsection 1, Code 1989, is amended to read as follows:

1. A state racing and gaming commission is created within the department of commerce consisting of five members who shall be appointed by the governor subject to confirmation by the senate, and who shall serve not to exceed a three-year term at the pleasure of the governor. The term of each member shall begin and end as provided in section 69.19.

Sec. 25. Section 99D.5, subsection 5, paragraph c, Code 1989, is amended to read as follows:

c. Place a wager on an entry in a race or on a gambling game operated on an excursion gambling boat.

Sec. 26. Section 123.49, subsection 2, paragraph a, Code 1989, is amended to read as follows:

a. Knowingly permit any gambling, except in accordance with chapter 99B, ~~or~~ 99E, or 99F, or knowingly permit solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

Sec. 27. Section 725.13, Code 1989, is amended to read as follows:

725.13 "BOOKMAKING" DEFINED.

"Bookmaking" means advancing gambling activity by accepting bets upon the outcome of future contingent events as a business other than as permitted in chapters 99B, ~~and~~ 99D, and 99F. These events include, but are not limited to, the results of a trial or contest of skill, speed, power, or endurance of a person or beast or between persons, beasts, fowl, motor vehicles, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event.

Sec. 28. Section 725.15, Code 1989, 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, or device when lawfully possessed, used, conducted, or participated in pursuant to chapter 99B, ~~or chapter~~ 99E, or 99F.

Approved April 27, 1989

CHAPTER 68

CONSUMER CREDIT CODE AMENDMENTS

H.F. 552

AN ACT relating to the consumer credit code, by providing for certain charges, amending the definition of debt collectors, requiring notification and the imposition of certain fees, appropriating funds collected, and providing an applicability date.

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

Section 1. Section 537.1302, Code 1989, is amended to read as follows:

537.1302 DEFINITION -- TRUTH IN LENDING ACT.

As used in this chapter, "Truth in Lending Act" means title 1 of the Consumer Credit Protection Act, in subchapter 1 of chapter 41 of title 15 of the United States Code, as amended to and including ~~July 1, 1982~~ January 1, 1989, and includes regulations issued pursuant to that Act prior to ~~July 1, 1982~~ January 1, 1989.

Ch 68, §2 Amend
Ch 296, §75–89 Acts

Sec. 2. Section 537.2501, subsection 1, is amended by adding the following new paragraphs as paragraphs f and g and relettering the existing paragraph f:

NEW PARAGRAPH. f. With respect to open-end credit pursuant to a credit card issued by the creditor which entities* the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, the parties may contract for an over-limit charge not to exceed ten dollars if the balance of the account exceeds the credit limit established pursuant to the agreement. The over-limit charge under this paragraph shall not be assessed again in a subsequent billing cycle unless in a subsequent billing cycle the account balance has been reduced below the credit limit.

If the differential treatment of this subsection based on the number of persons honoring a credit card is found to be unconstitutional, the parties may contract for the over-limit charge as described in this paragraph in any consumer credit transaction pursuant to open-end credit,* the other conditions relating to the over-limit charge shall remain in effect.

NEW PARAGRAPH. g. A surcharge of not more than ten dollars for each dishonored payment instrument provided that the fee is clearly and conspicuously disclosed in the cardholder agreement. However, the surcharge shall not be assessed against the maker if the reason for the dishonor of the instrument is that the maker has stopped payment pursuant to section 554.4403.

Sec. 3. Section 537.2501, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. With respect to open-end credit obtained pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, the creditor may contract for and receive any charge lawfully contained in a prior agreement between the consumer and a prior creditor from whom the creditor currently issuing the credit card acquired the credit card account, if the account was acquired in an arm's-length for-value sale from a nonrelated or nonaffiliated creditor. The creditor may charge any charge on new open-end credit accounts lawfully permitted in a prior agreement between a consumer and a prior creditor from whom the creditor currently issuing the credit card acquired the credit card accounts.

Sec. 4. Section 537.2502, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 4. With respect to open-end credit obtained pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, the parties may contract for a delinquency charge on any payment not paid in full within ten days after its due date, as originally scheduled or as deferred, in an amount not to exceed ten dollars.

NEW SUBSECTION. 5. A delinquency charge under subsection 4 may be collected only once on a payment however long it remains in default. No delinquency charge may be collected with respect to a deferred payment unless the payment is not paid in full within ten days after

*See Chapter 296, §75 herein

its deferred due date. A delinquency charge may be collected at the time it accrues or at any time afterward.

NEW SUBSECTION. 6. No delinquency charge may be collected under subsection 4 on a payment which is paid in full within ten days after its scheduled or deferred due date even though an earlier maturing payment or a delinquency or deferred charge on an earlier payment has not been paid in full. For purposes of this subsection, payments are applied first to amounts due for the current billing cycle and then to delinquent payments.

NEW SUBSECTION. 7. If the differential treatment of subsection 4 based on the number of persons honoring a credit card is found to be unconstitutional, the parties may contract for the delinquency charge as described in subsection 4 in any consumer credit transaction pursuant to open-end credit, and the other conditions provided in this section relating to delinquency charges remain in effect.

Sec. 5. Section 537.6201, subsection 2, Code 1989, is amended to read as follows:

2. Debt collectors, as defined in section 537.7102, subsection 3, to whose acts, practices, or conduct this chapter applies pursuant to section 537.1201 if the total debt collected by a debt collector in the preceding calendar year exceeds twenty-five thousand dollars, or if not, if the total debt collected during the current calendar year exceeds twenty-five thousand dollars, but this part does not apply to those licensed, certified, or otherwise authorized to engage in business under chapter 524, 533, 534, 536, or 536A.

Sec. 6. Section 537.6202, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Persons subject to this part shall file notification with the administrator within thirty days after commencing business in this state or within thirty days after enactment of this Act, whichever is applicable, and, thereafter, on or before January 31 of each year. The notification must state all of the following:

Sec. 7. Section 537.6203, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

537.6203 FEES.

1. A person required to file notification shall pay to the administrator an annual fee of ten dollars. The fee shall be paid with the filing of the first notification and on or before January 31 of each succeeding year.

2. A person required to file notification who is a seller, lessor, or lender and who is not an assignee shall pay an additional fee at the time and in the manner stated in subsection 1 of ten dollars for each one hundred thousand dollars, or part thereof exceeding ten thousand dollars, of the average unpaid balances, including unpaid scheduled periodic payments under consumer leases, of obligations arising from consumer credit transactions entered into or modified by the person in this state and held on the last day of each calendar month during the preceding calendar year and held either by the seller, lessor, or lender, or by an immediate or remote assignee who has not filed notification. The unpaid balances of assigned obligations held by an assignee who has not filed notifications are presumed to be the unpaid balances of the assigned obligations at the time of their assignment by the seller, lessor, or lender.

3. A person required to file notification who is an assignee shall pay an additional fee at the time and in the manner stated in subsection 1 of ten dollars for each one hundred thousand dollars, or part thereof exceeding ten thousand dollars, of the average unpaid balances including unpaid scheduled periodic payments payable by lessees, of obligations arising from consumer credit transactions entered into or modified in this state, taken by the person by assignment and held by the person on the last day of each calendar month during the preceding calendar year.

4. In addition to the penalties provided by section 537.6113, subsection 3, the administrator may collect a charge, established by rule, not exceeding twenty-five dollars from each person required to pay fees under this section who fails to pay the fees in full within thirty days after they are due.

5. Moneys collected under this section shall be deposited in a consumer credit administration fund in the state treasury and shall be used for the administration of chapter 537. The moneys are subject to warrant upon certification of the administrator and are appropriated for these purposes. Notwithstanding section 8.33, the moneys in the fund do not revert at the end of a fiscal period.

Approved April 27, 1989

CHAPTER 69

HUMAN IMMUNODEFICIENCY VIRUS STUDY OF NEWBORNS

S.F. 410

AN ACT relating to the conducting of an epidemiological blinded study to determine the prevalence of the human immunodeficiency virus infection and providing an effective date.

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

Section 1. NEW SECTION. 141.23A HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIOLOGICAL BLINDED STUDY.

Notwithstanding section 141.8 regarding informed consent and reporting requirements, and section 141.22 regarding informed consent and preliminary and posttest counseling, the Iowa department of public health or its agent may conduct through the expenditure of federal grant moneys allocated for this purpose an epidemiological blinded study of newborns to determine the prevalence of the human immunodeficiency virus infection. All personal identifiers shall be permanently stripped from the specimens selected prior to testing for the human immunodeficiency virus infection.

For the purposes of this section, "epidemiological blinded study" means a study in which blood specimens which were collected for other purposes are selected according to established criteria, are permanently stripped of personal identifiers, and are then tested.

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

Approved April 27, 1989

CHAPTER 70

HAZARDOUS MATERIALS TRANSPORTATION RULE EXCEPTIONS

S.F. 442

AN ACT relating to rules adopted under section 321.450 as they relate to physical and medical qualifications of drivers of commercial vehicles engaged in intrastate commerce and to retail dealers and their employees delivering fertilizers, petroleum products, and pesticides to farm customers and providing an effective date.

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

Section 1. Section 321.450, Code 1989, 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 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. Ch 70, §2 R & S Enact
Ch 186, §1–89 Acts

Sec. 2. Section 321.450, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this section, rules adopted under this section shall not apply to retail dealers of fertilizers, petroleum products, and pesticides and their employees while delivering fertilizers, petroleum products, and pesticides to farm customers within a one-hundred-mile radius of their retail place of business.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 27, 1989

CHAPTER 71

CORPORAL PUNISHMENT IN SCHOOLS

S.F. 52

AN ACT to prohibit the use of corporal punishment in accredited schools.

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

Section 1. NEW SECTION. 280.21 CORPORAL PUNISHMENT.

An employee of an accredited public school district, accredited nonpublic school, or area education agency shall not inflict, or cause to be inflicted, corporal punishment upon a student. For purposes of this section, "corporal punishment" means the intentional physical punishment of a student. An employee's physical contact with the body of a student is justified if it is reasonable and necessary under the circumstances and is not designed or intended to cause pain or if the employee uses reasonable force, as defined under section 704.1, for the protection of the employee, the student, or other students; to obtain the possession of a weapon or other dangerous object within a student's control; or for the protection of property.

Approved April 27, 1989

CHAPTER 72

NATURAL RESOURCES BUDGET REQUESTS APPROVAL

H.F. 372

AN ACT relating to the duties of the natural resource commission and the environmental protection commission with respect to budget approval requirements.

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

Section 1. Section 455A.5, subsection 6, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Approve the budget request prepared by the director for the programs authorized by chapters 106, 107, 108, 108A, 109, 109A, 110, 110A, 110B, 111, 111D, 112, and 321G. The commission may increase, decrease, or strike any item within the department budget request for the specified programs before granting approval.

Sec. 2. Section 455A.6, subsection 6, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Approve the budget request prepared by the director for the programs authorized by chapters 455B, 455C, 455E, and 455F. The commission may increase, decrease, or strike any item within the department budget request for the specified programs before granting approval.

Sec. 3. Section 455B.105, subsection 4, Code 1989, is amended by striking the subsection.

Approved May 1, 1989

CHAPTER 73

OPEN MEETINGS LAW APPLICATION

H.F. 647

AN ACT relating to governmental bodies under the open meetings law, including the definition of governmental body and the provision of information relating to open meetings and public records to governmental bodies.

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

Section 1. Section 21.2, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. An advisory board, advisory commission, or task force created by the governor or the general assembly to develop and make recommendations on public policy issues.

Sec. 2. NEW SECTION. 21.10 INFORMATION PROVIDED.

The authority which appoints members of governmental bodies shall provide the members with information about this chapter and chapter 22. The appropriate commissioner of elections shall provide that information to members of elected governmental bodies.

Approved May 1, 1989

CHAPTER 74

FREE FISHING PERMITS

H.F. 665

AN ACT authorizing free fishing permits for residents of health care facilities and juvenile shelter care homes.

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

Section 1. Section 110.24, unnumbered paragraph 14, Code 1989, is amended to read as follows:

The department may issue a permit, subject to conditions established by the department, which authorizes ~~the~~ patients of a substance abuse facility, residents of health care facilities licensed under chapter 135C, and persons cared for in juvenile shelter care homes as provided for in chapter 232 to fish without a license as a supervised group.

Approved May 1, 1989

CHAPTER 75

OXYGENATE OCTANE ENHANCERS

H.F. 254

AN ACT relating to the regulation of oxygenate octane enhancers.

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

Section 1. Section 214A.1, subsection 4, Code 1989, is amended to read as follows:

4. "Oxygenate octane enhancer" means oxygen-containing compounds, including but not limited to alcohols, ~~and~~ ethers, or ethanol.

Sec. 2. Section 214A.2, subsection 1, Code 1989, is amended to read as follows:

1. The secretary shall adopt rules pursuant to chapter 17A for carrying out ~~the provisions of~~ this chapter. The rules may include, but are not limited to, specifications relating to motor fuel or oxygenate octane enhancers. In the interest of uniformity, the secretary shall adopt by reference or otherwise specifications relating to tests and standards for motor fuel or oxygenate octane enhancers, established by the American society for testing and materials (A.S.T.M.), unless the secretary determines those specifications are inconsistent with this chapter or are not appropriate to the conditions which exist in this state. ~~References to A.S.T.M. specifications and standards are to the A.S.T.M. specifications and standards in effect on January 1, 1985.~~

Sec. 3. Section 214A.3, Code 1989, is amended to read as follows:

214A.3 FALSE REPRESENTATIONS.

~~No~~ A person for purposes of selling shall not falsely represent the quality or kind of any motor vehicle fuel or oxygenate octane enhancer or add coloring matter thereto for the purpose of misleading the public as to its quality.

Sec. 4. Section 214A.4, Code 1989, is amended to read as follows:

214A.4 INTRASTATE SHIPMENTS.

~~No~~ A wholesale dealer or retail dealer shall not receive or sell or hold for sale, within this state, any motor vehicle fuel or oxygenate octane enhancer for which specifications are prescribed in this chapter, unless the dealer first secures from the refiner or producer of ~~such~~ the motor vehicle fuel or oxygenate octane enhancer, a statement, verified by the oath of a competent chemist, employed by or representing ~~such~~ the refiner or producer, showing the true standards and tests of ~~such~~ the motor vehicle fuel or oxygenate octane enhancer, obtained by the methods referred to in section 214A.2 ~~hereof~~. ~~Such~~ The verified tests ~~shall be~~ are required and must accompany the bill of lading or shipping documents representing the shipment of ~~such~~ the motor vehicle fuel or oxygenate octane enhancer into this state before ~~such~~ the shipment can be received and unloaded.

Sec. 5. Section 214A.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Each wholesale dealer in this state shall, when making a sale of oxygenate octane enhancer, give to each purchaser upon demand a sales slip upon which must be printed the words "This oxygenate octane enhancer conforms to the standard specifications required by the state of Iowa."

Sec. 6. Section 214A.6, Code 1989, is amended to read as follows:

214A.6 DEPARTMENT TESTS – FEE.

~~Any~~ A wholesale dealer or retail dealer may, at the dealer's option, forward to the department for testing a sample taken in the manner ~~here~~ prescribed in this section. The dealer shall draw from ~~such~~ the original container, in the presence of ~~some~~ a reputable person, into a clean receptacle, suitable for shipping, a sample of ~~such~~ the motor vehicle fuel or oxygenate octane enhancer, not less than eight fluid ounces, and shall carefully seal ~~such~~ the receptacle and affix ~~thereto~~ to the receptacle a written label showing the car number or other identifying marks upon ~~such~~ the original container from which ~~such~~ the sample was taken~~,~~ ~~all~~. This procedure shall be performed in the presence of ~~such~~ the reputable person, and ~~such~~ the wholesale dealer or retail dealer ~~and such~~. The reputable person shall make a statement, under oath, that ~~such~~ the sample was taken in the manner provided for ~~herein~~ in this section, ~~referring~~ and shall refer to the identifying marks upon ~~such~~ the label. ~~At the same time such~~ The sworn statement, together with a fee of two dollars for ~~the~~ making ~~of such~~ the test, shall be forwarded to the department. The department shall test ~~such~~ the sample by the methods provided for in section 214A.2 and shall forward to ~~such~~ the wholesale dealer or retail dealer a certified copy of the results of ~~such~~ the tests.

Sec. 7. Section 214A.7, Code 1989, is amended to read as follows:

214A.7 DEPARTMENT INSPECTION – SAMPLES TESTED.

The department, its agents or employees, shall, from time to time, make or cause to be made tests of any motor vehicle fuel or oxygenate octane enhancer which is being sold, or held or offered for sale within this state, and for such purposes ~~such~~ the inspectors ~~shall~~ have the right to enter upon the premises of any wholesale dealer or retail dealer ~~in~~ of motor vehicle ~~fuels~~ fuel or oxygenate octane enhancer within this state, and to take from any container a sample of ~~such~~ the motor vehicle fuel or oxygenate octane enhancer, not to exceed eight fluid ounces~~,~~ ~~which~~. The sample shall be sealed and appropriately marked or labeled by ~~such~~ the inspector and delivered to the department. The department shall make, or cause to be made, complete analyses or tests of ~~such~~ the motor vehicle fuel or oxygenate octane enhancer by the methods specified in section 214A.2.

Sec. 8. Section 214A.8, Code 1989, is amended to read as follows:

214A.8 PROHIBITION.

~~No~~ A retail or wholesale dealer defined in this chapter shall not sell any motor vehicle fuel or oxygenate octane enhancer in the state that fails to meet ~~the~~ applicable standards and specifications ~~applicable thereto as~~ set out in this chapter.

Sec. 9. Section 214A.10, Code 1989, is amended to read as follows:

214A.10 TRANSFER PIPES.

~~No~~ A wholesale dealer, retail dealer, or other person shall not, within this state, use the same pipeline, for transferring ~~gasoline and similar~~ motor vehicle fuel, including gasoline, or oxygenate octane enhancer from one container to another, ~~as that~~ if the pipeline is used for transferring kerosene or other inflammable product used for open flame illuminating or heating purposes.

Approved May 1, 1989

CHAPTER 76

RISK MANAGEMENT DIVISION ELIMINATED

H.F. 256

AN ACT relating to the elimination of the risk management division of the department of general services.

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

Section 1. Section 18.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Determining which risk exposures shall be self-insured or assumed by the state with respect to loss and loss exposures of state government.

Sec. 2. Section 18.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 11. In carrying out the requirements of section 64.6, the state may purchase an individual or a blanket surety bond insuring the fidelity of state officers. The department may self-assume or self-insure fidelity exposures for state officials and employees. A state official is deemed to have furnished surety if the official has been covered by a program of insurance or self-insurance established by the department. To the extent possible, all bonded state employees shall be covered under one or more blanket bonds or position schedule bonds.

Sec. 3. Section 18.12, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. The management of state property loss exposures and state liability risk exposures shall be reviewed by the director for the capitol complex. Insurance coverage may include self-insurance or any type of insurance protection sold by insurers, including but not limited to, full coverage, partial coverage, coinsurance, reinsurance, and deductible insurance coverage.

Sec. 4. Section 18.115, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The state vehicle dispatcher is responsible for insuring motor vehicles owned by the state. Insurance coverage may be through a self-insurance program administered by the division or purchased from an insurer. If the determination is made to utilize a self-insurance program the vehicle dispatcher shall maintain loss and exposure data for the vehicles under the dispatcher's jurisdiction. Each agency shall provide to the division all requested motor vehicle loss and loss exposure information.

Sec. 5. Section 64.6, Code 1989, is amended to read as follows:

64.6 STATE OFFICERS — BONDS.

State officials are not required to obtain bonds, but may be covered under a blanket bond for state employees. The blanket bond purchases shall be made in an amount and with the level of assumption of risk by the state that is determined by the ~~risk management division of the~~ department of general services. The state shall pay the reasonable cost of bonds under this section.

Sec. 6. Section 304A.21, subsection 3, Code 1989, is amended to read as follows:

3. "~~Division~~ Department" means the ~~division of risk management of the~~ department of general services.

Sec. 7. Section 304A.25, Code 1989, is amended to read as follows:

304A.25 REVIEW AND DETERMINATION AS TO QUALIFICATION FOR INDEMNITY COVERAGE.

1. Every application received by the administrator shall be submitted to the department of general services which~~, through its division of risk management,~~ shall review the application and determine whether the applicant qualifies for indemnity coverage under this division. The criteria for qualification shall be prescribed by rule of the department of general services and shall include but are not limited to:

a. Physical security of the applicant's exhibition facilities and of the means of transportation of the items.

b. Experience and qualifications of the applicant's director, curator, registrar or other staff.

c. Eligibility of the applicant's exhibition facilities for commercial insurance coverage of art objects and artifacts exhibited there.

d. Availability of proper equipment to protect art objects and artifacts from damage from extremes of temperature or humidity or exposure to glare, dust or corrosion.

2. The ~~division~~ department may consult with experts as necessary to carry out its duties under this section.

3. If the ~~division of risk management of the~~ department of general services is not staffed for risk management, the department shall utilize the services of a consultant in carrying out the ~~division's~~ department's duties under this chapter.

Sec. 8. Section 304A.29, subsection 1, Code 1989, is amended to read as follows:

1. Claims for losses covered by indemnity agreements under this division shall be submitted to the department of general services which~~, through its division of risk management,~~ shall review the claims. If the ~~division~~ department determines that the loss is covered by the agreement, the ~~division~~ department shall certify the validity of the claim and authorize payment of the amount of loss, less any deductible portion, to the lender.

Sec. 9. Section 507D.3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The commissioner of insurance is authorized to institute programs, order the institution of programs within the private sector, or to contract with or delegate authority to the ~~risk management division of the~~ department of general services for the institution of programs relating to insurance assistance including, but not limited to, the following:

Sec. 10. Sections 18.160 through 18.169, Code 1989, are repealed.

Approved May 1, 1989

CHAPTER 77

WASTE REDUCTION CENTER

H.F. 329

AN ACT relating to the name of and liabilities arising from activities of the small business assistance center at the University of Northern Iowa.

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

Section 1. Section 268.4, Code 1989, is amended to read as follows:

268.4 ~~SMALL BUSINESS ASSISTANCE~~ IOWA WASTE REDUCTION CENTER FOR THE SAFE AND ECONOMIC MANAGEMENT OF SOLID WASTE AND HAZARDOUS SUBSTANCES.

1. The ~~small business assistance~~ Iowa waste reduction center for the safe and economic management of solid waste and hazardous substances is established at the University of Northern Iowa. The University of Northern Iowa, in cooperation with the department of natural resources, shall develop and implement a program which provides the following:

a. Information regarding the safe use and economic management of solid waste and hazardous substances to small businesses which generate the substances.

b. Dissemination of information to public and private agencies regarding state and federal solid waste and hazardous substances regulations, and assistance in achieving compliance with the regulations.

c. Advice and consultation in the proper storage, handling, treatment, reuse, recycling, and disposal methods of solid waste and hazardous substances.

d. Identification of the advantages of proper substance management relative to liability and operational costs of a particular small business.

e. Assistance in the providing of capital formation in order to comply with state and federal regulations.

2. a. An advisory committee to the center is established, consisting of a representative of each of the following organizations:

(1) The Iowa department of economic development.

(2) The small business development commission.

(3) The University of Northern Iowa.

(4) The State University of Iowa.

(5) Iowa State University of science and technology.

(6) The department of natural resources.

b. The active participation of representatives of small businesses in the state shall also be sought and encouraged.

3. Information obtained or compiled by the center shall be disseminated directly to the Iowa department of economic development, the small business development centers, and other public and private agencies with interest in the safe and economic management of solid waste and hazardous substances.

4. The center may solicit, accept, and administer moneys appropriated to the center by a public or private agency.

5. This section does not do any of the following:

a. Relieve a person receiving assistance under this section of any duties or liabilities otherwise created or imposed upon the person by law.

b. Transfer to the state, the University of Northern Iowa, or an employee of the state or the university, a duty or liability otherwise imposed by law on a person receiving assistance under this section.

c. Create a liability to the state, the University of Northern Iowa, or an employee of the state or the university for an act or omission arising from the providing of assistance or advice in cleaning up, handling, or disposal of hazardous waste. However, an individual may be liable if the act or omission results from intentional wrongdoing or gross negligence.

Approved May 1, 1989

CHAPTER 78

STATE HISTORICAL SOCIETY AND STATE ARCHIVIST

H.F. 367

AN ACT relating to the powers and duties of the state historical society and the historical division of the department of cultural affairs.

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

Section 1. Section 303.4, Code 1989, is amended to read as follows:

303.4 STATE HISTORICAL SOCIETY OF IOWA — BOARD OF TRUSTEES.

1. A state historical society board of trustees is established consisting of seven members selected as follows:

~~1~~ a. Three members shall be elected by the members of the state historical society according to rules established by the board of trustees.

2 b. Four members shall be appointed by the governor, two of whom shall be ~~professional historians or archaeologists~~ on the faculty of a college or university in the state in disciplines related to the activities of the historical society.

2. The term of office of members of the board of trustees is three years commencing and ending as provided in section 69.19. The terms of office of the governor's appointees are staggered so that in one year two members are appointed and in each of the next two years one member is appointed.

Sec. 2. NEW SECTION. 303.5 POWERS AND DUTIES OF STATE HISTORICAL SOCIETY ADMINISTRATOR.

The state historical society administrator may:

1. Make and sign any agreements and perform any acts which are necessary, desirable, or proper to carry out the purpose of the division.

2. Request and obtain assistance and data from any department, division, board, bureau, commission, or agency of the state.

3. Accept any federal funds granted, by act of congress or by executive order, for all or any purposes of this subchapter.

Sec. 3. Section 303.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding section 633.63, the board may enter into agreements authorizing nonprofit foundations acting solely for the support of the state historical society to administer its membership program and funds.

Sec. 4. Section 303.8, subsection 1, paragraphs a through d, Code 1989, are amended to read as follows:

a. Recommend to the ~~department~~ state historical society a comprehensive, coordinated, and efficient policy to preserve, research, interpret, and promote to the public an awareness and understanding of local, state, and regional history.

b. Make recommendations to the ~~director~~ division administrator on historically related matters.

c. Review and recommend to the director or the director's designee policy decisions regarding the division.

d. Recommend to the ~~director~~ state historic preservation officer for approval the state preservation plan ~~submitted by the state historic preservation officer~~.

Sec. 5. Section 303.9, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 633.63, the board may authorize nonprofit foundations acting solely for the support of the state historical society of Iowa to accept and administer trusts deemed by the board to be beneficial to the division's operations. The board and the foundation may act as trustees in such instances.

Sec. 6. Section 303.11, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The ~~department~~ division may accept gifts and bequests which shall be used in accordance with the desires of the donor if expressed. Funds contained in an endowment fund for either the department of history and archives or the state historical society existing on July 1, 1974 remain an endowment of the ~~department~~ division. Gifts shall be accepted only on behalf of the ~~department~~ division, and gifts to a part, branch, or section of the ~~department~~ division are presumed to be gifts to the ~~department~~ division.

Sec. 7. Section 303.12, Code 1989, is amended to read as follows:

303.12 ARCHIVES.

"Archives" means documents, books, papers, photographs, sound recordings, or similar material produced or received pursuant to law in connection with official government business, which no longer have administrative, legal, or fiscal value to the office having present custody of them, and which have been appraised by the ~~director of the department~~ state archivist

as having sufficient historical, research, or informational value to warrant permanent preservation. The ~~director of the department~~ state archivist is the trustee and custodian of the archives of Iowa, except that county or municipal archives are not included unless they are voluntarily deposited with the ~~director~~ state archivist with the written consent of the ~~director~~ state archivist. The ~~director~~ state archivist shall prescribe rules for the systematic arrangement of archives as to the proper labeling to indicate the contents and order of filing and the archives must be labeled before the archives may be transferred to the ~~director's~~ state archivist's custody.

Sec. 8. Section 303.13, Code 1989, is amended to read as follows:

303.13 TRANSFER OF ARCHIVES.

The state executive and administrative departments, officers or offices, councils, boards, bureaus, and commissions, shall transfer and deliver to the ~~department~~ state archives as defined in section 303.12 and as prescribed in the records management manual. Before transferring archives, the office of present custody shall file with the ~~director~~ state archivist a classified list of the archives being transferred in detail as the ~~director~~ state archivist prescribes. If the ~~director~~ state archivist, on receipt of the list, and after consultation with the chief executive of the office filing the classified list or with a representative designated by the executive, finds that, according to the records management manual, certain classifications of the archives listed are not of sufficient historical, legal, or administrative value to justify permanent preservation, the ~~director~~ state archivist shall not accept the material for deposit in the state archives.

Sec. 9. Section 303.14, Code 1989, is amended to read as follows:

303.14 REMOVAL OF ORIGINAL.

After archives have been received by the ~~director~~ state archivist, they shall not be removed from the ~~director's~~ state archivist's custody without the ~~director's~~ state archivist's consent except in obedience to a subpoena of a court of record or a written order of the state executive council.

The ~~director~~ state archivist is not required to preserve permanently vouchers, claims, canceled or redeemed state warrants, or duplicate warrant registers of the department of revenue and finance and the treasurer of state, but may, after microfilming, destroy by burning or shredding any warrants having no historical value, that have been in the ~~director's~~ state archivist's custody for a period of one year, and may destroy by burning or shredding any vouchers, claims, and duplicate warrant registers which have been in the ~~director's~~ state archivist's custody for a period of one year. A properly authenticated reproduction of a microfilmed record is admissible in evidence in a court in this state.

Sec. 10. Section 303.15, Code 1989, is amended to read as follows:

303.15 CERTIFIED COPIES — FEES.

Upon request of a person, the ~~director of the department~~ state archivist shall make a certified copy of any document, manuscript, or record contained in the archives or in the custody of the department except if reproduction is inappropriate because of legal, curatorial, or physical considerations. If a copy is properly authenticated it has the same legal effect as though certified by the officer from whose office it was obtained or by the secretary of state. The copy may be made in writing, or by a suitable photographic process. The ~~director~~ state archivist shall charge and collect for copies the fees allowed by law to the official in whose office the document originates for certified copies. The ~~director~~ state archivist shall charge a person requesting a search of census records for the purpose of determining genealogy the actual cost of performing the search.

Sec. 11. Section 303.16, subsection 5, paragraphs e, f, and g, Code 1989, are amended to read as follows:

e. Not more than ~~fifty~~ one hundred thousand dollars or twenty percent of the annual appropriation, whichever is more, shall be granted to recipients within any single county in any given grant cycle.

f. Not more than ~~twenty-five~~ one hundred thousand dollars or ten percent of the annual appropriation, whichever is more, may be granted or loaned to any single recipient within a single fiscal year.

g. Grants or loans under this program may be given only after review and recommendation by the state historical society board of trustees.

Sec. 12. Section 303.16, subsection 8, paragraph a, Code 1989, is amended to read as follows:

a. The department may establish a historical resource revolving loan fund composed of any money appropriated by the general assembly for that purpose, and of any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in that fund. Each loan made under this section shall be for a period not to exceed ten years, shall bear interest at a rate determined by the state historical board, and shall be repayable to the revolving loan fund in equal yearly installments due March 1 of each year the loan is in effect. The interest rate upon loans for which payment is delinquent shall accelerate immediately to the current legal usury limit. Applicants ~~shall be~~ are eligible for ~~no~~ not more than ~~twenty-five~~ one hundred thousand dollars in loans outstanding at any time under this program.

Approved May 1, 1989

CHAPTER 79

FORECLOSURE MORATORIUM EXTENDED

S.F. 174

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, 1990. Any person eligible to file an application under section 654.15, subsection 2, must file for the continuance by March 30, 1990. 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. APPLICABILITY AND EFFECTIVE DATE.

1. If this Act is enacted on or after March 30, 1989, the Act is retroactive to March 30, 1989, and is applicable on and after that date.

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

Approved May 1, 1989

CHAPTER 80

INMATE TRANSFER REQUIREMENT DELETED
S.F. 203

AN ACT relating to escorts during the transfer of inmates committed to the custody of the director of the department of corrections.

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

Section 1. Section 246.503, subsection 4, Code 1989, is amended by striking the subsection.

Approved May 1, 1989

CHAPTER 81

CREMATION PERMITS
S.F. 216

AN ACT relating to the issuance of cremation permits, providing reporting requirements, providing for the payment of costs, and making penalties applicable.

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

Section 1. Section 331.805, subsection 3, Code 1989, is amended to read as follows:

3. a. It is unlawful to cremate, bury, or send out of the state the body of a deceased person when death occurred in a manner specified in section 331.802, subsection 3, until a medical examiner certifies in writing that the examiner has viewed the body, has made personal inquiry into the cause and manner of death, and all necessary autopsy or postmortem examinations have been completed. However, the body of a deceased person may be sent out of state for the purpose of an autopsy or postmortem examination if the county medical examiner certifies in writing that the out-of-state autopsy or postmortem examination is necessary or, in the case of a death which is not of public interest as specified in section 331.802, subsection 3, if the attending physician certifies to the county medical examiner that the performance of the autopsy out of state is proper.

b. If the next of kin, guardian, or other person authorized to act on behalf of a deceased person has requested that the body of the deceased person be cremated, a permit for cremation must be obtained from a medical examiner. However, a permit is not required if the deceased person was a member of an established religion whose tenets are opposed to the inspection or examination of the body of a deceased person. Cremation permits by the medical examiner must be made on the most current forms prepared at the direction of and approved by the state medical examiner, with copies forwarded to the state medical examiner's office. Costs for the cremation permit issued by a medical examiner shall not exceed twenty-five dollars. The costs shall be borne by the family, next of kin, guardian of the decedent, or other person.

Approved May 1, 1989

CHAPTER 82

NATIONAL GUARD DISCIPLINE

S.F. 82

AN ACT relating to jurisdiction over and discipline of members of the Iowa national guard.

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

Section 1. Section 29B.2, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A member of the state military forces who is charged with having committed an offense against this code may be called or ordered to duty for the purpose of investigation under section 29B.33, trial by court-martial, and nonjudicial punishment under section 29B.14. A member shall be called or ordered to duty within one hundred eighty days of the discovery of the charged offense, and in no event shall a member be called or ordered to duty after the expiration of three years from the termination of a period of duty.

NEW UNNUMBERED PARAGRAPH. A member of the state military forces who is subject to this code at the time of commission of an offense made punishable by this code is not relieved from amenability to the jurisdiction of this code by virtue of the termination of a period of duty.

Sec. 2. Section 29B.14, subsection 2, paragraph a, subparagraph (3), Code 1989, is amended to read as follows:

(3) If imposed by a commanding officer of the state military forces of field grade or above, a fine of any amount up to a maximum of the equivalent of ten days' pay or the forfeiture ~~of pay and allowances~~ of not more than ~~twenty-five dollars~~ ten days' pay.

Sec. 3. Section 29B.14, subsection 2, paragraph b, Code 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) A fine of any amount up to a maximum of the equivalent of four days' pay or the forfeiture of not more than four days' pay.

Sec. 4. Section 29B.14, subsection 2, paragraph c, Code 1989, is amended to read as follows:

c. If the commanding officer is of field grade or above, any one or a combination of the following:

(1) Any ~~one or a combination~~ of the punishments stated in paragraph "b", subparagraph (1), (2), or (3), ~~of this subsection except that an enlisted member in a pay grade above E-4 shall not be reduced more than two pay grades~~.

(2) A fine of any amount up to the maximum of the equivalent of ten days' pay or the forfeiture ~~of pay~~ of not more than ten ~~dollars~~ days' pay.

(3) Reduction to the lowest or any intermediate pay grade, if the current grade from which demoted is within the promotion authority of the officer imposing the reduction or an officer subordinate to the one imposing the reduction, but enlisted members in pay grades above E-4 shall not be reduced more than two pay grades.

Sec. 5. Section 29B.18, subsection 2, paragraph c, subparagraphs (1) and (2), Code 1989, are amended to read as follows:

(1) A fine of not more than ~~twenty-five~~ fifty dollars for a single offense.

(2) Forfeiture of not more than twenty days' pay and allowances, ~~not to exceed two-thirds of base pay to be received for the equivalent of four unit training assemblies~~.

Approved May 1, 1989

CHAPTER 83

NONSUBSTANTIVE CODE CORRECTIONS

S.F. 112

AN ACT relating to nonsubstantive Code corrections.

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

Section 1. Section 7E.5, subsection 1, paragraph t, Code 1989, 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, criminal and juvenile justice planning, the status of blacks, and deaf persons.

Sec. 2. Section 9A.11, subsection 1, Code 1989, is amended to read as follows:

1. The attorney general 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.

Sec. 3. Section 10A.202, subsection 1, Code 1989, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. m. Hearings relative to motor fuel and special fuel franchises, as provided in chapter 323.

Sec. 4. Section 13B.9, subsection 3, Code 1989, is amended to read as follows:

3. The local public defender may appoint the number of assistant ~~indigent~~ public 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. 5. Section 13B.10, subsections 2 and 4, Code 1989, are amended to read as follows:

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~~ department. 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~~ department.

4. The district court shall decide, based upon the financial statement and other relevant information, whether the person is indigent. ~~An indigent~~ A public defender may make a temporary determination of indigence prior to the initial arraignment or other initial court appearance.

Sec. 6. Section 15.247, subsection 3, Code 1989, is amended to read as follows:

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,~~ moneys 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.

Sec. 7. Section 15.283, subsection 4, Code 1989, is amended to read as follows:

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~~ a city located in a county with a population in excess of three hundred thousand, ~~that~~ if the city is contiguous to another ~~municipality~~ city in the county and that ~~municipality~~ other city is contiguous to the largest city in that county, shall be considered as having a population in excess of ~~twenty~~ five thousand.

Sec. 8. Section 15.286, subsection 2, Code 1989, is amended to read as follows:

2. Applicants must be seeking funds to assist in meeting the area needs of low and moderate income persons in pursuit of decent housing or in meeting the purposes of the housing trust fund program as described in section 220.100, subsection 2.

Sec. 9. Section 15.286, subsection 4, paragraph b, Code 1989, is amended to read as follows:

b. The Iowa finance authority shall give a preference in the awarding of assistance ~~to the following~~ as follows:

(1) ~~The assistance~~ Assistance that will be used to meet the purposes of the housing trust fund program.

(2) ~~The~~ An applicant that is a nonprofit entity.

(3) ~~Programs~~ A program to assist ~~low income~~ low-income persons and the disadvantaged.

(4) A project that will qualify for the low-income housing credit under section 42 of the Internal Revenue Code, as defined in section 422.3.

(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, as defined in section 422.3.

Sec. 10. Section 17A.5, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~Each~~ A rule ~~hereafter adopted~~ adopted after July 1, 1975, is effective thirty-five days after filing, as required in this section, and indexing and publication in the Iowa administrative bulletin except that:

Sec. 11. Section 17A.23, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Except as expressly provided otherwise by this chapter or by another statute referring to this chapter by name, the rights created and the requirements imposed by this chapter shall be in addition to those created or imposed by every other statute ~~now~~ in existence on July 1, 1975, or ~~hereafter~~ enacted after that date. If any other statute ~~now~~ in existence on July 1, 1975, or ~~hereafter~~ enacted after that date diminishes ~~any~~ a right conferred upon a person by this chapter or diminishes ~~any~~ a requirement imposed upon an agency by this chapter, this chapter shall take precedence unless the other statute expressly provides that it shall take precedence over all or some specified portion of this named chapter.

Sec. 12. Section 24.14, Code 1989, is amended to read as follows:

24.14 TAX LIMITED.

A greater tax than that so entered upon the record shall not be levied or collected for the municipality proposing the tax for the purposes indicated; and ~~thereafter~~ a greater expenditure of public money shall not be made for any specific purpose than the amount estimated and appropriated for that purpose, except as provided in sections 24.6 and 24.15. All budgets set up in accordance with the statutes shall take such funds, and allocations made by sections 123.53, 324.79 and ~~405.1~~ chapter 405A, into account, and all such funds, regardless of their source, shall be considered in preparing the budget, ~~all as is provided in this chapter~~.

Sec. 13. Section 25A.2, subsection 1, Code 1989, is amended to read as follows:

1. "State agency" includes all executive departments, agencies, boards, bureaus, and commissions of the state of Iowa, and corporations whose primary function is to act as, and while acting as, instrumentalities or agencies of the state of Iowa, whether or not authorized to sue

and be sued in their own names. This definition does not include ~~any~~ a contractor with the state of Iowa. Soil and water conservation districts as defined in section 467A.3, subsection 1, ~~water resource districts as defined in section 467D.2, subsection 1,~~ judicial district departments of correctional services as established in section 905.2, and regional boards of library trustees as defined in chapter 303B, are state agencies for purposes of this chapter.

Sec. 14. Section 28G.3, Code 1989, is amended to read as follows:

28G.3 CREATION OF PUBLIC SERVICE MONOPOLY.

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

Sec. 15. Section 43.123, Code 1989, is amended to read as follows:

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.~~

Sec. 16. Section 64.11, Code 1989, is amended to read as follows:

64.11 EXPENSE OF BONDS PAID BY COUNTY.

If a county treasurer, county attorney, recorder, auditor, sheriff, medical examiner, member of the ~~soldiers relief~~ veterans affairs commission, member of the board of supervisors, engineer, steward, or matron elects to furnish a bond with ~~any~~ an association or incorporation as surety as provided in this chapter, the reasonable cost of the bond shall be paid by the county where the bond is filed.

Sec. 17. Section 77.3, Code 1989, is amended to read as follows:

77.3 NOTICE OF EXPIRATION OF TERM.

The secretary of state shall, two months preceding the expiration of a commission, notify the notary public of the expiration and furnish a blank application for reappointment ~~and a blank bond~~.

Sec. 18. Section 80.30, Code 1989, is amended to read as follows:

80.30 ~~ADDITIONAL EMPLOYEES~~ INDIVIDUAL QUALIFICATIONS.

~~Except as provided in this section, from and after May 8, 1970, any additional individuals hired by the state department of public safety for the purpose of enforcement of laws relating to controlled or counterfeit substances shall be subject to the provisions of section 80.15 and such individuals shall be covered by the provisions of chapter 97A. They shall be entitled to receive the benefits provided in chapter 97A, and will be required to make such contributions and payments into the system as are required by such chapter. However, if there is~~ If an individual ~~who~~ is not able to meet the qualifications established by section 80.15 or chapter 97A and that individual otherwise possesses experience and training which qualifies that individual as a person capable of enforcing laws relating to controlled or counterfeit substances, that individual may be hired by the commissioner of public safety ~~notwithstanding~~.

Sec. 19. Section 87.4, unnumbered paragraph 4, Code 1989, is amended to read as follows:

A self-insured program for the payment of workers' compensation benefits established by

an association comprised of cities ~~and~~ or 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. 20. Section 97B.7, subsection 2, paragraph b, unnumbered paragraph 1, Code 1989, is amended to read as follows:

To 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, 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~~ the treasurer of state, the department, and the board 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. 21. Section 99D.5, subsection 1, Code 1989, is amended to read as follows:

1. A state racing commission is created within the department of ~~commerce~~ inspections and appeals consisting of five members who shall be appointed by the governor subject to confirmation by the senate, and who shall serve not to exceed a three-year term at the pleasure of the governor. The term of each member shall begin and end as provided in section 69.19.

Sec. 22. Section 99E.18, subsection 3, Code 1989, is amended to read as follows:

3. A ticket or share shall not be purchased by and a prize shall not be paid to the commissioner, a board member or employee of the lottery ~~agency~~ division, or to a spouse, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or stepparent residing as a member of the same household in the principal residence of the commissioner, a board member, or an employee. A ticket or share purchased in violation of this subsection is void.

Sec. 23. Section 109.90, unnumbered paragraph 2, Code 1989, is amended to read as follows:

This section does not prohibit the owner ~~to destroy~~ from destroying a den to protect the owner's property.

Sec. 24. Section 117.34, subsection 11, Code 1989, is amended to read as follows:

11. Any other conduct, whether of the same or different character from that ~~hereinbefore~~ specified in this section, ~~or~~ which demonstrates ~~such~~ bad faith, or improper, fraudulent, or dishonest dealings ~~as~~ which would have disqualified the licensee from securing a license under this chapter.

Sec. 25. Section 122A.1, Code 1989, is amended to read as follows:

122A.1 ~~DAYLIGHT~~ STANDARD TIME AND DAYLIGHT SAVING TIME.

The standard time in this state ~~shall be~~ is the solar time of the ninetieth meridian of longitude west of Greenwich, commonly known as central standard time, except that from two o'clock ante meridiem of ~~Memorial Day~~ the first Sunday of April in every year ~~and~~ until two o'clock ante meridiem of the ~~day following Labor Day~~ last Sunday of October in the same year, standard time shall be advanced one hour. The period of time so advanced shall be known as "daylight saving time."

~~In the event Memorial Day should fall on a Sunday, the effective time of the one hour advance will be at two o'clock ante meridiem the preceding day.~~

Sec. 26. Section 135.46, subsection 2, paragraph h, Code 1989, is amended to read as follows:

h. One member representing the end-stage renal disease network #8 as established by federal law.

Sec. 27. Section 136.2, Code 1989, is amended to read as follows:

136.2 APPOINTMENT.

All members of the state board of health shall be appointed by the governor ~~and shall serve for a period of three years except the terms of the nine initial appointees shall be as follows:~~

~~1. Three members shall serve from July 4, 1965 to June 30, 1966.~~

~~2. Three members shall serve from July 4, 1965 to June 30, 1967.~~

~~3. Three members shall serve from July 4, 1965 to June 30, 1968~~ to three-year staggered terms which shall expire on June 30.

The governor shall appoint annually successors to the three board members whose terms expire ~~on June 30 of~~ that year. ~~Any~~ A vacancy occurring on the board shall be filled by the governor for the unexpired term of the vacancy.

Sec. 28. Section 147.76, Code 1989, is amended to read as follows:

147.76 RULES ~~PROMULGATED~~ ADOPTED.

The examining boards for the various professions shall ~~promulgate~~ adopt all necessary and proper rules to implement and interpret ~~the provisions of~~ this chapter and chapters ~~148, 148A, 148C, 149, 150, 150A, 151, 152, 153, 154, 154A, 154B, 155A, and 156~~ 147A through 158, except chapters 148D and 153A.

Sec. 29. Section 159.5, subsections 7, 8, and 12, Code 1989, are amended to read as follows:

7. Maintain a division of agricultural statistics, which shall, in co-operation with the United States department of agriculture statistical reporting service, gather, compile, and publish statistical information concerning the condition and progress of crops, the production of crops, livestock, livestock products, poultry, and other such related agricultural statistics, as will generally promote knowledge of the agricultural industry in the state of Iowa. The statistics, when published, ~~shall~~ constitute official agricultural statistics for the state of Iowa. The division ~~shall be~~ is in the charge of ~~a director~~ an administrator, who shall be appointed by the secretary of agriculture and who shall be an officer of the United States department of agriculture statistical reporting service, if one is detailed for that purpose by the federal government.

8. Establish and maintain a marketing news service division in the department which shall, in co-operation with the federal market news and grading division of the United States department of agriculture, collect and disseminate data and information relative to the market prices and conditions of agricultural products raised, produced, and handled in the state. ~~Said~~ The division ~~shall be~~ is in the charge of ~~a director~~ an administrator, who shall be appointed by the secretary of agriculture and shall be an officer of the federal market news and grading division of the United States department of agriculture, if one ~~be~~ is detailed for that purpose by the federal government.

12. Establish and maintain a sheep promotion division in the department ~~of agriculture~~ which shall promote the consumption of lamb, mutton, and the use of wool, aid in the orderly marketing of sheep and wool, and conduct other activities which are beneficial to the sheep industry in Iowa. ~~Said~~ The division ~~shall be~~ is in the charge of ~~a director~~ an administrator, who shall be appointed by the secretary of agriculture. Funds appropriated for the department of agriculture for state aid to the Iowa sheep association ~~are hereby authorized to~~ may be used together with other funds available for sheep promotion in establishing and maintaining the sheep promotion division, and ~~said~~ the funds may be drawn and expended upon the order of the ~~director~~ administrator with the approval of the secretary of agriculture.

Sec. 30. Section 159.6, subsections 8 and 11, Code 1989, are amended to read as follows:

8. Regulation and inspection of foods, drugs, and other articles, as provided in Title X, but

chapters 202 and 203, ~~204 and~~ through 205 of ~~said~~ that title shall be enforced as ~~therein~~ provided in those chapters.

11. Soil and water conservation as set forth in chapters 467A through ~~467D~~ 467F.

Sec. 31. Section 172D.1, subsection 2, Code 1989, is amended to read as follows:

2. "Department" means the department of environmental quality in a reference to a time before July 1, 1983, ~~and~~ the department of water, air and waste management in a reference to a time on or after July 1, 1983, and through June 30, 1986, and the department of natural resources on or after July 1, 1986, and includes any officer or agency within that department.

Sec. 32. Section 190B.8, subsection 1, Code 1989, is amended to read as follows:

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~~ who obtains a sworn statement that the vendor knows or has reason to know is false.

Sec. 33. Section 203A.19, subsection 2, Code 1989, is amended to read as follows:

2. There has been filed with the board by the manufacturer, packer, or distributor of the drug a statement which is accurate with respect to the drug, setting forth the information required by subsection 1 together with all additional information relating to demonstrated bioavailability, side effects, contraindications, and effectiveness, as ~~may be~~ required by rules of the board.

Sec. 34. Section 218.92, Code 1989, is amended to read as follows:

218.92 DANGEROUS MENTAL PATIENTS.

When a patient in ~~any~~ a state hospital-school for the mentally retarded, ~~any~~ a mental health institute, or ~~any~~ an institution under the administration of the administrator of the division of mental health of the department of human services, has become so mentally disturbed as to constitute a danger to self, to other patients in the institution, or to the public, and the institution ~~involved~~ cannot provide adequate security, the administrator of mental health with the consent of the director of the Iowa department of corrections may order the patient to be transferred to the Iowa medical and classification center, ~~provided that~~ if the executive head of the institution from which the patient is to be transferred, with the support of a majority of the medical staff, recommends the transfer in the interest of the patient, other patients, or the public. If the patient transferred was hospitalized pursuant to sections 229.6 to 229.15, the transfer shall be promptly reported to the court which hospitalized the patient, as required by section 229.15, subsection ~~3~~ 4. The Iowa medical and classification center has the same rights, duties, and responsibilities with respect to the patient as the institution from which the patient was transferred had while the patient was hospitalized there. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

Sec. 35. Section 255A.14, Code 1989, is amended to read as follows:

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~~ obstetrical and newborn patient care fund on June 30 of each year shall be used for the payment of warrants issued pursuant to section 255.25.

Sec. 36. Section 258A.1, subsection 1, paragraph m, Code 1989, is amended to read as follows:

m. The board of physician assistant examiners, created pursuant to chapter 148C.

Sec. 37. Section 261.1, subsection 3, Code 1989, is amended to read as follows:

3. A member of the state ~~advisory committee for~~ council on vocational education to be named by the ~~said~~ committee, who shall serve for a four-year term or until the expiration of the member's term of office.

Sec. 38. Section 279.28, Code 1989, is amended to read as follows:

279.28 INSURANCE — SUPPLIES — TEXTBOOKS.

~~It~~ The board of directors may provide and pay out of the general fund to insure school property ~~such~~ a sum as ~~may be~~ necessary, and may purchase dictionaries, library books, including books for the purpose of teaching vocal music, maps, charts, and apparatus for the use of the schools ~~thereof~~ as deemed necessary by the board of directors for each school building under its charge; and may furnish schoolbooks to indigent children when they are likely to be deprived of the proper benefits of the school unless so aided.

Sec. 39. Section 306A.5, unnumbered paragraph 1, Code 1989, is amended to read as follows:

For the purposes of this chapter, cities and highway authorities having jurisdiction and control over the highways of the state, as provided by chapter 306, may acquire private or public property rights for controlled-access facilities and service roads, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation in the same manner as such units are ~~now or hereafter may be~~ authorized by law to acquire such property or property rights in connection with highways and streets within their respective jurisdictions. All property rights acquired under ~~the provisions of~~ this chapter shall be in fee simple. In connection with the acquisition of property or property rights for ~~any~~ a controlled-access facility or portion ~~thereof~~ of, or service road in connection ~~therewith~~ with a controlled-access facility, the ~~said~~ cities and highway authorities, in their discretion, may acquire an entire lot, block, or tract of land, if, by so doing, the interests of the public will be best served, even though ~~said~~ the entire lot, block, or tract is not immediately needed for the right of way proper.

Sec. 40. Section 321.1, subsection 2, paragraph b, Code 1989, is amended to read as follows:

b. "Used motor vehicle" or "second-hand motor vehicle" or "used car" means a motor vehicle of a type subject to registration under the laws of this state which has been sold "at retail" as defined in chapter 322 and previously registered in this or any other state.

Sec. 41. Section 321.1, subsection 2, paragraph d, Code 1989, is amended by striking the paragraph.

Sec. 42. Section 321.39, subsection 5, Code 1989, is amended by striking the subsection.

Sec. 43. Section 321.218, Code 1989, is amended to read as follows:

321.218 DRIVING WITHOUT VALID LICENSE — PENALTIES.

1. A person whose operator's or chauffeur's license or driving privilege has been denied, canceled, suspended, or revoked as provided in this chapter, and who drives a motor vehicle upon the highways of this state while the license or privilege is denied, canceled, suspended, or revoked, commits a simple misdemeanor.

2. However, a person whose license or driving privilege has been revoked under section 321.209, and who drives a motor vehicle upon the highways of this state while the license or privilege is revoked, commits a serious misdemeanor.

3. The sentence imposed under this section shall not be suspended by the court, notwithstanding section 907.3 or any other statute.

4. The department, upon receiving the record of the conviction of a person under this section upon a charge of driving a motor vehicle while the license of the person was suspended or revoked, shall, except for licenses suspended under section 321.513, extend the period of suspension or revocation for an additional like period, and the department shall not issue a new license during the additional period.

5. ~~Any~~ A person operating a motorized bicycle on the highways of the state and not possessed of an operator's or chauffeur's license or a valid motorized bicycle license, ~~shall~~ is, upon conviction, ~~be~~ guilty of a simple misdemeanor.

Sec. 44. Section 321.393, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~No~~ A lighting device or reflector, when mounted on or near the front of ~~any~~ a motor truck or trailer, except a school ~~buses~~ bus, shall not display any other color than white, yellow, or amber; ~~provided that installations heretofore in place and otherwise complying with the law may display a green light, however, such green light shall be replaced with the appropriate color when replacement is made or prior to January 1, 1980, whichever is earlier~~.

Sec. 45. Section 321E.30, Code 1989, is amended to read as follows:

321E.30 COPY OF MOBILE HOME PERMIT TO COUNTY TREASURER.

~~A copy~~ Verification of the permits issued by the state or county to move mobile homes shall be sent to the county treasurer of the county of final destination by the permit issuing ~~officer~~ officers. A one dollar fee shall be added to the permit charge to cover the costs of this service.

Sec. 46. Section 321J.13, subsection 1, Code 1989, is amended to read as follows:

1. Notice of revocation of a person's motor vehicle license or operating privilege served pursuant to section 321J.9 or 321J.12 shall include a form accompanied by a preaddressed envelope on which the person served may indicate by a checkmark if the person wishes to request a temporary restricted license only or if the person wishes a hearing to contest the revocation. The form shall clearly state on its face that the form must be completed and returned within ~~twenty~~ thirty days of receipt or the person's right to a hearing to contest the revocation is foreclosed. The form shall also be accompanied by a statement of the operation of and the person's rights under this chapter.

Sec. 47. Section 323A.2, subsection 1, paragraph c, and subsection 2, Code 1989, are amended to read as follows:

c. ~~The franchisee has requested motor fuel from the set-aside program administered by the department of natural resources under section 93.7, subsection 9, and allocation from the set-aside program has been denied and the~~ The director of the department of natural resources determines that the franchisee has demonstrated that a special hardship exists in the community served by the franchisee relating to the public health, safety and welfare, as specified under the rules of the department of natural resources.

2. The quantity of motor fuel requested or purchased from another source including ~~those sources~~ the source listed in subsection 1, ~~paragraphs~~ paragraph "b", ~~and "c"~~ shall not exceed the quantity requested from the franchisor.

Sec. 48. Section 331.427, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 84.21, 98.35, 98A.6, 101A.3, 101A.7, 110.12, 123.36, 123.143, 176A.8, 246.908, 321.105, 321.152, 321.192, 321G.7, 331.554, subsection 6, 341A.20, 364.3, 368.21, chapter 405A, 422.65, ~~422.100,~~ 422A.2, 428A.8, 430A.3, 433.15, 434.19, 441.68, 445.52, 445.57, 533.24, 556B.1, 567.10, 583.6, 906.17, and 911.3, and the following:

Sec. 49. Section 359.8, Code 1989, is amended to read as follows:

359.8 DIVISION – EFFECT.

If ~~such~~ the petition is signed by a majority of the eligible electors of the township residing without the corporate limits of such city, the board of supervisors shall divide ~~such~~ the township into two townships, as ~~prayed~~ petitioned; but, except for election purposes, including the appointment of ~~all judges and clerks of~~ election officers rendered necessary by the change, ~~such~~ the division shall not take effect until the first day of January following the next general election which is not a Sunday or a legal holiday.

Sec. 50. Section 386.7, subsection 3, Code 1989, is amended to read as follows:

3. If the council orders the construction of the self-liquidating improvement, ~~any~~ contracts for it shall be let ~~therefor~~ in accordance with ~~chapter 384 of~~ division VI of chapter 384.

Sec. 51. Section 426A.2, Code 1989, is amended to read as follows:

426A.2 WHERE CREDIT GIVEN.

The moneys shall be apportioned each year so as to replace all or a portion of the tax which would be due on property eligible for military service tax exemption in the state, ~~were~~ if the property were subject to taxation, the amount of ~~such~~ the 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 which would be subject to the tax ~~which~~, ~~but~~ except for the military service tax exemption~~, would be payable upon the property in the taxing district to which the property is located~~.

Sec. 52. Section 442.13, subsection 14, unnumbered paragraph 2, Code 1989, is amended to read as follows:

In determining the balance of funds of a school district under this subsection, the committee shall subtract the amount of any reduction in state aid that occurred as a result of a reduction in allotments made by the governor ~~with the concurrence of the executive council~~ under section 8.31.

Sec. 53. Section 455.223, Code 1989, is amended to read as follows:

455.223 ~~WATER RESOURCE~~ SOIL AND WATER CONSERVATION DISTRICTS.

The governing board of every drainage or levee district organized under the laws of this state shall take notice of the district plan, and shall conform to the duly ~~promulgated~~ adopted rules, of the ~~water resource~~ soil and water conservation district or districts in which the drainage or levee district is located~~;~~. ~~provided that~~ However, this section ~~shall~~ does not ~~be construed to~~ grant ~~any~~ authority not otherwise granted by law to the governing boards of drainage or levee districts.

Sec. 54. Section 455B.291, subsection 9, Code 1989, is amended by striking the subsection.

Sec. 55. Section 467A.3, subsections 14 and 15, Code 1989, are amended by striking the subsections.

Sec. 56. Section 467A.4, subsection 1, Code 1989, is amended to read as follows:

1. The soil conservation division is established within the department to perform the functions conferred upon it in chapters 83, 83A, and 467A through ~~467D~~ 467F. The division shall be administered in accordance with the policies of the state soil conservation committee, which shall advise the division and which shall approve administrative rules proposed by the division for the administration of chapters 83, 83A, and 467A through ~~467D~~ 467F before the rules are adopted pursuant to ~~chapter 17A~~ section 17A.5. The state soil conservation committee consists of a chairperson and ten other members. The following shall serve as ex officio nonvoting members of the committee: The director of the Iowa cooperative extension service in agriculture and home economics, or the director's designee~~,~~; and the director of the department of natural resources or the director's designee. Nine voting members shall be appointed by the governor subject to confirmation by the senate. Six of the appointive members shall be persons engaged in actual farming operations, ~~one of whom shall be a resident of each of the six water resource districts established by section 467D.3,~~ and no more than one of ~~whom~~ the six shall be a resident of any one county. The seventh, eighth, and ninth appointive members shall be chosen by the governor from the state at large with one appointed to be a representative of cities, one appointed to be a representative of the mining industry, and one appointee who is a farmer actively engaged in tree farming operations. The committee may invite the secretary of agriculture of the United States to appoint one person to serve with the other members, and the president of the Iowa county engineers association may designate a member of the association to serve in the same manner, but these persons have no vote and shall serve in an advisory capacity only.

Sec. 57. Section 467A.7, subsection 15, Code 1989, is amended by striking the subsection.

Sec. 58. Section 467A.13, Code 1989, is amended to read as follows:

467A.13 PURPOSE OF SUBDISTRICTS.

Subdistricts of a soil and water conservation district may be formed as provided in this chapter for the purposes of ~~co-operating with water resource districts and of~~ carrying out watershed protection and flood prevention programs within the subdistrict but shall not be formed solely for the purpose of establishing or taking over the operation of an existing drainage district.

Sec. 59. Section 467A.53, Code 1989, is amended to read as follows:

467A.53 CO-OPERATION WITH OTHER AGENCIES.

Soil and water conservation districts may enter into agreements with the federal government or ~~any~~ an agency of the federal government, as provided by state law, or with the state of Iowa or ~~any~~ an agency of the state, any other soil and water conservation district ~~or water resource district~~, or any other political subdivision of this state, for co-operation in preventing, controlling, or attempting to prevent or control, soil erosion. Soil and water conservation districts may accept, as provided by state law, ~~any~~ money disbursed for soil erosion control purposes by the federal government or ~~any~~ an agency of the federal government, and expend the money for the purposes for which it was received.

Sec. 60. Section 467B.1, Code 1989, is amended to read as follows:

467B.1 AUTHORITY OF BOARD.

If a county, soil and water conservation district, subdistrict of a soil and water conservation district, ~~water resource district,~~ political subdivision of the state, or other local agency engages or participates in a project for flood or erosion control, flood prevention, or the conservation, development, utilization, and disposal of water, in co-operation with the federal government, or ~~any~~ a department or agency of the federal government, the counties in which the project is carried on may, through the board of supervisors, construct, operate, and maintain the project on lands under the control or jurisdiction of the county dedicated to county use, or furnish financial and other assistance in connection with the projects. Flood, soil erosion control, and watershed improvement projects are presumed to be for the protection of the tax base of the county, for the protection of public roads and lands, and for the protection of the public health, sanitation, safety, and general welfare.

Sec. 61. Section 467B.2, Code 1989, is amended to read as follows:

467B.2 FEDERAL AID.

A county may, in accordance with this chapter, accept federal funds for aid in a project for flood or soil erosion control, flood prevention, or the conservation, development, utilization, and disposal of water, and may co-operate with the federal government or a department or agency of the federal government, a soil and water conservation district, subdistrict of a soil and water conservation district, ~~water resource district,~~ political subdivision of the state, or other local agency, and the county may assume a proportion of the cost of the project as deemed appropriate, and may assume the maintenance cost of the project on lands under the control or jurisdiction of the county which will not be discharged by federal aid or grant.

Sec. 62. Section 467B.3, Code 1989, is amended to read as follows:

467B.3 CO-OPERATION.

The counties, ~~and~~ soil and water conservation districts, and subdistricts of soil and water conservation districts concerned, ~~and water resource districts,~~ shall advise and consult with each other, upon the request of any of them or any affected landowners, and may co-operate with each other or with other state subdivisions or instrumentalities, and affected landowners, as well as with the federal government or a department or agency of the federal government, to construct, operate, and maintain suitable projects for flood or soil erosion control, flood prevention, or the conservation, development, utilization, and disposal of water on public roads or other public lands or other land granted county use.

Sec. 63. Section 467B.5, Code 1989, is amended to read as follows:

467B.5 MAINTENANCE COST.

If construction of projects has been completed by the soil and water conservation district, subdistricts of soil and water conservation districts, ~~water resource districts,~~ political subdivisions of the state, or other local agencies, or the federal government, or ~~any~~ a department or agency of the federal government, on private lands under the easement granted to the county, only the cost of maintenance may be assumed by the county.

Sec. 64. Section 467B.10, Code 1989, is amended to read as follows:

467B.10 ASSUMPTION OF OBLIGATIONS.

This chapter contemplates that actual direction of the project, or projects, and the actual work done in connection with them, will be assumed by the soil and water conservation district, a subdistrict of a soil and water conservation district, ~~water resource district,~~ or the federal government, and that the county or other state subdivisions or instrumentalities jointly will meet the obligation required for federal co-operation and may make proper commitment for the care and maintenance of the project after its completion for the general welfare of the public and residents of the respective counties.

Sec. 65. Section 491.1, Code 1989, is amended to read as follows:

491.1 WHO MAY INCORPORATE.

Any number of persons may become incorporated under this chapter prior to July 1, 1971, for the transaction of any lawful business, but the incorporation confers no power or privilege not possessed by natural persons, except as provided in this chapter. All domestic corporations shall be organized under chapter 496A only, except for corporations which are to become subject to one or more of the following chapters: 174, 176, 499, 499A, 504A, 506, 508, ~~510,~~ 512, 514, 515, 515A, 518, 518A, 519, 524, 533, and 534.

Sec. 66. Section 496A.142, subsection 1, Code 1989, is amended to read as follows:

1. Except as provided in section 496A.2, in section 496A.103, subsection 2 and in this subsection, this chapter ~~shall~~ does not apply to or affect corporations subject to ~~the provisions of~~ chapters 174, 176, 497, 498, 499, 499A, 504, 506, 508, ~~510,~~ 512, 514, 515, 518A, 519, 533, 534 of the Code and state banks organized under chapter 524. Such corporations shall continue to be governed by all laws of this state ~~heretofore~~ applicable ~~thereto and as the same may hereafter be amended~~ to them. This chapter ~~shall~~ does not ~~be construed as in derogation of~~ derogate or ~~as limitation on~~ limit the powers ~~to which~~ of such corporations ~~may be entitled~~.

Sec. 67. Section 508C.3, subsection 3, paragraph e, Code 1989, is amended to read as follows:

e. A policy or contract issued by a company which is licensed under chapter 509A, ~~510,~~ 512, 512A, 514, 514B, 518, 518A, or 520.

Sec. 68. Section 509.5, subsection 2, Code 1989, is amended to read as follows:

2. ~~Any~~ A casualty company organized on the stock or mutual plan, or accident and health association authorized to transact business under ~~the provisions of chapter 510 or~~ chapter 515, or a reciprocal or interinsurance exchange organized under ~~the provisions of~~ chapter 520, may, by complying with ~~the provisions of said~~ those chapters and ~~of~~ this chapter, issue contracts providing for health or accident insurance, or combinations ~~thereof~~ of health and accident insurance, as defined in this chapter.

Sec. 69. Section 511.8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~Any~~ A company, organized under chapter 508, shall, at all times, have invested in the securities provided in this section, funds equivalent to its legal reserve. Legal reserve ~~shall be~~ is the net present value of all outstanding policies, and contracts involving life contingencies. ~~Any association, organized under chapter 510, accumulating any moneys to be held in trust for the purpose of the fulfillment of its policies or certificates, contracts, or otherwise, shall invest such accumulations in the securities provided in this section. Wherever, in this section, reference is made to "legal reserve", it shall mean the total accumulations in the case of an association organized under chapter 510. Nothing herein contained shall~~ This section

does not prohibit a company or association from holding a portion of its legal reserve in cash.

Sec. 70. Section 511.26, Code 1989, is amended to read as follows:

511.26 FEE STATUTE — APPLICABILITY.

The provisions of the chapter on insurance other than life apply as to fees under this chapter and ~~chapters~~ chapter 508 ~~and 510,~~ except as modified by section 511.24.

Sec. 71. Section 512.7, Code 1989, is amended to read as follows:

512.7 EXCLUSIVE MEMBERSHIP IN RELIGIOUS ORDER.

~~Any~~ A corporation ~~heretofore~~ organized before July 4, 1911, under the laws of this or any other state, whose membership is confined to the members of any one religious denomination, and whose plan of business permits, may take advantage of the preceding sections of this chapter by amendment to its articles of incorporation, and by complying with ~~the provisions of~~ sections 512.27 to 512.32; ~~provided that such corporations as on March 15, 1907, were and have since continuously been doing business under chapter 510, may take advantage of said sections without raising their mortuary assessment rates or showing that their said rates are such as are required by section 512.43.~~

Sec. 72. Section 514A.1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~The term "policy~~ "Policy of accident and sickness insurance" as used ~~herein~~ in this chapter includes ~~any~~ a policy or contract covering insurance against loss resulting from sickness, or from bodily injury or death by accident, or both. For the purposes of this chapter the words "policy of accident and sickness insurance" are interchangeable without deviation of meaning with the words "policy of accident and health insurance" or the words "policy of accident or health insurance. ~~The provisions of this~~ This chapter ~~shall apply~~ applies to all individual policies of such accident and sickness insurance ~~as are~~ written by Iowa or non-Iowa companies or associations duly licensed under ~~the provisions of either~~ chapter 508, ~~510,~~ 515, or 520 ~~also~~ and, societies, orders, or associations licensed under ~~the provisions of~~ chapter 512 writing sickness and accident policies providing benefits for loss of time.

Sec. 73. Section 514A.1, unnumbered paragraph 2, Code 1989, is amended by striking the unnumbered paragraph.

Sec. 74. Section 515B.2, subsection 4, Code 1989, is amended to read as follows:

4. "Insurer" means an insurer licensed to transact insurance business in this state under either chapter 515 or chapter 520, either at the time the policy was issued or when the insured event occurred. It ~~shall~~ does not include county or state mutual assessment associations licensed under chapter 518 or chapter 518A, or fraternal beneficiary societies, orders, or associations licensed under chapter 512, or corporations operating nonprofit service plans under chapter 514, or life insurance companies or life, accident, or health associations licensed under chapter 508 ~~or chapter 510~~, or those professions under chapter 519.

Sec. 75. Section 521.1, Code 1989, is amended to read as follows:

521.1 ~~"COMPANY" DEFINED~~ DEFINITIONS.

~~The word "company~~ "Company" or "companies" when used in this chapter ~~shall mean any~~ means a company or association organized under ~~the provisions of chapters~~ chapter 508, ~~510,~~ 511, 515, 518A, or 520, except county mutuals.

Sec. 76. Section 535B.2, subsection 12, Code 1989, is amended to read as follows:

12. Mortgage lenders ~~of~~ or 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. 77. Section 566.19, Code 1989, is amended to read as follows:

566.19 SETTLEMENT OF ESTATES — MAINTENANCE FUND.

The court in which the estate of ~~any~~ a deceased person is administered, before final distribution, may allow and set apart from ~~such~~ the estate, a sum sufficient to provide an income

adequate to ~~perpetual~~ pay for the perpetual care and upkeep of the cemetery lot upon which the body of the deceased is buried, except where perpetual care has otherwise been provided for. The sum so allowed and set apart shall be paid to a trustee as provided by this chapter.

Sec. 78. Section 601K.1, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 8. Division on the status of blacks.

Sec. 79. Section 601L.3, subsection 11, Code 1989, is amended to read as follows:
11. ~~Pursuant to section 601K.2, be~~ Be responsible for the budgetary and personnel decisions for the department and commission.

Sec. 80. Section 602.8102, subsection 21, Code 1989, is amended by striking the subsection.

Sec. 81. Section 602.8105, subsection 1, paragraph m, Code 1989, is amended to read as follows:
m. For ~~issuing a marriage license~~ filing an application for a license to marry, fifteen dollars. The clerk of the district court shall remit to the treasurer of state five dollars for each marriage license ~~issued~~ application filed. The treasurer of state shall deposit the funds received in the general fund of the state. For issuing an application for an order of the district court authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license, five dollars.

Sec. 82. Section 613A.1, subsection 1, Code 1989, is amended to read as follows:
1. "Municipality" means city, county, township, school district, and any other unit of local government except soil and water conservation districts as defined in section 467A.3, subsection 1, ~~and water resource districts as defined in section 467D.2, subsection 1~~.

Sec. 83. Section 617.13, Code 1989, is amended to read as follows:
617.13 REAL ESTATE IN FOREIGN COUNTY — ~~SUPERIOR COURT~~.
When any part of real property, the subject of an action, is situated in any other county than the one in which the action is brought, ~~or when the action is brought in the superior court,~~ the plaintiff must, in order to affect third persons with constructive notice of the pendency ~~thereof~~ of the action, file with the clerk of the district court of ~~such~~ the other county a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the property in that county affected ~~thereby, who~~ by the action. The clerk shall at once index and enter a memorandum ~~thereof~~ of the notice in the encumbrance book.

Sec. 84. Section 631.6, unnumbered paragraph 2, Code 1989, is amended to read as follows:
All fees and costs collected in small claims actions, other than the ~~six~~ ten dollars of the docket fee to be paid into the state treasury, shall be deposited in the court revenue distribution account established under section 602.8108, except that the fee specified in subsection 4 shall be remitted to the secretary of state.

Sec. 85. Section 804.21, subsection 1, Code 1989, is amended to read as follows:
1. A person arrested in obedience to a warrant shall be taken without unnecessary delay before the nearest or most accessible magistrate. The officer shall at the same time deliver to the magistrate the warrant with the officer's return endorsed on it and subscribed by the officer with the officer's official title. However, this section, and sections 804.22 and 804.23, do not preclude the release of an arrested person within the period of time the person would otherwise remain incarcerated while waiting to be taken before a magistrate if the release is pursuant to pretrial release guidelines or a bond schedule promulgated by the judicial council ~~acting pursuant to Iowa rule of civil procedure 380~~. If, however, a person is released pursuant to pretrial release guidelines, a magistrate must, within twenty-four hours of ~~such~~ the release, or as soon as practicable on the next subsequent working day of the court, either ~~(1)~~ approve in writing of the release, or ~~(2)~~ disapprove of the release and issue a warrant for the person's arrest.

Sec. 86. 1988 Iowa Acts, chapter 1182, section 6, is amended to read as follows:

SEC. 6. EFFECTIVE DATE. This Act takes effect July 1, 1989. Sections 4 and 5 take effect when the ~~authority~~ secretary of agriculture determines that degradable products are available to a degree which makes compliance reasonably possible. The ~~authority~~ secretary of agriculture shall establish the effective date by rule adopted under chapter 17A.

Sec. 87. Sections 15.257, 80.29, 80.31, and 511.15, Code 1989, are repealed.

Approved May 1, 1989

CHAPTER 84

MOTOR VEHICLE LICENSES, CARDS, AND FORMS
S.F. 121

AN ACT relating to the possession or making of motor vehicle licenses, nonoperator's identification cards, and blank motor vehicle license forms, and providing penalties.

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

Section 1. Section 321.216, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. To obtain, possess, or have in one's control or on one's premises a motor vehicle license, a nonoperator's identification card, or a blank motor vehicle license form, which has been made by a person having no authority or right to make the license, card, or form.

Sec. 2. NEW SECTION. 321.216A FALSIFYING MOTOR VEHICLE LICENSES AND FORMS AND NONOPERATOR'S IDENTIFICATION CARDS.

It is a serious misdemeanor for any person to make a motor vehicle license, a nonoperator's identification card, or a blank motor vehicle license form if the person has no authority or right to make the license, card, or form.

Sec. 3. Section 805.8, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. p. For obtaining, possessing, or having in one's control or one's premises a motor vehicle license, a nonoperator's identification card, or a blank motor vehicle license form in violation of section 321.216, subsection 7 or 8, the scheduled fine is fifty dollars.

Approved May 1, 1989

CHAPTER 85

DOMESTIC ABUSE COUNSELING
S.F. 155

AN ACT relating to the availability of counseling services to children who are members of a household where an incident involving domestic abuse has occurred.

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

Section 1. Section 236.5, subsection 1, Code 1989, is amended to read as follows:

1. The court may order that the plaintiff, ~~and~~ the defendant, and the children who are members of the household receive professional counseling, either from a private source approved by the court or from a source appointed by the court. Costs of counseling shall be paid in full or in part by the parties and taxed as court costs. If the court determines that the parties are unable to pay the costs, they may be paid in full or in part from the county treasury.

Sec. 2. Section 236.12, subsection 1, paragraph c, subparagraph (4), Code 1989, is amended to read as follows:

(4) Professional counseling for you, the children who are members of the household, and the defendant.

Approved May 1, 1989

CHAPTER 86

ELECTRONIC FUNDS TRANSFERS

S.F. 130

AN ACT relating to the establishment and operation of point-of-sale and automatic teller machine terminals and providing an effective date.

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

Section 1. Section 527.2, subsection 1, Code 1989, is amended to read as follows:

1. "Administrator" means and includes the superintendent of banking, the superintendent of savings and loan associations, and the superintendent of credit unions within the department of commerce and the supervisor of industrial loan companies within the office of the superintendent of banking. However, the powers of administration and enforcement of this chapter shall be exercised only as provided in ~~section~~ sections 527.3, 527.5, subsection 7, 527.11, 527.12, and any other pertinent provision of this chapter.

Sec. 2. Section 527.2, subsection 2, Code 1989, is amended to read as follows:

2. "Batch basis" means the ~~periodic~~ delivery of an accumulation of messages representing multiple ~~electronic funds transfer~~ transactions ~~authorized or rejected by the customer's financial institution at a prior time~~ after completion of the transactions.

Sec. 3. Section 527.2, subsection 5, Code 1989, is amended to read as follows:

5. "Financial institution" means and includes any bank incorporated under the provisions of chapter 524 or federal law, any savings and loan association incorporated under the provisions of chapter 534 or federal law, any credit union organized under the provisions of chapter 533 or federal law, ~~and~~ any corporation licensed as an industrial loan company under chapter 536A, and any bank, savings and loan association, or credit union incorporated under federal law or the laws of a state other than Iowa which has an office located within this state.

Sec. 4. Section 527.2, subsection 8, Code 1989, is amended to read as follows:

8. "On-line real time basis" means the ~~immediate and instantaneous~~ delivery or return of ~~an individual~~ a message initiated at a satellite terminal through transmission of electronic impulses to or from a location remote from the location of the satellite terminal prior to completion of the transaction.

Sec. 5. Section 527.2, subsection 10, Code 1989, is amended to read as follows:

10. "Satellite terminal" means and includes any machine or device located off the premises of a financial institution, whether attended or unattended, by means of which the financial institution and its customers may engage through either the immediate transmission of electronic

impulses to or from the financial institution or the recording of electronic impulses or other indicia of a transaction for delayed transmission to the financial institution, in transactions which are incidental to the conduct of the business of the financial institution and which otherwise are specifically permitted by applicable law. "Satellite terminal" also includes any machine or device located on the premises of a financial institution only if the machine or device is available for use by customers of other financial institutions. However, the term "satellite terminal" does not include any such machine or device, wherever located, if that machine or device is not generally accessible to persons other than employees of a financial institution or an affiliate of a financial institution.

Sec. 6. Section 527.2, subsection 11, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

11. "On-line point-of-sale terminal" means a satellite terminal that satisfies the requirements of section 527.4, subsection 3, paragraph "d" and is operated on an on-line real time basis.

Sec. 7. Section 527.2, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 12. "Off-line point-of-sale terminal" means a satellite terminal that satisfies the requirements of section 527.4, subsection 3, paragraph "d" and is other than an on-line point-of-sale terminal.

NEW SUBSECTION. 13. "Office" means and includes any business location in this state of a financial institution at which is offered the services of accepting deposits, originating loans, and dispensing cash, by financial institution personnel in the office.

NEW SUBSECTION. 14. "Access device" means a card, code, or other means of access to a customer's account, or any combination thereof, that may be used by the customer for the purpose of initiating a transaction by means of a satellite terminal.

NEW SUBSECTION. 15. "Personal terminal" means and includes a satellite terminal located in a personal residence and a telephone, wherever located, operated by a customer of a financial institution for the purpose of initiating a transaction affecting a noncommercial account of the customer.

NEW SUBSECTION. 16. "Completion of the transaction" means when the presence of the customer at a satellite terminal is no longer needed to consummate the sale of goods or services, to grant to the seller the right to receive payment for the goods or services, and to issue a receipt to the customer.

NEW SUBSECTION. 17. "Reciprocal basis" means that a financial institution whose licensed or principal place of business is located in this state has the express authority under the laws of a state other than Iowa to conduct business under qualifications and conditions which are no more restrictive than those imposed by the laws of the other state on financial institutions whose licensed or principal place of business is located in the other state, as determined by the administrator, and the laws of Iowa are no more restrictive of financial institutions whose licensed or principal place of business is located in such other state than they are of financial institutions whose licensed or principal place of business is located in this state.

Sec. 8. Section 527.4, subsection 1, Code 1989, is amended to read as follows:

1. A satellite terminal shall not be established within this state except by ~~any~~ a financial institution~~, except one~~ whose principal place of business is located in this state, ~~or~~ one ~~who~~ which has a business location licensed in this state under chapter 536A, or one which has an office located in this state and which meets the requirements of subsection 4.

Sec. 9. Section 527.4, subsection 2, Code 1989, is amended to read as follows:

2. A financial institution whose licensed or principal place of business is located in this state shall not establish a satellite terminal at any location outside of this state unless the other state provides for the establishment of satellite terminals by Iowa financial institutions on a reciprocal basis.

Sec. 10. Section 527.4, subsection 3, Code 1989, is amended to read as follows:

3. ~~a.~~ A financial institution whose licensed or principal place of business is located within this state may establish any number of satellite terminals in any of the following locations:

~~(1)~~ a. Within the boundaries of a municipal corporation if the principal place of business or an office of the financial institution is also located within the boundaries of the municipal corporation.

~~(2)~~ b. Within the boundaries of an urban complex composed of two or more Iowa municipal corporations each of which is contiguous to or corners upon at least one of the other municipal corporations within the urban complex if the principal place of business or an office of the financial institution is also located in the urban complex.

~~(3) Within the unincorporated area of a county in which the financial institution has its principal place of business or an office.~~

~~(4) Within a municipal corporation located in the same county as the principal place of business or an office of the financial institution if another financial institution has not located its principal place of business or an office within the municipal corporation.~~

c. Within the Iowa county in which the financial institution has its principal place of business or an office.

~~(5)~~ d. At any retail sales location in this state if ~~any~~ all of the following apply:

~~(a)~~ (1) The satellite terminal is not designed, configured, or operated to accept deposits or to dispense ~~script~~ scrip or other negotiable instruments.

~~(b)~~ (2) The satellite terminal is not designed, configured, or operated to dispense cash except when operated by the retailer as part of a retail sales transaction.

~~(c)~~ (3) The satellite terminal is utilized for the purpose of making payment to the retailer for goods or services purchased at the location of the satellite terminal.

~~(d) The financial institution controls a satellite terminal described under subparagraph part (c) at a location of the retailer established pursuant to subparagraph (1), (2), (3), or (4).~~

A financial institution shall not establish a satellite terminal at any other location except pursuant to an agreement with a financial institution which is authorized by this ~~paragraph "a"~~ subsection to establish a satellite terminal at that location and which will utilize the satellite terminal at that location. This ~~paragraph "a"~~ subsection does not amend, modify, or supersede any provision of chapter 524 regulating the number or locations of bank offices of a state or national bank, or authorize the establishment by a financial institution of any offices or other facilities except satellite terminals at locations permitted by this ~~paragraph "a"~~ subsection.

~~b. Paragraph "a" of this subsection does not apply to a corporation licensed under chapter 536A. A corporation licensed under that chapter may establish within the boundaries of a municipal corporation, or an urban complex composed of two or more Iowa municipal corporations each of which is contiguous to or corners upon at least one of the other municipal corporations within the complex, any number of satellite terminals which are satellite terminals of a licensed business location of the corporation which is located within the municipal corporation or urban complex. The corporation shall not establish a satellite terminal at any other location except pursuant to an agreement with another financial institution which is authorized by the preceding sentence to establish a satellite terminal at that location and which utilizes the satellite terminal so established.~~

Sec. 11. Section 527.4, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A financial institution whose licensed or principal place of business is not located in this state may establish, control, maintain, or operate any number of satellite terminals at the locations identified in subsection 3, paragraphs "a", "b", "c", and "d" if both of the following apply:

a. The other state provides for the establishment, control, maintenance, or operation of satellite terminals by a financial institution, whose licensed or principal place of business is located in this state, on a reciprocal basis.

b. All satellite terminals, wherever located, that are owned, controlled, maintained, or operated by the financial institution are available for use on a nondiscriminatory basis by any other financial institution which engages in electronic transactions in this state and by all customers

who have minimum contact with this state and who have been designated by a financial institution using the satellite terminal and who have been provided with an access device, approved by the administrator, by which to engage in electronic transactions by means of the satellite terminal.

Sec. 12. Section 527.5, subsection 2, Code 1989, is amended to read as follows:

2. a. ~~The~~ A satellite terminal shall be available for use on a nondiscriminatory basis by any other financial institution which has its principal place of business within this state, and by all customers who have been designated by a financial institution using the satellite terminal and who have been provided with ~~a physical object or other method~~ an access device, approved by the administrator, by which to engage in electronic transactions by means of the satellite terminal.

b. ~~No~~ A financial institution shall not be required to join, be a member or shareholder of, or otherwise participate in any corporation, association, partnership, co-operative, or other enterprise as a condition of its utilizing any satellite terminal located within this state.

c. For the purposes of complying with paragraph "a", an on-line point-of-sale terminal is not required to be available for use by customers of a financial institution by means of an access device by which an off-line point-of-sale terminal can be used to engage in electronic transactions.

d. All off-line point-of-sale terminals located at the retail location or retail locations within this state of a single retailer are exempt from paragraph "a" if electronic transactions can be initiated at each of such terminals only by an access device unique to the retailer.

e. Paragraph "a" applies to a financial institution whose licensed or principal place of business is located in a state other than Iowa if all satellite terminals owned, controlled, operated, or maintained by the financial institution, wherever located, are available on a reciprocal basis to any financial institution whose licensed or principal place of business is located in this state, and to all customers who have been designated by a financial institution using the satellite terminal and who have been provided with an access device.

Sec. 13. Section 527.5, subsection 9, paragraph b, subparagraph (2), Code 1989, is amended to read as follows:

(2) The transaction does not affect a deposit account held by a financial institution ~~with its principal office in this state~~.

Sec. 14. Section 527.5, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. A personal terminal may be utilized by a financial institution to the extent permitted by this chapter if the use and operation of the personal terminal is governed by a written agreement between the controlling financial institution and its customer and if the personal terminal is utilized and maintained in compliance with subsection 9 and all other applicable sections of this chapter. A telephone located at other than a personal residence and used primarily as a personal terminal must be utilized and maintained in compliance with this section.

Sec. 15. Section 527.8, subsection 1, Code 1989, is amended to read as follows:

1. As a condition of exercising the privilege of utilizing a satellite terminal, a financial institution is liable to each of its customers for all losses incurred by the customer as a result of the transmission or recording of electronic impulses as a part of a transaction not authorized by the customer or to which the customer was not a party. However, if the financial institution has provided the customer with ~~a physical object or other method of~~ an access device for engaging in a transaction at a satellite terminal which is unique to the customer, and losses are incurred by the customer as a result of the theft, loss or other compromise of that ~~physical object or other method of engagement~~ access device, the liability of the financial institution pursuant to this section shall not include the first fifty dollars of any losses incurred prior to the time the customer notifies the financial institution of the theft, loss or compromise except that the financial institution shall have no liability if the losses are a result of the customer's fraudulent acts or omissions.

Sec. 16. Section 527.9, subsection 2, paragraph e, Code 1989, is amended to read as follows:

e. An agreement by the applicant that the proposed central routing unit will be capable of accepting and routing, and will be operated to accept and route, transmissions of data originating at any satellite terminal located in this state ~~and controlled by the same type of financial institution as those financial institutions previously utilizing the services of the applicant central routing unit~~, whether receiving from that terminal or from a data processing center or other central routing unit. ~~For the purposes of this paragraph the term "type of financial institution" shall, notwithstanding the issuer of the financial institution's charter, mean either (1) banks; or (2) savings and loan associations; or (3) credit unions.~~

Sec. 17. Section 10 of this Act takes effect January 1, 1990.

Approved May 1, 1989

CHAPTER 87

DEER AND WILD TURKEY HUNTING LICENSES

H.F. 6

AN ACT relating to issuance of hunting licenses to landowners and tenants for deer and wild turkey.

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

Section 1. Section 109.38, subsection 2, Code 1989, is amended to read as follows:

2. 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, except as authorized by rules of the department. This subsection does not apply to the hunting of wild turkey on game breeding and shooting preserves licensed under chapter 110A.

Sec. 2. Section 110.24, unnumbered paragraph 2, and subsections 1 through 4, Code 1989, are amended by striking the unnumbered paragraph and the subsections and inserting in lieu thereof the following:

Upon written application, the department shall issue annually a deer or wild turkey hunting license, or both, to the owner of a farm unit or a member of the family of the farm owner and to the tenant or a member of the family of the tenant.

Sec. 3. Section 110.24, Code 1989, is amended by adding immediately after unnumbered paragraph 3 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An owner of a farm unit or a member of the owner's family who resides with the owner and a tenant or a member of the tenant's family who resides with the tenant, who do not reside on the farm unit but who are actively engaged in farming the farm unit, are also eligible for a free deer license and a wild turkey license as provided

in this section. The licenses are valid for hunting on the farm unit only. This paragraph applies to Iowa residents actively engaged in the operation of the farm units.

Approved May 2, 1989

CHAPTER 88

COUNTY CONSERVATION BOARD POWERS

H.F. 165

AN ACT relating to the authority of the county conservation board to grant certain law enforcement powers to its director and employees.

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

Section 1. Section 111A.5, Code 1989, 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 upon all property under its control within and without the county. The board may grant the director and those employees of the board designated as police officers ~~may~~ the authority to enforce the provisions of chapters 106, 109, 110, 111, and 321G on land not under the control of the board within the county.

Approved May 2, 1989

CHAPTER 89

EMERGENCY MEDICAL CARE PROVIDERS

H.F. 371

AN ACT relating to emergency medical care providers, and providing penalties.

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

Section 1. Section 85.61, subsection 2, unnumbered paragraph 3, Code 1989, is amended to read as follows:

"Worker" or "employee" includes a basic emergency medical care provider as defined in section 147.1, or an advanced emergency medical care provider as defined in section ~~85.61, subsections 14, 15, and 16~~ 147A.1, only if an agreement is reached between the basic or advanced

emergency medical care provider and the employer for whom the volunteer services are provided that workers' compensation coverage under chapters 85, 85A, and 85B is to be provided by the employer. A basic or advanced emergency medical care provider who is a "worker" or "employee" under this paragraph is not a casual employee.

Sec. 2. Section 85.61, subsection 6, unnumbered paragraph 3, Code 1989, is amended to read as follows:

Personal injuries sustained by basic ~~or advanced~~ emergency medical care providers, as defined in section 147.1, ~~subsections 7 and 8~~ or by advanced emergency medical care providers as defined in section 147A.1, arise in the course of employment if the injuries are sustained at any time from the time the emergency medical care providers are summoned to duty until the time those duties have been fully discharged.

Sec. 3. Section 85.61, subsections 14, 15, and 16, Code 1989, are amended by striking the subsections.

Sec. 4. Section 147.1, subsection 8, Code 1989, is amended by striking the subsection.

Sec. 5. Section 147.1, subsection 9, Code 1989, is amended to read as follows:

9. "First responder" means an individual trained in patient-stabilizing techniques, through the use of initial basic emergency medical care procedures and skills prior to the arrival of an ambulance ~~or rescue squad~~, pursuant to rules established by the department, and who is currently certified as a first responder by the department.

Sec. 6. Section 147A.1, Code 1989, is amended to read as follows:

147A.1 DEFINITIONS.

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

1. "Advanced emergency medical care" means such medical procedures as:

a. Administration of intravenous solutions.

b. Intubation.

c. Performance of cardiac defibrillation and synchronized cardioversion.

d. Administration of emergency drugs as provided by rule by the board.

e. Any other medical procedure approved by the board, by rule, as appropriate to be performed by advanced ~~EMTs and paramedics~~ emergency medical care providers who have been trained in that procedure.

2. "EMT" is an abbreviation used in lieu of the term "emergency medical technician".

~~3. "Basic EMT" means an individual who has satisfactorily completed the United States department of transportation's prescribed course for basic EMTs, as modified for this state, and adopted by rule by the board, but who is not certified to perform any of the procedures listed in subsection 1.~~

~~4~~ 3. "Advanced ~~EMT~~ emergency medical care provider" means an individual trained to provide advanced emergency medical care at the first-responder-defibrillation, EMT-defibrillation, EMT-intermediate, EMT-paramedic level or other certification levels adopted by rule by the board, ~~and~~ who has been issued ~~an advanced EMT~~ a certificate by the board.

~~5. "Paramedic" means an individual trained in all areas of advanced emergency medical care, and who has been issued a paramedic certificate by the board.~~

~~6~~ 4. "Director" means the director of the Iowa department of public health.

~~7~~ 5. "Department" means the Iowa department of public health.

~~8~~ 6. "Board" means the board of medical examiners appointed pursuant to section 147.14, subsection 2.

~~9~~ 7. "Physician" means an individual licensed under chapter 148, 150, or 150A.

Sec. 7. Section 147A.4, Code 1989, is amended to read as follows:

147A.4 RULEMAKING AUTHORITY.

1. The department shall adopt rules required or authorized by this chapter pertaining to the operation of ambulance, ~~services and~~ rescue, ~~squad~~ and first response services which have

received authorization under section 147A.5 to utilize the services of certified advanced ~~EMTs or paramedics~~ emergency medical care providers. These rules shall include, but need not be limited to, requirements concerning physician supervision, necessary equipment and staffing, and reporting by ambulance, ~~services and~~ rescue, ~~squad~~ and first response services which have received the authorization pursuant to section 147A.5.

2. The board shall adopt rules required or authorized by this chapter pertaining to the examination and certification of advanced ~~EMTs and paramedics~~ emergency medical care providers. These rules shall include, but need not be limited to, requirements concerning prerequisites, training, and experience for advanced ~~EMTs and paramedics~~ emergency medical care providers and procedures for determining when individuals have met these requirements.

The board shall establish the fee for the examination of the advanced ~~EMTs and paramedics~~ emergency medical care providers to cover the administrative costs of the examination program.

Sec. 8. Section 147A.5, subsections 1 and 3, Code 1989, are amended to read as follows:

147A.5 APPLICATIONS FOR ADVANCED ~~EMT AND PARAMEDIC PROGRAMS~~ EMERGENCY MEDICAL CARE SERVICES — APPROVAL — DENIAL, PROBATION, SUSPENSION OR REVOCATION.

1. An ambulance, ~~service or~~ rescue, ~~squad~~ or first response service in this state ~~regularly engaged in transporting patients~~, that desires to provide advanced emergency medical care ~~before or during the transportation~~ in the prehospital setting, shall apply to the department for authorization to establish a program utilizing certified advanced ~~EMTs or paramedics~~ emergency medical care providers for delivery of the care at the scene of an emergency, during transportation to a hospital, or while in the hospital emergency department, and until care is directly assumed by a physician or by authorized hospital personnel.

3. The department may deny an application for authorization to establish a program utilizing the services of certified advanced ~~EMTs or paramedics~~ emergency medical care providers, or may place on probation, suspend, or revoke existing authorization if the department finds reason to believe the program has not been or will not be operated in compliance with this chapter and the rules adopted pursuant to this chapter, or that there is insufficient assurance of adequate protection for the public. The denial or period of probation, suspension, or revocation shall be effected and may be appealed as provided by section 17A.12.

Sec. 9. Section 147A.6, Code 1989, is amended to read as follows:

147A.6 ADVANCED ~~EMT AND PARAMEDIC~~ EMERGENCY MEDICAL CARE PROVIDER CERTIFICATES — RENEWAL.

1. The board, upon application and receipt of the prescribed fee, shall issue a certificate attesting to the qualifications of an individual who has met all of the requirements for advanced ~~EMT or paramedic~~ emergency medical care provider certification established by the rules ~~promulgated~~ adopted under section 147A.4, subsection 2.

2. ~~An advanced EMT or paramedic certificate is~~ Advanced emergency medical care provider certificates are valid for the multiyear period determined by the board, unless sooner suspended or revoked. The certificate shall be renewed upon application of the holder and receipt of the prescribed fee if the holder has satisfactorily completed continuing medical education programs as required by rule.

Sec. 10. Section 147A.7, subsection 1, Code 1989, is amended to read as follows:

1. The board may deny an application for issuance or renewal of an advanced ~~EMT or paramedic~~ emergency medical care provider certificate, or suspend or revoke the certificate when it finds that the applicant or certificate holder is guilty of any of the following acts or offenses:

a. Negligence in performing authorized services.

b. Failure to follow the directions of the supervising physician.

c. Rendering treatment not authorized under this chapter.

d. Fraud in procuring certification.

e. Professional incompetency.

f. Knowingly making misleading, deceptive, untrue or fraudulent representation in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Habitual intoxication or addiction to the use of drugs.

h. Fraud in representations as to skill or ability.

i. Willful or repeated violations of this chapter or of rules adopted pursuant to this chapter.

j. Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which relates to the practice of an advanced ~~EMT or paramedic~~ emergency medical care provider. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.

k. Having certification to practice as an advanced ~~EMT or paramedic~~ emergency medical care provider revoked or suspended, or having other disciplinary action taken by a licensing or certifying authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.

Sec. 11. Section 147A.8, Code 1989, is amended to read as follows:

147A.8 AUTHORITY OF CERTIFIED ADVANCED ~~EMT OR PARAMEDIC~~ EMERGENCY MEDICAL CARE PROVIDER.

An advanced ~~EMT or paramedic~~ emergency medical care provider properly certified under this chapter may:

1. Render advanced emergency medical care, rescue, and lifesaving services in those areas for which the advanced ~~EMT or paramedic~~ emergency medical care provider is certified, as defined and approved in accordance with the rules of the board, at the scene of an emergency, during transportation to a hospital or while in the hospital emergency department, and until care is directly assumed by a physician or by authorized hospital personnel.

2. Function in any hospital when:

a. Enrolled as a student or participating as a preceptor in a training program approved by the board; or

b. Fulfilling continuing education requirements as defined by rule; or

c. Employed by or assigned to a hospital as a member of an authorized ambulance, ~~service or~~ rescue, ~~squad for prehospital care~~ or first response service, by rendering lifesaving services in the facility in which employed or assigned pursuant to the advanced ~~EMT's or paramedic's~~ emergency medical care provider's certification and under the direct supervision of a physician or registered nurse. ~~When~~ An advanced emergency medical care provider shall not routinely function without the direct supervision of a physician or registered nurse. However, when the physician or registered nurse cannot directly assume emergency care of the patient, the advanced ~~EMT or paramedic~~ emergency medical care provider may perform without direct supervision advanced emergency medical care procedures for which that individual is certified if ~~in the judgment of the physician or registered nurse~~ the life of the patient is in immediate danger and such care is required to preserve the patient's life; or

d. Employed by or assigned to a hospital as a member of an authorized ambulance, ~~service or~~ rescue, ~~squad for prehospital care~~ or first response service to perform nonlifesaving procedures for which those individuals have been trained and are designated in a written job description. Such procedures may be performed after the patient is observed by and when the advanced ~~EMT or paramedic~~ emergency medical care provider is under the supervision of the physician or registered nurse and where the procedure may be immediately abandoned without risk to the patient.

Sec. 12. Section 147A.9, Code 1989, is amended to read as follows:

147A.9 REMOTE SUPERVISION OF ADVANCED ~~EMT OR PARAMEDIC~~ EMERGENCY MEDICAL CARE PROVIDERS – EMERGENCY COMMUNICATION FAILURE – AUTHORIZATION OF IMMEDIATE LIFESAVING PROCEDURES.

1. When voice contact or a telemetered electrocardiogram is monitored by a physician or physician's designee, and direct communication is maintained, an advanced ~~EMT or a~~

~~paramedic~~ emergency medical care provider may upon order of the monitoring physician or upon standing orders of a physician transmitted by the monitoring physician's designee perform any advanced emergency medical care procedure for which that advanced ~~EMT or paramedic~~ emergency medical care provider is certified.

2. If communications fail during an emergency situation, the advanced ~~EMT or paramedic~~ emergency medical care provider may perform any advanced emergency medical care procedure for which that individual is certified and which is included in written protocols if in the judgment of the advanced ~~EMT or paramedic~~ emergency medical care provider the life of the patient is in immediate danger and such care is required to preserve the patient's life.

3. The board shall adopt rules to authorize the institution of lifesaving procedures in accordance with written protocols in instances where the establishment of communication in lieu of immediate action may cause patient harm or death.

Sec. 13. Section 147A.10, Code 1989, is amended to read as follows:

147A.10 EXEMPTIONS FROM LIABILITY IN CERTAIN CIRCUMSTANCES.

1. A physician or physician's designee who gives orders, either directly or via communications equipment from some other point, to an appropriately certified advanced ~~EMT or paramedic~~ emergency medical care provider at the scene of an emergency, and an appropriately certified advanced ~~EMT or paramedic~~ emergency medical care provider following the orders, are not subject to criminal liability by reason of having issued or executed the orders, and are not liable for civil damages for acts or omissions relating to the issuance or execution of the orders unless the acts or omissions constitute recklessness.

2. A physician, physician's designee, or advanced ~~EMT or paramedic~~ emergency medical care provider shall not be subject to civil liability solely by reason of failure to obtain consent before rendering emergency medical, surgical, hospital or health services to any individual, regardless of age, when the patient is unable to give consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care.

3. An act of commission or omission of any appropriately certified advanced ~~EMT or paramedic~~ emergency medical care provider while rendering advanced emergency medical care under the responsible supervision and control of a physician to a person who is deemed by them to be in immediate danger of serious injury or loss of life, shall not impose any liability upon the certified advanced ~~EMT or paramedic~~ emergency medical care provider, the supervising physician, or any hospital, or upon the state, or any county, city or other political subdivision, or the employees of any of these entities; provided that this section shall not relieve any person of liability for civil damages for any act of commission or omission which constitutes recklessness.

Sec. 14. Section 147A.11, Code 1989, is amended to read as follows:

147A.11 PROHIBITED ACTS.

1. Any person not certified as required by this chapter who claims to be an advanced ~~EMT or a paramedic~~ emergency medical care provider, or who uses any other term to indicate or imply that the person is an advanced ~~EMT or a paramedic~~ emergency medical care provider, or who acts as an advanced ~~EMT or a paramedic~~ emergency medical care provider without having obtained the appropriate certificate under this chapter, is guilty of a class "D" felony.

2. An owner of an unauthorized ambulance, ~~service or~~ rescue, ~~squad~~ or first response service in this state who operates or purports to operate an authorized ambulance, ~~service or~~ rescue, ~~squad services~~ or first response service, or who uses any term to indicate or imply such authorization without having obtained the appropriate authorization under this chapter, is guilty of a class "D" felony.

3. Any person who imparts or conveys, or causes to be imparted or conveyed, or attempts to impart or convey false information concerning the need for assistance of an ambulance, ~~service or a~~ rescue, ~~squad~~ or first response service or of any personnel or equipment thereof, knowing such information to be false, is guilty of a serious misdemeanor.

Sec. 15. Section 147A.12, subsection 1, Code 1989, is amended to read as follows:

1. This chapter does not restrict a registered nurse, licensed pursuant to chapter 152, from staffing an authorized ambulance, ~~service~~ ~~or~~ rescue, ~~squad~~ or first response service provided the registered nurse can document equivalency through education and additional skills training essential in the delivery of prehospital emergency care. The equivalency shall be accepted when:

a. Documentation has been reviewed and approved at the local level by the medical director of the ambulance, ~~or~~ rescue, ~~squad~~ or first response service in accordance with the rules of the board of nursing developed jointly with the board of medical examiners.

b. Authorization has been granted to that ambulance, ~~or~~ rescue, ~~squad~~ or first response service by the department.

Sec. 16. Section 232.68, subsection 4, Code 1989, is amended to read as follows:

4. "Health practitioner" includes a licensed physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, optometrist, podiatrist or chiropractor; a resident or intern in any of such professions; ~~and any~~ a registered nurse or licensed practical nurse; and a basic emergency medical care provider certified under section 147.161 or an advanced emergency medical care provider certified under section 147A.6.

Sec. 17. Section 232.69, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. Every self-employed social worker, every social worker under the jurisdiction of the department of human services, any social worker employed by a public or private agency or institution, public or private health care facility as defined in section 135C.1, certified psychologist, certificated school employee, employee or operator of a licensed child care center or registered group day care home or registered family day care home, individual licensee under chapter 237, member of the staff of a mental health center, peace officer, dental hygienist, counselor, ~~paramedic,~~ or mental health professional, who, in the course of employment or in providing child foster care, examines, attends, counsels or treats a child and reasonably believes a child has suffered abuse.

Approved May 2, 1989

CHAPTER 90

FUR DEALER LICENSES

H.F. 480

AN ACT relating to the licensing of fur dealers and subjecting violators to an existing penalty.

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

Section 1. Section 109.95, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A license shall be required of each ~~such~~ fur dealer and each employee, agent, or representative of a fur dealer except when the employee, agent, or representative is operating solely on the premises of a licensed fur dealer. A fur dealer shall conduct business only at the location specified on the dealer's license, at an established fur auction, at the nonadvertised residence of a licensed fur harvester, or at the place of business specified on the license of any fur dealer. A licensed fur dealer may purchase location permits to operate at locations other than at the location specified on the fur dealer's license. Each location permit shall be valid only for the one location specified on the location permit and shall entitle the fur dealer and employee, agent, or representative of the licensed fur dealer to operate at that location. The commission shall, upon application and the payment of the required license fee, furnish the proper ~~certificates~~ license and location permits to ~~dealers~~ the dealer.

Sec. 2. Section 110.1, subsection 5, Code 1989, is amended by adding the following new lettered paragraphs following paragraph "e" and relettering the remaining paragraph:

f. Location permit for resident fur dealers ..... $ 25.00
g. Location permit for nonresident fur dealers ..... $ 50.00

Approved May 2, 1989

CHAPTER 91

SCHOOL INSTRUCTIONAL TIME
H.F. 670

AN ACT relating to the number of days and hours of instruction in school per school day.

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

Section 1. HOURS OF INSTRUCTION. The state board of education shall adopt rules pursuant to chapter 17A which consider time spent on parent-teacher conferences as instructional time for the purpose of meeting the required minimum number of instructional hours per day.

The state board shall adopt rules pursuant to chapter 17A which permit a school to provide up to five fewer days of instruction during a school year for high school seniors who have completed the requirements for graduation in the district.

Approved May 2, 1989

CHAPTER 92

TRADE NAME REPORTING
H.F. 684

AN ACT relating to persons or copartnerships required to file statements regarding the use of trade names, by requiring each county recorder to submit a monthly list of such persons to the secretary of state.

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

Section 1. NEW SECTION. 547.6 COUNTY RECORDER TO SUBMIT MONTHLY LIST OF PERSONS CURRENTLY COVERED BY VERIFIED STATEMENT.

A county recorder shall within ten days of the end of each calendar month submit to the secretary of state a list of persons currently covered by a verified statement or certificate of change filed in the county pursuant to this chapter. The monthly list shall contain only the verified statements and certificates of change filed during the preceding month. The monthly list submitted shall contain the information required to be filed by section 547.1 for each person listed.

Approved May 2, 1989

CHAPTER 93

SOLICITATION OF PUBLIC DONATIONS

H.F. 506

AN ACT relating to the solicitation of public donations and making penalties applicable.

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

Section 1. Section 122.1, Code 1989, is amended to read as follows:

122.1 CONDITIONS.

~~No~~ An organization, institution, or charitable association, either directly or through agents or representatives, shall not solicit public donations in this state, unless it ~~be a corporation duly incorporated under the laws of this state or authorized to do business in this state;~~ has first obtained a permit ~~therefor~~ from the secretary of state; ~~and has filed with the secretary of state a surety company bond in the sum of one thousand dollars, running to the state and conditioned that the applicant will devote all donations directly to the purpose stated and for which the donations were given, and will otherwise comply with the laws of this state and the requirements of the secretary of state in regard thereto. The secretary of state shall have full discretion as to whom the secretary will issue permits, and shall be satisfied before issuing any such permit that the applicant is reputable and that the purposes for which donations from the public are to be solicited are legitimate and worthy.~~ The application for a permit under this section shall be on a form prescribed and furnished by the secretary of state. The secretary may accept, as an application for a permit, articles of incorporation filed pursuant to section 504A.30 and a request for a permit in lieu of a separate application.

Sec. 2. Section 122.2, Code 1989, is amended to read as follows:

122.2 FEES.

The secretary of state shall collect a fee of ~~one dollar~~ ten dollars for each ~~such~~ permit issued. Such a permit will authorize the applicant therefor, either directly or through its agents or representatives, to solicit public donations in any county, city, or township in this state~~, subject, however, to such restrictions as the secretary of state may prescribe~~.

Sec. 3. Section 122.3, Code 1989, is amended to read as follows:

122.3 REVOCATION OF PERMIT.

~~Said~~ A permit shall expire annually on the thirty-first day of December following the date of issuance~~, or it may be suspended or revoked at any time at the discretion of the secretary of state when in the secretary's judgment the authority vested therein is abused or the transactions consummated thereunder are not in conformity with the intent and purpose of this chapter~~.

Sec. 4. Section 122.4, Code 1989, is amended to read as follows:

122.4 EXCEPTIONS.

~~Nothing in this~~ This chapter, however, shall not be construed to prohibit any person as representative or agent of any local organization, church, school, or any recognized society or branch of any church or school, from publicly soliciting funds or donations from within the county in which such person resides, or such church, school, institution, organization, or charitable association is located, or within an adjoining county if such residence or location is within six miles of such adjoining county. Any such organized institution or charitable association having a permit under the provisions of this chapter shall file an annual report with the secretary of state during the month of December of each year, which report shall contain, in accordance with generally approved accounting methods, the following information:

1. The names and post-office addresses of its officers, and whether any change has been made during the year previous to making such report.

2. A detailed statement of all moneys received during the year previous to making said report.

3. A detailed statement of moneys disbursed during the year previous to making said report, and for what purpose.

The annual report shall be made on forms prescribed and furnished by the secretary of state. At the time of filing this annual report ~~said~~ the organization, institution, or charitable association shall pay to the secretary of state a filing fee ~~in the sum~~ of ~~two~~ five dollars.

Sec. 5. Section 122.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A violation of this chapter is a violation of section 714.16, subsection 2, paragraph "a". In addition to the penalties imposed pursuant to section 122.6, the provisions of section 714.16, including but not limited to provisions relating to investigation, injunctive relief, and penalties apply to this chapter.

Sec. 6. NEW SECTION. 122.7 SEVERABILITY.

If any provision of this chapter or application of a provision of this chapter to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

Sec. 7. Section 714.16, subsection 2, paragraph a, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression, or omission of a material fact with intent that others rely upon the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise or the solicitation of contributions for charitable purposes, whether or not a person has in fact been misled, deceived, or damaged, is an unlawful practice.

Approved May 2, 1989

CHAPTER 94

CREDIT UNION INVESTMENTS

S.F. 218

AN ACT relating to the investments of credit unions, by permitting investment in corporate bonds as defined by rule of the administrator.

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

Section 1. Section 533.4, subsection 5, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Corporate bonds as defined by and subject to terms and conditions imposed by the administrator, provided that the administrator shall not approve investment in corporate bonds unless the bonds are rated in the two highest grades of corporate bonds by a nationally accepted rating agency, including but not limited to a rating of AAA or AA from Standard and Poors.

Approved May 2, 1989

CHAPTER 95

ALTERNATIVE OPERATOR TELEPHONE SERVICES

S.F. 231

AN ACT relating to the regulation of alternate operator services, making civil penalties applicable, and providing for an effective date.

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

Section 1. NEW SECTION. 476.75 ALTERNATIVE OPERATOR SERVICES.

1. DEFINITIONS. As used in this section, unless the context otherwise requires:

a. "Alternative operator services company" means a nongovernmental company which receives more than half of its Iowa intrastate telecommunications services revenues from calls placed by end-user customers from telephones other than ordinary residence or business telephones. The definition is further limited to include only companies which provide operator assistance, either through live or automated intervention, on calls placed from other than ordinary residence or business telephones, and does not include services provided under contract to rate-regulated local exchange utilities.

b. "Contracting entity" means an entity providing telephones other than ordinary residence or business telephones for use by end-user customers which has contracted with an alternative operator services company to provide telecommunications services to those telephones.

c. "End-user customer" means a person who places a local or toll call.

d. "Other than ordinary residence or business telephones" means telephones other than the residence or business telephones of the customary users of the telephones, including but not limited to pay telephones and telephones in motel, hotel, hospital, and college dormitory rooms.

2. JURISDICTION. Notwithstanding any finding by the board that a service or facility is subject to competition and should be deregulated pursuant to section 476.1, all intrastate telecommunications services provided by alternative operator services companies to end-user customers, using other than ordinary residence or business telephones, are subject to the jurisdiction of the board and shall be rendered pursuant to tariffs approved by the board. Alternative operator services companies shall be subject to all requirements and sanctions provided in this chapter. Contracting entities shall be subject to the requirements of any board regulations concerning telecommunications services provided by alternative operator services companies.

3. REQUIREMENTS. The board shall adopt and enforce requirements for the provision of services by alternative operator services companies and contracting entities.

4. BILLING BY LOCAL EXCHANGE UTILITIES. Notwithstanding any finding by the board that a service or facility is subject to competition and should be deregulated pursuant to section 476.1, a regulated local exchange utility shall not perform billing and collection functions relating to regulated telecommunications services provided by an alternative operator services company, unless the alternative operator services company has filed a statement with the local exchange utility signed by a corporate officer, or other authorized person having personal knowledge, that all regulated telecommunications services to be billed shall be rendered pursuant to tariffs approved by the board.

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

Approved May 2, 1989

CHAPTER 96

POSTCONVICTION RELIEF ACTION TIME LIMIT
S.F. 253

AN ACT relating to the time within which a postconviction relief action may be brought which arises out of a prison disciplinary proceeding and providing an effective date and an applicability provision.

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

Section 1. Section 663A.3, Code 1989, is amended to read as follows:

663A.3 HOW TO COMMENCE PROCEEDING — LIMITATION.

A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction or sentence took place. However, if the applicant is seeking relief under section 663A.2, subsection 6, the application shall be filed with the clerk of the district court of the county in which the applicant is being confined within ninety days from the date the disciplinary decision is final. ~~An application~~ All other applications must be filed within three years from the date the conviction or decision is final or, in the event of an appeal, from the date the writ of procedendo is issued. However, this limitation does not apply to a ground of fact or law that could not have been raised within the applicable time period. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The supreme court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general.

Sec. 2. This Act takes effect July 1, 1989, and applies to all final disciplinary decisions entered under section 903A.3 on or after that date. For all final disciplinary decisions entered under section 903A.3 before July 1, 1989, an application seeking relief under section 663A.2, subsection 6, must be filed no later than January 1, 1990.

Approved May 2, 1989

CHAPTER 97

UTILITIES DIVISION COMPLAINTS ELIMINATED
S.F. 260

AN ACT eliminating the ability of utilities division staff to file a complaint with the utilities board alleging that a utility's rates are excessive following an investigation by division staff, a special audit, continuous review of operations, or review of annual reports.

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

Section 1. Section 476.3, subsection 2, Code 1989, is amended to read as follows:

2. If, as a result of a review procedure conducted under section 476.31, a review conducted under section 476.32, a special audit, an investigation by division staff, or an investigation by the consumer advocate, ~~a complaint is filed by division staff, or~~ a petition is filed with the board by the consumer advocate, alleging that a utility's rates are excessive, the disputed amount shall be specified in the ~~complaint or~~ petition. The public utility shall, within the time prescribed by the board, file a bond or undertaking approved by the board conditioned upon the refund in a manner prescribed by the board of amounts collected after the date of filing of the ~~complaint or~~ petition in excess of rates or charges finally determined by the board to be lawful. If

upon hearing the board finds that the utility's rates are unlawful, the board shall order a refund, with interest, of amounts collected after the date of filing of the ~~complaint or~~ petition that are determined to be in excess of the amounts which would have been collected under the rates finally approved. However, the board shall not order a refund that is greater than the amount specified in the ~~complaint or~~ petition, plus interest, and ~~provided that~~ if the board fails to render a decision within ten months following the date of filing of the ~~complaint or~~ petition, the board shall not order a refund of any excess amounts that are collected after the expiration of that ten-month period and prior to the date the decision is rendered.

Sec. 2. Section 476.33, subsection 1, Code 1989, is amended to read as follows:

1. The board shall adopt rules pursuant to chapter 17A to provide for the completion of proceedings under section 476.3 within ten months after the date of the filing of a ~~complaint or~~ petition under section 476.3, subsection 2, and to provide for the completion of proceedings under section 476.6 within ten months after the date of filing of the new or changed rates, charges, schedules, or regulations under that section. These rules shall include reasonable time limitations for the submission or completion of comments and testimony, and exhibits, briefs, and hearings, and may provide for the granting of additional time upon the request of a party to the proceeding or division staff for good cause shown.

Approved May 2, 1989

CHAPTER 98

SECONDARY ROAD RIGHT-OF-WAY ANNEXATION

S.F. 300

AN ACT relating to the annexation of territory including secondary roads.

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

Section 1. Section 368.1, subsection 10, Code 1989, is amended to read as follows:

10. "Territory" means the land area or areas proposed to be incorporated, annexed, or severed, whether or not contiguous to all other areas proposed to be incorporated, annexed, or severed. Except as provided for by an agreement pursuant to chapter 28E, "territory" having a common boundary with the right-of-way of a secondary road extends to the center line of the road.

Sec. 2. Section 368.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Territory within the road right-of-way owned by a county may be annexed, but the county attorney of that county must be served with notice of the hearing and a copy of the proposal.

Sec. 3. APPLICABILITY. This Act applies to actions taken pursuant to chapter 368 which commence after the effective date of this Act.

Approved May 2, 1989

CHAPTER 99

ACTION FOR RECOVERY OF MERCHANDISE OR DAMAGES
S.F. 343

AN ACT relating to recovery of merchandise or damages and providing for civil penalties.

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

Section 1. NEW SECTION. 645.1 DEFINITIONS.
As used in this chapter, unless the context otherwise requires:
1. "Merchandise" includes any object, ware, good, commodity, or other similar item displayed or offered for sale.
2. "Mercantile establishment" includes any place where merchandise is displayed, held, or offered for sale, either retail or wholesale.
3. "Owner" means an owner of a mercantile establishment and includes an owner's employee acting on behalf of the owner.

Sec. 2. NEW SECTION. 645.2 ACTIONS FOR MERCHANDISE OR DAMAGES.
An action for recovery of merchandise or the purchase price, damages, and costs may be brought by an owner pursuant to this chapter in any court of competent jurisdiction, including a court of small claims if the claim does not exceed jurisdictional limits.
A conviction under chapter 714 is not required as a condition precedent to the maintenance of an action pursuant to this chapter.

Sec. 3. NEW SECTION. 645.3 LIABILITY.
1. A person who knowingly and without claim of right wrongfully appropriates, takes possession of, or alters the price indicia of merchandise of a mercantile establishment without the consent of the owner and with the intent to convert the merchandise to the person's own use without having paid the full purchase price for it, is liable for:
a. The return of the merchandise or the purchase price of the merchandise, provided that the merchandise is not evidence in a criminal proceeding under chapter 714.
b. Actual damages for any decrease in value of the merchandise returned.
c. The greater of fifty dollars or actual costs, not to exceed two hundred dollars, incurred by the owner in recovering the merchandise or damages pursuant to this chapter.
2. Damages awarded under this section shall be reduced by any amount received by the owner pursuant to court ordered restitution under chapter 232A or 910.
3. The parent or parents of an unemancipated minor child under the age of eighteen years are liable for any judgment awarded against the child pursuant to subsection 1 in accordance with, and subject to the limits established in, section 613.16.

Approved May 2, 1989

CHAPTER 100

OCCUPATIONAL SAFETY AND HEALTH RULES
S.F. 346

AN ACT relating to the adoption by the division of labor services of the department of employment services of rules based on the most recent federal occupational safety and health administration's standards.

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

Section 1. Section 89B.8, subsection 3, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. The commissioner shall adopt rules based upon the occupational safety and health standards which have been adopted as permanent standards by the United States secretary of labor in accordance with federal law. If the hazardous communication regulation, 29 C.F.R. § 1910.1200, is amended or repealed, the commissioner shall review the amendment or repeal and take action with respect to the state standards, including the amendment or repeal of the state standards, which will conform the state standards to the new federal standards.

Approved May 2, 1989

CHAPTER 101

WAIVER OF CERTAIN TAX PENALTIES, INTEREST, AND COSTS
S.F. 364

AN ACT authorizing the board of supervisors to waive a tax penalty, interest, or cost if a clerical error is found.

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

Section 1. Section 331.301, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. The board of supervisors may waive a tax penalty, interest, or costs related to the collection of a tax if the board finds that a clerical error resulted in the penalty, interest, or cost. This subsection does not apply to bonded special assessments without the approval of the affected taxing jurisdiction.

Approved May 2, 1989

CHAPTER 102

COUNTY RECORDERS' DUTIES
S.F. 367

AN ACT relating to the powers and duties of county recorders.

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

Section 1. Section 106.52, Code 1989, is amended to read as follows:

106.52 FEES REMITTED TO COMMISSION.

Within ten days after the end of each month, ~~each~~ a county recorder shall remit to the commission all fees collected by the recorder during the previous month. Before May 10 in odd-numbered years, ~~each~~ a county recorder shall remit to the commission all unused license blanks for the previous biennium. ~~Before May 10 of each year, each county recorder shall make a final accounting for all registration fees and penalties received during the previous year.~~ All fees collected for the registration of vessels shall be forwarded by the commission to the treasurer of the state, who shall place ~~such~~ the money in a special conservation fund. The money so collected is ~~hereby~~ appropriated to the commission solely for the administration and enforcement of navigation laws and water safety.

Sec. 2. Section 321G.7, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Within ten days after the end of each month, ~~each~~ a county recorder shall remit to the commission all snowmobile fees collected by the recorder during the previous month. Before January 10 of odd-numbered years, ~~each~~ a recorder shall remit unused license forms from the previous biennium to the commission. ~~Before January 10 of each year, each recorder shall summarize the transactions of the registration fees and penalties collected during the previous year.~~

Sec. 3. Section 547.1, Code 1989, is amended to read as follows:

547.1 USE OF TRADE NAME — VERIFIED STATEMENT REQUIRED.

~~It shall be unlawful for any~~ A person or copartnership ~~to~~ shall not engage in or conduct a business under ~~any~~ a trade name, or ~~any~~ an assumed name of ~~any~~ a character other than the true surname of each person ~~or persons~~ owning or having ~~any~~ an interest in ~~such~~ the business, unless ~~such~~ the person ~~or persons shall~~ first ~~file~~ records with the county recorder of the county in which the business is to be conducted a verified statement showing the name, post-office address, and residence address of each person owning or having ~~any~~ an interest in the business, and the address where the business is to be conducted.

Sec. 4. Section 547.2, Code 1989, is amended to read as follows:

547.2 CHANGE IN STATEMENT.

A like verified statement shall be ~~filed~~ recorded of any change in ownership of the business, or persons interested ~~therein~~ in the business and the original owners ~~shall be~~ are liable for all obligations until ~~such~~ the certificate of change is ~~filed~~ recorded.

Sec. 5. Section 547.3, Code 1989, is amended to read as follows:

547.3 FEE FOR RECORDING.

The county recorder shall charge and receive a fee in the amount specified in section 331.604 for each verified statement ~~filed~~ recorded under this chapter.

Sec. 6. Section 598.21, subsection 8, unnumbered paragraph 2, Code 1989, is amended to read as follows:

If the court orders a transfer of title to real property, the clerk of court shall issue a certificate under chapter 558 relative to each parcel of real estate affected by the order and immediately deliver the certificate for recording to the county recorder of the county in which the real estate is located. Any fees assessed shall be included as part of the court costs~~; however, the certificates shall be recorded whether the costs are paid or not~~. The county recorder shall deliver the certificates to the county auditor as provided in section 558.58, subsection 1.

Sec. 7. Section 600.16, subsection 2, Code 1989, is amended to read as follows:

2. The permanent termination of parental rights record of the juvenile court under chapter 600A and the permanent adoption record of the court shall be sealed by the clerk of the juvenile court and the clerk of court, as appropriate, when they are complete and after the time for appeal has expired. All papers and records pertaining to a termination of parental rights under chapter 600A and to an adoption, whether a part of the permanent termination and adoption records of the juvenile court and of the court or on file with a guardian, guardian ad litem, custodian, person who placed a minor person, or the department shall not be open to inspection and the identity of the natural parents of an adopted person shall not be revealed. However, an agency involved in placement shall contact the adopting parents or the adult adopted child regarding eligibility of the adopted child for benefits based on entitlement of benefits or inheritance from the terminated natural parents. Also, the clerk of the court or county recorder shall, upon application to and order of the court for good cause shown, open the permanent adoption record of the court for the adopted person who is an adult and reveal the names of either or both of the natural parents.

PARAGRAPH DIVIDED. A natural parent may file an affidavit requesting that the court reveal or not reveal the parent's name. The court shall consider any such affidavit in determining whether there is good cause to order opening of the records. If the adopted person who applies for revelation of the natural parents' name has a sibling who is a minor and who has been adopted by the same parents, the court may deny ~~such~~ the application on the grounds

that revelation to the applicant may also indirectly and harmfully permit the same revelation to the applicant's minor sibling. To facilitate the natural parents in filing ~~such~~ an affidavit, the department shall, upon request of ~~such~~ a natural parent, file an affidavit in the court in which the adoption records have been sealed.

Sec. 8. Section 624.23, subsection 2, Code 1989, is amended to read as follows:

2. Judgment liens described in subsection 1 ~~shall~~ do not remain a lien upon real estate of the defendant, platted as a homestead pursuant to section 561.4, unless execution is levied within thirty days of the time the defendant or the defendant's agent has served written demand on the owner of the judgment. The demand shall state that the lien and all benefits derived ~~therefrom~~ from the lien as to the real estate platted as a homestead shall be forfeited unless the owner of the judgment levies execution against that real estate within thirty days from the date of service of the demand. Written demand shall be served in any manner authorized for service of original notice under the Iowa rules of civil procedure. A copy of the written demand and proof of service ~~thereof~~ of the written demand shall be ~~filed~~ recorded in the office of the county recorder of the county where the real estate platted as a homestead is located.

Approved May 2, 1989

CHAPTER 103

PUBLIC UTILITIES AND AFFILIATES

S.F. 373

AN ACT relating to public utilities and their affiliates, with civil penalties applicable.

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

Section 1. Section 476.10, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When the board deems it necessary in order to carry out the duties imposed upon it by this chapter for the purpose of determining rate matters to investigate the books, accounts, practices, and activities of, or make appraisals of the property of any public utility, or to render any engineering or accounting services to any public utility, or to review the operations or annual reports of the public utility under section 476.31 or 476.32, or to evaluate a proposal for reorganization under section 476.73, the public utility shall pay the expense reasonably attributable to the investigation, appraisal, service, or review. The board shall ascertain the expenses including certified expenses incurred by the consumer advocate division of the department of justice directly chargeable to the public utility under section 475A.6, and shall render a bill, by certified mail, to the public utility, either at the conclusion of the investigation, appraisal, services, or review, or from time to time during its progress, which bill is notice of the assessment and shall demand payment. The total amount of such expense in any one calendar year, for which any public utility shall become liable, shall not exceed two-tenths of one percent of its gross operating revenues derived from intrastate public utility operations in the last preceding calendar year.

Sec. 2. NEW SECTION. 476.67 PURPOSE.

It is the intent of the general assembly that a public utility should not directly or indirectly include in regulated rates or charges any costs or expenses of an affiliate engaged in any business other than that of utility business unless the affiliate provides goods or services to the public utility. The costs that are included should be reasonably necessary and appropriate for utility business. It is also the intent of the general assembly that a public utility should only

provide nonutility services in a manner that minimizes the possibility of cross-subsidization or unfair competitive advantage.

Sec. 3. NEW SECTION. 476.68 DEFINITIONS.

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

1. "Public utility" includes only gas or electric rate-regulated public utilities and rate-regulated telephone utilities providing local exchange telecommunication service.

2. "Affiliate" means a party that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a rate-regulated public utility.

3. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract or otherwise.

4. "Utility business" means the generation or transmission of electricity or furnishing of gas or furnishing electricity or furnishing rate-regulated communications services to the public for compensation.

5. "Nonutility service" includes the sale, lease, or other conveyance of commercial and residential gas or electric appliances, interior lighting systems and fixtures, or heating, ventilating, or air conditioning systems and component parts or the servicing, repair, or maintenance of such equipment.

Sec. 4. NEW SECTION. 476.69 AFFILIATE RECORDS.

1. ACCESS TO RECORDS. Every public utility and affiliate through the public utility shall provide the board with access to books, records, accounts, documents, and other data and information which the board finds necessary to effectively implement and effectuate the provisions of this chapter.

2. SEPARATE RECORDS. The board may require affiliates of a public utility to keep separate records and the board may provide for the examination and inspection of the books, accounts, papers, and records, as may be necessary to enforce this chapter.

3. ALLOCATION PERMITTED. The board may inquire as to and prescribe, for ratemaking purposes, the allocation of capitalization, earnings, debts, and expenses related to ownership, operation, or management of affiliates.

Sec. 5. NEW SECTION. 476.70 AFFILIATE INFORMATION REQUIRED TO BE FILED.

1. GOODS AND SERVICES. All contracts or arrangements providing for the furnishing or receiving of goods and services including but not limited to the furnishing or receiving of management, supervisory, construction, engineering, accounting, legal, financial, marketing, data processing, or similar services made or entered into on or after July 1, 1989, between a public utility and any affiliate shall be filed annually with the board.

2. SALES, PURCHASES, AND LEASES. All contracts or arrangements for the purchase, sale, lease, or exchange of any property, right, or thing made or entered into on or after July 1, 1989, between a public utility and any affiliate shall be filed annually with the board.

3. LOANS. All contracts or arrangements providing for any loan of money or an extension or renewal of any loan of money or any similar transaction made or entered into on or after July 1, 1989, between a public utility and any affiliate, whether as guarantor, endorser, surety, or otherwise, shall be filed annually with the board.

4. VERIFIED COPIES REQUIRED. Every public utility shall file with the board a verified copy of the contract or arrangement referred to in this section, or a verified summary of the unwritten contract or arrangement, and also of all the contracts and arrangements or a verified summary of the unwritten contracts or arrangements, whether written or unwritten, entered into prior to July 1, 1989, and in force and effect at that time. Any contract or agreement determined by the board to be a confidential record pursuant to section 22.7 shall be returned to the public utility filing the confidential record within sixty days after the contract or agreement is filed.

5. EXEMPTION. The provisions of this section requiring filing of contracts or agreements

with the board shall not apply to transactions with an affiliate where the amount of consideration involved is not in excess of fifty thousand dollars or five percent of the capital equity of the utility, whichever is smaller. However, regularly recurring payments under a general or continuing arrangement which aggregate a greater annual amount shall not be broken down into a series of transactions to come within this exemption. In any proceeding involving the rates, charges or practices of the public utility, the board may exclude from the accounts of the public utility any unreasonable payment or compensation made pursuant to any contract or arrangement which is not required to be filed under this subsection.

6. CONTINUING JURISDICTION. The board shall have the same jurisdiction over modifications or amendments of contracts or arrangements in this section as it has over the original contracts or arrangements. Any modification or amendment of contracts or arrangements shall also be filed annually with the board.

7. SANCTION. For ratemaking purposes, the board may exclude the payment or compensation to an affiliate or adjust the revenue received from an affiliate associated with any contract or arrangement required to be filed with the board if the contract or arrangement is not so filed.

8. ALTERNATIVE INFORMATION. The board shall consult with other state and federal regulatory agencies for the purpose of eliminating duplicate or conflicting filing requirements and may adopt rules which provide that comparable information required to be filed with other state or federal regulatory agencies may be accepted by the board in lieu of information required by this section.

9. REASONABLENESS REQUIRED. In any proceeding, whether upon the board's own motion or upon application or complaint involving the rates, charges, or practices of any public utility, the board, for ratemaking purposes may exclude from the accounts of the public utility or adjust any payment or compensation related to any transaction with an affiliate for any services rendered or for any property or service furnished or received, as described in this section, under contracts or arrangements with an affiliate unless and upon inquiry the public utility shall establish the reasonableness of the payment or compensation.

10. EXEMPTION BY RULE OR WAIVER. The board may adopt rules which exempt any public utility or class of public utility or class of contracts or arrangements from this section or waive the requirements of this section if the board finds that the exemption or waiver is in the public interest.

Sec. 6. NEW SECTION. 476.71 AUDITS REQUIRED.

The board may periodically retain a nationally or regionally recognized independent auditing firm to conduct an audit of the transactions between a public utility and its affiliates. An affiliate transaction audit shall not be conducted more frequently than every three years, unless ordered by the board for good cause. The cost of the audit shall be paid by the public utility to the independent auditing firm and shall be included in its regulated rates and charges, unless otherwise ordered by the board for good cause after providing the public utility the opportunity for a hearing on the board's decision.

Sec. 7. NEW SECTION. 476.72 REORGANIZATION DEFINED.

For purposes of this division unless the context otherwise requires, "reorganization" means either of the following:

1. The acquisition, sale, lease, or any other disposition, directly or indirectly, including by merger or consolidation, of the whole or any substantial part of a public utility's assets.

2. The purchase or other acquisition or sale or other disposition of the controlling capital stock of any public utility, either directly or indirectly.

Sec. 8. NEW SECTION. 476.73 TIME AND STANDARDS FOR REVIEW.

1. A reorganization shall not take place if the board disapproves. Prior to reorganization, the applicant shall file with the board a proposal for reorganization with supporting testimony and evidence to establish that the reorganization is not contrary to the interests of the public utility's ratepayers and the public interest.

2. A proposal for reorganization shall be deemed to have been approved unless the board disapproves the proposal within forty-five days after its filing. However, the board shall not disapprove a proposal for reorganization without providing for notice and opportunity for hearing. The notice of hearing shall be provided no later than twenty-one days after the proposal for reorganization has been filed.

3. In its review of a proposal for reorganization, the board may consider all of the following:

a. Whether the board will have reasonable access to books, records, documents, and other information relating to the public utility or any of its affiliates.

b. Whether the public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is impaired.

c. Whether the ability of the public utility to provide safe, reasonable, and adequate service is impaired.

d. Whether ratepayers are detrimentally affected.

e. Whether the public interest is detrimentally affected.

4. EXEMPTION BY RULE OR WAIVER. The board may adopt rules which exempt any public utility or class of public utility or class of reorganization from this section if the board finds that with respect to the public utility or class of public utility or class of reorganization review is not necessary in the public interest. The board may adopt rules necessary to protect the interest of the customers of the exempt public utility. These rules may include, but are not limited to, notification of a proposed sale or transfer of assets or stock. The board may waive the requirements of this section, if the board finds that board review is not necessary in the public interest.

Sec. 9. NEW SECTION. 476.74 CROSS-SUBSIDIZATION PROHIBITED.

A rate-regulated gas or electric public utility shall not directly or indirectly include any costs or expenses attributable to providing nonutility service in regulated rates or charges.

Sec. 10. NEW SECTION. 476.75 PROVISION OF NONUTILITY SERVICE.

1. A rate-regulated gas or electric public utility providing any nonutility service to its customers shall keep and render to the board separate records of the nonutility service. The board may provide for the examination and inspection of the books, accounts, papers, and records of the nonutility service, as may be necessary, to enforce any provisions of this chapter.

2. The board shall adopt rules which specify the manner and form of the accounts relating to providing nonutility services which the rate-regulated gas or electric utility shall maintain.

Sec. 11. NEW SECTION. 476.76 ADDITIONAL REQUIREMENTS.

A rate-regulated gas or electric public utility which engages in a systematic marketing effort as defined by the board, other than on an incidental or casual basis, to promote the availability of nonutility service from the public utility shall make available at reasonable compensation on a nondiscriminatory basis to all persons engaged primarily in providing the same competitive nonutility services in that area all of the following services to the same extent utilized by the public utility in connection with its nonutility services:

1. Access to and use of the public utility's customer lists.

2. Access to and use of the public utility's billing and collection system.

3. Access to and use of the public utility's mailing system.

Sec. 12. NEW SECTION. 476.77 AUDIT REQUIRED.

The board may periodically retain a nationally or regionally recognized independent auditing firm to conduct an audit of the nonutility services provided by a rate-regulated gas or electric public utility subject to the provisions of section 476.76. A nonutility service audit shall not be conducted more frequently than every three years, unless ordered by the board for good cause. The cost of the audit shall be paid by the public utility to the independent auditing firm and shall be included in its regulated rates and charges, unless otherwise ordered by the board for good cause after providing the public utility the opportunity for a hearing on the board's decision.

Sec. 13. NEW SECTION. 476.78 EXEMPTION — ENERGY EFFICIENCY.

Notwithstanding any language to the contrary, nothing in this division shall prohibit a public utility from participating in or conducting energy efficiency projects or programs established or approved by the board or required by statute. A public utility participating in or conducting energy efficiency projects or programs established or approved by the board or required by statute shall not be subject to the provisions of sections 476.76 and 476.77 for those energy efficiency projects or programs.

Sec. 14. NEW SECTION. 476.79 COMPLAINTS.

Any person may file a written complaint with the board requesting the board to determine compliance by a rate-regulated gas or electric utility with the provisions of section 476.74, 476.75, or 476.76 or any validly adopted rules to implement those sections. If the board determines there is any reasonable ground to investigate the complaint, the board shall promptly initiate formal complaint proceedings. The formal proceeding may be initiated at any time by the board on its own motion.

Sec. 15. Sections 476.67 through 476.79 created under this Act shall be a separate division of chapter 476.

Approved May 2, 1989

CHAPTER 104

MEDICAL ASSISTANCE REQUIREMENTS

S.F. 117

AN ACT relating to medical assistance requirements and providing for eligibility of certain recipients of federal medicare.

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

Section 1. Section 249A.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. "Medicare cost sharing" means payment under the medical assistance program of a premium, a coinsurance amount, or a deductible amount for federal Medicare as required by Title XIX of the federal Social Security Act, section 1905(p)(3), as codified in 42 U.S.C. sec. 1396d(p)(3).

Sec. 2. Section 249A.3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The extent of and the limitations upon eligibility for assistance under this chapter ~~shall be~~ as is prescribed by this section, subject to federal requirements, and by laws appropriating funds ~~therefor~~ for assistance provided pursuant to this chapter.

Sec. 3. Section 249A.3, subsection 6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

In determining the eligibility of an individual for medical assistance under this chapter, for resources transferred to the individual's spouse before October 1, 1989, or to a person other than the individual's spouse before July 1, 1989, the department shall include, as resources still available to the individual, those nonexempt resources or interests in resources, owned by the individual within the preceding twenty-four months, which the individual gave away or sold at less than fair market value for the purpose of establishing eligibility for medical assistance under this chapter.

Sec. 4. Section 249A.3, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 7. In determining the eligibility of an individual for medical assistance under this chapter, the department shall consider resources transferred to the individual's spouse on or after October 1, 1989, or to a person other than the individual's spouse on or after July 1, 1989, as provided under the federal Social Security Act, section 1917(c), as codified in 42 U.S.C. § 1396p(c), as amended.

NEW SUBSECTION. 8. Medicare cost sharing shall be provided to or on behalf of an individual who is a resident of the state or a resident who is temporarily absent from the state and is a qualified Medicare beneficiary as defined under Title XIX of the federal Social Security Act, section 1905(p)(1), as codified in 42 U.S.C. § 1396d(p)(1).

Sec. 5. Section 249A.4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The director shall be responsible for the effective and impartial administration of this chapter and shall, in accordance with the standards and priorities established by this chapter, by applicable federal law, ~~particularly Title XIX of the United States Social Security Act [Title XLII, United States Code, sections 1396 to 1396g], as amended to January 1, 1973,~~ by the regulations and directives issued pursuant ~~thereto~~ to federal law, and by the state plan approved in accordance ~~therewith~~ with federal law, make rules, establish policies, and prescribe procedures to implement this chapter. Without limiting the generality of the foregoing delegation of authority, the director is hereby specifically empowered and directed to:

Approved May 3, 1989

CHAPTER 105

SEXUAL ACTIVITY PROHIBITIONS

S.F. 201

AN ACT expanding the definition of sex act and making more acts subject to penalties.

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

Section 1. Section 702.17, Code 1989, is amended to read as follows:

702.17 SEX ACT.

The term "sex act" or "sexual activity" means any sexual contact between two or more persons~~,~~ by: penetration of the penis into the vagina or anus~~, by~~; contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person; contact between the finger or hand of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed pursuant to chapter 148, 148C, 150, 150A or 152; or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

Sec. 2. NEW SECTION. 709.14 LASCIVIOUS CONDUCT WITH A MINOR.

It is unlawful for a person over eighteen years of age who is in a position of authority over a minor to force, persuade, or coerce a minor, with or without consent, to disrobe or partially disrobe for the purpose of arousing or satisfying the sexual desires of either of them.

Lascivious conduct with a minor is a serious misdemeanor.

Approved May 3, 1989

CHAPTER 106

STATE SOIL CONSERVATION COMMITTEE

S.F. 318

AN ACT relating to the state soil conservation committee, by providing for the composition of the committee and its powers and duties.

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

Section 1. Section 159.5, subsection 14, Code 1989, is amended to read as follows:

14. Establish and maintain a division of soil conservation. The division administrator shall be appointed by the secretary from a list of names of persons recommended by the soil conservation committee, pursuant to section 467A.4, subsection 2, and shall serve at the pleasure of the secretary.

Sec. 2. Section 467A.4, subsections 1 and 2, Code 1989, are amended to read as follows:

1. The soil conservation division is established within the department to perform the functions conferred upon it in chapters 83, 83A, and 467A through ~~467D~~ 467F. The division shall be administered in accordance with the policies of the state soil conservation committee, which shall advise the division and which shall approve administrative rules proposed by the division for the administration of chapters 83, 83A, and 467A through ~~467D~~ 467F before the rules are adopted pursuant to chapter 17A. If a difference exists between the committee and secretary regarding the content of a proposed rule, the secretary shall notify the chairperson of the committee of the difference within thirty days from the committee's action on the rule. The secretary and the committee shall meet to resolve the difference within thirty days after the secretary provides the committee with notice of the difference. The state soil conservation committee consists of a chairperson and ~~ten~~ eight other voting members. The following shall serve as ex officio nonvoting members of the committee: The director of the Iowa cooperative extension service in agriculture and home economics, or the director's designee, and the director of the department of natural resources or the director's designee. Nine voting members shall be appointed by the governor subject to confirmation by the senate. Six of the appointive members shall be persons engaged in actual farming operations, one of whom shall be a resident of each of ~~the~~ six geographic regions in the state, including northwest, southwest, north central, south central, northeast, and southeast Iowa, ~~water resource districts established by section 467D.3,~~ and no more than one of whom shall be a resident of any one county. The boundaries of the geographic regions shall be established by rule. The seventh, eighth, and ninth appointive members shall be chosen by the governor from the state at large with one appointed to be a representative of cities, one appointed to be a representative of the mining industry, and one appointee who is a farmer actively engaged in tree farming ~~operations~~. The committee may invite the secretary of agriculture of the United States to appoint one person to serve with the other members, and the president of the Iowa county engineers association may designate a member of the association to serve in the same manner, but these persons have no vote and shall serve in an advisory capacity only. The committee may perform acts, hold public hearings, and propose and approve rules pursuant to chapter 17A as necessary for the execution of its functions.

2. The committee shall recommend three persons to the secretary of agriculture who shall appoint from the persons recommended an administrative director to head the division who shall serve at the pleasure of the secretary. After reviewing the names submitted, the secretary may request the soil conservation committee to submit additional names for consideration. The committee shall recommend to the secretary each year a budget for the division. The secretary, at the earliest opportunity and prior to formulating a budget, shall meet with representatives of the committee to discuss the committee's recommendation. The committee or division may call upon the attorney general of the state for necessary legal services. The committee may delegate to its chairperson, to one or more of its members, or to one or more agents or employees, powers and duties as it deems proper. Upon request of the committee,

for the purpose of carrying out any of the functions assigned the committee or the department by law, the supervising officer of any state agency, or of any state institution of learning shall, insofar as possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail the request to the staff or personnel of the agency or institution of learning, and make the special reports, surveys, or studies as the committee requests.

Sec. 3. Section 467A.10, Code 1989, is amended to read as follows:

467A.10 DISCONTINUANCE OF DISTRICTS.

At any time after five years after the organization of a district under this chapter, any twenty-five owners of land lying within the boundaries of the district, but in no case less than twenty percent of the owners of land lying within the district, may file a petition with the ~~division~~ committee asking that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct public meetings and public hearings upon the petition as necessary to assist in the consideration of the petition. Within sixty days after a petition has been received by the ~~division~~ committee, the division shall give due notice of the holding of a referendum, shall supervise the referendum, and shall issue appropriate rules governing the conduct of the referendum~~, the~~. The question is to be submitted by ballots upon which the words "For terminating the existence of the ..... (name of the soil and water conservation district to be here inserted)" and "Against terminating the existence of the ..... (name of the soil and water conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of the propositions as the voter favors or opposes discontinuance of the district. All owners of lands lying within the boundaries of the district are eligible to vote in the referendum. No informalities in the conduct of the referendum or in any matters relating to the referendum invalidate the referendum or the result of the referendum if notice was given substantially as provided in this section and if the referendum was fairly conducted.

When sixty-five percent of the landowners vote to terminate the existence of the district, the ~~division~~ committee shall advise the commissioners to terminate the affairs of the district. The commissioners shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of the sale to be deposited into the state treasury. The commissioners shall then file an application, duly verified, with the secretary of state for the discontinuance of the district, and shall transmit with the application the certificate of the ~~division~~ committee setting forth the determination of the ~~division~~ committee that the continued operation of the district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as provided in this section, and shall set forth a full accounting of the properties and proceeds of the sale. The secretary of state shall issue to the commissioners a certificate of dissolution and shall record the certificate in an appropriate book of record in the secretary of state's office.

Upon issuance of a certificate of dissolution under this section, all ordinances and regulations previously adopted and in force within the districts are of no further force and effect. All contracts previously entered into, to which the district or commissioners are parties, remain in force and effect for the period provided in the contracts. The ~~division~~ committee is substituted for the district or commissioners as party to the contracts. The ~~division~~ committee is entitled to all benefits and subject to all liabilities under the contracts and has the same right and liability to perform, to require performance, to sue and be sued, and to modify or terminate the contracts by mutual consent or otherwise, as the commissioners of the district would have had.

The ~~division~~ committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon discontinuance petitions nor make determinations pursuant to the petitions in accordance with this chapter, more often than once in five years.

Sec. 4. Section 467A.42, subsection 2, paragraphs a and b, Code 1989, are amended to read as follows:

a. "Permanent soil and water conservation practices" means planting of perennial grasses, legumes, shrubs, or trees, the establishment of grassed waterways, and the construction of terraces, or other permanent soil and water practices approved by the ~~division~~ committee.

b. "Temporary soil and water conservation practices" means planting of annual or biennial crops, use of strip-cropping, contour planting, or minimum or mulch tillage, and any other cultural practices approved by the ~~division~~ committee.

Sec. 5. Section 467A.44, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The commissioners of each soil and water conservation district shall, with approval of and within time limits set by administrative order of the ~~division~~ state soil conservation committee, adopt reasonable regulations as are deemed necessary to establish a soil loss limit or limits for the district and provide for the implementation of the limit or limits, and may subsequently amend or repeal their regulations as they deem necessary. The ~~division~~ committee shall review the soil loss limit regulations adopted by the soil and water conservation districts at least once every five years, and shall recommend changes in the regulations of a soil and water conservation district which the ~~division~~ committee deems necessary to assure that the district's soil loss limits are reasonable and attainable. The commissioners may:

Sec. 6. Section 467A.45, Code 1989, is amended to read as follows:

467A.45 SUBMISSION OF REGULATIONS TO ~~DIVISION~~ COMMITTEE — HEARING.

Regulations which the commissioners propose to adopt, amend, or repeal shall be submitted to the ~~division~~ committee, in a form prescribed by the ~~division~~ committee, for its approval. The ~~division~~ committee may approve the regulations as submitted, or with amendments as it deems necessary. The commissioners shall, after approval, publish notice of hearing on the proposed regulations, as approved, in a newspaper of general circulation in the district, setting a date and time not less than ten nor more than thirty days after the publication when a hearing on the proposed regulations will be held at a specified place. The notice shall include the full text of the proposed regulations or shall state that the proposed regulations are on file and available for review at the office of the affected soil and water conservation district.

Sec. 7. Section 467A.46, Code 1989, is amended to read as follows:

467A.46 CONDUCT OF HEARING.

At the hearing, the commissioners or their designees shall explain, in reasonable detail, the reasons why adoption, amendment, or repeal of the regulations is deemed necessary or advisable. Any landowner, or any occupant of land who would be affected by the regulations, shall be afforded an opportunity to be heard for or against the proposed regulations. At the conclusion of the hearing, the commissioners shall announce and enter of record their decision whether to adopt or modify the proposed regulations. Any modification must be approved by the ~~division~~ committee, which may at its discretion order the commissioners to republish the regulations and hold another hearing in the manner prescribed by this chapter.

Sec. 8. Section 467A.48, subsections 1 and 2, Code 1989, are amended to read as follows:

1. An owner or occupant of land in this state is not required to establish any new permanent or temporary soil and water conservation practice unless public or other cost-sharing funds have been specifically approved for that land and actually made available to the owner or occupant. The amount of cost-sharing funds made available shall not exceed seventy-five percent of the estimated cost as established by the commissioners of a permanent soil and water conservation practice, or seventy-five percent of the actual cost, whichever is less, or an amount set by the ~~division~~ committee for a temporary soil and water conservation practice, except as otherwise provided by law with respect to land classified as agricultural land under conservation cover. The commissioners shall establish the estimated cost of permanent soil and water conservation practices in the district based upon one and two-tenths of the average cost of the practices installed in the district during the previous year. The average costs shall be reviewed and approved by the commissioners each calendar year.

2. The ~~division~~ committee shall review these requirements once each year, and may authorize soil and water conservation district commissioners to make the mandatory establishment of any specified soil and water conservation practice in any particular case conditional on a higher proportion of public cost-sharing than is required by this section. When the commissioners have been so authorized, they shall, in determining the amount of cost-sharing for establishment of a specified soil and water conservation practice to comply with an administrative order issued pursuant to section 467A.47, consider the extent to which the practice will contribute benefits to the public in relation to the benefits that will accrue to the individual owner or occupant of the land on which the practice is to be established. Evidence that an application for public or other cost-sharing funds, from a source or sources having authority to pay a portion of the cost of work needed to comply with an administrative order issued pursuant to section 467A.47, has been submitted to the proper officer or agency constitutes commencement of the work within the meaning of sections 467A.43 through 467A.53.

Sec. 9. Notwithstanding this Act persons appointed to serve on the soil conservation committee before July 1, 1989, may serve out their terms as provided in chapter 467A.

Approved May 3, 1989

CHAPTER 107

CAMPAIGN FINANCE DISCLOSURE REPORTS

S.F. 365

AN ACT relating to the filing of campaign finance disclosure reports by city and school elective offices and for local ballot issues.

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

Section 1. Section 56.6, subsection 1, paragraph e, is amended to read as follows:

e. Committees for municipal and school elective offices and local ballot issues shall file their first reports five days prior to any election in which the name of the candidate or the local ballot issue which they support or oppose appears on the printed ballot and shall file their next report on the first day of the month following the final election in a calendar year in which the candidate's name or the ballot issue appears on the ballot. A committee supporting or opposing a candidate for a municipal or school elective office or a local ballot issue shall ~~continue to~~ also file ~~a~~ disclosure ~~report~~ reports on the ~~first day of every month~~ twentieth day of January and October of each year in which the candidate or ballot issue does not appear on the ballot and on the twentieth day of January, May, and July of each year in which the candidate or ballot issue appears on the ballot, until ~~it~~ the committee dissolves. These reports shall be current to five days prior to the filing deadline and are considered timely filed if mailed bearing a United States postal service postmark one or more calendar days preceding the due date.

Approved May 3, 1989

CHAPTER 108

FARM CRISIS RELIEF PROGRAM

S.F. 389

AN ACT relating to farm crisis relief, by extending the date of repeal of certain 1986 provisions, expanding participation in farm mediation, requiring borrowers to file a list of creditors, providing for review of farm mediation service decisions, expanding the confidentiality of mediation information, providing for mediation fees, and providing limitations on liability and immunity from certain judicial actions.

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

Section 1. 1986 Iowa Acts, chapter 1214, section 29, is amended to read as follows:

SEC. 29. Sections 1 through 7, 12, and 14 through 28 are repealed on July 1, ~~1989~~ 1990.

Sec. 2. Section 654A.4, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. This chapter applies to a borrower who is a natural person operating a farm or any corporation, trust, or limited partnership as defined in section 172C.1.

Sec. 3. Section 654A.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Unless the borrower waives mediation, the borrower shall file a list containing at least the name and place of business for each creditor as defined in section 654A.1 or apply for an extension to file the list with the farm mediation service within twenty-one days of the service's receipt of a request for mediation.

Sec. 4. Section 654A.11, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The farm mediation service shall provide by rule a procedure, consistent with chapter 17A, for review of an initial decision by a mediator relating to the issuance of a mediation release. A decision may be reviewed by the administrative head of the service or a designee. Upon final action by the service and exhaustion of administrative remedies, an action for judicial review of a decision by the service may be brought in either the district court of Polk county or in the district court in which the farmer or creditor resides.

Sec. 5. Section 654A.13, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Verbal or written information relating to the mediation process and transmitted between a party to a dispute and the farm mediation service, including a mediator or the mediation staff, or any other person present during any stage of the mediation process conducted by the service, whether reflected in notes, memoranda, or other work products in the case files, are confidential communications. Mediators and staff members shall not be examined in any judicial or administrative proceeding regarding confidential communications and are not subject to judicial or administrative process requiring the disclosure of confidential communications.

If a governmental subdivision is a party to a dispute which has been scheduled for a mediation meeting, verbal or written information obtained by the governmental subdivision which was transmitted by the farm mediation service, including a mediator or the mediation staff, or by any other person present during any stage of the mediation process, is confidential for the purposes of chapter 22 and 5 U.S.C. § 552 (1970).

This subsection does not apply to information transmitted by a party to a dispute where the farm mediation service, including a mediator or staff member, has reason to believe that the party has given perjured evidence.

Sec. 6. Section 654A.14, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The coordinator shall adopt rules pursuant to chapter 17A to provide for an hourly mediation fee not to exceed twenty-five dollars per hour per

party. The hourly mediation fee may be waived for any party demonstrating financial hardship upon application to the farm mediation service.

Sec. 7. NEW SECTION. 654A.15 LIMITATION ON LIABILITY — IMMUNITY FROM SPECIAL ACTIONS.

1. A member of the farm mediation staff, including a mediator, employee, or agent of the service, or member of a board to the service, is not liable for civil damages for a statement or decision made in the process of mediation unless the member acts in bad faith, with malicious purpose, or in a manner exhibiting willful and wanton disregard of human rights, safety, or property.

2. A judicial action relating to a matter which is in the mediation process, which seeks an injunction, mandamus, or similar equitable relief shall not be brought against the farm mediation service, including a mediator, employee, or agent of the service, or member of board for the service.

Approved May 3, 1989

CHAPTER 109

CONTROLLED SUBSTANCES

S.F. 395

AN ACT adding certain controlled substances to schedule I, schedule IV, and schedule V controlled substances.

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

Section 1. Section 204.204, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. at. Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]—N-phenylpropanamide).

Sec. 2. Section 204.204, subsection 9, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. q. N,N-dimethylamphetamine (some other names: N,N, alpha-trimethylbenzene-ethanamine; N,N, alpha-trimethylphenethylamine), its salts, optical isomers and salts of optical isomers.

Sec. 3. Section 204.210, subsection 5, paragraphs a through f, Code 1989, are amended to read as follows:

a. Cathine [(+)-norpseudoephedrine].
~~a~~ b. Diethylpropion.
c. Fencamfamin.
d. Fenproporex.
~~b~~ e. Mazindol.
f. Mefenorex.
~~c~~ g. Pemoline (including organometallic complexes and chelates thereof).
~~d~~ h. Phentermine.
~~e~~ i. Pipradrol.
~~f~~ j. SPA ((-)-1-dimethylamino-1,2-diphenylethane).

Sec. 4. Section 204.212, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. STIMULANTS. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the

following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

a. Propylhexedrine.

b. Pyrovalerone.

Approved May 3, 1989

CHAPTER 110

COURT REPORTERS' CONTINUING SERVICE

S.F. 406

AN ACT relating to retention of a court reporter by a newly appointed judge.

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

Section 1. Section 602.6603, subsection 8, Code 1989, is amended to read as follows:

8. If a judge dies, resigns, retires, is removed from office, becomes disabled, or fails to be retained in office and the judicial vacancy is eligible to be filled, ~~a~~ the court reporter appointed by the judge ~~is entitled to~~ shall serve as a court reporter, as directed by the chief judge or the chief judge's designee, until the successor judge appoints a successor court reporter. The court reporter shall ~~be paid~~ receive the reporter's regular salary and benefits during the period of time until a successor court reporter is appointed or until the currently appointed court reporter is reappointed.

Approved May 3, 1989

CHAPTER 111

MEDICAL ASSISTANCE SUBROGATION RIGHTS

S.F. 412

AN ACT relating to the medical assistance subrogation rights of the department of human services.

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

Section 1. Section 249A.6, subsection 1, Code 1989, is amended to read as follows:

1. When payment is made by the department for medical care or expenses through the medical assistance program on behalf of a recipient, the department is subrogated, to the extent of those payments, to all monetary claims which the recipient may have against third parties ~~as a result of the medical care or expenses received or incurred~~. A compromise, including but not limited to a settlement, waiver or release, of a claim to which the department is subrogated under this section does not defeat the department's right of recovery except pursuant to the written agreement of the director or the director's designee or except as provided in this section. A settlement, award, or judgment structured in any manner not to include medical expenses or an action brought by a recipient or on behalf of a recipient which fails to state a claim for recovery of medical expenses does not defeat the department's right of subrogation if there is any recovery on the recipient's claim unless the claim for recovery of medical

expenses is barred by an applicable statute of limitation, or the legal representative of the medical assistance recipient does not represent the person or persons who have legal standing to bring the claim for recovery of medical expenses. In such situations, the legal representative shall notify the department of the situation; the department may then notify the person or persons having legal standing to bring the claim of the right to proceed with the claim against the third-party tort-feasor. Should the person or persons elect not to proceed, the department may then proceed in a separate action with a claim to recover its subrogation interest.

Sec. 2. Section 633.336, Code 1989, is amended to read as follows:

633.336 DAMAGES FOR WRONGFUL DEATH.

When a wrongful act produces death, damages recovered ~~therefor~~ as a result of the wrongful act shall be disposed of as personal property belonging to the estate of the deceased, however, if the damages include damages for loss of services and support of a deceased spouse and parent, ~~such~~ the damages shall be apportioned by the court among the surviving spouse and children of the decedent in ~~such~~ a manner as the court may deem equitable consistent with the loss of services and support sustained by the surviving spouse and children respectively. If the decedent leaves a spouse, child, or parent, damages for wrongful death shall not be subject to debts and charges of the decedent's estate, except for amounts to be paid to the department of human services for payments made for medical assistance pursuant to chapter 249A, paid on behalf of the decedent from the time of the injury which gives rise to the decedent's death up until the date of the decedent's death.

Approved May 3, 1989

CHAPTER 112

IDENTIFICATION CARDS FOR PRIVATE INVESTIGATION AND SECURITY AGENTS

S.F. 416

AN ACT relating to the identification of persons engaged in private investigation and private security businesses.

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

Section 1. Section 80A.7, Code 1989, is amended to read as follows:

80A.7 IDENTIFICATION CARDS.

The department shall issue to each licensee and to each employee of the licensee an identification card in a form approved by the commissioner. The application for a permanent identification card shall include a temporary identification card valid for fourteen days from the date of receipt of the application by the applicant. It is unlawful for an agency licensed under this chapter to employ a person to act in the private investigation business or private security business unless the person has in the person's immediate possession an identification card issued under this section.

The licensee is responsible for the use of identification cards by the licensee's employees and shall return an employee's card to the department upon termination of the employee's service. Identification cards remain the property of the department. The fee for each card is ~~three~~ ten dollars.

A county sheriff may issue temporary identification cards valid for fourteen days to a person employed by an agency licensed as a private security business or private investigation business on a temporary basis in the county. The fee for each card is ~~three~~ five dollars. The form of the temporary identification cards shall be approved by the commissioner.

Approved May 3, 1989

CHAPTER 113

UNIFORM COMMERCIAL CODE AMENDMENTS

S.F. 475

AN ACT relating to Article 8 of the uniform commercial code, by including both certificated and uncertificated securities within the scope of Article 8, and by making conforming amendments to Articles 1, 5, and 9.

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

Section 1. Section 554.8102, Code 1989, is amended to read as follows:

554.8102 DEFINITIONS AND INDEX OF DEFINITIONS.

1. In this Article, unless the context otherwise requires

~~a. A "security" is an instrument which~~

~~i. is issued in bearer or registered form; and~~

~~ii. is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and~~

~~iii. is either one of a class or series or by its terms is divisible into a class or series of instruments; and~~

~~iv. evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer.~~

a. A "certified security" is a share, participation, or other interest in property of or an enterprise of the issuer or an obligation of the issuer which is

i. represented by an instrument issued in bearer or registered form;

ii. of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and

iii. either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

b. An "uncertificated security" is a share, participation, or other interest in property or an enterprise of the issuer or an obligation of the issuer which is

i. not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer;

ii. of a type commonly dealt in on securities exchanges or markets; and

iii. either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

~~b.~~ c. A "security" is either a certificated or an uncertificated security. If a security is certificated, the terms "security" and "certified security" may mean either the intangible interest, the instrument representing that interest, or both, as the context requires. A writing ~~which~~ that is a certificated security is governed by this Article and not by ~~uniform commercial code — commercial paper~~ Article 3 even though it also meets the requirements of that Article. This Article does not apply to money. If a certificated security has been retained by or surrendered to the issuer or its transfer agent for reasons other than registration of transfer, other temporary purpose, payment, exchange, or acquisition by the issuer, that security shall be treated as an uncertificated security for purposes of this Article.

~~c~~ d. A certificated security is in "registered form" ~~when~~ if:

i. it specifies a person entitled to the security or to the rights it ~~evidences~~ represents, and ~~when~~

ii. its transfer may be registered upon books maintained for that purpose by or on behalf of ~~an~~ the issuer, or the security so states.

~~d~~ e. A certificated security is in "bearer form" ~~when~~ if it runs to bearer according to its terms and not by reason of any endorsement.

2. A "subsequent purchaser" is a person who takes other than by original issue.

3. A "clearing corporation" is a corporation registered as a "clearing agency" as under federal securities laws or a corporation:

a. At least ninety percent of ~~the~~ whose capital stock ~~of which~~ is held by or for one or more ~~persons, other than individuals~~, organizations, none of which, other than a national securities exchange or association, holds in excess of twenty percent of the capital stock of the corporation, each of ~~whom~~ which is

i. ~~is~~ subject to supervision or regulation pursuant to the provisions of federal or state banking laws or state insurance laws, ~~or~~

ii. ~~is~~ a broker or dealer or investment company registered under the ~~Securities Exchange Act of 1934 (48 Stat. 881; 15 U.S.C. 78a et seq.) or the Investment Company Act of 1940 (54 Stat. 789; 15 U.S.C. 80a-1 et seq.)~~ federal securities laws, or

iii. ~~is~~ a national securities exchange or association registered under ~~a statute of the United States such as the Securities Exchange Act of 1934~~ the federal securities laws, and ~~none of whom, other than a national securities exchange or association, holds in excess of twenty percent of the capital stock of such corporation; and~~

b. Any remaining capital stock of which is held by individuals who have purchased ~~such capital stock~~ it at or prior to the time of their taking office as directors of ~~such~~ the corporation and who have purchased only so much of such capital stock as ~~may be~~ is necessary to permit them to qualify as ~~such~~ directors.

4. A "custodian bank" is ~~any~~ a bank or trust company ~~which~~ that is supervised and examined by state or federal authority having supervision over banks and ~~which~~ is acting as custodian for a clearing corporation.

5. Other definitions applying to this Article or to specified Parts thereof and the sections in which they appear are:

"Adverse claim".	Section ~~554.8301~~ 554.8302.
"Bona fide purchaser".	Section 554.8302.
"Broker".	Section 554.8303.
"Debtor".	Section 554.9105.
"Financial Intermediary".	Section 554.8313.
"Guarantee of the signature".	Section 554.8402.
"Initial transaction statement".	Section 554.8408.
"Instruction".	Section 554.8308.
"Intermediary bank".	Section 554.4105.
"Issuer".	Section 554.8201.
"Overissue".	Section 554.8104.
"Secured party".	Section 554.9105.
"Security agreement".	Section 554.9105.

6. In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 2. Section 554.8103, Code 1989, is amended to read as follows:

554.8103 ISSUER'S LIEN.

A lien upon a security in favor of an issuer thereof is valid against a purchaser only if:

a. the security is certificated and the right of the issuer to ~~such~~ the lien is noted conspicuously ~~on the security~~ thereon; or

b. the security is uncertificated and a notation of the right of the issuer to the lien is contained in the initial transaction statement sent to the purchaser or, if the purchaser's interest is transferred to the purchaser other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

Sec. 3. Section 554.8104, Code 1989, is amended to read as follows:

554.8104 EFFECT OF OVERISSUE -- "OVERISSUE."

1. The provisions of this Article which validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue; but if:

a. ~~if~~ an identical security which does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase ~~and deliver such~~ a the security ~~to~~ for that person and either to deliver a certificated security or to register the transfer of an uncertificated security to that person against surrender of ~~the~~ any certificated security~~, if any, which~~ that person holds; or

b. ~~if~~ a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price that person or the last purchaser for value paid for it with interest from the date of that person's demand.

2. "Overissue" means the issue of securities in excess of the amount ~~which~~ the issuer has corporate power to issue.

Sec. 4. Section 554.8105, Code 1989, is amended to read as follows:

554.8105 CERTIFICATED SECURITIES NEGOTIABLE — STATEMENTS AND INSTRUCTIONS NOT NEGOTIABLE — PRESUMPTIONS.

1. ~~Securities~~ Certificated securities governed by this Article are negotiable instruments.

2. Statements (section 554.8408), notices, or the like, sent by the issuer of uncertificated securities and instructions (section 554.8308) are neither negotiable instruments nor certificated securities.

~~2~~ 3. In any action on a security:

a. unless specifically denied in the pleadings, each signature on ~~the~~ a certificated security ~~or~~, in a necessary endorsement, on an initial transaction statement, or on an instruction, is admitted;

b. ~~when~~ if the effectiveness of a signature is put in issue, the burden of establishing it is on the party claiming under the signature, but the signature is presumed to be genuine or authorized;

c. ~~when~~ if signatures on a certificated security are admitted or established, production of the ~~instrument~~ security entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security; ~~and~~

d. if signatures on an initial transaction statement are admitted or established, the facts stated in the statement are presumed to be true as of the time of its issuance; and

~~d~~ e. after it is shown that a defense or defect exists, the plaintiff has the burden of establishing that the plaintiff or some person under whom the plaintiff claims is a person against whom the defense or defect is ineffective (section 554.8202).

Sec. 5. Section 554.8106, Code 1989, is amended to read as follows:

554.8106 APPLICABILITY.

The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs

~~The~~ the validity of a security, the effectiveness of registration by the issuer, and the rights and duties of the issuer with respect to:

a. registration of transfer of a certificated security; ~~are governed by the law (including the conflict of laws rules) of the jurisdiction of organization of the issuer.~~

b. registration of transfer, pledge, or release of an uncertificated security; and

c. sending of statements of uncertificated securities.

Sec. 6. Section 554.8107, Code 1989, is amended to read as follows:

554.8107 SECURITIES ~~DELIVERABLE~~ TRANSFERABLE — ACTION FOR PRICE.

1. Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to ~~deliver~~ transfer securities may ~~deliver~~ transfer any certificated security of the specified issue in bearer form or registered in the name of the transferee, or endorsed to the transferee, or in blank, or the transferor may transfer an equivalent uncertificated security to the transferee or a person designated by the transferee.

2. ~~When~~ If the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price of:

a. ~~of~~ certificated securities accepted by the buyer; ~~and~~

b. uncertificated securities that have been transferred to the buyer or a person designated by the buyer; and

~~b~~ c. ~~of~~ other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale.

Sec. 7. NEW SECTION. 554.8108 REGISTRATION OF PLEDGE AND RELEASE OF UNCERTIFICATED SECURITIES.

A security interest in an uncertificated security may be evidenced by the registration of pledge to the secured party or a person designated by the secured party. There can be no more than one registered pledge of an uncertificated security at any time. The registered owner of an uncertificated security is the person in whose name the security is registered, even if the security is subject to a registered pledge. The rights of a registered pledgee of an uncertificated security under this Article are terminated by the registration of release.

Sec. 8. Section 554.8201, Code 1989, is amended to read as follows:

554.8201 "ISSUER."

1. With respect to obligations on or defenses to a security "issuer" includes a person who:

a. places or authorizes the placing of that person's name on a certificated security (otherwise than as authenticating trustee, registrar, transfer agent, or the like) to evidence that it represents a share, participation, or other interest in that person's property or in an enterprise or to evidence that person's duty to perform an obligation ~~evidenced~~ represented by the certificated security; ~~or~~

b. creates shares, participations or other interests in the person's property or in an enterprise or undertakes obligations, which shares, participations, interests, or obligations are uncertificated securities;

~~b~~ c. directly or indirectly creates fractional interests in that person's rights or property, which fractional interests are ~~evidenced~~ represented by certificated securities; or

e d. becomes responsible for or in place of any other person described as an issuer in this section.

2. With respect to obligations on or defenses to a security, a guarantor is an issuer to the extent of the guarantor's guaranty, whether or not the guarantor's obligation is noted on ~~the~~ a certificated security or on statements of uncertificated securities sent pursuant to section 554.8408.

3. With respect to registration of transfer, pledge, or release (Part 4 of this Article), "issuer" means a person on whose behalf transfer books are maintained.

Sec. 9. Section 554.8202, Code 1989, is amended to read as follows:

554.8202 ISSUER'S RESPONSIBILITY AND DEFENSES — NOTICE OF DEFECT OR DEFENSE.

1. Even against a purchaser for value and without notice, the terms of a security include:

a. if the security is certificated, those stated on the security;

b. if the security is uncertificated, those contained in the initial transaction statement sent to such purchaser, or if the purchaser's interest is transferred to the purchaser other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or registered pledgee; and

c. those made part of the security by reference, on the certificated security or in the initial transaction statement, to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order or the like, to the extent that the terms ~~so~~ referred to do not conflict with the ~~stated~~ terms stated on the certificated security or contained in the initial statement. ~~Such~~ a A reference under this paragraph does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even though the certificated security or statement expressly states that a person accepting it admits ~~such~~ notice.

2. ~~a.~~ A certificated security in the hands of a purchaser for value or an uncertificated security as to which an initial transaction statement has been sent to a purchaser for value, other than ~~one~~ a security issued by a government or governmental agency or unit, even though issued

with a defect going to its validity, is valid ~~in the hands of a~~ with respect to the purchaser ~~for value and~~ if the purchaser is without notice of the particular defect unless the defect involves a violation of constitutional provisions, in which case the security is valid ~~in the hands of~~ with respect to a subsequent purchaser for value and without notice of the defect.

~~b. The rule of subparagraph "a"~~ This subsection applies to an issuer ~~which~~ that is a government or governmental agency or unit only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

3. Except as ~~otherwise~~ provided in the case of certain unauthorized signatures ~~on issue~~ (section 554.8205), lack of genuineness of a certificated security or an initial transaction statement is a complete defense, even against a purchaser for value and without notice.

4. All other defenses of the issuer of a certificated or uncertificated security, including nondelivery and conditional delivery of ~~the~~ a certificated security, are ineffective against a purchaser for value who has taken without notice of the particular defense.

5. Nothing in this section shall be construed to affect the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security ~~which~~ that is the subject of the contract or in the plan or arrangement pursuant to which ~~such~~ the security is to be issued or distributed.

Sec. 10. Section 554.8203, Code 1989, is amended to read as follows:

554.8203 STALENESS AS NOTICE OF DEFECTS OR DEFENSES.

1. After an act or event ~~which creates~~ creating a right to immediate performance of the principal obligation ~~evidenced~~ represented by ~~the~~ a certificated security or ~~which~~ that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer if:

a. ~~if~~ the act or event is one requiring the payment of money ~~or~~, the delivery of certificated securities, the registration of transfer of uncertificated securities, or ~~both~~ any of these on presentation or surrender of the certificated security ~~and such~~, the funds or securities are available on the date set for payment or exchange, and the purchaser takes the security more than one year after that date; and

b. ~~if~~ the act or event is not covered by paragraph "a" and the purchaser takes the security more than two years after the date set for surrender or presentation or the date on which ~~such~~ performance became due.

2. A call ~~which~~ that has been revoked is not within subsection 1.

Sec. 11. Section 554.8204, Code 1989, is amended to read as follows:

554.8204 EFFECT OF ISSUER'S RESTRICTIONS ON TRANSFER.

~~Unless noted conspicuously on the security a~~ A restriction on transfer of a security imposed by the issuer, even though otherwise lawful, is ineffective ~~except~~ against ~~a~~ any person ~~with~~ without actual knowledge of it, unless:

a. the security is certificated and the restriction is noted conspicuously thereon; or

b. the security is uncertificated and a notation of the restriction is contained in the initial transaction statement sent to the person or, if the person's interest is transferred to the person other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

Sec. 12. Section 554.8205, Code 1989, is amended to read as follows:

554.8205 EFFECT OF UNAUTHORIZED SIGNATURE ON ~~ISSUE~~ CERTIFICATED SECURITY OR INITIAL TRANSACTION STATEMENT.

An unauthorized signature placed on a certificated security prior to or in the course of issue or placed on an initial transaction statement is ineffective, ~~except that~~ but the signature is effective in favor of a purchaser for value ~~and~~ of the certificated security or a purchaser for value of an uncertificated security to whom such initial transaction statement has been sent, if the purchaser is without notice of the lack of authority and if the signing has been done by:

a. an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security ~~or~~, of similar securities, or of initial transactions statements or ~~their~~ the immediate preparation for signing of any of them; or

b. an employee of the issuer, or of any of the foregoing, entrusted with responsible handling of the security or initial transaction statement.

Sec. 13. Section 554.8206, Code 1989, is amended to read as follows:

554.8206 COMPLETION OR ALTERATION OF ~~INSTRUMENT~~ CERTIFICATED SECURITY OR INITIAL TRANSACTION STATEMENT.

1. ~~Where~~ If a certificated security contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

a. any person may complete it by filling in the blanks as authorized; and

b. even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of ~~such~~ the incorrectness.

2. A complete certificated security ~~which~~ that has been improperly altered, even though fraudulently, remains enforceable, but only according to its original terms.

3. If an initial transaction statement contains the signatures necessary to its validity, but is incomplete in any other respect:

a. any person may complete it by filling in the blanks as authorized; and

b. even though the blanks are incorrectly filled in, the statement as completed is effective in favor of the person to whom it is sent if the person purchased the security referred to therein for value and without notice of the incorrectness.

4. A complete initial transaction statement that has been improperly altered, even though fraudulently, is effective in favor of a purchaser to whom it has been sent, but only according to its original terms.

Sec. 14. Section 554.8207, Code 1989, is amended to read as follows:

554.8207 RIGHTS OF ISSUER WITH RESPECT TO REGISTERED OWNERS.

1. Prior to due presentment for registration of transfer of a certificated security in registered form, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

2. Subject to the provisions of subsections 3, 4, and 6, the issuer or indenture trustee may treat the registered owner of an uncertificated security as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

3. The registered owner of an uncertificated security that is subject to a registered pledge is not entitled to registration of transfer prior to the due presentment to the issuer of a release instruction. The exercise of conversion rights with respect to a convertible uncertificated security is a transfer within the meaning of this section.

4. Upon due presentment of a transfer instruction from the registered pledgee of an uncertificated security, the issuer shall:

a. register the transfer of the security to the new owner free of pledge, if the instruction specifies a new owner (who may be the registered pledgee) and does not specify a pledgee;

b. register the transfer of the security to the new owner subject to the interest of the existing pledgee, if the instruction specifies a new owner and the existing pledgee; or

c. register the release of the security from the existing pledge and register the pledge of the security to the other pledgee, if the instruction specifies the existing owner and another pledgee.

5. Continuity of perfection of a security interest is not broken by registration of transfer under subsection (4)(b) or by registration of release and pledge under subsection (4)(c), if the security interest is assigned.

6. If an uncertificated security is subject to a registered pledge:

a. any uncertificated securities issued in exchange for or distributed with respect to the pledged security shall be registered subject to the pledge;

b. any certificated securities issued in exchange for or distributed with respect to the pledged security shall be delivered to the registered pledgee; and

c. any money paid in exchange for or in redemption of part or all of the security shall be paid to the registered pledgee.

2 7. Nothing in this Article shall be construed to affect the liability of the registered owner of a security for calls, assessments, or the like.

Sec. 15. Section 554.8208, Code 1989, is amended to read as follows:

554.8208 EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE, REGISTRAR OR TRANSFER AGENT.

1. A person placing that person's signature upon a certificated security or an initial transaction statement as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security or a purchaser for value of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is without notice of the particular defect, that:

a. the certificated security or initial transaction statement is genuine; ~~and~~

b. that person's own participation in the issue or registration of transfer, pledge, or release of the security is within that person's capacity and within the scope of the ~~authorization~~ authority received by that person from the issuer; and

c. that person has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

2. Unless otherwise agreed, a person by so placing that person's signature does not assume responsibility for the validity of the security in other respects.

Sec. 16. Section 554.8301, Code 1989, is amended to read as follows:

554.8301 RIGHTS ACQUIRED BY PURCHASER — ~~"ADVERSE CLAIM" — TITLE ACQUIRED BY BONA FIDE PURCHASER~~.

1. Upon ~~delivery~~ transfer of a security to a purchaser (section 554.8313), the purchaser acquires the rights in the security which the purchaser's transferor had or had actual authority to convey ~~except that a purchaser who has personally been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve that purchaser's position by taking from a later bona fide purchaser. "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security~~ unless the purchaser's rights are limited by section 554.8302, subsection 4.

~~2. A bona fide purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.~~

3 2. A ~~purchaser~~ transferee of a limited interest acquires rights only to the extent of the interest ~~purchased~~ transferred. The creation or release of a security interest in a security is the transfer of a limited interest in that security.

Sec. 17. Section 554.8302, Code 1989, is amended to read as follows:

554.8302 "BONA FIDE PURCHASER" — "ADVERSE CLAIM" — TITLE ACQUIRED BY BONA FIDE PURCHASER.

1. A "bona fide purchaser" is a purchaser for value in good faith and without notice of any adverse claim:

a. who takes delivery of a certificated security in bearer form or ~~of one~~ in registered form, issued ~~to that purchaser~~ or endorsed to that purchaser or in blank.;

b. to whom the transfer, pledge, or release of an uncertificated security is registered on the books of the issuer; or

c. to whom a security is transferred under the provisions of paragraph (c), (d)(i), or (g) of section 554.8313, subsection 1.

2. "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

3. A bona fide purchaser in addition to acquiring the rights of a purchaser (section 554.8301) also acquires interest in the security free of any adverse claim.

4. Notwithstanding section 554.8301, subsection 1, the transferee of a particular certificated security who has been a party to any fraud or illegality affecting the security, or who as a prior holder of that certificated security had notice of an adverse claim, cannot improve the transferee's position by taking from a bona fide purchaser.

Sec. 18. Section 554.8303, Code 1989, is amended to read as follows:

554.8303 "BROKER."

"Broker" means a person engaged for all or part of the person's time in the business of buying and selling securities, who in the transaction concerned acts for, ~~or~~ buys a security from, or sells a security to, a customer. Nothing in this Article determines the capacity in which a person acts for purposes of any other statute or rule to which ~~such~~ the person is subject.

Sec. 19. Section 554.8304, Code 1989, is amended to read as follows:

554.8304 NOTICE TO PURCHASER OF ADVERSE CLAIMS.

1. A purchaser (including a broker for the seller or buyer but excluding an intermediary bank) of a certificated security is charged with notice of adverse claims if:

a. the security, whether in bearer or registered form, has been endorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

b. the security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

2. A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) to whom the transfer, pledge, or release of an uncertificated security is registered is charged with notice of adverse claims as to which the issuer has a duty under section 554.8403, subsection 4 at the time of registration and which are noted in the initial transaction statement sent to the purchaser or, if the purchaser's interest is transferred to the purchaser other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

~~2~~ 3. The fact that the purchaser (including a broker for the seller or buyer) of a certificated or uncertificated security has notice that the security is held for a third person or is registered in the name of or endorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute constructive notice of adverse claims. ~~If, however~~ However, if the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or ~~that~~ the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

Sec. 20. Section 554.8305, Code 1989, is amended to read as follows:

554.8305 STALENESS AS NOTICE OF ADVERSE CLAIMS.

An act or event ~~which~~ that creates a right to immediate performance of the principal obligation ~~evidenced~~ represented by ~~the~~ a certificated security or ~~which~~ sets a date on or after which ~~the~~ a certificated security is to be presented or surrendered for redemption or exchange does not ~~of~~ itself constitute any notice of adverse claims except in the case of a ~~purchase~~ transfer:

a. after one year from any date set for ~~such~~ presentment or surrender for redemption or exchange; or

b. after six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date.

Sec. 21. Section 554.8306, Code 1989, is amended to read as follows:

554.8306 WARRANTIES ON PRESENTMENT AND TRANSFER OF CERTIFICATED SECURITIES — WARRANTIES OF ORIGINATORS OF INSTRUCTIONS.

1. A person who presents a certificated security for registration of transfer or for payment or exchange, warrants to the issuer that the person is entitled to the registration, payment or exchange. But, a purchaser for value and without notice of adverse claims who receives

a new, reissued, or reregistered certificated security on registration or transfer or receives an initial transaction statement confirming the registration of transfer of an equivalent uncertificated security to that purchaser warrants only that that purchaser has no knowledge of any unauthorized signature (section 554.8311) in a necessary endorsement.

2. A person by transferring a certificated security to a purchaser for value warrants only that:

a. the person's transfer is effective and rightful; ~~and~~

b. the security is genuine and has not been materially altered; and

c. the person knows of no fact which might impair the validity of the security.

3. ~~Where~~ If a certificated security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against ~~such~~ delivery, the intermediary by ~~such~~ delivery warrants only the intermediary's own good faith and authority, even though the intermediary has purchased or made advances against the claim to be collected against the delivery.

4. A pledgee or other holder for security who redelivers ~~the~~ a certificated security received, or after payment and on order of the debtor delivers that security to a third person, makes only the warranties of an intermediary under subsection 3.

5. A person who originates an instruction warrants to the issuer that:

a. the originator is an appropriate person to originate the instruction; and

b. at the time the instruction is presented to the issuer the originator will be entitled to the registration of transfer, pledge, or release.

6. A person who originates an instruction warrants to any person specially guaranteeing the originator's signature (section 554.8312, subsection 3) that:

a. the originator is an appropriate person to originate the instruction; and

b. at the time the instruction is presented to the issuer

i. the originator will be entitled to the registration of transfer, pledge, or release; and

ii. the transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

7. A person who originates an instruction warrants to a purchaser for value and to any person guaranteeing the instruction (section 554.8312, subsection 6) that:

a. the originator is an appropriate person to originate the instruction;

b. the uncertificated security referred to therein is valid; and

c. at the time the instruction is presented to the issuer

i. the transferor will be entitled to the registration of transfer, pledge, or release;

ii. the transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction; and

iii. the requested transfer, pledge, or release will be rightful.

8. If a secured party is the registered pledgee or the registered owner of an uncertificated security, a person who originates an instruction of release or transfer to the debtor or, after payment and on order of the debtor, a transfer instruction to a third person, warrants to the debtor or the third person only that the secured party is an appropriate person to originate the instruction and at the time the instruction is presented to the issuer, the transferor will be entitled to the registration of release or transfer. If a transfer instruction to a third person who is a purchaser for value is originated on order of the debtor, the debtor makes to the purchaser the warranties of paragraphs "b", "c", ii, and "c" iii of subsection 7.

9. A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants only that:

a. The person's transfer is effective and rightful; and

b. The uncertificated security is valid.

~~5~~ 10. A broker gives to the broker's customer and to the issuer and a purchaser the applicable warranties provided in this section and has the rights and privileges of a purchaser under

this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of the broker's customer.

Sec. 22. Section 554.8307, Code 1989, is amended to read as follows:

554.8307 EFFECT OF DELIVERY WITHOUT ENDORSEMENT — RIGHT TO COMPEL ENDORSEMENT.

~~Where~~ If a certificated security in registered form has been delivered to a purchaser without a necessary endorsement the purchaser may become a bona fide purchaser only as of the time the endorsement is supplied,; but against the transferor, the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary endorsement supplied.

Sec. 23. Section 554.8308, Code 1989, is amended to read as follows:

554.8308 ~~ENDORSEMENT, HOW MADE — SPECIAL ENDORSEMENT — ENDORSER NOT A GUARANTOR — PARTIAL ASSIGNMENT~~ ENDORSEMENTS — INSTRUCTIONS.

1. An endorsement of a certificated security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or ~~when~~ the person's signature ~~of such person~~ is written without more upon the back of the security.

2. An endorsement may be in blank or special. An endorsement in blank includes an endorsement to bearer. A special endorsement specifies ~~the person~~ to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank endorsement into a special endorsement.

3. An endorsement purporting to be only of part of a certificated security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.

4. An "instruction" is an order to the issuer of an uncertificated security requesting that the transfer, pledge, or release from pledge of the uncertificated security specified therein be registered.

5. An instruction originated by an appropriate person is:

a. a writing signed by an appropriate person; or

b. a communication to the issuer in any form agreed upon in a writing signed by the issuer and an appropriate person.

If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed even though it has been completed incorrectly.

~~3~~ 6. "An appropriate person" in subsection 1 means

~~a.~~ the person specified by the certificated security or by special endorsement to be entitled to the security; ~~or~~.

7. "An appropriate person" in subsection 5 means:

a. for an instruction to transfer or pledge an uncertificated security which is then not subject to a registered pledge, the registered owner; or

b. for an instruction to transfer or release an uncertificated security which is then subject to a registered pledge, the registered pledgee.

8. In addition to the persons designated in subsections 6 and 7, "an appropriate person" in subsections 1 and 5 includes:

~~b~~ a. ~~where~~ if the person ~~so specified~~ designated is described as a fiduciary but is no longer serving in the described capacity, — either that person or that person's successor; ~~or~~

~~c~~ b. ~~where~~ if the ~~security or endorsement so specifies~~ persons designated are described as more than one person as fiduciaries and one or more are no longer serving in the described capacity, — the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified; ~~or~~

~~d~~ c. ~~where~~ if the person ~~so specified~~ designated is an individual and is without capacity to

act by virtue of death, incompetence, infancy, or otherwise, — that person's executor, administrator, guardian, or like fiduciary; ~~or~~

e d. ~~where~~ if the ~~security or endorsement so specifies~~ persons designated are described as more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign, — the survivor or survivors; ~~or~~

~~f~~ e. a person having power to sign under applicable law or controlling instrument; ~~or~~ and

~~g~~ f. to the extent that the person designated or any of the foregoing persons may act through an agent, — that person's authorized agent.

~~4~~ 9. Unless otherwise agreed, the endorser of a certificated security by the endorser's endorsement or the originator of an instruction by the originator's origination assumes no obligation that the security will be honored by the issuer but only the obligations provided in section 554.8306.

~~5. An endorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.~~

~~6~~ 10. Whether the person signing is appropriate is determined as of the date of signing and an endorsement made by or an instruction originated by ~~such a~~ the person does not become unauthorized for the purposes of this Article by virtue of any subsequent change of circumstances.

~~7~~ 11. Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, pledge, or release, does not render the fiduciary's endorsement or an instruction originated by the fiduciary unauthorized for the purposes of this Article.

Sec. 24. Section 554.8309, Code 1989, is amended to read as follows:

554.8309 EFFECT OF ENDORSEMENT WITHOUT DELIVERY.

An endorsement of a certificated security, whether special or in blank, does not constitute a transfer until delivery of the certificated security on which it appears or, if the endorsement is on a separate document, until delivery of both the document and the certificated security.

Sec. 25. Section 554.8310, Code 1989, is amended to read as follows:

554.8310 ENDORSEMENT OF CERTIFICATED SECURITY IN BEARER FORM.

An endorsement of a certificated security in bearer form may give notice of adverse claims (section 554.8304) but does not otherwise affect any right to registration the holder ~~may possess~~ possesses.

Sec. 26. Section 554.8311, Code 1989, is amended to read as follows:

554.8311 EFFECT OF UNAUTHORIZED ENDORSEMENT OR INSTRUCTION.

Unless the owner or pledgee has ratified an unauthorized endorsement or instruction or is otherwise precluded from asserting its ineffectiveness:

a. the owner may assert its ineffectiveness against the issuer or any purchaser other than a purchaser for value and without notice of adverse claims, who has in good faith received a new, reissued, or reregistered certificated security on registration of transfer or received an initial transaction statement confirming the registration of transfer, pledge, or release of an equivalent uncertificated security to the purchaser; and

b. an issuer who registers the transfer of a certificated security upon the unauthorized endorsement or who registers the transfer, pledge, or release of an uncertificated security upon the unauthorized instruction is subject to liability for improper registration (section 554.8404).

Sec. 27. Section 554.8312, Code 1989, is amended to read as follows:

554.8312 EFFECT OF GUARANTEEING SIGNATURE OR ENDORSEMENT OR INSTRUCTION.

1. Any person guaranteeing a signature of an endorser of a certificated security warrants that at the time of signing

a. the signature was genuine; ~~and~~

b. the signer was an appropriate person to endorse (section 554.8308); and

c. the signer had legal capacity to sign. ~~But the guarantor does not otherwise warrant the rightfulness of the particular transfer.~~

2. Any person guaranteeing a signature of the originator of an instruction warrants that at the time of signing:

a. the signature was genuine;

b. the signer was an appropriate person to originate the instruction (section 554.8308) if the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security was, in fact, the registered owner or registered pledgee of such security, as to which fact the signature guarantor makes no warranty;

c. the signer had legal capacity to sign; and

d. the taxpayer identification number, if any, appearing on the instruction as that of the registered owner or registered pledgee was the taxpayer identification number of the signer or of the owner or pledgee for whom the signer was acting.

3. Any person specially guaranteeing the signature of the originator of an instruction makes not only the warranties of a signature guarantor (subsection 2) but also warrants that at the time the instruction is presented to the issuer:

a. the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security will be the registered owner or registered pledgee; and

b. the transfer, pledge, or release of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

4. The guarantor under subsections 1 and 2 or the special guarantor under subsection 3 does not otherwise warrant the rightfulness of the particular transfer, pledge, or release.

~~2~~ 5. Any person ~~may guarantee~~ guaranteeing an endorsement of a certificated security ~~and by so doing warrants not only the signature (subsection 1)~~ makes not only the warranties of a signature guarantor under subsection 1 but also warrants the rightfulness of the particular transfer in all respects. ~~But no issuer may require a guarantee of endorsement as a condition to registration of transfer.~~

6. Any person guaranteeing an instruction requesting the transfer, pledge, or release of an uncertificated security makes not only the warranties of a special signature guarantor under subsection 3, but also warrants the rightfulness of the particular transfer, pledge, or release in all respects.

7. No issuer may require a special guarantee of signature (subsection 3), a guarantee of endorsement (subsection 5), or a guarantee of instruction (subsection 6) as a condition to registration of transfer, pledge, or release.

~~3~~ 8. The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to ~~such~~ the person for any loss resulting from breach of the warranties.

Sec. 28. Section 554.8313, Code 1989, is amended to read as follows:

554.8313 WHEN ~~DELIVERY~~ TRANSFER TO ~~THE~~ PURCHASER OCCURS: — ~~PURCHASER'S BROKER AS HOLDER~~ FINANCIAL INTERMEDIARY AS BONA FIDE PURCHASER — "FINANCIAL INTERMEDIARY".

1. ~~Delivery~~ Transfer of a security or a limited interest (including a security interest) therein to a purchaser occurs ~~when~~ only:

a. at the time the purchaser or a person designated by the purchaser acquires possession of a certificated security; ~~or~~

b. at the time the transfer, pledge, or release of an uncertificated security is registered to the purchaser or a person designated by the purchaser;

~~b~~ c. at the time the purchaser's ~~broker~~ financial intermediary acquires possession of a certificated security specially endorsed to or issued in the name of the purchaser; ~~or~~

~~c~~ d. ~~the purchaser's broker~~ at the time a financial intermediary, not a clearinghouse, sends the purchaser confirmation of the purchase and also by book entry or otherwise identifies ~~a specific security in the broker's possession~~ as belonging to the purchaser~~; or~~

i. a specific certificated security in the financial intermediary's possession;

ii. a quantity of securities that constitute or are part of a fungible bulk of certificated securities in the financial intermediary's possession or of uncertificated securities registered in the name of the financial intermediary; or

iii. a quantity of securities that constitute or are part of a fungible bulk of securities shown on the account of the financial intermediary on the books of another financial intermediary;

~~d~~ e. with respect to an identified certificated security to be delivered while still in the possession of a third person, ~~when~~ not a financial intermediary, at the time that person acknowledges that that person holds for the purchaser; ~~or~~

f. with respect to a specific uncertificated security the pledge or transfer of which has been registered to a third person, not a financial intermediary, at the time that person acknowledges that that person holds for the purchaser;

~~e~~ g. at the time appropriate entries to the account of the purchaser or a person designated by the purchaser on the books of a clearing corporation are made under section 554.8320~~.~~;

h. with respect to the transfer of a security interest where the debtor has signed a security agreement containing a description of the security, at the time a written notification, which, in the case of the creation of the security interest, is signed by the debtor (which may be a copy of the security agreement) or which, in the case of the release or assignment of the security interest created pursuant to this paragraph, is signed by the secured party, is received by

i. a financial intermediary on whose books the interest of the transferor in the security appears;

ii. a third person, not a financial intermediary, in possession of the security, if it is certificated;

iii. a third person, not a financial intermediary, who is the registered owner of the security, if it is uncertificated and not subject to a registered pledge; or

iv. a third person, not a financial intermediary, who is the registered pledgee of the security, if it is uncertificated and subject to a registered pledge;

i. with respect to the transfer of a security interest where the transferor has signed a security agreement containing a description of the security, at the time new value is given by the secured party; or

j. with respect to the transfer of a security interest where the secured party is a financial intermediary and the security has already been transferred to the financial intermediary under paragraph "a", "b", "c", "d", or "g", at the time the transferor has signed a security agreement containing a description of the security and value is given by the secured party.

2. The purchaser is the owner of a security held for the purchaser by ~~the purchaser's broker~~ a financial intermediary, but ~~is not the holder~~ cannot be a bona fide purchaser of a security so held except ~~as~~ in circumstances specified in ~~subparagraphs "b",~~ paragraphs "c", "d"(i), and ~~"e"~~ "g" of subsection 1. ~~Where~~ If a security so held is part of a fungible bulk, as in the circumstances specified in paragraphs "d"(ii) and "d"(iii) of subsection 1, the purchaser is the owner of a proportionate property interest in the fungible bulk.

3. Notice of an adverse claim received by the ~~broker~~ financial intermediary or by the purchaser after the ~~broker~~ financial intermediary takes delivery of a certificated security as a holder for value or after the transfer, pledge, or release of an uncertificated security has been registered free of the claim to a financial intermediary who has given value is not effective either as to the ~~broker~~ financial intermediary or as to the purchaser. However, as between the ~~broker~~ financial intermediary and the purchaser the purchaser may demand ~~delivery~~ transfer of an equivalent security as to which no notice of ~~an~~ adverse claim has been received.

4. A "financial intermediary" is a bank, broker, clearing corporation or other person (or the nominee of any of them) which in the ordinary course of its business maintains security accounts for its customers and is acting in that capacity. A financial intermediary may have a security interest in securities held in account for its customer.

Sec. 29. Section 554.8314, Code 1989, is amended to read as follows:

554.8314 DUTY TO ~~DELIVER~~ TRANSFER, WHEN COMPLETED.

1. Unless otherwise agreed ~~where~~ if a sale of a security is made on an exchange or otherwise through brokers:

a. the selling customer fulfills that customer's duty to ~~deliver~~ ~~when~~ transfer at the time that customer:

i. places ~~such~~ a certificated security in the possession of the selling broker or of a person designated by the broker;

ii. causes an uncertificated security to be registered in the name of the selling broker or a person designated by the broker; ~~or~~

iii. if requested, causes an acknowledgment to be made to the selling broker that ~~it~~ a certificated or uncertificated security is held for that broker; ~~and~~ or

iv. places in the possession of the selling broker or of a person designated by the broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within thirty days thereafter; and

b. the selling broker, including a correspondent broker acting for a selling customer, fulfills that broker's duty to ~~deliver~~ ~~by~~ ~~placing~~ ~~the~~ transfer at the time that broker

i. places a certificated security ~~or a like security~~ in the possession of the buying broker or a person designated by the buying broker;

ii. causes an uncertificated security to be registered in the name of the buying broker or a person designated by the buying broker;

iii. places in the possession of the buying broker or of a person designated by the buying broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within thirty days thereafter; or

iv. ~~or by effecting~~ effects clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

2. Except as ~~otherwise~~ provided in this section and unless otherwise agreed, a transferor's duty to ~~deliver~~ transfer a security under a contract of purchase is not fulfilled until the transferor:

a. places ~~the~~ certificated security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by the purchaser; ~~or~~

b. ~~at the purchaser's request~~ causes an uncertificated security to be registered in the name of the purchaser or a person designated by the purchaser; or

c. if the purchaser requests, causes an acknowledgment to be made to the purchaser that ~~it~~ a certificated or uncertificated security is held for the purchaser.

3. Unless made on an exchange, a sale to a broker purchasing for the broker's own account is within ~~this~~ subsection 2 and not within subsection 1.

Sec. 30. Section 554.8315, Code 1989, is amended to read as follows:

554.8315 ACTION AGAINST ~~PURCHASER~~ TRANSFEREE BASED UPON WRONGFUL TRANSFER.

1. Any person against whom the transfer of a security is wrongful for any reason, including the person's incapacity, ~~may~~ as against anyone except a bona fide purchaser, may:

a. reclaim possession of the certificated security wrongfully transferred; ~~or~~

b. obtain possession of any new certificated security ~~evidencing~~ representing all or part of the same rights; ~~or~~

c. compel the origination of an instruction to transfer to the person or a person designated by that person an uncertificated security constituting all or part of the same rights; or

d. have damages.

2. If the transfer is wrongful because of an unauthorized endorsement of a certificated security, the owner may also reclaim or obtain possession of the security or a new certificated

security, even from a bona fide purchaser, if the ineffectiveness of the purported endorsement can be asserted against the purchaser under the provisions of this Article on unauthorized endorsements (section 554.8311).

3. The right to obtain or reclaim possession of a certificated security or to compel the origination of a transfer instruction may be specifically enforced and ~~its~~ the transfer of a certificated or uncertificated security enjoined and ~~the~~ a certificated security impounded pending the litigation.

Sec. 31. Section 554.8316, Code 1989, is amended to read as follows:

554.8316 PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION OF TRANSFER, PLEDGE, OR RELEASE ON BOOKS.

Unless otherwise agreed, the transferor ~~must~~ of a certificated security or the transferor, pledgor, or pledgee of an uncertificated security on due demand must supply the transferor's, pledgor's, or pledgee's purchaser with any proof of the transferor's authority to transfer, pledge, or release or with any other requisite ~~which may be~~ necessary to obtain registration of the transfer, pledge, or release of the security; but if the transfer, pledge, or release is not for value, a transferor, pledgor, or pledgee need not do so unless the purchaser furnishes the necessary expenses. Failure within a reasonable time to comply with a demand ~~made within a reasonable time~~ gives the purchaser the right to reject or rescind the transfer, pledge, or release.

Sec. 32. Section 554.8317, Code 1989, is amended to read as follows:

554.8317 ~~ATTACHMENT OR LEVY UPON SECURITY~~ CREDITORS' RIGHTS.

1. ~~No~~ Subject to the exceptions in subsections 3 and 4, no attachment or levy upon a certificated security or any share or other interest ~~evidenced~~ represented thereby which is outstanding ~~shall be~~ is valid until the security is actually seized by the officer making the attachment or levy, but a certificated security which has been surrendered to the issuer may be ~~attached or levied upon at the source~~ reached by a creditor by legal process at the issuer's chief executive office in the United States.

2. An uncertificated security registered in the name of the debtor may not be reached by a creditor except by legal process at the issuer's chief executive office in the United States.

3. The interest of a debtor in a certificated security that is in the possession of a secured party not a financial intermediary or in an uncertificated security registered in the name of a secured party not a financial intermediary (or in the name of a nominee of the secured party) may be reached by a creditor by legal process upon the secured party.

4. The interest of a debtor in a certificated security that is in the possession of or registered in the name of a financial intermediary or in an uncertificated security registered in the name of a financial intermediary may be reached by a creditor by legal process upon the financial intermediary on whose books the interest of the debtor appears.

5. Unless otherwise provided by law, a creditor's lien upon the interest of a debtor in a security obtained pursuant to subsection 3 or 4 is not a restraint on the transfer of the security, free of the lien, to a third party for new value; but in the event of a transfer, the lien applies to the proceeds of the transfer in the hands of the secured party or financial intermediary, subject to any claims having priority.

~~2~~ 6. A creditor whose debtor is the owner of a security ~~shall be~~ is entitled to ~~such~~ aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching ~~such~~ the security or in satisfying the claim by means ~~thereof as~~ is allowed at law or in equity in regard to property ~~which~~ that cannot readily be ~~attached or levied upon~~ reached by ordinary legal process.

Sec. 33. Section 554.8318, Code 1989, is amended to read as follows:

554.8318 NO CONVERSION BY GOOD FAITH ~~DELIVERY~~ CONDUCT.

An agent or bailee who in good faith (including observance of reasonable commercial standards if the agent or bailee is in the business of buying, selling or otherwise dealing with securities) has received certificated securities and sold, pledged, or delivered them or has sold or caused the transfer or pledge of uncertificated securities over which the agent or bailee had

control according to the instructions of the agent's or bailee's principal, is not liable for conversion or for participation in breach of fiduciary duty although the principal had no right ~~to dispose of them~~ so to deal with the securities.

Sec. 34. Section 554.8319, Code 1989, is amended to read as follows:

554.8319 STATUTE OF FRAUDS.

A contract for the sale of securities is not enforceable by way of action or defense unless:

a. there is some writing signed by the party against whom enforcement is sought or by that party's authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price; ~~or~~

b. delivery of ~~the~~ a certificated security or transfer instruction has been accepted or transfer of an uncertificated security has been registered and the transferee has failed to send written objection to the issuer within ten days after receipt of the initial transaction statement confirming the registration, or payment has been made, but the contract is enforceable under this provision only to the extent of ~~such~~ the delivery or payment; ~~or~~

c. within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under paragraph "a" has been received by the party against whom enforcement is sought and that party has failed to send written objection to its contents within ten days after its receipt; or

d. the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court that a contract was made for the sale of a stated quantity of described securities at a defined or stated price.

Sec. 35. Section 554.8320, Code 1989, is amended to read as follows:

554.8320 TRANSFER OR PLEDGE WITHIN A CENTRAL DEPOSITORY SYSTEM.

1. ~~If a security~~ In addition to other methods, a transfer, pledge, or release of a security or any interest therein may be effected by the making of appropriate entries on the books of a clearing corporation reducing the account of the transferor, pledgor, or pledgee and increasing the account of the transferee, pledgee, or pledgor by the amount of the obligation, or the number of shares or rights transferred, pledged, or released, if the security is shown on the account of a transferor, pledgor, or pledgee on the books of the clearing corporation; is subject to the control of the clearing corporation; and

a. if certificated,

i. is in the custody of ~~a~~ the clearing corporation, another clearing corporation, ~~or of~~ a custodian bank or a nominee of ~~either subject to the instructions of the clearing corporation~~ any of them; and

~~b~~ ii. is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing corporation, ~~or~~ a custodian bank, or a nominee of ~~either~~ any of them; ~~and~~ or

b. if uncertificated, is registered in the name of the clearing corporation, another clearing corporation, a custodian bank, or a nominee of any of them;

~~c. is shown on the account of a transferor or pledgor on the books of the clearing corporation; then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries on the books of the clearing corporation reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.~~

2. Under this section entries may be made with respect to like securities or interests therein as a part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number, or the like, and, in appropriate cases, may be on a net basis taking into account other transfers, ~~or~~ pledges, or releases of the same security.

3. A transfer ~~or pledge~~ under this section ~~has the effect of a delivery of a security in bearer form or duly endorsed in blank (section 554.8301) representing the amount of the obligation~~

~~or the number of shares or rights transferred or pledged~~ is effective (section 554.8313) and the purchaser acquires the rights of the transferor (section 554.8301). A pledge or release under this section is the transfer of a limited interest. If a pledge or the creation of a security interest is intended, ~~the making of entries has the effect of a taking of delivery by the pledgee or a secured party (sections 554.9304 and 554.9305)~~ the security interest is perfected at the time when both value is given by the pledgee and the appropriate entries are made (section 554.8321). A transferee or pledgee under this section ~~is a holder~~ may be a bona fide purchaser (section 554.8302).

4. A transfer or pledge under this section ~~does~~ is not ~~constitute~~ a registration of transfer under Part 4 ~~of this Article~~.

5. That entries made on the books of the clearing corporation as provided in subsection 1 are not appropriate does not affect the validity or effect of the entries ~~nor~~ or the liabilities or obligations of the clearing corporation to any person adversely affected thereby.

Sec. 36. NEW SECTION. 554.8321 ENFORCEABILITY, ATTACHMENT, PERFECTION, AND TERMINATION OF SECURITY INTERESTS.

1. A security interest in a security is enforceable and can attach only if it is transferred to the secured party or a person designated by the secured party pursuant to a provision of section 554.8313, subsection 1.

2. A security interest so transferred pursuant to agreement by a transferor who has rights in the security to a transferee who has given value is a perfected security interest, but a security interest that has been transferred solely under paragraph "i" of section 554.8313, subsection 1 becomes unperfected after twenty-one days unless, within that time, the requirements for transfer under any other provision of section 554.8313, subsection 1 are satisfied.

3. A security interest in a security is subject to the provisions of Article 9, but:

a. no filing is required to perfect the security interest; and

b. no written security agreement signed by the debtor is necessary to make the security interest enforceable, except as otherwise provided in paragraph "h", "i", or "j" of section 554.8313, subsection 1. The secured party has the rights and duties provided under section 554.9207, to the extent they are applicable, whether or not the security is certificated, and, if certificated, whether or not it is in the secured party's possession.

4. Unless otherwise agreed, a security interest in a security is terminated by transfer to the debtor or a person designated by the debtor pursuant to a provision of section 554.8313, subsection 1. If a security is thus transferred, the security interest, if not terminated, becomes unperfected unless the security is certificated and is delivered to the debtor for the purpose of ultimate sale or exchange or presentation, collection, renewal, or registration of transfer. In that case, the security interest becomes unperfected after twenty-one days unless, within that time, the security (or securities for which it has been exchanged) is transferred to the secured party or a person designated by the secured party pursuant to a provision of section 554.8313, subsection 1.

Sec. 37. Section 554.8401, Code 1989, is amended to read as follows:

554.8401 DUTY OF ISSUER TO REGISTER TRANSFER, PLEDGE, OR RELEASE.

1. ~~Where~~ If a certificated security in registered form is presented to the issuer with a request to register transfer~~,~~ or an instruction is presented to the issuer with a request to register transfer, pledge, or release the issuer ~~is under a duty to~~ shall register the transfer, pledge, or release as requested if:

a. the security is endorsed or the instruction was originated by the appropriate person or persons (section 554.8308); ~~and~~

b. reasonable assurance is given that those endorsements or instructions are genuine and effective (section 554.8402); ~~and~~

c. the issuer has no duty ~~to inquire into~~ as to adverse claims or has discharged ~~any such~~ the duty (section 554.8403); ~~and~~

d. any applicable law relating to the collection of taxes has been complied with; and

e. the transfer, pledge, or release is in fact rightful or is to a bona fide purchaser.

2. ~~Where~~ If an issuer is under a duty to register a transfer, pledge, or release of a security, the issuer is also liable to the person presenting ~~it~~ a certificated security or an instruction for registration or that person's principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer, pledge, or release.

Sec. 38. Section 554.8402, Code 1989, is amended to read as follows:

554.8402 ASSURANCE THAT ENDORSEMENTS AND INSTRUCTIONS ARE EFFECTIVE.

1. The issuer may require the following assurance that each necessary endorsement of a certificated security or each instruction (section 554.8308) is genuine and effective:

a. in all cases, a guarantee of the signature (~~subsection 1 of~~ section 554.8312, subsection 1 or 2) of the person endorsing a certificated security or originating an instruction including, in the case of an instruction, a warranty of the taxpayer identification number or, in the absence thereof, other reasonable assurance of identity; ~~and~~

b. ~~where~~ if the endorsement is made or the instruction is originated by an agent, appropriate assurance of authority to sign;

c. ~~where~~ if the endorsement is made or the instruction is originated by a fiduciary, appropriate evidence of appointment or incumbency;

d. ~~where~~ if there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; and

e. ~~where~~ if the endorsement is made or the instruction is originated by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

2. A "guarantee of the signature" in subsection 1 means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility ~~provided such standards~~ if they are not manifestly unreasonable.

3. "Appropriate evidence of appointment or incumbency" in subsection 1 means

a. in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer of that court and dated within one hundred eighty days before the date of presentation for transfer, pledge, or release; or

b. in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of ~~such a~~ that document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to ~~such~~ the evidence ~~provided such standards~~ if they are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph "b" except to the extent that the contents relate directly to the appointment or incumbency.

4. The issuer may elect to require reasonable assurance beyond that specified in this section, but if it does so and, for a purpose other than that specified in subsection 3 "b", both requires and obtains a copy of a will, trust, indenture, articles of copartnership, bylaws, or other controlling instrument, it is charged with notice of all matters contained therein affecting the transfer, pledge, or release.

Sec. 39. Section 554.8403, Code 1989, is amended to read as follows:

554.8403 ~~LIMITED DUTY OF INQUIRY~~ ISSUER'S DUTY AS TO ADVERSE CLAIMS.

1. An issuer to whom a certificated security is presented for registration ~~is under a duty to~~ shall inquire into adverse claims if:

a. a written notification of an adverse claim is received at a time and in a manner ~~which affords~~ affording the issuer a reasonable opportunity to act on it prior to the issuance of a new, reissued, or registered certificated security, and the notification identifies the claimant, the registered owner, and the issue of which the security is a part, and provides an address for communications directed to the claimant; or

b. the issuer is charged with notice of an adverse claim from a controlling instrument ~~which~~ it has elected to require under ~~subsection~~ 4 ~~of~~ section 554.8402, subsection 4.

2. The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by the adverse claimant or if there be no such address at the adverse claimant's residence or regular place of business that the certificated security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty days from the date of mailing the notification, either:

a. an appropriate restraining order, injunction or other process issues from a court of competent jurisdiction; or

b. there is filed with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved, from any loss ~~which~~ it or they may suffer by complying with the adverse claim ~~is filed with the issuer~~.

3. Unless an issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under ~~subsection~~ 4 ~~of~~ section 554.8402, subsection 4 or receives notification of an adverse claim under subsection 1 ~~of this section~~, ~~where~~ if a certificated security presented for registration is endorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims. In particular:

a. an issuer registering a certificated security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship; and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;

b. an issuer registering transfer on an endorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

c. the issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the endorsement of a fiduciary to the same fiduciary or to the fiduciary's nominee.

4. An issuer is under no duty as to adverse claims with respect to an uncertificated security except:

a. claims embodied in a restraining order, injunction, or other legal process served upon the issuer if the process was served at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection 5;

b. claims of which the user has received a written notification from the registered owner or the registered pledgee if the notification was received at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection 5;

c. claims (including restrictions on transfer not imposed by the issuer) to which the registration of transfer to the present registered owner was subject and were so noted in the initial transaction statement sent to the issuer; and

d. claims as to which an issuer is charged with notice from a controlling instrument it has elected to require under section 554.8402, subsection 4.

5. If the issuer of an uncertificated security is under a duty as to an adverse claim, the issuer discharges that duty by:

a. including a notation of the claim in any statements sent with respect to the security under section 554.8408, subsections 3, 6, and 7; and

b. refusing to register the transfer or pledge of the security unless the nature of the claim does not preclude transfer or pledge subject thereto.

6. If the transfer or pledge of the security is registered subject to an adverse claim, a notation of the claim must be included in the initial transaction statement and all subsequent statements sent to the transferee and pledgee under section 554.8408.

7. Notwithstanding subsections 4 and 5, if an uncertificated security was subject to a registered pledge at the time the issuer first came under a duty as to a particular adverse claim, the issuer has no duty as to that claim if transfer of the security is requested by the registered pledgee or an appropriate person acting for the registered pledgee unless:

a. the claim was embodied in legal process which expressly provides otherwise;

b. the claim was asserted in a written notification from the registered pledgee;

c. the claim was one as to which the issuer was charged with notice from a controlling instrument it required under section 554.8402, subsection 4 in connection with the pledgee's request for transfer; or

d. the transfer requested is to the registered owner.

Sec. 40. Section 554.8404, Code 1989, is amended to read as follows:

554.8404 LIABILITY AND NONLIABILITY FOR REGISTRATION.

1. Except as ~~otherwise~~ provided in any law relating to the collection of taxes, the issuer is not liable to the owner, pledgee, or any other person suffering loss as a result of the registration of a transfer, pledge, or release of a security if:

a. there were on or with ~~the~~ a certificated security the necessary endorsements or the issuer had received an instruction originated by an appropriate person (section 554.8308); and

b. the issuer had no duty ~~to inquire into~~ as to adverse claims or has discharged ~~any such~~ the duty (section 554.8403).

2. ~~Where~~ If an issuer has registered a transfer of a certificated security to a person not entitled to it, the issuer on demand ~~must~~ shall deliver a like security to the true owner unless:

a. the registration was pursuant to subsection 1; ~~or~~

b. the owner is precluded from asserting any claim for registering the transfer under ~~subsection 1 of the following~~ section 554.8405, subsection 1; or

c. ~~such~~ the delivery would result in overissue, in which case the issuer's liability is governed by section 554.8104.

3. If an issuer has improperly registered a transfer, pledge, or release of an uncertificated security, the issuer on demand from the injured party shall restore the records as to the injured party to the condition that would have obtained if the improper registration had not been made unless:

a. the registration was pursuant to subsection 1; or

b. the registration would result in overissue, in which case the issuer's liability is governed by section 554.8104.

Sec. 41. Section 554.8405, Code 1989, is amended to read as follows:

554.8405 LOST, DESTROYED, AND STOLEN CERTIFICATED SECURITIES.

1. ~~Where~~ If a certificated security has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after the owner has notice of it and the issuer registers a transfer of the security before receiving ~~such~~ a notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under ~~the preceding~~ section 554.8404 or any claim to a new security under this section.

2. ~~Where~~ If the owner of a security claims that ~~the~~ a certificated security has been lost, destroyed, or wrongfully taken, the issuer ~~must~~ shall issue a new certificated security or, at the option of the issuer, an equivalent uncertificated security in place of the original security if the owner:

a. so requests before the issuer has notice that the security has been acquired by a bona fide purchaser; ~~and~~

b. files with the issuer a sufficient indemnity bond; and

c. satisfies any other reasonable requirements imposed by the issuer.

3. If, after the issue of ~~the~~ a new certificated or uncertificated security, a bona fide purchaser of the original certificated security presents it for registration of transfer, the issuer ~~must~~ shall register the transfer unless registration would result in overissue, in which event the issuer's liability is governed by section 554.8104. In addition to any rights on the indemnity bond, the issuer may recover the new certificated security from the person to whom it was issued or any person taking under the person to whom it was issued except a bona fide purchaser or may cancel the uncertificated security unless a bona fide purchaser or any person taking under a bona fide purchaser is then the registered owner or registered pledgee thereof.

Sec. 42. Section 554.8406, Code 1989, is amended to read as follows:

554.8406 DUTY OF AUTHENTICATING TRUSTEE, TRANSFER AGENT OR REGISTRAR.

1. ~~Where~~ If a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its certificated securities or in the registration of transfers, pledges, and releases of its uncertificated securities, in the issue of new securities, or in the cancellation of surrendered securities:

a. that person is under a duty to the issuer to exercise good faith and due diligence in performing that person's functions; and

b. ~~that person has~~ with regard to the particular functions that person performs, that person has the same obligation to the holder or owner of ~~the~~ a certificated security or to the owner or pledgee of an uncertificated security and has the same rights and privileges as the issuer has in regard to those functions.

2. Notice to an authenticating trustee, transfer agent, registrar or other ~~such~~ agent is notice to the issuer with respect to the functions performed by the agent.

Sec. 43. NEW SECTION. 554.8407 EXCHANGEABILITY OF SECURITIES.

1. No issuer is subject to the requirements of this section unless it regularly maintains a system for issuing the class of securities involved under which both certificated and uncertificated securities are regularly issued to the category of owners, which includes the person in whose name the new security is to be registered.

2. Upon surrender of a certificated security with all necessary endorsements and presentation of a written request by the person surrendering the security, the issuer, if the issuer has no duty as to adverse claims or has discharged the duty (section 554.8403), shall issue to the person or a person designated by that person an equivalent uncertificated security subject to all liens, restrictions, and claims that were noted on the certificated security.

3. Upon receipt of a transfer instruction originated by an appropriate person who so requests, the issuer of an uncertificated security shall cancel the uncertificated security and issue an equivalent certificated security on which must be noted conspicuously any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 554.8403, subsection 4) to which the uncertificated security was subject. The certificated security shall be registered in the name of and delivered to:

a. the registered owner, if the uncertificated security was not subject to a registered pledge; or

b. the registered pledgee, if the uncertificated security was subject to a registered pledge.

Sec. 44. NEW SECTION. 554.8408 STATEMENTS OF UNCERTIFICATED SECURITIES.

1. Within two business days after the transfer of an uncertificated security has been registered, the issuer shall send to the new registered owner and, if the security has been transferred subject to a registered pledge, to the registered pledgee a written statement containing:

a. a description of the issue of which the uncertificated security is a part;

b. the number of shares or units transferred;

c. the name and address and any taxpayer identification number of the new registered owner and, if the security has been transferred subject to a registered pledge, the name and address and any taxpayer identification number of the registered pledgee;

d. a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 554.8403, subsection 4) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

e. the date the transfer was registered.

2. Within two business days after the pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the registered pledgee a written statement containing:

a. a description of the issue of which the uncertificated security is a part;

b. the number of shares or units pledged;

c. the name and address and any taxpayer identification number of the registered owner and the registered pledgee;

d. a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 554.8403, subsection 4) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

e. the date the pledge was registered.

3. Within two business days after the release from pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the pledgee whose interest was released a written statement containing:

a. a description of the issue of which the uncertificated security is a part;

b. the number of shares or units released from pledge;

c. the name and address and any taxpayer identification number of the registered owner and the pledgee whose interest was released;

d. a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 554.8403, subsection 4) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

e. the date the release was registered.

4. An "initial transaction statement" is the statement sent to:

a. the new registered owner and, if applicable, to the registered pledgee pursuant to subsection 1;

b. the registered pledgee pursuant to subsection 2; or

c. the registered owner pursuant to subsection 3. Each initial transaction statement shall be signed by or on behalf of the issuer and must be identified as "initial transaction statement".

5. Within two business days after the transfer of an uncertificated security has been registered, the issuer shall send to the former registered owner and the former registered pledgee, if any, a written statement containing:

a. a description of the issue of which the uncertificated security is a part;

b. the number of shares or units transferred;

c. the name and address and any taxpayer identification number of the former registered owner and of any former registered pledgee; and

d. the date the transfer was registered.

6. At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered owner, the issuer shall send to the registered owner of each uncertificated security a dated written statement containing:

a. a description of the issue of which the uncertificated security is a part;

b. the name and address and any taxpayer identification number of the registered owner;

c. the number of shares or units of the uncertificated security registered in the name of the registered owner on the date of the statement;

d. the name and address and any taxpayer identification number of any registered pledgee and the number of shares or units subject to the pledge; and

e. a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 554.8403, subsection 4) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

7. At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered pledgee, the issuer shall send to the registered pledgee of each uncertificated security a dated written statement containing:

a. a description of the issue of which the uncertificated security is a part;

b. the name and address and any taxpayer identification number of the registered owner;

c. the name and address and any taxpayer identification number of the registered pledgee;

d. the number of shares or units subject to the pledge; and

e. a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 554.8403, subsection 4) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

8. If the issuer sends the statements described in subsections 6 and 7 at periodic intervals no less frequent than quarterly, the issuer is not obliged to send additional statements upon request unless the owner or pledgee requesting them pays to the issuer the reasonable cost of furnishing them.

9. Each statement sent pursuant to this section must bear a conspicuous legend reading substantially as follows: "This statement is merely a record of the rights of the addressee as of the time of its issuance. Delivery of this statement, of itself, confers no rights on the recipient. This statement is neither a negotiable instrument nor a security."

Sec. 45. Section 554.9103, subsection 3, paragraph a, Code 1989, is amended to read as follows:

a. This subsection applies to accounts (other than an account described in subsection 5 on minerals) and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection 2.

Sec. 46. Section 554.9103, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. UNCERTIFICATED SECURITIES. The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the perfection and the effect of perfection or nonperfection of a security interest in uncertificated securities.

Sec. 47. Section 554.9105, subsection 1, paragraph i, Code 1989, is amended to read as follows:

i. "Instrument" means a negotiable instrument (defined in section 554.3104), or a certificated security (defined in section 554.8102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary endorsement or assignment;

Sec. 48. Section 554.9203, subsection 1, Code 1989, is amended to read as follows:

1. Subject to the provisions of section 554.4208 on the security interest of a collecting bank, section 554.8321 on security interests in securities and section 554.9113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

a. the collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; ~~and~~

b. value has been given; and

c. the debtor has rights in the collateral.

Sec. 49. Section 554.9302, subsection 1, paragraph f, Code 1989, is amended to read as follows:

f. a security interest of a collecting bank (section 554.4208) or in securities (section 554.8321) or arising under the Article on Sales (see section 554.9113) or covered in subsection 3 of this section;

Sec. 50. Section 554.9304, subsections 1, 4, and 5, Code 1989, are amended to read as follows:

1. A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than certificated securities or instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections 4 and 5 of this section and section 554.9306, subsections 2 and 3, on proceeds.

4. A security interest in instruments (other than certificated securities) or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

5. A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument (other than certificated securities), a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

a. makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to section 554.9312, subsection 3; or

b. delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal, or registration of transfer.

Sec. 51. Section 554.9305, Code 1989, is amended to read as follows:

554.9305 WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING.

A security interest in letters of credit and advices of credit (subsection 2 "a" of section 554.5116), goods, instruments (other than certificated securities), money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.

Sec. 52. Section 554.9309, Code 1989, is amended to read as follows:

554.9309 PROTECTION OF PURCHASERS OF INSTRUMENTS AND DOCUMENTS AND SECURITIES.

Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (section 554.3302) or a holder to whom a negotiable document of title has been duly negotiated (section 554.7501) or a bona fide purchaser of a security (section ~~554.8301~~ 554.8302) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers.

Sec. 53. Section 554.9312, subsection 7, Code 1989, is amended to read as follows:

7. If future advances are made while a security interest is perfected by filing, ~~or~~ the taking of possession, or under section 554.8321 on securities, the security interest has the same

priority for the purposes of subsection 5 with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Sec. 54. Section 554.1201, subsections 5, 14, and 20, Code 1989, are amended to read as follows:

5. "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or endorsed in blank.

14. "Delivery" with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.

20. "Holder" means a person who is in possession of a document of title or an instrument or ~~an~~ a certificated investment security drawn, issued, or endorsed to that person or to that person's order or to bearer or in blank.

Sec. 55. Section 554.5114, subsection 2, Code 1989, is amended to read as follows:

2. Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (section 554.7507) or of a certificated security (section 554.8306) or is forged or fraudulent or there is fraud in the transaction:

a. the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank ~~of~~ or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (section 554.3302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (section 554.7502) or a bona fide purchaser of a certificated security (section 554.8302); and

b. in all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.

Approved May 3, 1989

CHAPTER 114

MAGISTRATES AND DISTRICT ASSOCIATE JUDGES

S.F. 498

AN ACT relating to the appointment, terms, retention, and qualifications of magistrates, district associate judges and providing an effective date.

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

Section 1. Section 602.6302, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

602.6302 APPOINTMENT OF DISTRICT ASSOCIATE JUDGE IN LIEU OF MAGISTRATES.

1. The chief judge of the judicial district may designate by order of substitution that a district associate judge be appointed pursuant to this section in lieu of magistrates appointed under section 602.6403, subject to the following limitations:

a. The county in which the district associate judge is to be appointed, or the counties in which the district associate judge is to be appointed in combination, must have an apportionment of three or more magistrates.

b. The substitution must not result in a lack of a resident district associate judge or magistrate in one or more of the counties.

c. The substitution must be approved by the supreme court.

d. A majority of district judges in that judicial election district, or in the case of an appointment involving more than one judicial election district in the same judicial district, a majority of the district judges in each judicial election district, must vote in favor of the substitution and find that the substitution will provide more timely and efficient performance of judicial business within that judicial election district.

2. An order of substitution shall not take effect unless a copy of the order is received by the chairperson of the county magistrate appointing commission or commissions no later than May 31 of the year in which the substitution is to take effect. A copy of the order shall also be sent to the state court administrator.

3. For a county in which a substitution order is in effect, the number of magistrates actually appointed pursuant to section 602.6403 shall be reduced by three for each district associate judge substituted under this section. However, if the substitution order is for a district associate judge appointed to more than one county, the reduction of three magistrates shall be as provided in the order of the chief judge of the judicial district. Upon a subsequent reduction in the apportionment of magistrates to the county or counties, the magistrate appointing commission shall further reduce the number of magistrates appointed.

4. a. Except as provided in subsections 1 through 3, a substitution shall not increase or decrease the number of magistrates authorized by this article.

b. A substitution shall not be made where the apportionment of magistrates to a county is insufficient to permit the full reduction in appointments of magistrates as required by subsection 3.

5. If an apportionment by the state court administrator pursuant to section 602.6401 reduces the number of magistrates in the county or counties to less than the number required to be apportioned to allow a substitution order pursuant to subsection 1, or if a majority of the district judges in the judicial election district or districts determines that a substitution is no longer desirable, then the substituted office shall be terminated. However, a reversion pursuant to this subsection, irrespective of cause, shall not take effect until the substitute district associate judge fails to be retained in office at a judicial election or otherwise leaves office, whether voluntarily or involuntarily. Upon the termination of office of that district associate judge, appointments shall be made pursuant to section 602.6403 as necessary to reestablish terms of office as provided in section 602.6403, subsection 4.

Sec. 2. Section 602.6305, subsection 2, Code 1989, is amended to read as follows:

2. A person does not qualify for appointment to the office of district associate judge unless the person is at the time of ~~application~~ appointment a resident of the county in which the vacancy exists, ~~and unless the person is~~ licensed to practice law in Iowa, and ~~unless the person~~ will be able, measured by the person's age at the time of appointment, to complete the initial term of office plus a four-year term of office prior to reaching age seventy-two.

Sec. 3. Section 602.6403, subsection 1, Code 1989, is amended to read as follows:

1. In ~~April~~ June of each year in which magistrates' terms expire, the county magistrate appointing commission shall appoint, except as otherwise provided in section 602.6302, the number of magistrates apportioned to the county by the state court administrator under section 602.6401, and may appoint an additional magistrate when allowed by section 602.6402. The commission shall not appoint more magistrates than are authorized for the county by this article.

Sec. 4. Section 602.6403, subsection 4, Code 1989, is amended to read as follows:

4. The term of office of a magistrate is ~~two~~ four years, commencing ~~July~~ August 1 ~~of each odd numbered year~~, 1989. However, the terms of all magistrates in a county are deemed to

expire if a substitution under section 602.6302 or the allocation under section 602.6401 results in a reduction in the number of magistrates in a county where the magistrates hold office.

Sec. 5. Section 602.6404, subsection 2, Code 1989, is amended to read as follows:

2. A person is not qualified for appointment as a magistrate ~~unless the person can complete the entire term of office prior to reaching~~ if at the time of appointment the person has reached age seventy-two.

Sec. 6. Upon enactment, except as provided in section 602.6403, subsection 4, a magistrate appointed pursuant to section 602.6403, subsection 1, prior to the effective date of this Act shall be deemed to have been appointed pursuant to this Act and the magistrates term shall commence August 1, 1989.

Except as provided in section 602.6403, subsection 4, the term of a magistrate whose term is to expire on June 30, 1989, shall be extended through July 31, 1989.

Sec. 7. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 3, 1989

CHAPTER 115

RULES FOR INTERMEDIATE CARE FACILITIES FOR MENTALLY RETARDED

S.F. 534

AN ACT relating to the adoption of rules by the department of inspections and appeals for intermediate care facilities for the mentally retarded and providing an effective date.

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

Section 1. Section 135C.2, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The rules adopted for intermediate care facilities for the mentally retarded shall be consistent with, but no more restrictive than, the federal standards for intermediate care facilities for the mentally retarded established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1396d, in effect on January 1, 1989. However, in order to be licensed the state fire marshal must certify to the department an intermediate care facility for the mentally retarded as meeting the applicable provisions of either the health care occupancies chapter or the residential board and care chapter of the life safety code of the national fire protection association, 1985 edition. The department shall adopt additional rules for intermediate care facilities for the mentally retarded pursuant to section 135C.14, subsection 8.

NEW UNNUMBERED PARAGRAPH. Notwithstanding the limitations set out in this subsection regarding rules for intermediate care facilities for the mentally retarded, the department shall consider the federal interpretive guidelines issued by the federal health care financing administration when interpreting the department's rules for intermediate care facilities for the mentally retarded. This use of the guidelines is not subject to the rulemaking provisions of sections 17A.4 and 17A.5, but the guidelines shall be published in the Iowa administrative bulletin and the Iowa administrative code.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment. Within sixty days of the effective date of this Act, the department shall adopt rules, which take effect immediately upon filing, to comply with the provisions of this Act.

Approved May 3, 1989

CHAPTER 116

PURCHASE OR SALE OF AN INDIVIDUAL PROHIBITED
H.F. 628

AN ACT relating to the purchase or sale of an individual and providing a penalty.

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

Section 1. NEW SECTION. 710.11 PURCHASE OR SALE OF INDIVIDUAL.

A person commits a class "C" felony when the person purchases or sells or attempts to purchase or sell an individual to another person. This section does not apply to a surrogate mother arrangement. For purposes of this section, a "surrogate mother arrangement" means an arrangement whereby a female agrees to be artificially inseminated with the semen of a donor, to bear a child, and to relinquish all rights regarding that child to the donor or donor couple.

Approved May 4, 1989

CHAPTER 117

CONFIDENTIALITY OF EMPLOYMENT INFORMATION
H.F. 637

AN ACT relating to the access of confidential information collected by the department of employment services.

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

Section 1. Section 96.11, subsection 7, Code 1989, is amended to read as follows:

7. RECORDS, ~~AND~~ REPORTS, AND CONFIDENTIALITY.

a. ~~Each~~ An employing unit shall keep true and accurate work records, containing ~~such~~ information ~~as~~ required by the division ~~of job service may prescribe~~. ~~Such~~ The records shall be open to inspection and ~~be subject to being copied~~ copying by ~~the division or its~~ an authorized ~~representatives~~ representative of the division at any reasonable time and as often as necessary. ~~The commissioner or a duly~~ An authorized representative of the division may require from ~~any~~ an employing unit ~~any~~ a sworn or unsworn ~~reports~~ report, with respect to ~~persons~~ individuals employed by the employing unit, which the ~~commissioner~~ division deems necessary for the effective administration of this chapter.

b. (1) The division shall hold confidential the information obtained from an employing unit or individual in the course of administering this chapter and the initial ~~determinations~~ determination made by ~~the division's~~ a representative of the division under section 96.6, subsection 2, as to the benefit rights of an individual. The division shall not disclose or open this information for public inspection in a manner that reveals the identity of the ~~individual or~~ employing unit or the individual, except as provided in subparagraph (3) ~~of this paragraph and~~ or paragraph "c" ~~of this subsection~~.

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

(3) Information obtained from an employing unit or individual in the course of administering this chapter and an initial ~~determinations~~ determination made by ~~the division's~~ a representative of the division under section 96.6, subsection 2, as to benefit rights of an individual shall not be used in any action or proceeding, except in a contested case proceeding or judicial review under chapter 17A. However, the division shall make information, which is obtained from an

employing unit or individual in the course of administering this chapter and which relates to the employment and wage history of the individual, available to a county attorney for the county attorney's use in the performance of duties under section 331.756, subsection 5. Information in the division's possession ~~that~~ which may affect a claim for benefits or a change in an employer's rating account shall be made available to the ~~affected~~ interested parties ~~or their legal representatives~~. The information may be used by the ~~affected~~ interested parties in a proceeding under this chapter to the extent necessary for the proper presentation or defense of a claim.

c. Subject to conditions as the division by rule prescribes, information obtained from an employing unit or individual in the course of administering this chapter and an initial ~~determinations~~ determination made by ~~the division's~~ a representative of the division under section 96.6, subsection 2, as to benefit rights of an individual may be made available for purposes consistent with the purposes of this chapter to any of the following:

(1) An agency of this or any other state, or a federal agency responsible for the administration of an unemployment compensation law or the maintenance of a system of public employment offices.

(2) The ~~bureau of~~ internal revenue service of the United States department of the treasury.

(3) The Iowa department of revenue and finance.

(4) The social security administration of the United States department of health and human services.

(5) An agency of this or any other state or a federal agency responsible for the administration of public works or the administration of public assistance to unemployed ~~workers~~ individuals.

(6) Colleges, universities, and public agencies of this state for use in connection with research of a public nature, provided the division does not reveal the identity of ~~any individual or~~ an employing unit or individual.

(7) An employee of the department ~~of employment services~~, a member of the general assembly, or a member of the United States congress in connection with the employee's or member's official duties.

(8) A political subdivision, ~~government~~ governmental entity, or nonprofit organization having an interest in the administration of job training programs established pursuant to the federal Job Training Partnership Act.

(9) The United States department of housing and urban development and representatives of a public housing agency.

~~Information released by the division shall only be used for purposes consistent with the purposes of this chapter.~~

d. Upon request of an agency of this or another state or of the federal government which administers or operates a program of public assistance or child support enforcement under either ~~federal law or~~ the law of this or another state or federal law, or which is charged with a duty or responsibility under ~~any such~~ the program, and if ~~that~~ the agency is required by law to impose safeguards for the confidentiality of information at least as effective as required under this ~~section~~ subsection, then the division shall provide to the requesting agency, with respect to any named individual ~~specified~~ without regard to paragraph "g", any of the following information:

(1) Whether the individual is receiving, or has received benefits, or has made an application for ~~unemployment compensation~~ benefits under this chapter.

(2) The period, if any, for which ~~unemployment compensation was~~ benefits were payable and the weekly ~~rate of compensation paid~~ benefit amount.

(3) The individual's most recent address.

(4) Whether the individual has refused an offer of employment, and, if so, the date of the refusal and a description of the employment refused, including duties, conditions of employment, and the rate of pay.

(5) ~~Wage~~ The individual's wage information. ~~Paragraph "g" does not apply to information released under this paragraph.~~

e. The division may require an agency ~~that~~ which is provided information under this ~~section~~ subsection to reimburse the division for the costs of furnishing the information.

f. An employee of the division, an administrative law judge, or a member of the appeal board who violates this ~~section~~ subsection is guilty, upon conviction, of a serious misdemeanor.

g. Information subject to the confidentiality of this ~~section~~ subsection shall not be ~~made available~~ directly released to any authorized agency ~~prior to notification in writing~~ unless an attempt is made to provide written notification to the individual involved~~, except in~~. Information released in accordance with criminal investigations by a law enforcement agency of this state, another state, or the federal government is exempt from this requirement.

Sec. 2. Section 96.19, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 45. "Public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937, as amended through January 1, 1989.

Approved May 4, 1989

CHAPTER 118

HUMAN SERVICES EMPLOYEE NOT A CHAUFFEUR WHEN TRANSPORTING PATIENTS OR CLIENTS

H.F. 679

AN ACT to permit employees of the department of human services to transport clients and patients of the department without a chauffeur's license.

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

Section 1. Section 321.1, subsection 43, Code 1989, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 4:

NEW UNNUMBERED PARAGRAPH. If authorized to transport patients or clients by the director of the department of human services or the director's designee, an employee of the department of human services is not a chauffeur when transporting the patients or clients in an automobile.

Approved May 4, 1989

CHAPTER 119

NONRESIDENT COMMERCIAL MUSSEL LICENSE ELIMINATED

H.F. 687

AN ACT to eliminate the nonresident commercial mussel license.

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

Section 1. Section 109B.4, subsection 6, paragraph h, Code 1989, is amended by striking the paragraph.

Approved May 4, 1989

CHAPTER 120

CREDIT CARD RECEIPT PROCESSING FOR STATE DEPARTMENTS
H.F. 709

AN ACT relating to credit card receipt processing for state departments.

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

Section 1. NEW SECTION. 12.21 ACCEPTING CREDIT CARD PAYMENTS.

The treasurer of state may enter into an agreement with a financial institution to provide credit card receipt processing for state departments which are authorized to accept payment by credit card. A department which accepts credit card payments may adjust its fees to reflect the cost of processing as determined by the treasurer of state. A fee may be charged by a department for using the credit card payment method notwithstanding any other provision of the Code setting specific fees. The treasurer of state shall adopt rules to implement this section.

Approved May 4, 1989

CHAPTER 121

ELECTION BOARDS' COMPENSATION
H.F. 123

AN ACT relating to the compensation of election boards.

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

Section 1. Section 49.20, Code 1989, is amended to read as follows:

49.20 COMPENSATION OF MEMBERS.

The members of election boards shall be deemed temporary state employees who are compensated by the county in which they serve, and shall receive compensation at a rate established by the board of supervisors, which shall be not less than ~~two dollars and fifty cents nor more than~~ three dollars and fifty cents per hour, while engaged in the discharge of their duties and shall be reimbursed for actual and necessary travel expense, except that persons ~~whom~~ who have advised the commissioner ~~has been advised~~ prior to their appointment to the election board that they are willing to serve without pay at elections conducted for any school district or a city of three thousand five hundred or less population, shall receive no compensation for service at those elections. Compensation shall be paid to members of election boards only after the vote has been canvassed and it has been determined in the course of ~~such~~ the canvass that the election record certificate has been properly executed by the election board.

Approved May 4, 1989

CHAPTER 122

HOSPICE LICENSE RENEWAL
H.F. 379

AN ACT relating to the hospice licensure renewal fee.

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

Section 1. Section 135.93, Code 1989, is amended to read as follows:
135.93 SCOPE OF LICENSE — DURATION.
Licenses for hospice programs shall be issued only for the premises, person, hospital, or facility named in the application and are not transferable or assignable. A license, unless sooner suspended or revoked, shall expire two years after the date of issuance and shall be renewed biennially upon an application by the licensee. Application for renewal shall be made in writing to the department, ~~accompanied by the fee required to cover the cost of administering the program,~~ at least thirty days prior to the expiration of the license. The fee for a license renewal shall be determined by the department. Licensed hospice programs which have allowed their licenses to lapse through failure to make timely application for renewal shall pay an additional fee of twenty-five percent of the biennial license fee.

Approved May 4, 1989

CHAPTER 123

SEALED BIDS FOR SHERIFFS' SALES
H.F. 384

AN ACT relating to sheriffs' sales by permitting written sealed bids to be received, and providing procedures for written sealed bids.

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

Section 1. Section 626.80, Code 1989, is amended to read as follows:
626.80 TIME AND MANNER.
The sale must be at public auction, between nine o'clock in the forenoon and four o'clock in the afternoon, and the hour of the commencement of the sale must be fixed in the notice.
The sheriff shall receive and give a receipt for a sealed written bid submitted prior to the public auction. The sheriff may require all sealed written bids to be accompanied by payment of any fees required to be paid at the public auction by the purchaser, to be returned if the person submitting the sealed written bid is not the purchaser. The sheriff shall keep all written bids sealed until the commencement of the public auction, at which time the sheriff shall open and announce the written bids as though made in person.

Approved May 4, 1989

CHAPTER 124

PROTECTED DISCLOSURES BY GOVERNMENT EMPLOYEES

H.F. 542

AN ACT relating to reprisals and orders with respect to certain disclosures of information and other actions by employees of the state and its political subdivisions, providing penalties, providing civil remedies, and providing properly related matters.

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

Section 1. Section 19A.19, unnumbered paragraph 4, Code 1989, is amended to read as follows:

A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a merit system administered by, or subject to approval of, the director as a reprisal for a disclosure of any information by that employee to a member or employee of the general assembly, ~~the legislative service bureau, the legislative fiscal bureau, the citizens' aide, the computer support bureau, or the respective caucus staffs of the general assembly,~~ or for a disclosure of information ~~which~~ to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. ~~This subsection~~ However, this paragraph does not apply if the disclosure of ~~that~~ the information is prohibited by statute.

Sec. 2. Section 79.28, Code 1989, is amended to read as follows:

79.28 PROHIBITIONS RELATING TO CERTAIN ACTIONS BY STATE EMPLOYEES — PENALTY — CIVIL REMEDIES.

1. A person who serves as the head of a state department or agency or otherwise serves in a supervisory capacity within the executive branch of state government shall not prohibit an employee of the state from disclosing any information to a member or employee of the general assembly, ~~the legislative service bureau, the legislative fiscal bureau, the citizens' aide, the computer support bureau, or the respective caucus staffs of the general assembly,~~ or from disclosing information ~~which~~ to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

2. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for a disclosure of any information by that employee to a member or employee of the general assembly, ~~the legislative service bureau, the legislative fiscal bureau, the citizens' aide, the computer support bureau, or the respective caucus staffs of the general assembly,~~ or a disclosure of information ~~which~~ to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

3. Subsections 1 and 2 do not apply if the disclosure of the information is prohibited by statute.

4. A person who violates subsection 1 or 2 commits a simple misdemeanor.

5. Subsection 2 may be enforced through a civil action.

a. A person who violates subsection 2 is liable to an aggrieved employee for affirmative relief including reinstatement, with or without back pay, or any other equitable relief the court deems appropriate, including attorney fees and costs.

b. When a person commits, is committing, or proposes to commit an act in violation of subsection 2, 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 the attorney general.

5 6. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for the employee's declining to participate in contributions or donations to charities or community organizations.

7. The director of the department of personnel shall provide procedures for notifying new state employees of the provisions of this section and shall periodically conduct promotional campaigns to provide similar information to all state employees. The information shall include the toll-free telephone number of the citizens' aide.

Sec. 3. Section 79.29, Code 1989, is amended to read as follows:

79.29 REPRISALS PROHIBITED – POLITICAL SUBDIVISIONS – PENALTY – CIVIL REMEDIES.

1. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in employment by a political subdivision of this state as a reprisal for a disclosure of any information by that employee to a member or employee of the general assembly, or an official of that political subdivision or a state official or for a disclosure of information ~~which~~ to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. This section does not apply if the disclosure of ~~that~~ the information is prohibited by statute.

2. A person who violates subsection 1 commits a simple misdemeanor.

3. Subsection 1 may be enforced through a civil action.

a. A person who violates subsection 1 is liable to an aggrieved employee for affirmative relief including reinstatement, with or without back pay, or any other equitable relief the court deems appropriate, including attorney fees and costs.

b. When a person commits, is committing, or proposes to commit an act in violation of subsection 1, 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 the county attorney.

Approved May 4, 1989

CHAPTER 125

WATER SYSTEM TESTING

H.F. 598

AN ACT relating to the testing of public water systems, and making penalties applicable.

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

Section 1. Section 455B.173, subsection 6, Code 1989, is amended to read as follows:

6. a. ~~Establish, modify or repeal~~ Adopt rules relating to inspection, monitoring, ~~record keeping~~ recordkeeping, and reporting requirements for the owner or operator of any public water supply or any disposal system or of any source which is an industrial user of a publicly or privately owned disposal system.

b. Adopt rules which require each public water system regulated under chapter 455B to test the source water of that supply for the presence of synthetic organic chemicals and pesticides every two years. The rules shall enumerate the synthetic organic chemicals and pesticides, but not more than ten of each, for which the samples are to be tested; shall specify the approved analytical methods for conducting the analysis of water samples; and shall require the reporting of the analytical test results to the department. Priority for testing in the first year shall be those public water supplies for which none of the specified contaminants have been analyzed within the past five years. All of the laboratory analysis and data management shall be conducted by the center for health effects of environmental contamination. Sample collection shall be conducted using a standard sampling protocol by personnel within the department and the center for health effects of environmental contamination in conjunction with other ongoing field activities. Samples from private wells and samples from privately owned public water supplies shall be allowed to undergo the same analysis. The cost for the analysis provided for samples from private wells and privately owned public water supplies shall not exceed one hundred ninety-five dollars for the first year of testing. The department shall submit a report to the general assembly, by September 1 of each year, of the findings of the tests and the conclusions which may be drawn from the tests.

Approved May 4, 1989

CHAPTER 126

DRAINAGE LAWS REORGANIZATION

S.F. 479

AN ACT directing the Code editor to transfer various chapters and sections of the Code relating to the authority to regulate drainage to a new chapter.

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

Section 1. PURPOSE. The purpose of this Act is to reorganize sections in various chapters of the Code relating to drainage rights and jurisdictions into a new chapter. This Act shall be construed to effectuate the clear reading of and easy reference to provisions relating to drainage, and not to further a policy goal relating to administration or enforcement of the affected provisions.

Sec. 2. CODIFICATION. In the implementation of this Act, the Code editor shall:

1. Transfer sections 331.485 through 331.491 relating to the funding of drainage districts to new chapter 468, organize the sections within a division, and rearrange the sections as necessary.

2. Transfer the following chapters relating to drainage rights and drainage jurisdictions to new chapter 468, divide the chapter into divisions and parts, and rearrange the sections as necessary:

a. Chapter 455, relating to levee and drainage districts and improvements on petition or by mutual agreement.

b. Chapter 456, relating to the dissolution of drainage districts. The chapter's sections shall be organized under the same division as the sections in chapter 455.

c. Chapter 457, relating to intercounty levees or drainage districts.

d. Chapter 458, relating to converting intracounty districts into intercounty districts.

e. Chapter 459, relating to drainage districts embracing part or all of a city.

f. Chapter 460, relating to highway drainage districts.

g. Chapter 461, relating to levee districts with pumping stations.

h. Chapter 462, relating to management of drainage or levee districts by trustees.

i. Chapter 463, relating to drainage refunding bonds.

j. Chapter 464, relating to defaulted drainage bonds. The sections in this chapter shall be organized with the sections in chapter 463.

k. Chapter 465, relating to individual drainage rights.

l. Chapter 466, relating to drainage districts in connection with United States levees.

m. Chapter 467, relating to interstate drainage districts.

3. Notwithstanding any other provision of this Act, if the Code arrangement required in this section is not feasible or is not satisfactory to the Code editor, the editor may rearrange the affected sections as necessary.

4. Not later than September 15, 1989, the Code editor shall report to the legislative council any provisions relating to drainage which cannot be reconciled by the Code editor under this Act. The legislative council may appoint an interim study committee to review the report of the Code editor and make recommendations to the general assembly.

Approved May 4, 1989

CHAPTER 127

DAMINOZIDE PROHIBITION

S.F. 485

AN ACT to prohibit the sale, purchase, or use of a pesticide containing daminozide, providing an effective date, and making a penalty applicable.

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

Section 1. NEW SECTION. 206.33 DAMINOZIDE — PROHIBITION.

A person shall not offer for sale, sell, purchase, apply, or use a pesticide containing daminozide in this state.

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

Approved May 4, 1989

CHAPTER 128

CONSUMER RENTAL PURCHASE AGREEMENTS

S.F. 486

AN ACT relating to rent-to-own regulations.

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

Section 1. Section 537.3605, subsection 8, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

8. A statement that at any time after the first periodic payment is made, the lessee may acquire ownership of the property by exercising the option to purchase the property, and at what price, or by what formula or method the purchase price will be determined. It is not a violation of this subsection for the lessor and the lessee to agree in writing to allow the lessee to acquire ownership of the property for less than the amounts referred to in this subsection.

Sec. 2. Section 537.3608, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

537.3608 ACQUIRING OWNERSHIP.

1. A lessor shall not offer a consumer rental purchase agreement in which fifty percent of all lease payments necessary to acquire ownership of the leased property exceed the cash price of the leased property. When fifty percent of all lease payments made by a lessee equals the cash price of the property disclosed to the lessee pursuant to section 537.3605, subsection 9, the lessee shall acquire ownership of the leased property and the agreement shall terminate.

2. At any time after tendering an initial lease payment, a lessee may acquire ownership of the property that is the subject of the consumer rental purchase agreement by tendering an amount equal to the amount by which the cash price of the leased property exceeds fifty percent of all lease payments made by the lessee.

3. It is not a violation of this section for the lessor and the lessee to agree in writing to allow the lessee to acquire ownership of the property for less than the amounts referred to in this section.

Sec. 3. Section 537.3621, Code 1989, is amended to read as follows:

537.3621 DAMAGES.

In case of a violation of a provision of this part with respect to a consumer rental purchase agreement, or a violation of the Iowa debt collection practices Act, article 7 of this chapter, where a debt arises in connection with a consumer rental purchase agreement, the lessee in the agreement may recover from the person committing the violation, or may set off or counterclaim in an action by that person, actual damages, with a minimum recovery of three hundred dollars or twenty-five percent of the total cost to acquire ownership under the consumer rental purchase agreement, whichever is greater; attorneys' fees; and court costs.

Sec. 4. Section 537.7102, subsection 1, Code 1989, is amended to read as follows:

1. "Debt" means an actual or alleged obligation arising out of a consumer credit transaction, consumer rental purchase agreement, or a transaction which would have been a consumer credit transaction either if a finance charge was made, if the obligation was not payable in installments, if a lease was for a term of four months or less, or if a lease was of an interest in land. A debt includes a check as defined in section 554.3104 given in a transaction in connection with a consumer rental purchase agreement, in a transaction which was a consumer credit sale or in a transaction which would have been a consumer credit sale if credit was granted and if a finance charge was made.

Approved May 4, 1989

CHAPTER 129

WATER TREATMENT SYSTEMS TESTING

S.F. 490

AN ACT relating to the sale, lease, rental, or advertising of water treatment systems.

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

Section 1. Section 714.16, subsection 2, paragraph h, subparagraph (1), Code 1989, is amended to read as follows:

(1) Has been performance tested by a third-party testing agency that has been authorized by the Iowa department of public health. Alternatively, in lieu of third-party performance

testing of the manufacturer's water treatment system, the manufacturer may rely upon the manufacturer's own test data after approval of the data by an accepted third-party evaluator as provided in this subparagraph. The Iowa department of public health shall review the qualifications of a third-party evaluator proposed by the manufacturer. The department may accept or reject a proposed third-party evaluator based upon the required review. If a third-party evaluator, accepted by the Iowa department of public health, finds that the manufacturer's test data is reliable, adequate, and fairly presented, the manufacturer may rely upon that data to satisfy the requirements of this subparagraph after filing a copy of the test data and the report of the third-party evaluator with the Iowa department of public health. The testing agency shall use, or the evaluator shall review for the use of, approved methods of performance testing determined to be appropriate by the state hygienic laboratory.

Approved May 4, 1989

CHAPTER 130

INHERITANCE THROUGH CLASS GIFT DEVISEE

S.F. 494

AN ACT relating to the disposition of property devised as a class gift where the testator has survived the devisee, and providing for the Act's applicability.

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

Section 1. Section 633.273, Code 1989, is amended to read as follows:

633.273 ANTILAPSE STATUTE.

1. If a devisee ~~die~~ dies before the testator, the devisee's heirs shall inherit the property devised to the devisee, unless from the terms of the will, the intent is clear and explicit to the contrary.

2. A person who would have been a devisee under a class gift, if the person had survived the testator, is treated as a devisee for purposes of this section, provided the person's death occurred after the execution of the will, unless from the terms of the will, the intent is clear and explicit to the contrary.

Sec. 2. This Act applies to all wills admitted to probate on or after the effective date of the Act.

Approved May 4, 1989

CHAPTER 131

PETROLEUM UNDERGROUND STORAGE TANKS

H.F. 447

AN ACT relating to petroleum underground storage tanks, by creating a state fund and an administrative board and procedures for the fund, authorizing the fund to expend moneys for remedial action, tank improvement loan guarantees, and the offering of insurance to satisfy federal proof of financial responsibility requirements, imposing an environmental protection charge on petroleum diminution and providing for the collection of the charge, increasing the storage tank management fee, authorizing revenue bond issues and the creation of capital reserve funds to assure and facilitate timely payment of revenue bond obligations, authorizing a local option remedial action property tax credit, providing civil and criminal penalties, providing future automatic repeals, and providing effective dates.

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

DIVISION I

Section 1. LEGISLATIVE FINDINGS. The following findings support the establishment of the Iowa comprehensive petroleum underground storage tank fund and imposition of the environmental protection charge authorized by this Act for the purposes of the fund:

1. Maintenance of Iowa's petroleum distribution network, particularly in rural Iowa, is dependent upon the provision of moneys to cleanup existing petroleum releases and the availability of financing at affordable interest rates for petroleum underground storage tank improvements to permit compliance with mandated federal technical and financial responsibility standards.

2. Private financing at low-interest rates for small business owners and operators of petroleum underground storage tanks is generally not available due to the potential liability for petroleum releases which financial institutions are unwilling to incur and the high cost of compliance with federal regulatory standards.

3. It is necessary to provide a reasonable means to share the cost of cleanup of past and existing petroleum leaks to make the Iowa petroleum underground storage tank population insurable and environmentally safe, and to protect groundwater safety for the citizens of the state. Because of the nature of the problem of underground petroleum leaks and releases it is inherently difficult if not impossible to discover each release, past, present, and future, and to determine all the responsible parties, in a timely manner and with reasonable administrative expenses. Further, even if the responsible persons could be identified, the potential damages often far exceed an individual's ability to pay. The environmental protection charge is intended to have all potentially responsible parties pay in exchange for the availability of certain benefits to a responsible party who is able to be identified, subject to certain conditions.

The environmental protection charge is predicated on the amount of petroleum which is released or otherwise escapes from the petroleum distribution network within the state prior to being dispensed for its intended uses. After studying the issue of leaking underground storage tanks for more than two legislative sessions, including an interim study committee, and with reliance upon the active insurance division working group which included industry participation, the general assembly finds that a reasonable estimate of this "diminution" is one-tenth of one percent of the petroleum entering petroleum underground storage tanks. Various sources were relied upon in determining this diminution rate, including but not limited to the following:

a. Ernst and Whinney study for the Michigan Petroleum Association, which concluded that among various factors supporting Michigan's "shrinkage and evaporation tax credit" (substantially similar to Iowa's), "physical shrinkage" and "losses from other factors" (which included spillages) accounted for one and thirty-four hundredths percent of petroleum volume. Diminution is not identical to "shrinkage and evaporation" as used for tax credit purposes. Diminution contains no "administrative cost" consideration and is not primarily concerned with evaporation. Because of this, it is not significant that diesel, being significantly less volatile

than gasoline, is less subject to evaporation. Diesel does experience spillage and leakage, and thus "diminution".

b. The Tillinghast actuarial study of the Iowa comprehensive petroleum underground storage tank fund prepared for the general assembly in 1987, and the studies of tank leak rates cited in the Tillinghast report, and various federal environmental protection agency reports collected by legislative staff and the general assembly, support the finding that all petroleum products, including gasoline and diesel fuel, experience diminution.

c. Analysis of the Iowa shrinkage and evaporation tax credit claims, a portion of which is attributable to product loss and spillage, using the Ernst and Whinney's approach, yields similar results, indicating that in Iowa, one and thirty-four hundredths percent of the total volume of petroleum products entering the state's petroleum distribution system is diminution, or loss of product into the environment.

d. The Alexander and Alexander actuarial report prepared for the general assembly in 1988, also supports the finding of diminution and the reasonableness of the diminution rate determined. The Alexander and Alexander report includes an opinion letter from Ernst and Whinney. The letter is based on the research performed for their Michigan study and information supplied to Ernst and Whinney regarding the Iowa tank population, Iowa's antidiversionary amendment, and the definition of diminution and diminution rate. The letter relates that the range of physical shrinkage was twenty-nine hundredths percent through nine-tenths percent. Based on this range it is reasonable to conclude that a petroleum tank in Iowa would experience diminution; that the diminution rate chosen by the general assembly is substantially less than the normal industry average for diminution as defined; and that the diminution rate of one tenth of one percent is below the range of actual diminution likely to be experienced by any owner or operator. The general assembly finds that a reasonable and conservative estimate of the diminution rate is one-tenth of one percent, and one-tenth of one percent shall be the diminution rate used for purposes of the environmental protection charge.

A particular owner or operator may be able to demonstrate that that owner or operator has not experienced this presumed rate of diminution over a specific time period, but that should not be a defense to payment of the environmental protection charge. The diminution rate is an average over time. There can be no proof that the same owner or operator may not experience a catastrophic release in the future and thus experience greater than average diminution.

The environmental protection charge is based on the statewide average diminution and in deference to the range of debate the actual diminution rate selected is well below the actual statewide average determined by the legislative fiscal bureau. Average diminution is used to provide a fair, pro rata distribution of the fee when it is impossible and impractical to determine every person's liability on an individual basis.

All who pay the environmental protection charge benefit directly or indirectly from the imposition of the charge and the extension of the benefits from the fund, made possible by the charge. A source of recovery for releases benefits the individual and the industry, not least because the federal government mandates proof of financial responsibility. Each member of the regulated tank community benefits by assistance to the entire petroleum distribution network. If each were to pay for only that individual's releases or reported "diminution" it would be impossible to comply with federal financial responsibility requirements, and the social benefits of risk spreading and sharing the social costs would be precluded as well.

The distribution of the costs of remedial action through the pro rata environmental protection charge is determined to be the most reasonable, fair, and equitable way of providing assistance to the regulated tank community to comply with federal financial responsibility regulations for both practical administrative considerations and policy reasons.

4. Private market insurance is currently not generally available for environmental hazards like petroleum releases, due to a lack of actuarial experience and uncertainty as to the extent of liability.

5. Tank owners and operators must often make capital improvements as a precondition to obtaining insurance, even when insurance is available.

6. Because federal regulations will require tanks to be insured, or otherwise demonstrate financial responsibility, for amounts ranging from five hundred thousand dollars to one million dollars per occurrence on or before October 26, 1990, it is necessary to provide an interim means of providing insurance or a showing of financial responsibility and to encourage the development of private market sources of insurance or other private financial guarantees.

7. The creation of a state assistance account initially capitalized by revenue bond issues will make available the necessary capital to finance remedial actions, to improve storage tanks to required standards, and to provide insurance on an interim basis until a competitive private insurance market develops. The use of bonds to spread the high initial cost of conversion to federal standards will maximize Iowa's receipt of federal matching funds, reduce the impact upon service and preserve the availability of petroleum products in rural Iowa by offering financing to owners and operators of tanks, including local gas stations and factories, at favorable interest rates with reduced administrative costs.

8. The storage of petroleum in underground storage tanks poses a hazard to public health and welfare by endangering soil and groundwater with petroleum contamination. Groundwater containing one part of petroleum per one million parts of water exceeds safe drinking water standards. Petroleum experiences diminution by its nature, by the methods of transportation, by storage, and by human error and mechanical failure. The means and funding mechanism to take prompt corrective action upon discovery of a petroleum release are necessary to protect the public health and welfare. To protect and restore the state's vital groundwater, it is necessary and essential that the state use all practical means to control or eliminate pollution hazards posed by petroleum underground storage tanks.

9. The public health and safety of the state will benefit from providing new methods to finance the capital outlays required to repair, upgrade, and replace petroleum underground storage tanks by small business owners of such tanks.

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

DIVISION II

Sec. 2. LEGISLATIVE INTENT. It is the intent of this Act to assist owners and operators, and especially small businesses, to comply with the minimum federal technical and financial responsibility standards and to protect and improve the quality of Iowa's environment by correcting existing petroleum underground storage tank releases and by prevention and early detection of future releases to minimize damages and costs to society.

Implementation and interpretation of this Act shall recognize the following additional goals: to provide adequate and reliable financial assurance for the costs of corrective action for preexisting petroleum underground storage tank releases; to create a financial responsibility assurance mechanism that provides certainty, sufficiency, and availability of funds to cover the costs of corrective action and third-party liability for prospective releases.

The fund created in this Act is intended as an interim measure to address the short-term unavailability of financial responsibility assurance mechanisms in the private market. This Act shall be administered to promote the expansion of existing assurance mechanisms and the creation of new ones, so that the insurance account may be phased out and discontinued when market mechanisms are generally available.

To minimize societal costs and environmental damage, speed is of the essence in responding to a release and taking corrective action.

Sec. 3. NEW SECTION. 101.12 ABOVEGROUND PETROLEUM TANKS AUTHORIZED.

Rules of the state fire marshal shall permit installation of aboveground petroleum storage tanks for retail motor vehicle fuel outlets in cities of one thousand or less population.

Sec. 4. NEW SECTION. 101.101 DEFINITIONS.

As used in this part unless the context otherwise requires:

1. "Nonoperational aboveground tank" means an aboveground storage tank in which regulated substances are not deposited or from which regulated substances are not dispensed after July 1, 1989.

2. "Operator" means a person in control of, or having responsibility for, the daily operation of the aboveground storage tank.

3. "Owner" means:

a. In the case of an aboveground storage tank in use on or after July 1, 1989, a person who owns the aboveground storage tank used for the storage, use, or dispensing of regulated substances.

b. In the case of an aboveground storage tank in use before July 1, 1989, but no longer in use on that date, a person who owned the tank immediately before the discontinuation of its use.

4. "Regulated substance" means regulated substance as defined in section 455B.471.

5. "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an aboveground storage tank into groundwater, surface water, or subsurface soils.

6. "Aboveground storage tank" means one or a combination of tanks, including connecting pipes connected to the tanks which are used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes, is more than ninety percent above the surface of the ground. Aboveground storage tank does not include any of the following:

a. Aboveground tanks of one thousand one hundred gallons or less capacity.

b. Tanks used for storing heating oil for consumptive use on the premises where stored.

c. Underground storage tanks as defined by section 455B.471.

d. A flow-through process tank, or a tank containing a regulated substance, other than motor vehicle fuel used for transportation purposes, for use as part of a manufacturing process, system, or facility.

7. "Tank site" means a tank or grouping of tanks within close proximity of each other located on the facility for the purpose of storing regulated substances.

8. "State fire marshal" means the state fire marshal, or the state fire marshal's designee.

Sec. 5. NEW SECTION. 101.102 REPORT OF EXISTING AND NEW TANKS — FEE.

1. Except as provided in subsection 2, the owner or operator of an aboveground storage tank existing on or before July 1, 1989, shall notify the state fire marshal in writing by May 1, 1990, of the existence of each tank and specify the age, size, type, location, and uses of the tank.

2. The owner of an aboveground storage tank taken out of operation between January 1, 1979 and July 1, 1989, shall notify the state fire marshal in writing by July 1, 1990, of the existence of the tank unless the owner knows the tank has been removed. The notice shall specify to the extent known to the owner, the date the tank was taken out of operation, the age of the tank on the date taken out of operation, the size, type, and location of the tank, and the type and quantity of substances left stored in the tank on the date that it was taken out of operation.

3. An owner or operator which brings into use an aboveground storage tank after July 1, 1989, shall notify the state fire marshal in writing within thirty days of the existence of the tank and specify the age, size, type, location, and uses of the tank.

4. The registration notice of the owner or operator to the state fire marshal under subsections 1 through 3 shall be accompanied by a fee of ten dollars for each tank included in the notice. All moneys collected shall be deposited in the general fund.

5. A person who deposits a regulated substance in an aboveground storage tank shall notify the owner or operator in writing of the notification requirements of this section.

6. A person who sells or constructs a tank intended to be used as an aboveground storage tank shall notify the purchaser of the tank in writing of the notification requirements of this section applicable to the purchaser.

7. It shall be unlawful to deposit a regulated substance in an aboveground storage tank which has not been registered pursuant to subsections 1 through 5.

The state fire marshal shall furnish the owner or operator of an aboveground storage tank with a registration tag for each aboveground storage tank registered with the state fire marshal. The owner or operator shall affix the tag to the fill pipe of each registered aboveground storage tank. A person who conveys or deposits a regulated substance shall inspect the aboveground storage tank to determine the existence or absence of the registration tag. If a registration tag is not affixed to the aboveground storage tank fill pipe, the person conveying or depositing the regulated substance may deposit the regulated substance in the unregistered tank provided that the deposit is allowed only in the single instance, that the person provides the owner or operator with another notice as required by subsection 5, and that the person provides the owner or operator with an aboveground storage tank registration form. It is the owner or operator's duty to comply with registration requirements. A late registration penalty of twenty-five dollars is imposed in addition to the registration fee for a tank registered after the required date.

Sec. 6. NEW SECTION. 101.103 STATE FIRE MARSHAL REPORTING RULES.

The state fire marshal shall adopt rules pursuant to chapter 17A relating to reporting requirements necessary to enable the state fire marshal to maintain an accurate inventory of aboveground storage tanks.

Sec. 7. NEW SECTION. 101.104 DUTIES AND POWERS OF THE STATE FIRE MARSHAL.

The state fire marshal shall:

1. Inspect and investigate the facilities and records of owners and operators of aboveground storage tanks as may be necessary to determine compliance with this part and the rules adopted pursuant to this part. An inspection or investigation shall be conducted subject to subsection 4. For purposes of developing a rule, maintaining an accurate inventory or enforcing this part, the department may:

a. Enter at reasonable times any establishment or other place where an aboveground storage tank is located.

b. Inspect and obtain samples from any person of a regulated substance and conduct monitoring or testing of the tanks, associated equipment, contents or surrounding soils, air, surface water and groundwater. Each inspection shall be commenced and completed with reasonable promptness.

(1) If the state fire marshal obtains a sample, prior to leaving the premises, the fire marshal shall give the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each sample equal in volume or weight to the portion retained. If the sample is analyzed, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

(2) Documents or information obtained from a person under this subsection shall be available to the public except as provided in this subparagraph. Upon a showing satisfactory to the state fire marshal by a person that public disclosure of documents or information, or a particular part of the documents or information to which the state fire marshal has access under this subsection would divulge commercial or financial information entitled to protection as a trade secret, the state fire marshal shall consider the documents or information or the particular portion of the documents or information confidential. However, the document or information may be disclosed to officers, employees, or authorized representatives of the United States charged with implementing the federal Solid Waste Disposal Act, to employees of the state of Iowa or of other states when the document or information is relevant to the discharge of their official duties, and when relevant in any proceeding under the federal Solid Waste Disposal Act or this part.

2. Maintain an accurate inventory of aboveground storage tanks.

3. Take any action allowed by law which, in the state fire marshal's judgment, is necessary to enforce or secure compliance with this division or any rule adopted pursuant to this division.

4. Conduct investigations of complaints received directly, referred by other agencies, or other investigations deemed necessary. While conducting an investigation, the state fire marshal may enter at any reasonable time in and upon any private or public property to investigate any actual or possible violation of this division or the rules or standards adopted under this division. However, the owner or person in charge shall be notified.

a. If the owner or operator of any property refuses admittance, or if prior to such refusal the state fire marshal demonstrates the necessity for a warrant, the state fire marshal may make application under oath or affirmation to the district court of the county in which the property is located for the issuance of a search warrant.

b. In the application the state fire marshal shall state that an inspection of the premises is mandated by the laws of this state or that a search of certain premises, areas, or things designated in the application may result in evidence tending to reveal the existence of violations of public health, safety, or welfare requirements imposed by statutes, rules, or ordinances established by the state or a political subdivision of the state. The application shall describe the area, premises, or thing to be searched, give the date of the last inspection if known, give the date and time of the proposed inspection, declare the need for such inspection, recite that notice of the desire to make an inspection has been given to affected persons and that admission was refused if that be the fact, and state that the inspection has no purpose other than to carry out the purpose of the statute, rule, or ordinance pursuant to which inspection is to be made. If an item of property is sought by the state fire marshal it shall be identified in the application.

c. If the court is satisfied from the examination of the applicant, and of other witnesses, if any, and of the allegations of the application of the existence of the grounds of the application, or that there is probable cause to believe in their existence, the court may issue a search warrant.

d. In making inspections and searches pursuant to the authority of this division, the state fire marshal must execute the warrant as follows:

(1) Within ten days after its date.

(2) In a reasonable manner, and any property seized shall be treated in accordance with the provisions of chapters 808 and 809.

(3) Subject to any restrictions imposed by the statute, rule or ordinance pursuant to which inspection is made.

Sec. 8. NEW SECTION. 101.105 VIOLATIONS – ORDERS.

1. If substantial evidence exists that a person has violated or is violating a provision of this division or a rule adopted under this division the state fire marshal may issue an order directing the person to desist in the practice which constitutes the violation, and to take corrective action as necessary to ensure that the violation will cease, and may impose appropriate administrative penalties pursuant to section 101.106. The person to whom the order is issued may appeal the order as provided in chapter 17A. On appeal, the administrative law judge may affirm, modify, or vacate the order of the state fire marshal.

2. However, if it is determined by the state fire marshal that an emergency exists respecting any matter affecting or likely to affect the public health, the fire marshal may issue any order necessary to terminate the emergency without notice and without hearing. The order is binding and effective immediately and until the order is modified or vacated at an administrative hearing or by a district court.

3. The state fire marshal may request the attorney general to institute legal proceedings pursuant to section 101.106.

Sec. 9. NEW SECTION. 101.106 PENALTIES – BURDEN OF PROOF.

1. A person who violates this division or a rule or order adoption issued pursuant to this division is subject to a civil penalty not to exceed one hundred dollars for each day during

which the violation continues, up to a maximum of one thousand dollars; however, if the tank is registered within thirty days after the state fire marshal issues a cease and desist order pursuant to section 101.105, subsection 1, the civil penalty under this section shall not accrue. The civil penalty is an alternative to a criminal penalty provided under this division.

2. A person who knowingly fails to notify or makes a false statement, representation, or certification in a record, report, or other document filed or required to be maintained under this division, or violates an order issued under this division, is guilty of an aggravated misdemeanor.

3. The attorney general, at the request of the state fire marshal, shall institute any legal proceedings, including an action for an injunction, necessary to enforce the penalty provisions of this division or to obtain compliance with the provisions of this division or rules adopted or order pursuant to this division. In any action, previous findings of fact of the state fire marshal after notice and hearing are conclusive if supported by substantial evidence in the record when the record is viewed as a whole.

4. In all proceedings with respect to an alleged violation of this division or a rule adopted or order issued by the state fire marshal pursuant to this division, the burden of proof is upon the state fire marshal.

5. If the attorney general has instituted legal proceedings in accordance with this section, all related issues which could otherwise be raised by the alleged violator in a proceeding for judicial review under section 101.107 shall be raised in the legal proceedings instituted in accordance with this section.

Sec. 10. NEW SECTION. 101.107 JUDICIAL REVIEW.

Except as provided in section 101.106, subsection 5, judicial review of an order or other action of the state fire marshal may be sought in accordance with chapter 17A. Notwithstanding chapter 17A, the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the alleged offense was committed or the final order was entered.

Sec. 11. NEW SECTION. 101.108 FEES FOR CERTIFICATION INSPECTIONS OF UNDERGROUND STORAGE TANKS.

The state fire marshal, the state fire marshal's designee, or a local fire marshal, authorized to conduct underground storage tank certification inspections under section 455G.11, subsection 7, shall charge the person requesting a certification inspection a fee to recover the costs of authorized training, inspection, and inspection program administration subject to rules adopted by the state fire marshal.

DIVISION III

Sec. 12. NEW SECTION. 220.202 AUTHORITY TO ISSUE IOWA TANK ASSISTANCE BONDS.

The authority shall assist the Iowa comprehensive petroleum underground storage tank fund as provided in chapter 455G and the authority shall have all of the powers that the Iowa comprehensive petroleum underground storage tank fund board possesses and which that board delegates to the authority in a chapter 28E agreement or a contract between the authority and the Iowa comprehensive petroleum underground storage tank fund board with respect to the issuance and securing of bonds and carrying out the purposes of chapter 455G.

The board shall reimburse the department of revenue and finance by contract for the reasonable cost of administration of the environmental protection charge imposed under this chapter and for other duties delegated to the department or to the director by the board.

DIVISION IV

Sec. 13. NEW SECTION. 424.1 TITLE – DIRECTOR'S AUTHORITY.

1. This chapter is entitled "Environmental Protection Charge on Petroleum Diminution".

2. The director's and the department's authority and power under chapter 421 and other provisions of the tax code relevant to administration apply to this chapter, and the charge imposed under this chapter is imposed as if the charge was a tax within the meaning of that chapter or provision.

3. The director shall enter into a contract or agreement with the board to provide assistance requested by the board. Policy issues arising under this chapter or chapter 455G shall be determined by the board, and the board shall be joined as a real party in interest when a policy issue is raised.

4. The board shall retain rulemaking authority, but may contract with the department for assistance in drafting rules. The board shall retain contested case jurisdiction over any challenge to the diminution rate or cost factor. The department shall conduct all other contested cases and be responsible for other agency action in connection with the environmental protection charge imposed under this chapter.

Sec. 14. NEW SECTION. 424.2 DEFINITIONS.

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

1. "Charge" means the environmental protection charge imposed upon petroleum diminution pursuant to section 424.3.

2. "Charge payer" means a depositor, receiver, or tank owner or operator obligated to pay the environmental protection charge under this chapter.

3. "Board" means the Iowa comprehensive petroleum underground storage tank board.

4. "Department" means the department of revenue and finance.

5. "Depositor" means the person who deposits petroleum into a tank subject to regulation under chapter 455G.

6. "Diminution" means the petroleum released into the environment prior to its intended beneficial use.

7. "Director" means the director of revenue and finance.

8. "Fund" means the Iowa comprehensive petroleum underground storage tank fund.

9. "Owner or operator" means "owner or operator" as used in chapter 455G.

10. "Petroleum" means petroleum as defined in section 455G.2.

11. "Receiver" means, if the owner or operator are not the same person, the person who, under a contract between the owner and operator, is responsible for payment for petroleum deposited into a tank; and if the owner and operator of a tank are the same person, means the owner.

12. "Tank" means an underground storage tank subject to regulation under chapter 455G.

Sec. 15. NEW SECTION. 424.3 ENVIRONMENTAL PROTECTION CHARGE IMPOSED UPON PETROLEUM DIMINUTION.

1. An environmental protection charge is imposed upon diminution. A depositor shall collect from the receiver of petroleum deposited into a tank, the environmental protection charge imposed under this section on diminution each time petroleum is deposited into the tank, and pay the charge to the department as directed by this chapter.

2. The environmental protection charge shall be equal to the total volume of petroleum deposited in a tank multiplied by the diminution rate multiplied by the cost factor.

3. The diminution rate is one tenth of one percent.

4. Diminution equals total volume of petroleum deposited multiplied by the diminution rate established in subsection 3.

5. The cost factor is an amount per gallon of diminution determined by the board pursuant to this subsection. The board, after public hearing, may determine, or may adjust, the cost factor to an amount deemed sufficient by the board to maintain the financial soundness of the fund, but not to exceed an amount reasonably necessary to assure financial soundness, in light of known and expected expenses, known and expected income from other sources, the volume of diminution presumed by law to occur, the debt service and reserve requirements for that portion of any bonds issued for the fund, and any other factors determined to be significant

by the board, including economic reasonableness to owners and operators. The board may determine or adjust the cost factor at any time after the effective date of this Act, but shall at minimum determine the cost factor at least once each fiscal year.

6. The cost factor shall not exceed an amount which is reasonably calculated to generate more than twelve million dollars in annual revenue from the charge, excluding penalties and interest, if any. If the board determines that to maintain the financial soundness of the fund the cost factor should be higher than allowed by the twelve million dollar cap on annual revenues, the board shall, on or before January 1 of each calendar year, make and deliver to the governor and the general assembly the board's certificate stating the sum per year required to maintain financial soundness of the fund. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor may submit to both houses printed copies of a budget including the sum, if any, required to maintain the financial soundness of the fund, or other proposed legislative solutions to eliminate the shortfall.

7. The environmental protection charge shall be reduced or eliminated upon the later of fifteen years after the effective date of this Act or such time as the trust fund provided for under section 455G.9 is created, and is actuarially sound, and self-sustaining. The environmental protection charge may be reinstated as provided in section 455G.9, subsection 3.

Sec. 16. NEW SECTION. 424.4 ADDING OF CHARGE.

A depositor shall, as far as practicable, add the charge imposed under this chapter, or the average equivalent of the charge, to the depositor's sales price for the petroleum subject to the charge and when added such charge shall constitute a part of the depositor's price, shall be a debt from the receiver to the depositor until paid, and shall be recoverable at law in the same manner as other debts.

Sec. 17. NEW SECTION. 424.5 DEPOSITOR PERMITS REQUIRED – APPLICATIONS – REVOCATION.

1. It is unlawful for any person to deposit petroleum into a tank in this state, unless a depositor permit has been issued to that person under this section. A depositor shall file with the department an application for a permit. An application for a permit shall be made upon a form prescribed by the board and shall set forth the name under which the applicant transacts or intends to transact business, the location or locations of the applicant's place of business, and any other information as the board may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of the person's authority.

2. The department may deny a permit to an applicant who is substantially delinquent in paying a tax or charge due, or the interest or penalty on the tax or charge, administered by the department at the time of application. If the applicant is a partnership, a permit may be denied if the partner is substantially delinquent in paying any delinquent tax or charge, penalty, or interest.

3. A permit is not assignable and is valid only for the person in whose name it is issued.

4. A permit issued under this chapter is valid and effective until revoked by the department.

5. If the holder of a permit fails to comply with any of the provisions of this chapter or any order or rule of the department, or rule or order of the board pursuant to this chapter, or is substantially delinquent in the payment of a tax or charge administered by the department or the interest or penalty on the tax or charge, the director may revoke the permit.

6. To revoke a permit the director shall serve notice as required by section 17A.18 to the permit holder informing that person of the director's intent to revoke the permit and of the permit holder's right to a hearing on the matter. If the permit holder petitions the director for a hearing on the proposed revocation, after giving ten days' notice of the time and place of the hearing in accordance with section 17A.18, subsection 3, the matter may be heard and a decision rendered. The director may restore permits after revocation. The director shall

adopt rules setting forth the period of time a depositor must wait before a permit may be restored or a new permit may be issued. The waiting period shall not exceed ninety days from the date of the revocation of the permit.

Sec. 18. NEW SECTION. 424.6 EXEMPTION CERTIFICATES FOR RECEIVERS OF PETROLEUM UNDERGROUND STORAGE TANKS NOT SUBJECT TO FINANCIAL RESPONSIBILITY RULES.

1. The department of natural resources shall issue an exemption certificate in the form prescribed by the director of the department of natural resources to an applicant who is an owner or operator of a petroleum underground storage tank which is exempt, deferred, or excluded from regulation under chapter 455G, for that tank. The director of the department of natural resources shall revoke and require the return of an exemption certificate if the petroleum underground storage tank later becomes subject to chapter 455G pursuant to section 455G.1. A tank is subject to chapter 455G when the federal regulation subjecting that tank to financial responsibility becomes effective and not upon the effective compliance date unless the effective compliance date is the effective date of the regulation.

2. Liability for the charge is upon the depositor and the receiver unless the depositor takes in good faith from the receiver a valid exemption certificate and records the exemption certificate number and related transaction information required by the director and submits such information as part of the environmental protection charge return. If petroleum is deposited into a tank, pursuant to a valid exemption certificate which is taken in good faith by the depositor, and the receiver is liable for the charge, the receiver is solely liable for the charge and shall remit the charge directly to the department and this chapter applies to that receiver as if the receiver was a depositor.

3. A valid exemption certificate is an exemption certificate which is complete and correct according to the requirements of the director of the department of natural resources.

4. A valid exemption certificate is taken in good faith by the depositor when the depositor has exercised that caution and diligence which honest persons of ordinary prudence would exercise in handling their own business affairs, and includes an honesty of intention and freedom from knowledge of circumstances which ought to put one upon inquiry as to the facts. A depositor has constructive notice of the classes of exempt, deferred, or excluded tanks. In order for a depositor to take a valid exemption certificate in good faith, the depositor must exercise reasonable prudence to determine the facts supporting the valid exemption certificate, and if any facts upon such certificate would lead a reasonable person to further inquiry, then such inquiry must be made with an honest intent to discover the facts.

5. If the circumstances change and the tank becomes subject to financial responsibility regulations, the tank owner or operator is liable solely for the charges and shall remit the charges directly to the department of revenue and finance pursuant to this chapter.

6. The board may waive the requirement for an exemption certificate for one or more classes of exempt, deferred, or excluded tanks, if in the board's judgment an exemption certificate is not required for effective and efficient collection of the charge. If an exemption certificate is not required for a class pursuant to this subsection, the depositor shall maintain and file such records and information as may be required by the director regarding deposits into a tank subject to the waiver.

Sec. 19. NEW SECTION. 424.7 DEPOSIT OF MONEYS — FILING OF ENVIRONMENTAL PROTECTION CHARGE RETURN.

1. A depositor shall, on or before the last day of the month following the close of each calendar quarter during which the depositor is or has become or ceased being subject to the provisions of section 424.3, make, sign, and file an environmental protection charge return for that calendar quarter in such form as may be required by the director. The return shall show information relating to the volume of petroleum deposited into tanks subject to the charge, and any claimed exemptions or exclusions from the charge, a calculation of charges due, and such other information for the period covered by the return as may be required by the director. The

depositor may be granted an extension of time not exceeding thirty days for filing a quarterly return, upon a proper showing of necessity. If an extension is granted, the depositor shall have paid by the thirtieth day of the month following the close of the quarter ninety percent of the estimated charges due.

2. If necessary or advisable in order to ensure the payment of the charge imposed by this chapter, the director may require returns and payment of the charge to be made for other than quarterly periods.

3. Returns shall be signed by the depositor or the depositor's duly authorized agent, and must be duly certified by the depositor to be correct.

4. Upon receipt of a payment pursuant to this chapter, the department shall deposit the moneys into the fund created in section 455G.3, and the moneys so deposited are a continuing appropriation for expenditure under chapter 455G, and moneys so appropriated shall not be used for other purposes unless the appropriation is changed by the first session of a biennial general assembly.

Sec. 20. NEW SECTION. 424.8 PAYMENT OF ENVIRONMENTAL PROTECTION CHARGE.

1. The charge levied under this chapter is due and payable in calendar quarterly installments on or before the last day of the month following each quarterly period except as otherwise provided in this section.

2. Every permit holder at the time of making the return required hereunder, shall compute and pay to the department the charges due for the preceding period.

3. a. If a receiver fails to pay charges imposed by this chapter to the depositor required to collect the charge, then in addition to all of the rights, obligations, and remedies provided, the charge is payable by the receiver directly to the department, and this chapter applies to the receiver as if the receiver were a depositor.

b. If a depositor subject to this chapter sells the depositor's business or stock of petroleum or quits the business, the depositor shall prepare a final return and pay all charges due within the time required by law. The immediate successor to the depositor, if any, shall withhold a sufficient amount of the purchase price, in money or money's worth, to pay the amount of delinquent charge, interest, or penalty due and unpaid. If the immediate successor of the business or stock of petroleum intentionally fails to withhold the amount due from the purchase price as provided in this paragraph, the immediate successor is personally liable for the payment of the delinquent charges, interest, and penalty accrued and unpaid on account of the operation of the business by the immediate predecessor depositor, except when the purchase is made in good faith as provided in section 424.6. However, a person foreclosing on a valid security interest or retaking possession of premises under a valid lease is not an "immediate successor" for purposes of this paragraph. The department may waive the liability of the immediate successor under this paragraph if the immediate successor exercised good faith in establishing the amount of the previous liability.

Sec. 21. NEW SECTION. 424.9 BOND FOR ENVIRONMENTAL PROTECTION CHARGE COLLECTION.

The director, when necessary and advisable in order to secure the collection of the environmental protection charge imposed by section 424.3, may require a depositor to file a bond with the director. The bond shall assure collection by the department of the amount of the charge required to be collected or the amount actually collected by the depositor required to file the bond, whichever is greater. The bond shall be issued by a surety company authorized to conduct business in this state and approved by the commissioner of insurance as to solvency and responsibility, in an amount as the director may fix, to secure the payment of the charge, and penalty due or which may become due. In lieu of the bond, securities, or cash shall be kept in the custody of the department and securities may be sold by the director at public or private sale, without notice to the depositor, if it becomes necessary to do so in order to recover

any charge and penalty due. Upon a sale, any surplus above the amounts due under this section shall be returned to the person who deposited the securities.

Sec. 22. NEW SECTION. 424.10 FAILURE TO FILE RETURN – INCORRECT RETURN.

1. As soon as practicable after a return is filed and in any event within five years after the return is filed the department shall examine it, assess and determine the charge due if the return is found to be incorrect, and give notice to the depositor of such assessment and determination as provided in subsection 2. The period for the examination and determination of the correct amount of the charge is unlimited in the case of a false or fraudulent return made with the intent to evade the charge or in the case of a failure to file a return. If the determination that a return is incorrect is the result of an audit of the books and records of the depositor, the charge, or additional charge, if any is found due, shall be assessed and determined and the notice to the depositor shall be given by the department within one year after the completion of the examination of the books and records.

2. If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the return is required by notice from the department, the department shall determine the amount of charge due from such information as the department may be able to obtain and, if necessary, may estimate the charge on the basis of external indices or factors. The department shall give notice of such determination to the person liable for the charge. Such determination shall finally and irrevocably fix the charge unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply to the director for a hearing or unless the director on the director's motion shall reduce the charge. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the director shall give notice of the decision to the person liable for the charge.

If a depositor's, receiver's, or other person's challenge relates to the diminution rate, the burden of proof upon the challenger shall only be satisfied by clear and convincing evidence.

3. If the amount paid is greater than the correct charge, penalty, and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at the rate in effect under section 421.7, pursuant to rules prescribed by the director. However, the director shall not allow a claim for refund that has not been filed with the department within five years after the charge payment upon which a refund is claimed became due, or one year after the charge payment was made, whichever time is later. A determination by the department of the amount of charge, penalty, and interest due, or the amount of refund for any excess amount paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within thirty days from the postmark date of the notice of determination of charge, penalty, and interest due or refund owing. The director shall grant a hearing, and upon hearing the director shall determine the correct charge, penalty, and interest due or refund owing, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 424.13.

Sec. 23. NEW SECTION. 424.11 ENVIRONMENTAL PROTECTION CHARGE LIEN – COLLECTION – ACTION AUTHORIZED.

Whenever a person liable to pay a charge refuses or neglects to pay the charge, the amount, including any interest, penalty, or addition to the charge, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to that person.

The environmental protection charge lien shall attach at the time the charge becomes due and payable and shall continue for ten years from the time the lien attaches unless sooner released or otherwise discharged. The lien may be extended, within ten years from the date the lien attaches, by filing for record a notice with the appropriate county official of the appropriate county and from the time of such filing, the lien shall be extended to the property in such

county for ten years, unless sooner released or otherwise discharged, with no limit on the number of extensions. The director shall charge off any account whose lien is allowed to lapse and may charge off any account and release the corresponding lien before the lien has lapsed if the director determines under uniform rules adopted by the board that the account is uncollectible or collection costs involved would not warrant collection of the amount due.

In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the director shall file with the recorder of the county, in which the property is located, a notice of the lien.

The county recorder of each county shall record an environmental protection charge lien in the "index of income tax liens".

The recorder shall endorse on each notice of lien the day, hour, and minute when received and preserve the notice, and shall immediately index the notice in the index book and record the lien in the manner provided for recording real estate mortgages, and the lien shall be effective from the time of its indexing.

The department shall pay a recording fee as provided in section 331.604, for the recording of the lien, or for its satisfaction.

Upon the payment of a charge as to which the director has filed notice with a county recorder, the director shall immediately file with the recorder a satisfaction of the charge and the recorder shall enter the satisfaction on the notice on file in the recorder's office and indicate that fact on the index.

The department shall proceed, substantially as provided in this chapter, to collect all charges and penalties as soon as practicable after the same become delinquent, except that no property of the depositor shall be exempt from the payment of the charge. In the event service has not been made on a distress warrant by the officer to whom addressed within five days from the date the distress warrant was received by the officer, the authorized revenue agents of the department are hereby empowered to serve and make return of the warrant to the clerk of the district court of the county named in the distress warrant, and all subsequent procedure shall be in compliance with chapter 626.

The attorney general shall, upon the request of the director, bring an action at law or in equity, as the facts may justify, without bond, to enforce payment of any charges and penalties, and in such action the attorney general shall have the assistance of the county attorney of the county in which the action is pending.

It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the director or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

Sec. 24. NEW SECTION. 424.12 RECORDS REQUIRED.

It shall be the duty of every depositor required to make a report and pay any charge under this chapter, to preserve such records as the director may require and it shall be the duty of every depositor to preserve for a period of five years all invoices and other records; and all such books, invoices, and other records shall be open to examination at any time by the department, and shall be made available within this state for such examination upon reasonable notice when the director shall so order. When requested to do so by any person from whom a charge payer is seeking credit, or with whom the charge payer is negotiating the sale of any personal property, or by any other person having a legitimate interest in such information, the director, upon being satisfied that such a situation exists, shall inform such person as to the amount of unpaid charges due by the charge payer under the provisions of this chapter. The giving of such information under such circumstances shall not be deemed a violation of section 422.72 as applied to this chapter.

Section 422.72 applies to this chapter as if the environmental protection charge were a tax.

Sec. 25. NEW SECTION. 424.13 JUDICIAL REVIEW.

1. Judicial review of contested cases under this chapter may be sought in accordance with chapter 17A.

2. The petitioner shall file with the clerk of the district court a bond for the use of the respondent, with sureties approved by the clerk, in penalty at least double the amount of charge appealed from, and in no case shall the bond be less than fifty dollars, conditioned that the petitioner shall perform the orders of the court.

3. An appeal may be taken by the charge payer or the director to the supreme court of this state irrespective of the amount involved.

Sec. 26. NEW SECTION. 424.15 ENVIRONMENTAL PROTECTION CHARGE REFUND.

If it appears that, as a result of mistake, an amount of a charge, penalty, or interest has been paid which was not due under the provisions of this chapter, then such amount shall be refunded to such person by the department. A claim for refund that has not been filed with the department within five years after the charge payment upon which a refund is claimed became due, or one year after such charge payment was made, whichever time is the later, shall not be allowed by the director.

Refunds may be made only from the unallocated or uncommitted moneys in the fund created in section 455G.3, and are limited by the total amount budgeted by the fund's board for charge refunds.

Sec. 27. NEW SECTION. 424.16 NOTICE IN CHANGE OF DIMINUTION RATE — SERVICE OF NOTICE.

1. The board shall notify each person who has previously filed an environmental protection charge return, and to any other person known to the board who will owe the charge at any address obtainable for that person, at least forty-five days in advance of the start of any calendar quarter during which either of the following will occur:

a. An administrative change in the cost factor, pursuant to section 424.3, subsection 5, becomes effective.

b. The environmental protection charge is to be discontinued or reimposed pursuant to section 455G.9. Notice shall be provided by mailing a notice of the change to the address listed on the person's last return. The mailing of the notice is presumptive evidence of the receipt of the notice by the person to whom addressed. The board shall also publish the same notice at least twice in a paper of general circulation within the state at least forty-five days in advance of the first day of the calendar quarter during which a change in paragraph "a" or "b" becomes effective.

2. A notice authorized or required under this section 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 chapter, 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 chapter by the giving of notice commences to run from the date of mailing of the notice. Neither mailed notice or notice by publication is required for the initial determination and imposition of the charge. The board shall undertake to provide reasonable notice of the environmental protection charge and procedures, as in the board's sole discretion it deems appropriate, provided that the actual charge and procedures are published in the Iowa administrative bulletin prior to the effective date of the charge.

3. The provisions of the Code relative to the limitation of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine, or enforce the collection of any charge or penalty provided by this chapter.

Sec. 28. NEW SECTION. 424.17 PENALTIES — OFFENSES — LIMITATION.

1. If a depositor fails to remit at least ninety percent of the charge due with the filing of the return on or before the due date, or pays less than ninety percent of any charge required

to be shown on the return, excepting the period between the completion of an examination of the books and records of a charge payer and the giving of notice to the charge payer that a charge or additional charge is due, there shall be added to the charge a penalty of fifteen percent of the amount of the charge due, except as provided in section 421.27. In case of willful failure to file a return or willful filing of a false return with intent to evade charges, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as a charge on the return seventy-five percent of the amount of the charge. The charge payer shall also pay interest on the charge or additional charge at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as the charge imposed under this chapter. Unpaid penalties and interest may be enforced in the same manner as the charge imposed by this chapter.

2. A person who willfully attempts to evade a charge imposed by this chapter or the payment of the charge or a person who makes or causes to be made a false or fraudulent return with intent to evade the charge imposed by this chapter or the payment of charge tax is guilty of a class "D" felony.

3. The certificate of the director to the effect that a charge has not been paid, that a return has not been filed, or that information has not been supplied pursuant to this chapter, shall be prima facie evidence thereof.

4. For purposes of determining the place of trial, the situs of an offense specified in this section is in the county of the residence of the person charged with the offense, unless the person is a nonresident of this state or the residence of the person cannot be established, in which event the situs of the offense is in Polk county.

5. A prosecution for an offense specified in this section shall be commenced within six years after its commission.

Sec. 29. NEW SECTION. 424.18 EFFECTIVE DATE.

The environmental protection charge is imposed beginning July 1, 1989. For all deposits subject to the charge made on or after July 1, 1989, the depositor and receiver are obligated to pay the charge as provided in this chapter. The amount of the initial environmental protection charge as calculated after determination of the cost factor by the board and the required forms and procedures shall be published in the Iowa administrative bulletin prior to July 1, 1989.

DIVISION V

Sec. 30. NEW SECTION. 427B.18 LOCAL OPTION REMEDIAL ACTION PROPERTY TAX CREDIT – PUBLIC HEARING.

1. In order to further the public interests of protecting the drinking water supply, preserving business and industry within a community, preserving convenient access to gas stations within a community, or other public purposes, a city council or county board of supervisors may provide by ordinance for partial or total property tax credits to owners of small businesses that own or operate an underground storage tank to reduce the amount of property taxes paid over the permitted period in amounts not to exceed the actual portion of costs paid by the business owner in connection with a remedial action for which the Iowa comprehensive petroleum underground storage tank fund shares in the cost of corrective action, and for which the small business owner was not reimbursed from any other source. A county board of supervisors may grant credits only for property located outside of the corporate limits of a city, and a city council may grant credits only for property located within the corporate limits of the city. The credit shall be taken on the property where the underground storage tank is situated. The credit granted by the council or board shall not exceed the amount of taxes generated by the property for the respective city or county. The credit shall apply to property taxes payable in the fiscal year following the calendar year in which a cost of remedial action was paid by the small business owner.

As used in this division, "actual portion of the costs paid by the owner or operator of an underground storage tank in connection with a remedial action for which the Iowa comprehensive petroleum underground storage tank fund shares in the cost of corrective action" means the amount determined by the fund's board, or the board's designee, as the administrator of the Iowa comprehensive petroleum underground storage tank fund, and for which the owner or operator was not reimbursed from any other source.

As used in this division, "small business" means a business with gross receipts of less than five hundred thousand dollars per year.

2. The ordinance may be enacted not less than thirty days after a public hearing is held in accordance with section 358A.6 in the case of a county, or section 362.3 in the case of a city. The ordinance shall designate the length of time the partial or total credit shall be available, and shall include a credit schedule and description of the terms and conditions of the credit.

3. A property tax credit provided under this section shall be paid for out of any available funds budgeted for that purpose by the city council or county board of supervisors. A city council may certify a tax for the general fund levy and a county board of supervisors may certify a tax for the rural county service fund levy for property tax credits authorized by this section.

4. The maximum permitted period of a tax credit granted under this section is ten years.

Sec. 31. NEW SECTION. 427B.19 APPLICATION FOR CREDIT BY UNDERGROUND STORAGE TANK OWNER OR OPERATOR — APPROVAL BY COUNTY BOARD OF SUPERVISORS OR CITY COUNCIL.

An application shall be filed by an owner of a small business that owns or operates an underground storage tank for each property for which a credit is sought. Applications shall be filed with the respective county board of supervisors or the city council by September 30 of the year following the calendar year in which a cost of remedial action was paid by the owner or operator. Small business owners receiving credits shall file applications for renewal of the credit by September 30 of each year. A credit may be renewed only if title to the credited property remains in the name of the person or entity originally receiving the credit.

In reviewing the applications, the board of supervisors or city council shall consider whether granting the credit would serve a public purpose. Upon approval of the application by the board of supervisors, and after the applicant has paid any property taxes due, the board shall direct the county treasurer to issue a warrant to the small business owner in the amount of the credit granted. Upon approval of the application by the city council, and after the applicant has paid any property taxes due, the council shall direct the city clerk to issue a warrant to the small business owner in the amount of the credit granted.

Applications for credit shall be made on forms prescribed by the director of revenue and finance and shall contain information pertaining to the nature of the release, the total cost of corrective action, the actual portion of the costs paid by the small business owner and for which the owner was not reimbursed from any other source, the small business owner's income tax form from the most recent tax year, and other information deemed necessary by the director.

Sec. 32. NEW SECTION. 427B.20 CREDIT MAY BE REPEALED.

If in the opinion of the city council or the county board of supervisors continuation of the credit granted pursuant under an ordinance adopted pursuant to this division ceases to be of benefit to the city or county, the city council or the county board of supervisors may repeal the ordinance authorized by section 427B.18, but all existing credits shall continue until their expiration.

DIVISION VI

Sec. 33. Section 455B.471, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Owner" does not include a person, who, without participating in the management or operation of the underground storage tank or the tank

site, holds indicia of ownership primarily to protect that person's security interest in the underground storage tank or the tank site property, prior to obtaining ownership or control through debt enforcement, debt settlement, or otherwise.

Sec. 34. Section 455B.471, subsection 5, Code 1989, 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. 35. Section 455B.471, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 8. "Board" means the Iowa comprehensive petroleum underground storage tank fund board.

NEW SUBSECTION. 9. "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 a 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. 10. "Fund" means the Iowa comprehensive petroleum underground storage tank fund.

NEW SUBSECTION. 11. "Petroleum" means petroleum, including crude oil or any fraction of crude oil which is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute).

Sec. 36. Section 455B.474, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Assessment plans for taking required release corrective action. The department shall mail a copy of the approved release assessment plan to the owner or operator of an underground storage tank, the copy mailed to the owner or operator shall be in addition to any copies provided to a contractor or agent of the owner or operator.

Sec. 37. Section 455B.474, subsection 2, paragraph a, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who establishes financial responsibility by self-insurance shall not require or shall not enforce an indemnification agreement with an operator or owner of the tank covered by the self-insurance obligation, unless the owner or operator has committed a substantial breach of a contract between the self-insurer and the owner or operator, and that substantial breach relates directly to the operation of the tank in an environmentally sound manner. This paragraph applies to all contracts between a self-insurer and an owner or operator entered into on or after the effective date of this Act.

Sec. 38. Section 455B.479, Code 1989, is amended to read as follows:

455B.479 STORAGE TANK MANAGEMENT FEE.

An owner or operator of an underground storage tank shall pay an annual storage tank management fee of ~~fifteen~~ sixty-five dollars per tank of over one thousand one hundred gallons capacity. ~~The~~ Twenty-three percent of the fees collected shall be deposited in the storage tank management account of the groundwater protection fund. Seventy-seven percent of the fees collected shall be deposited in the Iowa comprehensive petroleum underground storage tank fund created in chapter 455G.

Sec. 39. Section 455B.477, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The civil penalties or other damages or moneys recovered by the state or the petroleum underground storage tank fund in connection with a petroleum underground storage tank under this part of this division or chapter 455G shall be credited to the fund created in section 455G.3 and allocated between fund accounts according to the fund

budget. Any federal moneys, including but not limited to federal underground storage tank trust fund moneys, received by the state or the department of natural resources in connection with a release occurring on or after the effective date of this Act or received generally for underground storage tank programs on or after the effective date of this Act, shall be credited to the fund created in section 455G.3 and allocated between fund accounts according to the fund budget, unless such use would be contrary to federal law. The department shall cooperate with the board of the Iowa comprehensive petroleum underground storage tank fund to maximize the state's eligibility for and receipt of federal funds for underground storage tank related purposes.

Sec. 40. NEW SECTION. 455B.490 USED STORAGE TANK DISPOSAL.

The waste management authority shall designate at least two facilities, but as many qualified facilities as apply or contract with the authority and the board, within the state for the acceptance of used underground storage tanks for final disposal. A designated facility shall accept any underground storage tank originally sited within the state, provided that the facility may require as a condition of acceptance, reasonable preparation, procedures, and information regarding the tank to facilitate safe processing and disposal. A sanitary landfill, other than a designated facility which is a sanitary landfill, shall not accept underground storage tanks for disposal after the date on which at least two facilities have been designated by the waste management authority pursuant to this section. A commercial scrap metal dealer or recycler may accept a tank for processing. The Iowa comprehensive petroleum underground storage tank fund may compensate a designated facility for all or a portion of the costs associated with processing or disposal of a tank delivered to the facility for final disposal pursuant to this section, if the department of natural resources determines that alternative satisfactory disposal options for used storage tanks do not then exist. A commercial scrap metal dealer or recycler may be a designated facility. A designated facility shall not charge a fee to an owner or operator of the underground storage tank as a condition of acceptance. The waste management authority shall adopt rules as necessary to govern the processing and disposal of underground storage tanks by a designated facility.

Sec. 41. Section 455E.11, subsection 2, paragraph d, Code 1989, is amended to read as follows:

d. A storage tank management account. All fees collected pursuant to section 455B.473, subsection 5, and section 455B.479, shall be deposited in the storage tank management account, except those moneys deposited into the Iowa comprehensive petroleum underground storage tank fund pursuant to section 455B.479. Funds shall be expended for the following purposes:

(1) One 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.

(2) ~~Seventy~~ Twenty-three percent of the ~~moneys~~ proceeds of the fees imposed pursuant to section 455B.473, subsection 5, and section 455B.479 shall be deposited in the account annually, up to a maximum of three hundred fifty thousand dollars. If twenty-three percent of the proceeds exceeds three hundred fifty thousand dollars, the excess shall be deposited into the fund created in section 455G.3. Three hundred and fifty thousand dollars, are appropriated from the storage tank management account to the department of natural resources for the administration of a state storage tank program pursuant to chapter 455B, division IV, part 8, and for programs which reduce the potential for harm to the environment and the public health from storage tanks.

(3) ~~For the fiscal year beginning July 1, 1987, and ending June 30, 1988, twenty-five thousand dollars is appropriated from the account to the division of insurance for payment of costs incurred in the establishment of the plan of operations program regarding the financial responsibility of owners and operators of underground storage tanks which store petroleum.~~

~~(4)~~ The remaining funds in the account are appropriated annually to the ~~department of natural resources for the funding of state remedial cleanup efforts~~ Iowa comprehensive petroleum underground storage tank fund.

DIVISION VII

Sec. 42. NEW SECTION. 455G.1 TITLE — SCOPE.

1. This chapter is entitled the "Iowa Comprehensive Petroleum Underground Storage Tank Fund Act".

2. This chapter applies to a petroleum underground storage tank required to maintain proof of financial responsibility under federal law, from the effective date of the regulation of the federal environmental protection agency governing that tank, and not from the effective compliance date, unless the effective compliance date of the regulation is the effective date of the regulation. An owner or operator of a petroleum underground storage tank required by federal law to maintain proof of financial responsibility for that underground storage tank, or who will be required on a date definite, is subject to this chapter and chapter 424.

a. As of the effective date of this Act, tanks excluded by the federal Resource Conservation and Recovery Act, subtitle I, included the following:

(1) A farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes.

(2) A tank used for storing heating oil for consumptive use on the premises where stored.

(3) A septic tank.

(4) A pipeline facility, including gathering lines, regulated under any of the following:

(a) The federal Natural Gas Pipeline Safety Act of 1968.

(b) The federal Hazardous Liquid Petroleum Pipeline Safety Act of 1979.

(c) State laws comparable to the provisions of the law referred to in subparagraph subdivision (a) or (b).

(5) A surface impoundment, pit, pond, or lagoon.

(6) A storm water or wastewater collection system.

(7) A flow-through process tank.

(8) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

(9) A storage tank situated in an underground area, such as a basement, cellar, mine working, drift, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor to permit inspection of its entire surface.

b. As of the effective date of this Act, tanks exempted or excluded by United States environmental protection agency financial responsibility regulations, 40 C.F.R. § 280.90, included the following:

(1) Underground storage tank systems removed from operation, pursuant to applicable department of natural resources rules, prior to the applicable federal compliance date established in 40 C.F.R. § 280.91.

(2) Those owned or operated by state and federal governmental entities whose debts and liabilities are the debts and liabilities of a state or the United States.

(3) Any underground storage tank system holding hazardous wastes listed or identifiable under subtitle C of the federal Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances.

(4) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 307(b) or 402 of the federal Clean Water Act.

(5) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and reservoirs and electrical equipment tanks.

(6) Any underground storage tank system whose capacity is one hundred ten gallons or less.

(7) Any underground storage tank system that contains a de minimis concentration of regulated substances.

(8) Any emergency spill or overflow containment underground storage tank system that is expeditiously emptied after use.

(9) Any underground storage tank system that is part of an emergency generator system at nuclear power generation facilities regulated by the nuclear regulatory commission under 10 C.F.R. pt. 50, appendix A.

(10) Airport hydrant fuel distribution systems.

(11) Underground storage tank systems with field-constructed tanks.

c. If and when federal law changes, the department of natural resources shall adopt by rule such additional requirements, exemptions, deferrals, or exclusions as required by federal law. It is expected that certain classes of tanks currently exempted or excluded by federal regulation will be regulated by the United States environmental protection agency in the future. A tank which is not required by federal law to maintain proof of financial responsibility shall not be subject to department of natural resource rules on proof of financial responsibility.

Sec. 43. NEW SECTION. 455G.2 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Authority" means the Iowa finance authority created in chapter 220.

2. "Board" means the Iowa comprehensive petroleum underground storage tank fund board.

3. "Bond" means a bond, note, or other obligation issued by the authority for the fund and the purposes of this chapter.

4. "Corrective action" means an action taken to minimize, eliminate, or clean up 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 purposes of repairing a leak or removal of a tank, removal of contaminated soil, and cleansing of groundwaters or surface waters. Corrective action does not include replacement of an underground storage tank or other capital improvements to the tank. Corrective action specifically excludes third-party liability. Corrective action includes the expenses incurred to prepare an assessment plan for approval by the department of natural resources detailing the planned response to a release or suspected release, but not necessarily all actions proposed to be taken by an assessment plan.

5. "Diminution" is the amount of petroleum which is released into the environment prior to its intended beneficial use.

6. "Diminution rate" is the presumed rate at which petroleum experiences diminution, and is equal to one-tenth of one percent of all petroleum deposited into a tank.

7. "Fund" means the Iowa comprehensive petroleum underground storage tank fund.

8. "Improvement" means the acquisition, construction, or improvement of any tank, tank system, or monitoring system in order to comply with state and federal technical requirements or to obtain insurance to satisfy financial responsibility requirements.

9. "Insurance" includes any form of financial assistance or showing of financial responsibility sufficient to comply with the federal Resource Conservation and Recovery Act or the Iowa department of natural resources' underground storage tank financial responsibility rules.

10. "Insurance premium" includes any form of premium or payment for insurance or for obtaining other forms of financial assurance, or showing of financial responsibility.

11. "Petroleum" means petroleum, including crude oil or any fraction of crude oil which is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute).

12. "Precorrective action value" means the assessed value of the tank site immediately prior to the discovery of a petroleum release.

13. "Small business" means a business that meets all of the following requirements:

a. Is independently owned and operated.

b. Owns at least one, but no more than twelve tanks at no more than two different tank sites.

c. Has a net worth of two hundred thousand dollars or less.

14. "Tank" means an underground storage tank for which proof of financial responsibility is, or on a date definite will be, required to be maintained pursuant to the federal Resource Conservation and Recovery Act and the regulations from time to time adopted pursuant to that Act or successor Acts or amendments.

Sec. 44. NEW SECTION. 455G.3 ESTABLISHMENT OF IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND.

1. The Iowa comprehensive petroleum underground storage tank fund is created 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. Interest or other income earned by the fund shall be deposited

in the fund. The fund shall include moneys credited to the fund under sections 424.7, 455G.3, 455G.8, 455G.9, 455G.10, 455G.11, and 455G.12, and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this chapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this chapter. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the board including automatic disbursements of funds as received pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this chapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this chapter.

2. The board shall assist Iowa's owners and operators of petroleum underground storage tanks in complying with federal environmental protection agency technical and financial responsibility regulations by establishment of the Iowa comprehensive petroleum underground storage tank fund. The authority may issue its bonds, or series of bonds, to assist the board, as provided in this chapter.

3. The purposes of this chapter shall include but are not limited to any of the following:

a. To establish a remedial account to fund corrective action for petroleum releases as provided by section 455G.9.

b. To establish a loan guarantee account, as provided by and to the extent permitted by section 455G.10.

c. To establish an insurance account for insurable underground storage tank risks within the state as provided by section 455G.11.

d. The state, the general fund of the state, or any other fund of the state, other than the Iowa comprehensive petroleum underground storage tank fund, is not liable for a claim or cause of action in connection with a tank not owned or operated by the state, or agency of the state. All expenses incurred by the fund shall be payable solely from the fund and no liability or obligation shall be imposed upon the state. The liability of the fund is limited to the extent of coverage provided by the account under which a claim is submitted, subject to the terms and conditions of that coverage. The liability of the fund is further limited by the moneys made available to the fund, and no remedy shall be ordered which would require the fund to exceed its then current funding limitations to satisfy an award or which would restrict the availability of moneys for higher priority sites. The state is not liable for a claim presented against the fund.

Sec. 45. NEW SECTION. 455G.4 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 appointed by the governor and confirmed by the senate to staggered four-year terms, except that of the first members appointed, one public member shall be appointed for a term of two years and one for a term of four years. A public member shall have experience, knowledge, and expertise of the subject matter embraced within this chapter. Two public members shall be appointed with experience in either, or both, financial markets or insurance.

A public member shall not have a conflict of interest. For purposes of this section a "conflict of interest" means an affiliation, within the twelve months before the member's appointment, with the regulated tank community, or with a person or property and casualty insurer

offering competitive insurance or other means of financial assurance or which previously offered environmental hazard insurance for a member of the regulated tank community.

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. Members of the board are entitled to receive reimbursement of actual expenses incurred in the discharge of their duties within the limits of funds appropriated to the board or made available to the fund. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. The members shall elect a voting chairperson of the board from among the members of the board.

2. DEPARTMENT 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, reporting, or paperwork and maximize environmental protection.

3. RULES AND EMERGENCY RULES.

a. The board shall adopt rules regarding its practice and procedures, develop underwriting standards, establish premiums for insurance account coverage and risk factors, procedures for investigating and settling claims made against the fund, determine appropriate deductibles or retentions in coverages or benefits offered, and otherwise implement and administer this chapter.

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 environmental protection charge shall be adopted on or before June 1, 1989.

d. Rules necessary for the implementation and collection of insurance account premiums shall be adopted prior to offering insurance to an owner or operator of a petroleum underground storage tank or other person.

e. Rules related to the establishment of the insurance account and the terms and conditions of coverage shall be adopted as soon as practicable to permit owners and operators to meet their applicable compliance date with federal financial responsibility regulations.

Sec. 46. NEW SECTION. 455G.5 INDEPENDENT CONTRACTORS TO BE RETAINED BY BOARD.

The board shall administer the fund. A contract to retain a person under this section may be individually negotiated, and is not subject to public bidding requirements.

The board may enter into a contract or an agreement authorized under chapter 28E with a private agency or person, the department of natural resources, the Iowa finance authority, the department of revenue and finance, other departments, agencies, or governmental subdivisions of this state, another state, or the United States, in connection with its administration and implementation of this chapter or chapter 424 or 455B.

The board may reimburse a contractor, public or private, retained pursuant to this section for expenses incurred in the execution of a contract or agreement. Reimbursable expenses include, by way of example, but not exclusion, the costs of collecting the environmental protection charge or administering specific delegated duties or powers of the board.

Sec. 47. NEW SECTION. 455G.6 IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND – GENERAL AND SPECIFIC POWERS.

In administering the fund, the board has all of the general powers reasonably necessary and convenient to carry out its purposes and duties and may do any of the following, subject to express limitations contained in this chapter:

1. Guarantee secured and unsecured loans, and enter into agreements for corrective action, acquisition and construction of tank improvements, and provide for the insurance program. The loan guarantees may be made to a person or entity owning or operating a tank. The board

may take any action which is reasonable and lawful to protect its security and to avoid losses from its loan guarantees.

2. Acquire, hold, and mortgage personal property and real estate and interests in real estate to be used.

3. Purchase, construct, improve, furnish, equip, lease, option, sell, exchange, or otherwise dispose of one or more improvements under the terms it determines.

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on one or more improvements, revenues, asset of right, accounts, or funds established or received in connection with the fund, including environmental protection charges deposited in the fund or an account of the fund.

5. Provide that the interest on bonds may vary in accordance with a base or formula.

6. Contract for the acquisition, construction, or both of one or more improvements or parts of one or more improvements and for the leasing, subleasing, sale, or other disposition of one or more improvements in a manner it determines.

7. The board may contract with the authority for the authority to issue bonds and do all things necessary with respect to the purposes of the fund, as set out in the contract between the board and the authority. The board may delegate to the authority and the authority shall then have all of the powers of the board which are necessary to issue and secure bonds and carry out the purposes of the fund, to the extent provided in the contract between the board and the authority. The authority may issue the authority's bonds in principal amounts which, in the opinion of the board, are necessary to provide sufficient funds for the fund, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds, other expenditures of the authority incident to and necessary or convenient to carry out the bond issue for the fund, and all other expenditures of the board necessary or convenient to administer the fund. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code.

8. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the fund, all of which may be deposited with trustees or depositories in accordance with bond or security documents and pledged by the board to the payment thereof, and are not an indebtedness of this state or the authority, or a charge against the general credit or general fund of the state or the authority, and the state shall not be liable for any financial undertakings with respect to the fund. Bonds issued under this chapter shall contain on their face a statement that the bonds do not constitute an indebtedness of the state or the authority.

9. The proceeds of bonds issued by the authority and not required for immediate disbursement may be deposited with a trustee or depository as provided in the bond documents and invested in any investment approved by the authority and specified in the trust indenture, resolution, or other instrument pursuant to which the bonds are issued without regard to any limitation otherwise provided by law.

10. The bonds shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, and be subject to such other terms and conditions as prescribed in the trust indenture, resolution, or other instrument authorizing their issuance.

b. Negotiable instruments under the laws of the state and may be sold at prices, at public or private sale, and in a manner, as prescribed by the authority. Chapters 23, 74, 74A and 75 do not apply to their sale or issuance of the bonds.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter and as determined by the trust indenture, resolution, or other instrument authorizing their issuance.

11. The bonds are securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries;

and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

12. Bonds must be authorized by a trust indenture, resolution, or other instrument of the authority, approved by the board. However, a trust indenture, resolution, or other instrument authorizing the issuance of bonds may delegate to an officer of the issuer the power to negotiate and fix the details of an issue of bonds.

13. 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.

14. Bonds issued under the provisions of this section are declared to be issued for an essential public and governmental purpose and all bonds issued under this chapter shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance and estate tax.

15. Subject to the terms of any bond documents, moneys in the fund or fund accounts may be expended for administration expenses, civil penalties, moneys paid under an agreement, stipulation, or settlement, and for the costs of any other activities as the board may determine are necessary and convenient to facilitate compliance with and to implement the intent of federal laws and regulations and this chapter.

16. The board shall cooperate with the department of natural resources in the implementation and administration of this division to assure that in combination with existing state statutes and rules governing underground storage tanks, the state will be, and continue to be, recognized by the federal government as having an "approved state account" under the federal Resource Conservation and Recovery Act, especially by compliance with the Act's subtitle I financial responsibility requirements as enacted in the federal Superfund Amendments and Reauthorization Act of 1986 and the financial responsibility regulations adopted by the United States environmental protection agency at 40 C.F.R. pts. 280 and 281. Whenever possible this division shall be interpreted to further the purposes of, and to comply, and not to conflict, with such federal requirements.

Sec. 48. NEW SECTION. 455G.7 SECURITY FOR BONDS — CAPITAL RESERVE FUND — IRREVOCABLE CONTRACTS.

1. For the purpose of securing one or more issues of bonds for the fund, the authority, with the approval of the board, may authorize the establishment of one or more special funds, called "capital reserve funds". The authority may pay into the capital reserve funds the proceeds of the sale of its bonds and other money which may be made available to the authority from other sources for the purposes of the capital reserve funds. Except as provided in this section, money in a capital reserve fund shall be used only as required for any of the following:

a. The payment of the principal of and interest on bonds or of the sinking fund payments with respect to those bonds.

b. The purchase or redemption of the bonds.

c. The payment of a redemption premium required to be paid when the bonds are redeemed before maturity.

However, money in a capital reserve fund shall not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to less than the capital reserve fund requirement, except for the purpose of making payment, when due, of principal, interest, redemption premiums on the bonds, and making sinking fund payments when other money pledged to the payment of the bonds is not available for the payments. Income or interest earned by, or increment to, a capital reserve fund from the investment of all or part of the capital reserve fund may be transferred by the authority to other accounts of the fund if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

2. If the authority decides to issue bonds secured by a capital reserve fund, the bonds shall not be issued if the amount in the capital reserve fund is less than the capital reserve fund requirement, unless at the time of issuance of the bonds the authority deposits in the capital reserve fund from the proceeds of the bonds to be issued or from other sources, an amount

which, together with the amount then in the capital reserve fund, is not less than the capital reserve fund requirement.

3. In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the capital reserve fund is invested shall be valued by a reasonable method established by the authority. Valuation shall include the amount of interest earned or accrued as of the date of valuation.

4. In this section, "capital reserve fund requirement" means the amount required to be on deposit in the capital reserve fund as of the date of computation.

5. To assure maintenance of the capital reserve funds, the authority shall, on or before July 1 of each calendar year, make and deliver to the governor the authority's certificate stating the sum, if any, required to restore each capital reserve fund to the capital reserve fund requirement for that fund. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor may submit to both houses printed copies of a budget including the sum, if any, required to restore each capital reserve fund to the capital reserve fund requirement for that fund. Any sums appropriated by the general assembly and paid to the authority pursuant to this section shall be deposited in the applicable capital reserve fund.

6. All amounts paid by the state pursuant to this section shall be considered advances by the state and, subject to the rights of the holders of any bonds of the authority that have previously been issued or will be issued, shall be repaid to the state without interest from all available revenues of the fund in excess of amounts required for the payment of bonds of the authority, the capital reserve fund, and operating expenses.

7. If any amount deposited in a capital reserve fund is withdrawn for payment of principal, premium, or interest on the bonds or sinking fund payments with respect to bonds thus reducing the amount of that fund to less than the capital reserve fund requirement, the authority shall immediately notify the governor and the general assembly of this event and shall take steps to restore the capital reserve fund to the capital reserve fund requirement for that fund from any amounts designated as being available for such purpose.

Sec. 49. NEW SECTION. 455G.8 REVENUE SOURCES FOR FUND.

Revenue for the fund shall include, but is not limited, to the following, which shall be deposited with the board or its designee as provided by any bond or security documents and credited to the fund:

1. BONDS ISSUED TO CAPITALIZE FUND. The proceeds of bonds issued to capitalize and pay the costs of the fund, and investment earnings on the proceeds except as required for the capital reserve funds.

2. ENVIRONMENT PROTECTION CHARGE. The environmental protection charge imposed under chapter 424. The proceeds of the environmental protection charge shall be allocated, consistent with this chapter, among the fund's accounts, for debt service and other fund expenses, according to the fund budget, resolution, trust agreement, or other instrument prepared or entered into by the board or authority under direction of the board.

3. STORAGE TANK MANAGEMENT FEE. That portion of the storage tank management fee proceeds which are deposited into the fund, pursuant to section 455B.479.

4. INSURANCE PREMIUMS. Insurance premium income as provided by section 455G.11 shall be credited to the insurance account.

5. COST RECOVERY ENFORCEMENT. Cost recovery enforcement net proceeds as provided by section 455G.12 shall be allocated among the fund's accounts as directed by the board. When federal cleanup funds are recovered, the funds are to be deposited to the remedial account of the fund and used solely for the purpose of future cleanup activities.

6. OTHER SOURCES. Interest attributable to investment of money in the fund or an account of the fund. Moneys in the form of a devise, gift, bequest, donation, federal or other grant, reimbursement, repayment, judgment, transfer, payment, or appropriation from any source intended to be used for the purposes of the fund.

Ch 131, §50 Amend Enact
Ch 307, §46–89 Acts

Sec. 50. NEW SECTION. 455G.9 REMEDIAL PROGRAM.

1. LIMITS OF REMEDIAL ACCOUNT COVERAGE. Moneys in the remedial account shall only be paid out for the following:

a. (1) Corrective action for an eligible release reported to the department of natural resources on or after July 1, 1987, but prior to the effective date of this Act. Third-party liability is specifically excluded from remedial account coverage. For a claim for a release under this subparagraph, the remedial program shall pay no more than the lesser of twenty-five thousand dollars or one-third of the total costs of corrective action for that release, subsection 4 notwithstanding. For a release to be eligible for coverage under this subparagraph the following conditions must be satisfied:

(a) The owner or operator applying for coverage must be currently engaged in the business for which the tank connected with the release was used prior to the report of the release.

(b) The owner or operator applying for coverage shall not be a person who is maintaining, or has maintained, proof of financial responsibility for federal regulations through self-insurance.

(c) The owner or operator applying for coverage shall not have claimed bankruptcy any time on or after April 1, 1988.

(d) The claim for coverage pursuant to this subparagraph must have been filed with the board prior to January 31, 1990.

(e) The owner or operator at the time the release was reported to the department of natural resources must have been in compliance with then current monitoring requirements, if any, or must have been in the process of compliance efforts with anticipated requirements, including installation of monitoring devices, a new tank, tank improvements or retrofit, or any combination.

Total payments for claims pursuant to this subparagraph are limited to no more than six million dollars. Claims for eligible releases shall be prorated if claims filed exceed six million dollars. If claims remain partially or totally unpaid after total payments equal six million dollars, all remaining claims are void, and no entitlement exists for further payment.

(2) Corrective action for a release reported to the department of natural resources after the effective date of this Act and on or before October 26, 1990. Third-party liability is specifically excluded from remedial account coverage. Corrective action coverage provided pursuant to this paragraph may be aggregated with other financial assurance mechanisms as permitted by federal law to satisfy required aggregate and per occurrence limits of financial responsibility for both corrective action and third-party liability, if the owner's or operator's effective financial responsibility compliance date is prior to October 26, 1990.

b. Corrective action and third-party liability for a release discovered on or after January 24, 1989, for which a responsible owner or operator able to pay cannot be found and for which the federal underground storage tank trust fund or other federal moneys do not provide coverage.

c. Corrective action and third-party liability for a tank owned or operated by a financial institution eligible to participate in the remedial account under section 455G.15 if the prior owner or operator is unable to pay, if so authorized by the board as part of a condition or incentive for financial institution participation in the fund pursuant to section 455G.15.

d. One hundred percent of the costs of corrective action and third party liability for a release situated on property acquired by a county for delinquent taxes pursuant to chapters 445 through 448, for which a responsible owner or operator able to pay, other than the county, cannot be found. A county is not a "responsible party" for a release in connection with property which it acquires in connection with delinquent taxes, and does not become a responsible party by sale or transfer of property so acquired.

e. For the costs of any other activities which the board determines are necessary and convenient to facilitate compliance with and to implement the intent of federal laws and regulations and this chapter.

2. REMEDIAL ACCOUNT FUNDING. The remedial account shall be funded by that portion of the proceeds of the environmental protection charge imposed under chapter 424 and other moneys and revenues budgeted to the remedial account by the board.

3. TRUST FUND TO BE ESTABLISHED. When the remedial account has accumulated sufficient capital to provide dependable income to cover the expenses of expected future releases or expected future losses for which no responsible owner is available, the excess capital shall be transferred to a trust fund administered by the board and created for that purpose. Collection of the environmental protection charge shall be discontinued when the trust fund is created and fully funded, except to resolve outstanding claims. The environmental protection charge may be reimposed to restore and recapitalize the trust fund in the event future losses deplete the fund so that the board does not expect it to have sufficient income and assets to cover expected future losses.

4. MINIMUM COPAYMENT SCHEDULE FOR REMEDIAL ACCOUNT BENEFITS. An owner or operator who reports a release to the department of natural resources on or before October 26, 1990, shall pay the greater of five thousand dollars or twenty-five percent of the total costs of corrective action for that release. The remedial account shall pay the remainder, as required by federal regulations, of the total cost of the corrective action for that release, except that a county shall not be required to pay a copayment in connection with a release situated on property acquired in connection with delinquent taxes, as provided in subsection 1, paragraph "d", unless subsequent to acquisition the county actively operates a tank on the property for purposes other than risk assessment, risk management, or tank closure.

5. PRIORITY OF CLAIMS. The board shall adopt rules to prioritize claims and allocate available money if funds are not available to immediately settle all current claims.

6. RECOVERY OF GAIN ON SALE OF PROPERTY. If an owner or operator ceases to own or operate a tank site for which remedial account benefits were received within five years of the receipt of any account benefit and sells or transfers a property interest in the tank site for an amount which exceeds one hundred twenty percent of the precorrective action value, the owner or operator shall refund to the remedial account an amount equal to ninety percent of the amount in excess of one hundred twenty percent of the precorrective action value up to a maximum of the expenses incurred by the remedial account associated with the tank site plus interest, equal to the interest for the most recent twelve-month period for the most recent bond issue for the fund, on the expenses incurred, compounded annually. Expenses incurred by the fund are a lien upon the property recordable and collectible in the same manner as the lien provided for in section 424.11 at the time of sale or transfer, subject to the terms of this section.

This subsection shall not apply if the sale or transfer is pursuant to a power of eminent domain, or benefits. When federal cleanup funds are recovered, the funds are to be deposited to the remedial account of the fund and used solely for the purpose of future cleanup activities.

7. RECURRING RELEASES TREATED AS A NEWLY REPORTED RELEASE. A release shall be treated as a release reported on or after the effective date of this Act if prior to the effective date of this Act a release was reported to the department, corrective action was taken pursuant to an assessment plan approved by the department, and the work performed was accepted by the department. For purposes of this subsection, work performed is accepted by the department if the department did not order further action within ninety days of the date on which the department had notice that the work was completed, unless the department clearly indicated in writing to the owner, operator, contractor, or other agent that additional work would be required beyond that specified in the assessment plan or in addition to the work actually performed.

Sec. 51. NEW SECTION. 455G.10 LOAN GUARANTEE ACCOUNT.

1. The board may create a loan guarantee account to offer loan guarantees to small businesses for the following purposes:

a. All or a portion of the expenses incurred by the applicant small business for its share of corrective action.

b. Tank and monitoring equipment improvements necessary to satisfy federal technical standards to become insurable.

Moneys from the environmental protection charge revenues may be used to fund the loan guarantee account according to the fund budget as approved by the board. Loan guarantees shall be made on terms and conditions determined by the board to be reasonable, except that in no case may a loan guarantee satisfy more than ninety percent of the outstanding balance of a loan.

2. A separate nonlapsing loan guarantee account is created within the fund. Any funds remaining in the account at the end of each fiscal year shall not revert to the fund or the general fund but shall remain in the account. The loan account shall be maintained by the treasurer of state. All expenses incurred by the loan account shall be payable solely from the loan account and no liability or obligation shall be imposed upon the state beyond this amount.

3. The board shall administer the loan guarantee account. The board may delegate administration of the account, provided that the administrator is subject to the board's direct supervision and direction. The board shall adopt rules regarding the provision of loan guarantees to financially qualified small businesses for the purposes permitted by subsection 1. The board may impose such terms and conditions as it deems reasonable and necessary or appropriate. The board shall take appropriate steps to publicize the existence of the loan account.

4. As a condition of eligibility for financial assistance from the loan guarantee account, a small business shall demonstrate satisfactory attempts to obtain financing from private lending sources. When applying for loan guarantee account assistance, the small business shall demonstrate good faith attempts to obtain financing from at least two financial institutions. The board may first refer a tank owner or operator to a financial institution eligible to participate in the fund under section 455G.15; however, if no such financial institution is currently willing or able to make the required loan, the small business shall determine if any of the previously contacted financial institutions would make the loan in participation with the loan guarantee account. The loan guarantee account may offer to guarantee a loan, or provide other forms of financial assistance to facilitate a private loan.

5. The maturity for each financial assistance package made by the board pursuant to this chapter shall be the shortest feasible term commensurate with the repayment ability of the small business borrower. However, the maturity date of a loan shall not exceed ten years and the guarantee is ineffective beyond the agreed term of the guarantee or ten years from initiation of the guarantee, whichever term is shorter.

6. The source of funds for the loan account shall be from the following:

a. Loan guarantee account income, including loan guarantee service fees, if any, and investment income attributed to the account by the board.

b. Moneys allocated to the account by the board according to the fund budget approved by the board.

c. Moneys appropriated by the federal government or general assembly and made available to the loan account.

7. A loan loss reserve account shall be established within the loan guarantee account. A default on a loan guaranteed under this section shall be paid from such reserve account. In administering the program the board shall not guarantee loan values in excess of the amount credited to the reserve account and only moneys set aside in the reserve account may be used for the payment of a default. A default is not eligible for payment until the lender has satisfied all administrative and legal remedies for settlement of the loan and the loan has been reduced to judgment by the lender. After the default has been reduced to judgment and the guarantee paid from the reserve account, the board is entitled to an assignment of the judgment. The board shall take all appropriate action to enforce the judgment or may enter into an agreement with the lender to provide for enforcement. Upon collection of the amount guaranteed, any excess collected shall be deposited into the fund. The general assembly is not obligated to appropriate any moneys to pay for any defaults or to appropriate any moneys to be credited to the reserve account. The loan guarantee program does not obligate the state or the board

except to the extent provided in this section, and the board in administering the program shall not give or lend the credit of the state of Iowa.

Sec. 52. NEW SECTION. 455G.11 INSURANCE ACCOUNT.

1. INSURANCE ACCOUNT AS A FINANCIAL ASSURANCE MECHANISM. The insurance account shall offer financial assurance for a qualified owner or operator under the terms and conditions provided for under this section. Coverage may be provided to the owner or the operator, or to each separately. The board is not required to resolve whether the owner or operator, or both are responsible for a release under the terms of any agreement between the owner and operator.

2. LIMITS OF COVERAGE AVAILABLE. An owner or operator required to maintain proof of financial responsibility may purchase coverage up to the federally required levels for that owner or operator subject to the terms and conditions under this section and those adopted by the board.

3. ELIGIBILITY OF OWNERS AND OPERATORS FOR INSURANCE ACCOUNT COVERAGE. An owner or operator, subject to underwriting requirements and such terms and conditions deemed necessary and convenient by the board, may purchase insurance coverage from the insurance account to provide proof of financial responsibility provided that a tank to be insured satisfies one of the following conditions:

a. Satisfies performance standards for new underground storage tank systems as specified by the federal environmental protection agency in 40 C.F.R. § 280.20, as amended through January 1, 1989.

b. Has satisfied on or before the date of the application standards for upgraded underground storage tank systems as specified by the federal environmental protection agency in 40 C.F.R. § 280.21, as amended through January 1, 1989.

c. The applicant certifies in writing to the board that the tank to be insured will be brought into compliance with either paragraph "a" or "b", on or before October 26, 1991, provided that prior to the provision of insurance account coverage, the tank site tests release free. For a tank qualifying for insurance coverage pursuant to this paragraph at the time of application or renewal, the owner or operator shall pay a per tank premium equal to two times the normally scheduled premium for a tank satisfying paragraph "a" or "b". An owner or operator who fails to comply as certified to the board on or before October 26, 1991, shall not insure that tank through the insurance account unless and until the tank satisfies the requirements of paragraph "a" or "b".

4. ACTUARIALLY SOUND PREMIUMS BASED ON RISK FACTOR ADJUSTMENTS AFTER FIVE YEARS. The annual premium for insurance coverage shall be:

a. For the year July 1, 1989, through June 30, 1990, one hundred dollars per tank.

b. For the year July 1, 1990, through June 30, 1991, one hundred fifty dollars per tank.

c. For the year July 1, 1991, through June 30, 1992, two hundred dollars per tank.

d. For the year July 1, 1992, through June 30, 1993, two hundred fifty dollars per tank.

e. For the year July 1, 1993, through June 30, 1994, three hundred dollars per tank.

f. For subsequent years, an owner or operator applying for coverage shall pay an annually adjusted insurance premium for coverage by the insurance account. The board may only approve fund coverage through the payment of a premium established on an actuarially sound basis. Risk factors shall be taken into account in establishing premiums. It is the intent of the general assembly that an actuarially sound premium reflect the risk to the insurance account presented by the insured. Risk factor adjustments should reflect the range of risk presented by the variety of tank systems, monitoring systems, and risk management practices in the general insurable tank population. Premium adjustments for risk factors should at minimum take into account lifetime costs of a tank and monitoring system and insurance account premiums for that tank system so as to provide a positive economic incentive to the owner or operator to install the more environmentally safe option so as to reduce the exposure of the insurance account to loss. Actuarially sound is not limited in its meaning to fund premium revenue equaling or exceeding fund expenditures for the general tank population.

If coverage is purchased for any part of a year the purchaser shall pay the full annual premium.

g. The insurance account may offer, at the buyer's option, a range of deductibles. A ten thousand dollar deductible policy shall be offered.

5. The future repeal of this section 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 the effective date of any future repeal, against the insurance account until moneys in the account are exhausted. Upon exhaustion of the moneys in the account, any remaining claims shall be invalid. If following satisfaction of the obligations pursuant to this section, moneys remain in the account, the remaining moneys and moneys due the account shall be prorated and returned to premium payers on an equitable basis as determined by the board.

b. The resolution of a cost recovery action filed prior to the effective date of the repeal.

6. INSTALLERS' INCLUSION IN FUND. The Iowa comprehensive petroleum underground storage tank fund board shall offer insurance coverage under the fund's insurance account to an installer of a certified underground storage tank installation within the state for environmental hazard coverage in connection with the certified installation as provided in this subsection. The board shall perform an actuarial study to determine the actuarially sound premiums, deductibles, terms, and conditions to be offered to installers for certified installations in Iowa. The insurance coverage offered to installers shall provide for no greater deductibles and the same or greater limits of coverage as offered to owners and operators of tanks. Coverage under this subsection shall be limited to environmental hazard coverage for both corrective action and third-party liability for a certified tank installation in Iowa in connection with a release from that tank.

The board shall adopt rules requiring certification of tank installations and require certification of a new tank installation as a precondition to offering insurance to an owner or operator or an installer. The board shall set in the rule the effective date for the certification requirement. Certification rules shall at minimum require that an installation be personally inspected by an independent licensed engineer, fire marshal or state fire marshal's designee qualified and authorized by the board to perform the required inspection and that the tank and installation of the tank comply with applicable technical standards and manufacturer's instructions and warranty conditions. An inspector shall not be an owner or operator of a tank, or an employee of an owner, operator, or installer. The insurance coverage shall be extended to premium paying installers on or before December 1, 1989. For the period from the effective date of this Act to and including the date that insurance coverage under the fund is extended to installers, the fund shall not seek third-party recovery from an installer.

The board's actuarial study shall include, but is not limited to, the following topics:

a. Actuarial estimate of the per-tank premium necessary to provide actuarially sound coverage to a tank installer for that certified tank installation. The study may include available loss data on past installations for installers, existing claims against installers for corrective action and third-party liability, and other information deemed relevant by the board.

b. The type of certification standards and procedures or other preconditions to providing coverage to a tank installer.

c. The cost and availability of private insurance for installers.

d. The number of installers doing business in the state.

e. Suggested limits of coverage, deductible levels, and other coverage features, terms, or conditions provided the same are no less favorable than that offered owners and operators under this section.

The results of the study shall be submitted to the division of insurance prior to the extension of coverage to installers under this subsection.

7. ACCOUNT EXPENDITURES. Moneys in the insurance account may be expended for the following purposes:

a. To take corrective action for and to compensate a third party for damages, including but not limited to payment of a judgment for bodily injury or property damage caused by a release

from a tank, where coverage has been provided to the owner or operator from the insurance account, up to the limits of coverage extended.

b. For the costs of any other activities as the board may determine are necessary and convenient to facilitate compliance with and to implement the intent of federal laws and regulations and this chapter.

Sec. 53. NEW SECTION. 455G.11A BOARD AUTHORITY FOR PRIORITIZATION.

If the board determines that, within the realm of sound business judgment and practice, prioritization of assistance is necessary in light of funds available for loan guarantees or insurance coverage, the board may develop rules for assistance or coverage prioritization based upon adherence or planned adherence of the owner or operator to higher than minimum environmental protection and safety compliance considerations.

Prior to the adoption of prioritization rules, the board shall at minimum review the following issues:

1. The positive environmental impact of assistance prioritization.

2. The economic feasibility, including the availability of private financing, for an owner or operator to obtain priority status.

3. Any negative impact on Iowa's rural petroleum distribution network which could result from prioritization.

4. Any similar prioritization systems in use by the private financing or insurance markets in this state, including terms, conditions, or exclusions.

5. The intent of this Act that the board shall maximize the availability of reasonably priced, financially sound insurance coverage or loan guarantee assistance.

Sec. 54. NEW SECTION. 455G.12 COST RECOVERY ENFORCEMENT.

1. FULL RECOVERY SOUGHT FROM OWNER. The board shall seek full recovery from the owner or operator of the tank which released the petroleum and which is the subject of a corrective action, for which the fund expends moneys for corrective action or third-party liability, and for all other costs or moneys expended by the fund in connection with the release. When federal cleanup funds are recovered, the funds are to be deposited to the remedial account of the fund and used solely for the purpose of future cleanup activities.

2. LIMITATION OF LIABILITY OF OWNER OR OPERATOR. Except as provided in subsection 3:

a. The board or the department of natural resources shall not seek recovery for expenses in connection with corrective action for a release from an owner or operator eligible for assistance under the remedial account except for any unpaid portion of the deductible or copayment. This section does not affect any authorization of the department of natural resources to impose or collect civil or administrative fines or penalties or fees. The remedial account shall not be held liable for any third-party liability.

b. An owner or operator's liability for a release for which coverage is admitted under the insurance account shall not exceed the amount of the deductible.

3. OWNER OR OPERATOR NOT IN COMPLIANCE, SUBJECT TO FULL AND TOTAL COST RECOVERY. Notwithstanding subsection 2, the liability of an owner or operator shall be the full and total costs of corrective action and bodily injury or property damage to third parties, as specified in subsection 1, if the owner or operator has not complied with the financial responsibility or other underground storage tank rules of the department of natural resources or with this chapter and rules adopted under this chapter.

4. TREBLE DAMAGES FOR CERTAIN VIOLATIONS. Notwithstanding subsections 2 and 3, the owner or operator, or both, of a tank are 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 tank if the owner or operator did any of the following:

a. Failed, without sufficient cause, to respond to a release of petroleum from the tank upon, or in accordance with, a notice issued by the director of the department of natural resources.

b. After the effective date of this section failed to perform any of the following:

(1) Failed to register the 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 are in addition to any costs or expenditures recovered from the owner or operator pursuant to this chapter and in addition to any other penalty or relief provided by this chapter or any other law.

However, the state, a city, county, or other political subdivision shall not be liable for punitive damages.

5. LIEN ON TANK SITE. Any amount for which an owner or operator is liable to the fund, if not paid when due, by statute, rule, or contract, or determination of liability by the board or department of natural resources after hearing, shall constitute a lien upon the real property where the tank, which was the subject of corrective action, is situated, and the liability shall be collected in the same manner as the environmental protection charge pursuant to section 424.11.

6. JOINDER OF PARTIES. The department of natural resources has standing in any case or contested action related to the fund or a tank, and upon motion and sufficient showing by a party, the court or the administrative law judge shall join to the action any person who may be liable for costs and expenditures of the type recoverable pursuant to this section.

7. STRICT LIABILITY. The standard of liability for a release of petroleum or other regulated substance as defined in section 455B.471 is strict liability.

8. THIRD-PARTY CONTRACTS NOT BINDING ON BOARD, PROCEEDINGS AGAINST RESPONSIBLE PARTY. An insurance, indemnification, hold harmless, conveyance, or similar risk-sharing or risk-shifting agreement shall not be effective to transfer any liability for costs recoverable under this section. The fund, board, or department of natural resources 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.

9. 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 or the department of natural resources against another person who is later alleged to be or discovered to be liable for costs and expenditures paid by 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.

10. SUBROGATION RIGHTS. Payment of a claim by the fund pursuant to this chapter shall be conditioned upon the board's 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.

In an action brought pursuant to this chapter seeking damages for corrective action or third-party liability, the court shall permit evidence and argument as to the replacement or indemnification of actual economic losses incurred or to be incurred in the future by the claimant by reason of insurance benefits, governmental benefits or programs, or from any other source.

11. EXCLUSION OF PUNITIVE DAMAGES. The fund shall not be liable in any case for punitive damages.

Sec. 55. NEW SECTION. 455G.13 FUND NOT SUBJECT TO REGULATION.

The fund, including but not limited to insurance coverage offered by the insurance account, is not subject to regulation under chapter 502 or title XX, chapters 505 through 523C.

Sec. 56. NEW SECTION. 455G.14 FUND NOT PART OF THE IOWA INSURANCE GUARANTY ASSOCIATION.

Notwithstanding any other provisions of law to the contrary, the 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 guarantee association created under chapter 515B.

Sec. 57. NEW SECTION. 455G.15 FINANCIAL INSTITUTION PARTICIPATION IN FUND.

The board may impose conditions on the participation of a financial institution in the fund. Conditions shall be reasonably intended to increase the quantity of private capital available for loans to tank owners or operators who are small businesses within the meaning of section 455G.2. Additionally, the board may offer incentives to financial institutions meeting conditions imposed by the board. Incentives may include extended fund coverage of corrective action or third-party liability expenses, waiver of copayment or deductible requirements, or other benefits not offered to other participants, if reasonably intended to increase the quantity of private capital available for loans by an amount greater than the increased costs of the incentives to the fund.

Sec. 58. NEW SECTION. 455G.16 MERGED AREA SCHOOLS EDUCATION.

1. The board shall adopt certification procedures and standards for the following classes of persons as underground storage tank installation inspectors:

a. A licensed engineer, except that if underground storage tank installation is within the scope of practice of a particular class of licensed engineer, additional training shall not be required for that class. A licensed engineer for whom underground storage tank installation is within the scope of practice shall be an "authorized inspector", rather than a "certified inspector".

b. A fire marshal.

2. The board shall adopt approved curricula for training engineers and fire marshals as a precondition to certification as underground storage tank installation inspectors.

3. The board shall adopt approved curricula for training persons to install underground storage tanks in such a manner that the resulting installation may be certified under section 455G.11, subsection 7.

4. The department of natural resources shall adopt approved curricula for training persons to conduct corrective actions consistent with the requirements of the department of natural resources.

5. The board shall require by rule that all certified or authorized underground storage tank inspectors register with the board and that all persons trained to perform or performing certified tank installations register with the board. A person's failure to register shall not affect the person's certification, or the certification of an otherwise eligible installation performed by that person, but rules may provide for a civil penalty of no more than fifty dollars. The board may provide a list of registrants to any interested person. The board may impose a fee for registration to recover the costs of administering the registration account.

DIVISION VIII

Sec. 59. If any provision of this Act or the application thereof to any person is invalidated, the invalidity shall not affect the provisions or application of this Act which can be given effect without the invalidated provisions or application, and to this end the provisions of this Act are severable.

However, if a finding of invalidity relates to the environmental protection charge, the following conditions apply:

1. To the extent a person or class of persons is determined not to be liable for future payments of the environmental protection charge, that person or class of persons shall not be

eligible for benefits from, or to participate in any manner in, the Iowa comprehensive petroleum underground storage tank fund.

2. If a person or class of persons is entitled to a refund of any amount of the environmental protection charge previously collected or is otherwise relieved of any liability to the Iowa comprehensive petroleum underground storage tank fund under this Act, that person or class of persons shall be liable for the refund of all benefits previously received from the fund and shall not be eligible for benefits or to participate in any manner in the fund. The fund is entitled to a setoff of any environmental protection charge refund liability against the person's liability to the fund to refund any benefits received. Insurance premiums previously received shall not be refundable even though a person becomes ineligible for participation in the fund or for the receipt of benefits from the fund after payment.

Any contract entered into by a tank owner or operator, or other recipient of fund benefits, in the course of administration or implementation of this Act, shall include as a condition of the contract, terms consistent with this section, to assure reciprocity of obligation and benefits as provided.

Sec. 60. The Code editor shall codify sections 101.101 through 101.108 as a new division II of chapter 101.

Sec. 61. Section 455G.11 is repealed effective July 1, 2004, subject to the qualifications of section 455G.11, subsection 6.

Sec. 62. Section 455G.10 is repealed effective July 1, 1999, except such repeal shall not effect any outstanding contractual rights.

Sec. 63. Sections 455G.6 and 455G.7 are repealed effective July 1, 2009, except as such sections apply with respect to any outstanding bonds issued thereunder, or refinancing of such outstanding bonds.

Sec. 64. Section 214A.18, Code 1989, is repealed.

Sec. 65. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 5, 1989

CHAPTER 132

AUTHORITY AT FIRE SCENES AND EMERGENCIES

H.F. 241

AN ACT relating to the authority of fire chiefs and their officers at fire scenes and emergencies, and providing a penalty for violations.

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

Section 1. NEW SECTION. 100B.1 DEFINITIONS.

As used in this chapter, "fire department" means the fire department of a city, township, or benefited fire district.

Sec. 2. NEW SECTION. 100B.2 AUTHORITY AT FIRES.

A fire chief or other authorized officer of a fire department in charge of a fire scene which involves the protection of life or property, may direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action as deemed necessary in

the reasonable performance of the department's duties. In exercising this power, a fire chief may prohibit an individual, vehicle, or vessel from approaching a fire scene and may remove from the scene any object, vehicle, vessel, or individual that may impede or interfere with the operations of the fire department.

Sec. 3. NEW SECTION. 100B.3 AUTHORITY TO BARRICADE.

The fire chief or other authorized officer of the fire department in charge of a fire scene may place or erect ropes, guards, barricades, or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the fire fighting efforts of the fire department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.

Sec. 4. NEW SECTION. 100B.4 TRAFFIC CONTROL.

Notwithstanding a contrary provision of this chapter, if a peace officer is on the scene, the peace officer is in charge of traffic control and a peace officer shall not be prohibited from performing the duties of a peace officer at the fire scene.

Sec. 5. NEW SECTION. 100B.5 PENALTY.

A person who disobeys an order of a fire chief, other officer of a fire department, or peace officer assisting the fire department which is issued pursuant to section 100B.2 or 100B.3, is guilty of a simple misdemeanor.

Approved May 5, 1989

CHAPTER 133

MORTGAGE BROKERS AND MORTGAGE BANKERS

H.F. 645

AN ACT relating to mortgage brokers and mortgage bankers.

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

Section 1. Section 535B.1, subsection 1, paragraph c, Code 1989, is amended to read as follows:

c. Services at least four first mortgage loans on residential real property located in this state. However, a natural person who services less than fifteen first mortgage loans on residential real estate within the state and who does not sell or transfer first mortgage loans, is exempt from this paragraph if that person is otherwise exempt from the provisions of this chapter.

Sec. 2. Section 535B.1, subsection 4, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Natural person" means an individual who is not an association, joint venture, or joint stock company, partnership, limited partnership, business corporation, nonprofit corporation, other business entity, or any other group of individuals or business entities, however organized.

Sec. 3. Section 535B.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. "Registrant" means a person registered under section 535B.3.

Sec. 4. Section 535B.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

This chapter, except for sections 535B.3, 535B.11, 535B.12, and 535B.13, does not apply to any of the following:

Sec. 5. Section 535B.2, subsection 11, Code 1989, is amended to read as follows:

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 or in a county of another state if that county is contiguous to an Iowa border.

Sec. 6. Section 535B.3, subsection 3, Code 1989, is amended to read as follows:

3. The registrant shall pay ~~a fifty dollar~~ an annual registration fee of one hundred dollars.

Sec. 7. Section 535B.4, subsection 7, Code 1989, is amended to read as follows:

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 for a license to transact business solely as a mortgage broker, and four hundred dollars for a license to transact business as a mortgage banker.

Sec. 8. Section 535B.9, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

535B.9 BONDS REQUIRED OF LICENSE APPLICANTS.

1. An applicant for a license shall file with the administrator a bond furnished by a surety company authorized to do business in this state. The bond shall be in the amount of fifteen thousand dollars for an applicant seeking to transact business solely as a mortgage broker, or thirty thousand dollars for an applicant seeking to transact business as a mortgage banker. The bond shall be continuous in nature until canceled by the surety with not less than thirty days' notice in writing to the mortgage broker or mortgage banker and to the administrator indicating the surety's intention to cancel the bond on a specific date. 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.

2. In lieu of filing a bond, the applicant may pledge an alternative form of collateral acceptable to the administrator, if the alternative collateral provides protection to the state and any aggrieved person that is equivalent to that provided by a bond.

Sec. 9. Section 535B.11, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. When the servicing of a first mortgage loan is transferred, sold, purchased, or accepted by a licensee or registrant, the licensee or registrant who is transferring or selling the servicing shall issue to the mortgagor, within five business days of the transfer, a notice which shall include at a minimum:

a. The name and address of the licensee or registrant transferring or selling the servicing.

b. The name and address of the licensee or registrant accepting or purchasing the servicing.

c. The effective date of the transfer.

d. A statement concerning the effect of the transfer on the terms and conditions of the mortgage.

e. The address where payments are to be submitted for at least the next three months.

f. The name and address of the licensee or registrant to whom questions related to the mortgage may be addressed.

Sec. 10. NEW SECTION. 535B.16 NOTICE TO ADMINISTRATOR.

A licensee or registrant maintaining an office in the state shall notify the administrator in writing at least thirty days before closing or otherwise ceasing operations at any office in the state.

Approved May 5, 1989

CHAPTER 134

STREETS, ROADS, AND COMMERCIAL AND INDUSTRIAL HIGHWAYS

S.F. 408

AN ACT relating to roads, including roads identified by the state transportation commission as a network of commercial and industrial highways, by establishing the purpose of the network, by providing the terms for the improvement of the network, and by altering concurrent jurisdiction of extensions of primary roads in municipalities.

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

Section 1. Section 306.4, subsection 3, Code 1989, is amended to read as follows:

3. Jurisdiction and control over the municipal street system shall be vested in the governing bodies of each municipality; except that the department and the municipal governing body shall exercise concurrent jurisdiction over the municipal extensions of primary roads in all municipalities. ~~The parties exercising~~ When concurrent jurisdiction ~~shall enter into agreements with each other~~ is exercised, the department shall consult with the municipal governing body as to the kind and type of construction, reconstruction, repair, and maintenance and the two parties shall enter into agreements with each other as to the division of costs thereof.

When the two parties cannot initially come to agreement as to the division of costs under this subsection, they shall contract with an organization in this state to provide mediation services. The costs of the mediation services shall be equally allocated between the two parties. If after submitting to mediation the parties still cannot come to agreement as to the division of costs, the mediator shall sign a statement that the parties did not reach an agreement, and the parties shall then submit the matter for binding arbitration to a mutually agreed-upon third party. If the parties cannot agree upon a third-party arbitrator, they shall submit the matter to an arbitrator selected under the rules of the American arbitration association.

Sec. 2. Section 306.9, Code 1989, is amended to read as follows:

306.9 DIAGONAL ROADS — RESTORING AND IMPROVING EXISTING ROADS.

It is ~~declared to be~~ the policy of the state of Iowa that relocation of primary highways through cultivated land shall be avoided to the maximum extent possible. ~~Whenever~~ When the volume of traffic for which the road is designed or other conditions, including designation as part of the network of commercial and industrial highways, require ~~such~~ relocation, diagonal routes shall be avoided ~~wherever~~ if feasible and prudent alternatives consistent with efficient movement of traffic exist.

~~It is further declared that~~ The improvement of two-lane roads shall utilize the existing ~~right of way~~ right-of-way unless alignment or other conditions, including designation as part of the network of commercial and industrial highways, make changes imperative, and when ~~any~~ a two-lane road is expanded to a four-lane road, the normal procedure ~~would~~ shall be that the additional ~~right of way would~~ right-of-way be contiguous to the existing ~~right of way~~ right-of-way unless relocated for compelling reasons, including the need to provide efficient movement of traffic on the network of commercial and industrial highways. This policy ~~shall~~ does not apply to ~~any~~ a highway project for which the corridor has been approved by the state department of transportation and ~~which~~ the corridor has been finalized by September 1, 1977.

It is ~~further declared to be~~ the policy of the state of Iowa that on construction of roads classified as freeway-expressway and which are designed with four-lane divided roadways, access controls shall be limited to the minimum level necessary as determined by the department to ensure the safe and efficient movement of traffic or to comply with federal aid requirements.

Unless otherwise required by the federal law or regulation, it is also the policy of this state that road use tax fund moneys shall be used to rehabilitate or reconstruct existing roads, streets, and bridges using substantially existing ~~right of way~~ right-of-way. This paragraph ~~shall~~ does

not apply where additional ~~right of way~~ right-of-way is needed for the construction or completion of designated interstate or city routes and highway bypasses or highways designated as part of the network of commercial and industrial highways.

Sec. 3. Section 307.36, Code 1989, is amended to read as follows:

307.36 PROJECT NEEDS — RETENTION OF PROPERTY.

It is the intent of the general assembly that not later than July 1, 1992, the state department of transportation shall dispose of all right-of-way owned by the department and not needed for projects. In determining need, the department shall consider both its five-year program requirements and its long-range, statewide corridor development needs, including the development of the network of commercial and industrial highways. The department may also act to preserve right-of-way for improvements to the network of commercial and industrial highways by acquiring options, easements, rights of first refusal, or other property interests less than fee title. In determining need based upon long-range, statewide corridor development, the department shall give careful consideration to economically depressed urban areas not served directly by the national system of interstate and defense highways.

Sec. 4. Section 307A.2, subsection 14, unnumbered paragraph 2, Code 1989, is amended to read as follows:

15. ~~The commission shall identify~~ Identify, within the primary road system, a network of commercial and industrial highways in accordance with section 313.2A. The improvement of this network shall be considered in the development of the long-range program and plan of improvements under this section.

Sec. 5. NEW SECTION. 313.2A COMMERCIAL AND INDUSTRIAL HIGHWAYS.

1. PURPOSE. It is the purpose of this section to enhance opportunities for the development and diversification of the state's economy through the identification and improvement of a network of commercial and industrial highways. The network shall consist of interconnected routes which provide long distance route continuity. The purpose of this highway network shall be to improve the flow of commerce; to make travel more convenient, safe, and efficient; and to better connect Iowa with regional, national, and international markets. The commission shall concentrate a major portion of its annual construction budget on this network of commercial and industrial highways. In order to ensure the greatest possible availability of funds for the improvement of the network primary highway funds shall not be spent beyond continuing maintenance for improvements to route segments that will be bypassed by the relocation of portions of the commercial and industrial highway network except as provided in subsection 4.

2. NETWORK SELECTION. The commission shall identify, within the primary road system, a network of commercial and industrial highways. The commission shall consider all of the following factors in the identification of this network:

a. The connection by the most direct routes feasible of major urban areas and regions of the state to each other and to the national system of interstate and defense highways and priority routes in adjacent states.

b. The existence of high volumes of total traffic and commercial traffic.

c. Long distance traffic movements.

d. Area coverage and balance of spacing with service to major growth centers within the state.

The network of commercial and industrial highways shall not exceed two thousand five hundred miles including municipal extensions of these highways.

3. STANDARDS. The department shall establish standards pertaining to the specific location, design, and access control for each segment of the commercial and industrial highways.

4. JURISDICTIONAL TRANSFERS. When the construction, reconstruction, relocation, or other improvement to the network of commercial and industrial highways results in a change in the function of a bypassed primary road, municipal extension of a primary road, or other connecting road, the department, upon approval of the state transportation commission, shall

transfer jurisdiction of the road to the city or county as appropriate. Before the transfer takes place the department shall place the road and any structures on the road in good repair for continued maintenance or provide for the transfer of money to the appropriate jurisdiction sufficient for the repairs to the road and any structures on the road. If the department cannot come to agreement with the jurisdiction to which the road is transferred as to the necessary repairs, they shall contract with an organization in this state to provide mediation services. The costs of the mediation services shall be equally allocated between the parties. If after submitting to mediation the parties still cannot come to agreement as to the necessary repairs, the mediator shall sign a statement that the parties did not reach an agreement, and the parties shall then submit the matter for binding arbitration to a mutually agreed-upon third party. If the parties cannot agree upon a third-party arbitrator, they shall submit the matter to an arbitrator selected under the rules of the American arbitration association. Section 306.43 does not apply to transfers of jurisdiction under this subsection.

Sec. 6. Section 313.21, Code 1989, is amended to read as follows:

313.21 PRIMARY EXTENSION IMPROVEMENTS IN CITIES.

The department, ~~is hereby given authority, subject to the approval of~~ upon consultation with the council, ~~to~~ may construct, reconstruct, improve, and maintain extensions of the primary road system within any city, including the construction, reconstruction, and improvement of storm sewers and electrical traffic control devices reasonably incident and necessary thereto~~, provided that such~~. However, the improvement, exclusive of storm sewers, shall not exceed in width that of the primary road system and the amount of funds expended in any one year shall not exceed thirty-five percent of the primary road construction fund.

The ~~phrase "subject to approval of the council," as it appears in this section, shall be construed as authorizing~~ department shall consult with the council to consider ~~said~~ the proposed ~~improvements~~ improvement in its relationship to municipal improvements (such as sewers, water lines, sidewalks, and other public improvements, and the establishment or reestablishment of street grades). The location of ~~said~~ the primary road extensions and the location, design, and degree of access control for improvements to them shall be determined by the department.

Sec. 7. Section 313.42, Code 1989, is amended to read as follows:

313.42 ~~DEFINITION~~ DEFINITIONS.

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

1. "Department" means the state department of transportation.

2. "Commission" means the state transportation commission.

Sec. 8. Section 314.5, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The agency in control of ~~any~~ a secondary road ~~or any primary road is authorized~~, subject to approval of the council, ~~to~~ may eliminate danger at railroad crossings and ~~to~~ construct, reconstruct, improve, repair, and maintain any road or street which is an extension of ~~such~~ the secondary road within ~~any~~ a city. ~~Provided, that~~ However, this authority ~~shall~~ does not apply to the extensions of secondary roads located in cities over twenty-five hundred population, where the houses or business houses average less than two hundred feet apart.

Approved May 5, 1989

CHAPTER 135

SCHOOL AND AREA EDUCATION AGENCY FINANCING

H.F. 535

AN ACT relating to the financing of education programs of school districts and area education agencies including the establishment of a school foundation formula, the provision of property tax levies, allocation of educational excellence program moneys, provision for payment of programs for certain at-risk children, making appropriations, and providing effective dates.

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

Section 1. NEW SECTION. 257.1 STATE SCHOOL FOUNDATION PROGRAM — STATE AID.

1. PROGRAM ESTABLISHED. A state school foundation program is established for the school year commencing July 1, 1991, and succeeding school years.

2. STATE SCHOOL FOUNDATION AID — FOUNDATION BASE. For a budget year, each school district in the state is entitled to receive foundation aid, in an amount per pupil equal to the difference between the amount per pupil of foundation property tax in the district, and the combined foundation base per pupil or the combined district cost per pupil, whichever is less. However, if the amount of foundation aid received by a school district under this chapter is less than three hundred dollars per pupil, the district is entitled to receive three hundred dollars per pupil unless the receipt of three hundred dollars per pupil plus the per pupil amount raised by the foundation property tax exceeds the combined district cost per pupil of the district for the budget year. In that case, the district is entitled to receive an amount per pupil equal to the difference between the per pupil amount raised by the foundation property tax for the budget year and the combined district cost per pupil for the budget year.

For the budget year commencing July 1, 1991, the regular program foundation base per pupil is eighty-three and five-tenths percent of the regular program state cost per pupil. For each succeeding budget year, the regular program foundation base shall increase twenty-five hundredths percent per year until the regular program foundation base reaches eighty-five percent of the regular program state cost per pupil. For the budget year commencing July 1, 1991, the special education support services foundation base is eighty-three and five-tenths percent of the special education support services state cost per pupil. It shall increase at the same rate as the regular program foundation base. The combined foundation base is the sum of the regular program foundation base and the special education support services foundation base.

3. COMPUTATIONS ROUNDED. In making computations and payments under this chapter, except in the case of computations relating to funding of special education support services, media services, and educational services provided through the area education agencies, the department of management shall round amounts to the nearest whole dollar.

Sec. 2. NEW SECTION. 257.2 DEFINITIONS.

As used in this chapter:

1. "Allowable growth" means the amount by which state cost per pupil and district cost per pupil will increase from one budget year to the next.

2. "Base year" means the school year ending during the calendar year in which a budget is certified.

3. "Budget adjustment" is an adjustment to the regular program budget of a school district for school districts in which the regular program budget for a year would be less than its regular program budget for the previous year.

4. "Budget year" means the school year beginning during the calendar year in which a budget is certified.

5. "Combined district cost per pupil" is an amount determined by adding together the regular program district cost per pupil for a year and the special education support services district cost per pupil for that year as calculated under section 257.10.

6. "Combined state cost per pupil" is a per pupil amount determined by adding together the regular program state cost per pupil for a year and the special education support services state cost per pupil for that year as calculated under section 257.9.

7. "Committee" means the school budget review committee.

8. "Expenditures" means the total amounts paid from the general fund of a school district.

9. "Miscellaneous income" means the receipts deposited to the general fund of the school district but not including any of the following:

a. Foundation aid.

b. Revenue obtained from the foundation property tax.

c. Revenue obtained from the additional property tax under section 257.4.

10. "Property tax adjustment" means state aid distributed to those school districts in which the property tax revenues generated under this chapter would be higher than the revenues generated under chapter 442, Code 1991.

11. "School district" means a school corporation organized under chapter 274.

12. "Special needs adjustment" means a state aid payment made by the school budget review committee to school districts who have demonstrated that they have special needs for additional moneys.

13. "State percent of growth" means a percent of economic growth determined under this chapter which is based upon an averaging of state and federal growth indicators, and which is used in determining the allowable growth.

Sec. 3. NEW SECTION. 257.3 FOUNDATION PROPERTY TAX.

1. AMOUNT OF TAX. Except as provided in subsection 2, a school district shall cause to be levied each year, for the school general fund, a foundation property tax equal to five dollars and forty cents per thousand dollars of assessed valuation on all taxable property in the district. The county auditor shall spread the foundation levy over all taxable property in the district.

2. AMOUNT FOR REORGANIZED AND DISSOLVED DISTRICTS. Reorganized school districts that met the requirements of section 442.2, subsection 1, Code 1989, prior to July 1, 1989, and had reduced property tax rates shall continue to have the reduced levies that they would have had under section 442.2, subsection 1, Code 1989, and those levies shall continue to increase twenty cents per year as provided in that subsection.

3. RAILWAY CORPORATIONS. For purposes of section 257.1, the "amount per pupil of foundation property tax" does not include the tax levied under subsection 1 or 2 on the property of a railway corporation, or on its trustee if the corporation has been declared bankrupt or is in bankruptcy proceedings.

Sec. 4. NEW SECTION. 257.4 ADDITIONAL PROPERTY TAX.

1. COMPUTATION OF TAX. A school district shall cause an additional property tax to be levied each year. The rate of the additional property tax levy in a school district shall be determined by the department of management and shall be calculated to raise the difference between the combined district cost for the budget year and the sum of the products of the regular program foundation base per pupil times the weighted enrollment in the district and the special education support services foundation base per pupil times the special education support services weighted enrollment in the district.

2. APPLICATION OF TAX. No later than May 1 of each year, the department of management shall notify the county auditor of each county the amount, in dollars and cents per thousand dollars of assessed value, of the additional property tax levy in each school district in the county. A county auditor shall spread the additional property tax levy for each school district in the county over all taxable property in the district.

Sec. 5. NEW SECTION. 257.5 CONTINUATION OF SUPPLEMENTAL AID.

For purposes of this section, a reorganized school district is one in which reorganization was approved in an election pursuant to sections 275.18 and 275.20 before July 1, 1989.

A reorganized school district receiving supplemental aid prior to July 1, 1991, under section 442.9A, shall continue to receive supplemental aid in the amount provided under that section for the five-year period specified in that section.

There is appropriated from the general fund of the state to the department of management for each fiscal year an amount sufficient to pay the supplemental aid to school districts under this section. Supplemental aid shall be paid in the manner provided in section 257.16.

For the purpose of the department of management's determination of the portion of a school district's budget that was property tax and the portion that was state aid under section 257.36, supplemental aid shall be considered property tax.

Sec. 6. NEW SECTION. 257.6 ENROLLMENT.

1. ACTUAL ENROLLMENT. Actual enrollment is determined on the third Friday of September in each year and includes all of the following:

a. Resident pupils who were enrolled in public schools within the district in grades kindergarten through twelve and including prekindergarten pupils enrolled in special education programs.

b. Full-time equivalent resident pupils of high school age for which the district pays tuition to attend an Iowa area school.

c. Shared-time and part-time pupils of school age enrolled in public schools within the district, irrespective of the districts in which the pupils reside, in the proportion that the time for which they are enrolled or receive instruction for the school year is to the time that full-time pupils carrying a normal course schedule, at the same grade level, in the same school district, for the same school year, are enrolled and receive instruction. Tuition charges to the parent or guardian of a shared-time or part-time nonresident pupil shall be reduced by the amount of any increased state aid received by the district by the counting of the pupil.

d. Eleventh and twelfth grade nonresident pupils who were residents of the district during the preceding school year and are enrolled in the district until the pupils graduate. Tuition for those pupils shall not be charged by the district in which the pupils are enrolled and the requirements of section 282.18 do not apply.

Pupils attending a university laboratory school are not counted in the actual enrollment of a school district, but the laboratory school shall report their enrollment directly to the department of education.

A school district shall certify its actual 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. The department of management shall determine whether a district is entitled to an advance for increasing enrollment on the basis of its actual enrollment.

2. BASIC ENROLLMENT. Basic enrollment for a budget year is a district's actual enrollment for the base year. Basic enrollment for the base year is a district's actual enrollment for the year preceding the base year.

3. ADDITIONAL ENROLLMENT BECAUSE OF SPECIAL EDUCATION. A school district shall determine its additional enrollment because of special education, as defined in this section, on December 1 of each year and 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 total number of children in all categories.

4. BUDGET ENROLLMENT. Budget enrollment for the budget year shall be calculated for each school district by the department of management in the manner provided in this subsection. If the basic enrollment of a school district has declined from one year to the next during any of the five years prior to the base year, the district may be eligible for an enrollment adjustment based upon the percent of the enrollment decline and the number of years that have elapsed since the decline occurred. The budget enrollment for the budget year shall be

calculated by adding together the following percents of enrollment decline in the district's basic enrollment from one base year to the preceding base year for each of the five preceding base years, commencing with the percent of change between the basic enrollment for the budget year and the basic enrollment for the base year, adding the sum of the percents to one hundred and multiplying the total by the basic enrollment for the budget year:

	Years between the Base Year and the Year of Decline				
Percent of Decline	1	2	3	4	5
Less than 1	0	0	0	0	0
1.0 through 2.9	2	2	1	1	0
3.0 through 4.9	4	3	2	2	1
5.0 through 6.9	6	5	4	3	2
7.0 and over	8	7	5	4	3

However, if a district's actual enrollment for a budget year is greater than its budget enrollment, the district is eligible for an advance for increasing enrollment as provided in section 257.13.

5. WEIGHTED ENROLLMENT. Weighted enrollment is the budget enrollment plus the district's additional enrollment because of special education calculated on December 1 of the base year plus additional pupils added due to the application of the supplementary weighting.

Weighted enrollment for special education support services costs is equal to the weighted enrollment minus the additional pupils added due to the application of the supplementary weighting.

Sec. 7. NEW SECTION. 257.7 AUTHORIZED EXPENDITURES.

1. BUDGETS. School districts are subject to chapter 24. The authorized expenditures of a school district during a base year shall not exceed the lesser of the budget for that year certified under section 24.17 plus any allowable amendments permitted in this section, or the authorized budget, which is the sum of the district cost for that year, the actual miscellaneous income received for that year, and the actual unspent balance from the preceding year.

2. BUDGET AMENDMENTS. If actual miscellaneous income for a budget year exceeds the anticipated miscellaneous income in the certified budget for that year, or if an unspent balance has not been previously certified, a school district may amend its certified budget.

Sec. 8. NEW SECTION. 257.8 STATE PERCENT OF GROWTH — ALLOWABLE GROWTH.

1. CALCULATION BY DEPARTMENT OF MANAGEMENT. On or before September 15, 1990, the department of management shall compute a state percent of growth for the budget year beginning July 1, 1991, and a state percent of growth for the year next following the budget year.

On or before each September 15 thereafter, the department of management shall compute a state percent of growth for the budget year next following the budget year. The state percents of growth shall be forwarded to the director of the department of education.

2. BUDGET YEAR CALCULATION. For the budget year commencing July 1, 1991, the state percent of growth is an average of the following four percents of growth in paragraphs "a" and "b" except as otherwise provided in subsection 4:

a. The difference in the percents of change in receipts of state general fund revenues, computed or estimated by the state revenue estimating conference created in section 8.22A as follows:

(1) The percent of change between the revenues received during the second year preceding the base year and the revenues received during the year preceding the base year.

(2) The percent of change between the revenues received during the year preceding the base year and the revenues received during the base year.

For the purpose of this lettered paragraph, receipts of state general fund revenues do not include one-time nonrecurring receipts or receipts that are accounting transactions made to meet the requirements of 1986 Iowa Acts, chapter 1238, section 59.

b. The difference in the gross national product implicit price deflators, based to the extent possible on the latest available values for these deflators, published by the bureau of economic analysis, United States department of commerce, computed or estimated as a percent of change as follows:

(1) From the value for the year ending December 31 eighteen months before the beginning of the base year to the value for the year ending December 31 six months before the beginning of the base year.

(2) From the value for the year ending December 31 six months before the beginning of the base year to the value for the year ending December 31 in the base year.

3. CALCULATION FOR YEAR FOLLOWING BUDGET YEAR. For the year following the budget year, the state percent of growth is an average of the following four percents of growth in paragraphs "a" and "b", except as provided in subsection 4:

a. The difference in the percents of change in receipts of state general fund revenues computed or estimated by the state revenue estimating conference created in section 8.22A as follows:

(1) The percent of change between the revenues received during the year preceding the base year and the revenues received during the base year.

(2) The percent of change between the revenues received during the base year and the revenues received during the budget year.

For the purpose of this lettered paragraph, receipts of state general fund revenues do not include one-time nonrecurring receipts or receipts that are accounting transactions made to meet the requirements of 1986 Iowa Acts, chapter 1238, section 59.

b. The difference in the gross national product implicit price deflators, based to the extent possible on the latest available values for those deflators published by the bureau of economic analysis, United States department of commerce, computed or estimated as a percent of change as follows:

(1) From the value for the year ending December 31 six months before the beginning of the base year to the value for the year ending December 31 six months before the beginning of the budget year.

(2) From the value for the year ending December 31 six months before the beginning of the budget year to the value for the year ending December 31 during the budget year.

4. EXCEPTION. If the average of the percents computed or estimated under paragraph "b" of subsection 2 or 3 exceeds the average of the percents computed or estimated under paragraph "a" of the applicable subsection, the state percent of growth for that budget year shall be the average of the two percents of growth computed or estimated under paragraph "a" of the applicable subsection.

5. NEGATIVE PERCENT. If the state percent of growth computed for a budget year is negative, that percent shall not be used and the state percent of growth shall be zero.

6. RECOMPUTATION. On or before September 15 of the base year the department of management shall recompute the state percent of growth for the previous year using adjusted estimates and the actual figures available. The difference between the recomputed state percent of growth for the previous year and the original computation shall be added to or subtracted from the state percent of growth for the budget year next following the budget year, as applicable. However, on or before September 15, 1990, the department of management shall recompute the state percent of growth for the previous year in the manner provided in section 442.7, Code 1989.

With regard to values of gross national product implicit price deflators, the recomputation of the state percent of growth for the previous year shall be made only with respect to the value of the deflator for the year which occurred subsequent to the calculation of the state percent of growth for the previous year. If subsection 4 is used in the calculation of the state

percent of growth for the previous year, the calculation made in subsection 3, paragraph "b", shall not be used in the recomputation of the state percent of growth for the previous year.

7. ALLOWABLE GROWTH CALCULATION. The department of management shall calculate the regular program allowable growth for a budget year by multiplying the state percent of growth for the budget year by the regular program state cost per pupil for the base year and shall calculate the special education support services allowable growth for the budget year by multiplying the state percent of growth for the budget year by the special education support services state cost per pupil for the base year.

8. COMBINED ALLOWABLE GROWTH. The combined allowable growth per pupil for each school district is the sum of the regular program allowable growth per pupil and the special education support services allowable growth per pupil for the budget year, which may be modified as follows:

a. By the school budget review committee under section 257.31.

b. By the department of management under section 257.36.

Sec. 9. NEW SECTION. 257.9 STATE COST PER PUPIL.

1. REGULAR PROGRAM STATE COST PER PUPIL FOR 1991-1992. For the budget year beginning July 1, 1991, for the regular program state cost per pupil, the department of management shall add together the state total of the district costs of all school districts for the base year, as district cost is defined in section 442.9, Code 1989, plus the total of the amounts added to the district cost of school districts pursuant to section 442.21, Code 1989, plus the amount included in the districts' budgets in the state 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 and plus the difference between the following amounts:

a. The general allocation of the school district as determined under section 405A.2, Code 1989.

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.

The total calculated under this subsection shall be divided by the total of the budget enrollments of all school districts for the budget year beginning July 1, 1990, calculated under section 257.6, subsection 4, of this Act if section 257.6, subsection 4, of this Act had been in effect for that budget year. The regular program state cost per pupil for the budget year beginning July 1, 1991, is the amount calculated by the department of management under this subsection plus an allowable growth amount that is equal to the state percent of growth for the budget year multiplied by the amount calculated by the department of management under this subsection.

2. REGULAR PROGRAM STATE COST PER PUPIL FOR 1992-1993 AND SUCCEEDING YEARS. For the budget year beginning July 1, 1992, and succeeding budget years, the regular program state cost per pupil for a budget year is the regular program state cost per pupil for the base year plus the regular program allowable growth for the budget year.

3. SPECIAL EDUCATION SUPPORT SERVICES STATE COST PER PUPIL FOR 1991-1992. For the budget year beginning July 1, 1991, for the special education support services state cost per pupil, the department of management shall divide the total of the approved budgets of the area education agencies for special education support services for that year approved by the state board of education under section 273.3, subsection 12, by the total of the weighted enrollment for special education support services in the state for the budget year. The special education support services state cost per pupil for the budget year is the amount calculated by the department of management under this subsection.

4. SPECIAL EDUCATION SUPPORT SERVICES STATE COST PER PUPIL FOR 1992-1993 AND SUCCEEDING YEARS. For the budget year beginning July 1, 1992, and succeeding budget years, the special education support services state cost per pupil for the budget year is the special education support services state cost per pupil for the base year plus the special education support services allowable growth for the budget year.

5. COMBINED STATE COST PER PUPIL. The combined state cost per pupil is the sum of the regular program state cost per pupil and the special education support services state cost per pupil.

Sec. 10. NEW SECTION. 257.10 DISTRICT COST PER PUPIL — DISTRICT COST.

1. REGULAR PROGRAM DISTRICT COST PER PUPIL FOR 1991-1992. For the budget year beginning July 1, 1991, in order to determine the regular program district cost per pupil, the department of management shall divide the regular program district cost for the base year, as defined in section 442.9, Code 1989, plus the amount added to district cost pursuant to section 442.21, Code 1989, for each school district, by the budget enrollment of the school district for the budget year beginning July 1, 1990, calculated under section 257.6, subsection 4, of this Act as if section 257.6, subsection 4, of this Act had been in effect for that budget year. The regular program district cost per pupil for the budget year beginning July 1, 1991, is the amount calculated by the department of management under this subsection plus the allowable growth amount calculated for regular program state cost per pupil, except that if the regular program district cost per pupil for the budget year calculated under this subsection in any school district exceeds one hundred ten percent of the regular program state cost per pupil for the budget year, the department of management shall reduce the regular program district cost per pupil of that district to an amount equal to one hundred ten percent of the state cost per pupil, and if the regular program district cost per pupil for the budget year calculated under this subsection is less than the regular program state cost per pupil, the regular program district cost per pupil shall be increased to the regular program state cost per pupil.

2. REGULAR PROGRAM DISTRICT COST PER PUPIL FOR 1992-1993 AND SUCCEEDING YEARS.

a. For the budget year beginning July 1, 1992, and succeeding budget years, the regular program district cost per pupil for each school district for a budget year is the regular program district cost per pupil for the base year plus the regular program allowable growth for the budget year except as otherwise provided in this subsection.

b. If the regular program district cost per pupil of a school district for the budget year under paragraph "a" exceeds one hundred five percent of the regular program state cost per pupil for the budget year and the state percent of growth for the budget year is greater than two percent, the regular program district cost per pupil for the budget year for that district shall be reduced to one hundred five percent of the regular program state cost per pupil for the budget year. However, if the difference between the regular program district cost per pupil for the budget year and the regular program state cost per pupil for the budget year is greater than an amount equal to two percent multiplied by the regular program state cost per pupil for the base year, the regular program district cost per pupil for the budget year shall be reduced by the amount equal to two percent multiplied by the regular program state cost per pupil for the base year.

3. SPECIAL EDUCATION SUPPORT SERVICES DISTRICT COST PER PUPIL FOR 1991-1992. For the budget year beginning July 1, 1991, for the special education support services district cost per pupil, the department of management shall divide the approved budget of each area education agency for special education support services for that year approved by the state board of education, under section 273.3, subsection 12, by the total of the weighted enrollment for special education support services in the area for that budget year.

The special education support services district cost per pupil for each school district in an area for the budget year is the amount calculated by the department of management under this subsection.

4. SPECIAL EDUCATION SUPPORT SERVICES DISTRICT COST PER PUPIL FOR 1992-1993 AND SUCCEEDING YEARS. For the budget year beginning July 1, 1992, and succeeding budget years, 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 the special education support services allowable growth for the budget year.

5. COMBINED DISTRICT COST PER PUPIL. The combined district cost per pupil for a school district is the sum of the regular program district cost per pupil and the special education support services district cost per pupil. Combined district cost per pupil does not include additional allowable growth added for school districts that have a negative balance of funds raised for special education instruction programs, additional allowable growth granted by the school budget review committee for a single school year, or additional allowable growth added for programs for dropout prevention and for programs for gifted and talented children.

6. REGULAR PROGRAM DISTRICT COST. Regular program district cost for a school district for a budget year is equal to the regular program district cost per pupil for the budget year multiplied by the weighted enrollment for the budget year.

7. SPECIAL EDUCATION SUPPORT SERVICES DISTRICT COST. Special education support services district cost for a school district for a budget year is equal to the special education support services district cost per pupil for the budget year multiplied by the special education support services weighted enrollment for the district for the budget year. If the special education support services district cost for a school district for a budget year is less than the special education support services district cost for that district for the base year, the department of management shall adjust the special education support services district cost for that district for the budget year to equal the special education support services district cost for the base year.

8. COMBINED DISTRICT COST. Combined district cost is the sum of the regular program district cost and the special education support services district cost, plus the additional district cost allocated to the district to fund media services and educational services provided through the area education agency.

A school district may increase its district cost for the budget year to the extent that an excess tax levy is authorized by the school budget review committee.

Sec. 11. NEW SECTION. 257.11 SUPPLEMENTARY WEIGHTING PLAN.

In order to provide additional funds for school districts which send their resident pupils to another school district or to an area school for classes, which jointly employ and share the services of teachers under section 280.15, which use the services of a teacher employed by another school district, or which jointly employ and share the services of a school superintendent under section 280.15 or 273.7A, a supplementary weighting plan for determining enrollment is adopted as follows:

1. REGULAR CURRICULUM. Pupils in a regular curriculum attending all their classes in the district in which they reside, taught by teachers employed by that district, and having administrators employed by that district, are assigned a weighting of one.

2. SHARED CLASSES OR TEACHERS. 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, 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 an additional portion equal to one 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.

3. WHOLE GRADE SHARING. For the budget years beginning July 1, 1991, and July 1, 1992, in districts that have executed whole grade sharing agreements under sections 282.10 through 282.12, the school budget review committee shall assign an additional weighting equal to one plus an additional portion of one 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. The assignment of additional weighting to a school district shall continue for a period of five years. If the school district reorganizes during that five-year period, the assignment of the additional weighting shall be transferred to the reorganized district until

the expiration of the five-year period. If a school district was receiving additional weighting for whole grade sharing under section 442.39, subsection 2, Code 1989, the district shall continue to be assigned additional weighting for whole grade sharing by the school budget review committee under this subsection so that the district is assigned the additional weighting for whole grade sharing for a total period of five years.

4. PUPILS INELIGIBLE. A pupil eligible for the weighting plan provided in section 281.9 is not eligible for the weighting plan provided in this section.

5. SHARED SUPERINTENDENTS. For the budget years beginning July 1, 1991, and July 1, 1992, pupils enrolled in a school district in which the superintendent is employed jointly under section 280.15 or under section 273.7A, are assigned a weighting of one plus an additional portion of one for the superintendent who is jointly employed times the percent of the superintendent's time in which the superintendent is employed in the school district. However, the total additional weighting assigned under this subsection for a budget year for a school district shall not exceed seven and one-half and the total additional weighting added cumulatively to the enrollment of school districts sharing a superintendent shall not exceed twelve and one-half. The assignment of additional weighting to a school district shall continue for a period of five years. If the school district reorganizes during that five-year period, the assignment of the additional weighting shall be transferred to the reorganized district until the expiration of the five-year period.

If a district was receiving additional weighting for superintendent sharing or administrator sharing under section 442.39, subsection 4, Code 1989, the district shall continue to be assigned additional weighting for superintendent sharing or administrator sharing by the school budget review committee under this subsection so that the district is assigned the additional weighting for sharing for a total period of five years.

6. SHARED MATHEMATICS, SCIENCE, AND LANGUAGE COURSES. For the budget years beginning July 1, 1991, and July 1, 1992, a school district receiving additional funds under subsection 2 or 3 for its pupils at the ninth grade level and above that are enrolled in sequential mathematics courses at the advanced algebra level and above; chemistry, advanced chemistry, physics or advanced physics courses; or foreign language courses at the second year level and above shall have an additional weighting of one pupil added to its total.

7. CALCULATION OF WEIGHTS. The school budget review committee shall calculate the weights to be used under subsections 2 and 3 to the nearest one-hundredth of one and under subsection 5 to the next highest one-thousandth of one. To the extent possible, the moneys generated by the weighting shall be equivalent to the moneys generated by the one-tenth, five-tenths, and twenty-five thousandths weighting provided in section 442.39, Code 1989.

Sec. 12. NEW SECTION. 257.12 SUPPLEMENTARY WEIGHTING AND SCHOOL REORGANIZATION.

A reorganized school district in which additional pupils were added under section 442.39A, Code 1989, shall continue to have additional pupils added, subject to changes in weighting made under section 257.11, until the expiration of the five-year period provided in section 442.39A, Code 1989.

Sec. 13. NEW SECTION. 257.13 ADVANCE FOR INCREASING ENROLLMENT.

If a district's actual enrollment for the budget year, determined under section 257.6, is greater than its budget enrollment for the budget year, the district is granted an advance from the state of an amount equal to its regular program district cost per pupil for the budget year multiplied by the difference between the actual enrollment for the budget year and the budget enrollment for the budget year. The advance is miscellaneous income.

If a district receives an advance under this section for a budget year, the department of management shall determine the amount of the advance which would have been generated by local property tax revenues if the actual enrollment for the budget year had been used in determining district cost for that budget year, shall reduce the district's total state school aids otherwise available under this chapter for the next following budget year by the amount so

determined, and shall increase the district's additional property tax levy for the next following budget year by the amount necessary to compensate for the reduction in state aid, so that the local property tax for the next following year will be increased only by the amount which it would have been increased in the budget year if the enrollment calculated in this section could have been used to establish the levy.

There is appropriated each fiscal year from the general fund of the state to the department of education the amount required to pay advances authorized under this section, which shall be paid to school districts in the same manner as other state aids are paid under section 257.16.

Sec. 14. NEW SECTION. 257.14 BUDGET ADJUSTMENT.

For the budget years commencing July 1, 1991, and July 1, 1992, if the department of management determines that the regular program district cost of a school district for a budget year is less than the total of the regular program district cost plus any adjustment added under this section for the base year for that school district, the department of management shall provide a budget adjustment for that district for that budget year that is equal to the difference.

For the budget year beginning July 1, 1991, the department of management shall use the regular program district cost for that budget year of a school district calculated pursuant to chapter 442, Code 1989, plus the amount added to district cost pursuant to section 442.21, Code 1989, as the district's base year regular program district cost.

Sec. 15. NEW SECTION. 257.15 PROPERTY TAX ADJUSTMENT.

1. PROPERTY TAX ADJUSTMENT FOR 1991-1992. For the budget year beginning July 1, 1991, the department of management shall calculate for each district the difference between the sum of the revenues generated by the foundation property tax and the additional property tax in the district calculated under this chapter and the revenues that would have been generated by the foundation property tax and the additional property tax in that district for that budget year calculated under chapter 442, Code 1989, if chapter 442 were in effect, except that the revenues that would have been generated by the additional property tax levy under chapter 442 shall not include revenues generated for the school improvement program. If the property tax revenues for a district calculated under this chapter exceed the property tax revenues for that district calculated under chapter 442, Code 1989, the department of management shall reduce the revenues raised by the additional property tax levy in that district under this chapter by that difference and the department of education shall pay property tax adjustment aid to the district equal to that difference from moneys appropriated for property tax adjustment aid.

2. PROPERTY TAX ADJUSTMENT AID FOR 1992-1993 AND SUCCEEDING YEARS. For the budget year beginning July 1, 1992, and succeeding budget years, the department of education shall pay property tax adjustment aid to a school district equal to the amount paid to the district for the base year less an amount equal to the product of the percent by which the taxable valuation in the district increased, if the taxable valuation increased, from January 1 of the year prior to the base year to January 1 of the base year and the property tax adjustment aid. The department of management shall adjust the rate of the additional property tax accordingly and notify the department of education of the amount of aid to be paid to each district from moneys appropriated for property tax adjustment aid.

3. PROPERTY TAX ADJUSTMENT AID APPROPRIATION. There is appropriated from the general fund of the state to the department of education, for each fiscal year, an amount necessary to pay property tax adjustment aid to school districts under this section. Property tax adjustment aid shall be paid to school districts in the manner provided in section 257.16.

Sec. 16. NEW SECTION. 257.16 APPROPRIATIONS.

There is appropriated each year from the general fund of the state an amount necessary to pay the 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, the state aid paid to school districts under section 257.13 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year.

All moneys received by a school district from the state under this chapter shall be deposited in the general fund of the school district, and may be used for any school general fund purpose.

Sec. 17. NEW SECTION. 257.17 AID REDUCTION FOR EARLY SCHOOL STARTS.

State aid payments made pursuant to section 257.16 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.

Sec. 18. NEW SECTION. 257.18 INSTRUCTIONAL SUPPORT PROGRAM.

1. An instructional support program that provides additional funding for school districts is established. A board of directors that wishes to consider participating in the instructional support program shall hold a public hearing on the question of participation. The board shall set forth its proposal including the method that will be used to fund the program, in a resolution and shall publish the notice of the time and place of a public hearing on the resolution. Notice of the time and place of the public hearing shall be published in one or more newspapers not less than ten nor more than twenty days before the public hearing. For the purpose of establishing and giving assured circulation to the proceedings, only a newspaper which is a newspaper of general circulation issued at a regular frequency, distributed in the school district's area, and regularly delivered or mailed through the post office during the preceding two years may be used for the publication. In addition, the newspaper must have a list of subscribers who have paid, or promised to pay, at more than a nominal rate, for copies to be received during a stated period. At the hearing, the board shall announce a date certain, no later than thirty days after the date of the hearing, that it will take action to adopt a resolution to participate in the instructional support program for a period not exceeding five years or to direct the county commissioner of elections to call an election to submit the question of participation in the program for a period not exceeding ten years to the qualified electors of the school district at the next following regular school election in the base year or a special election held not later than December 1 of the base year. If the board calls an election on the question of participation, if a majority of those voting on the question favors participation in the program, the board shall adopt a resolution to participate and certify the results of the election to the department of management.

2. If the board does not provide for an election and adopts a resolution to participate in the instructional support program, the district shall participate in the instructional support program unless within twenty-eight days following the action of the board, the secretary of the board receives a petition containing the required number of signatures, asking that an election be called to approve or disapprove the action of the board in adopting the instructional support program. The petition must be signed by eligible electors equal in number to not less than one hundred or thirty percent of the number of voters at the last preceding regular school election, whichever is greater. The board shall either rescind its action or direct the county commissioner of elections to submit the question to the qualified electors of the school district at the next following regular school election or a special election held not later than December 1 of the base year. If a majority of those voting on the question at the election favors disapproval of the action of the board, the district shall not participate in the instructional support program. If a majority of those voting on the question favors approval of the action, the board shall certify the results of the election to the department of management and the district shall participate in the program.

At the expiration of the twenty-eight day period, if no petition is filed, the board shall certify its action to the department of management and the district shall participate in the program.

Sec. 19. NEW SECTION. 257.19 INSTRUCTIONAL SUPPORT FUNDING.

The additional funding for the instructional support program for a budget year is limited to an amount not exceeding ten percent of the total of regular program district cost for the budget year and moneys received under section 257.14 as a budget adjustment for the budget year. Moneys received by a district for the instructional support program are miscellaneous income and may be used for any general fund purpose.

Certification of a board's intent to participate for a budget year, the method of funding, and the amount to be raised shall be made to the department of management not later than March 15 of the base year. Funding for the instructional support program shall be obtained from instructional support state aid and from local funding using either an instructional support property tax or a combination of an instructional support property tax and an instructional support income surtax.

The board of directors shall determine whether the instructional support property tax or the combination of the instructional support property tax and instructional support income surtax shall be used for the local funding. Subject to the limitation specified in section 298.14, if the board elects to use the combination of the instructional support property tax and instructional support income surtax, for each budget year the board shall determine the percent of income surtax that will be imposed, expressed as full percentage points, not to exceed twenty percent.

Sec. 20. NEW SECTION. 257.20 INSTRUCTIONAL SUPPORT STATE AID APPROPRIATION.

In order to determine the amount of instructional support state aid and the amount of local funding for the instructional support program for a district, the department of management shall divide the total assessed valuation in the state by the total budget enrollment for the budget year in the state to determine a state assessed valuation per pupil and shall divide the assessed valuation in each district by the district's budget enrollment for the budget year to determine the district assessed valuation per pupil. The department of management shall multiply the ratio of the state's valuation per pupil to the district's valuation per pupil by twenty-five hundredths and subtract that result from one to determine the portion of the instructional support program budget that is local funding. The remaining portion of the budget shall be funded by instructional support state aid.

There is appropriated for each fiscal year from the general fund of the state to the department of education, an amount necessary to pay instructional support state aid as provided in this section. Instructional support state aid shall be paid at the same time and in the same manner as foundation aid is paid under section 257.16.

Sec. 21. NEW SECTION. 257.21 COMPUTATION OF INSTRUCTIONAL SUPPORT AMOUNT.

The department of management shall establish the amount of instructional support property tax to be levied and the amount of instructional support income surtax to be imposed by a district in accordance with the decision of the board under section 257.19 for each school year for which the instructional support program is authorized. The department of management shall determine these amounts based upon the most recent figures available for the district's valuation of taxable property, individual state income tax paid, and budget enrollment in the district, and shall certify to the district's county auditor the amount of instructional support property tax, and to the director of revenue and finance the amount of instructional support income surtax to be imposed if an instructional support income surtax is to be imposed.

The instructional support income surtax shall be imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year and after the date the board adopts a resolution to participate in the program or the first half of the succeeding calendar

year, and shall be imposed on all individuals residing in the school district on the last day of the applicable tax year. As used in this section, "state individual income tax" means the tax computed under section 422.5, less the deductions allowed in sections 422.10 through 422.12.

Sec. 22. NEW SECTION. 257.22 STATUTES APPLICABLE.

The director of revenue and finance shall administer the instructional support income surtax imposed under this chapter, and sections 422.20, 422.22 to 422.31, 422.68, and 422.72 to 422.75 shall apply with respect to administration of the instructional support income surtax.

Sec. 23. NEW SECTION. 257.23 FORM AND TIME OF RETURN.

The instructional support income surtax shall be made a part of the Iowa individual income tax return subject to the conditions and restrictions set forth in section 422.21.

Sec. 24. NEW SECTION. 257.24 DEPOSIT OF INSTRUCTIONAL SUPPORT INCOME SURTAX.

The director of revenue and finance shall deposit all moneys received as instructional support income surtax to the credit of each district from which the moneys are received, in the school district income surtax fund which is established in section 298.14.

The director of revenue and finance shall deposit instructional support income surtax moneys received on or before November 1 of the year following the close of the school budget year for which the surtax is imposed to the credit of each district from which the moneys are received in the school district income surtax fund.

Instructional support income surtax moneys received or refunded after November 1 of the year following the close of the school budget year for which the surtax is imposed shall be deposited in or withdrawn from the general fund of the state and shall be considered part of the cost of administering the instructional support income surtax.

Sec. 25. NEW SECTION. 257.25 INSTRUCTIONAL SUPPORT INCOME SURTAX CERTIFICATION.

On or before October 20 each year, the director of revenue and finance shall make an accounting of the instructional support income surtax collected under this chapter applicable to tax returns for the last preceding calendar year, or for a taxpayers fiscal year ending during the second half of that calendar year and after the date the board adopts a resolution to participate in the program, or the first half of the succeeding calendar year, from taxpayers in each school district in the state which has approved the instructional support program, and shall certify to the department of management and the department of education the amount of total instructional support income surtax credited from the taxpayers of each school district.

Sec. 26. NEW SECTION. 257.26 INSTRUCTIONAL SUPPORT INCOME SURTAX DISTRIBUTION.

The director of revenue and finance shall draw warrants in payment of the amount of instructional support surtax in the manner provided in section 298.14.

Sec. 27. NEW SECTION. 257.27 CONTINUATION OF INSTRUCTIONAL SUPPORT PROGRAM.

At the expiration of the period for which the instructional support program was adopted, the program may be extended for a period of not exceeding five or ten years in the manner provided in section 257.18.

If the voters do not approve adoption of the instructional support program, the board shall wait at least one hundred twenty days following the election before taking action to adopt the program or resubmit the proposition.

Sec. 28. NEW SECTION. 257.28 ENRICHMENT LEVY.

If a school district has approved the use of the instructional support program for a budget year, the district shall not also collect moneys under the additional enrichment amount approved by the voters under chapter 442, for that budget year.

Sec. 29. NEW SECTION. 257.29 EDUCATIONAL IMPROVEMENT PROGRAM.

An educational improvement program is established to provide additional funding for school districts in which the district cost per pupil for a budget year is one hundred ten percent of the state cost per pupil for the budget year and which have approved the use of the instructional support program established in section 257.18. A board of directors that wishes to consider participating in the educational improvement program shall hold a hearing on the question of participation and the maximum percent of the district cost of the district that will be used. The hearing shall be held in the manner provided in section 257.18 for the instructional support program. Following the hearing, the board may direct the county commissioner of elections to submit the question to the qualified electors of the school district at the next following regular school election or a special election held not later than the following February 1. If a majority of those voting on the question favors participation in the program, the board shall adopt a resolution to participate and shall certify the results of the election to the department of management and the district shall participate in the program. If a majority of those voting on the question does not favor participation, the district shall not participate in the program.

The educational improvement program shall provide additional revenues each fiscal year equal to a specified percent of the district cost of the district, as determined by the board. Certification of a district's participation for a budget year, the method of funding, and the amount to be raised shall be made to the department of management not later than March 15 of the base year.

The educational improvement program shall be funded by either an educational improvement property tax or by a combination of an educational improvement property tax and an educational improvement income surtax. The method of raising the educational improvement moneys shall be determined by the board. Subject to the limitation in section 298.14, if the board uses a combination of an educational improvement property tax and an educational improvement income surtax, the board shall determine the percent of income surtax to be imposed, expressed as full percentage points, not to exceed twenty percent.

The department of management shall establish the amount of the educational improvement property tax to be levied or the amount of the combination of the educational improvement property tax to be levied and the amount of the school district income surtax to be imposed for each school year that the educational improvement amount is authorized. The educational improvement property tax and income surtax, if an income surtax is imposed, shall be levied and imposed, collected, and paid to the school district in the manner provided for the instructional support program in sections 257.21 through 275.26.* Moneys received by a school district under the educational improvement program are miscellaneous income.

Once approved at an election, the authority of the board to use the educational improvement program shall continue until the board votes to rescind the educational improvement program or the voters of the school district by majority vote order the discontinuance of the program. The board shall call an election to vote on the proposition whether to discontinue the program upon the receipt of a petition signed by not less than one hundred eligible electors or thirty percent of the number of electors voting at the last preceding school election, whichever is greater.

Sec. 30. NEW SECTION. 257.30 SCHOOL BUDGET REVIEW COMMITTEE.

A school budget review committee is established in the department of education and consists of the director of the department of education, the director of the department of management, and three members who are knowledgeable in the areas of Iowa school finance or public finance issues appointed by the governor to represent the public. At least one of the public members shall possess a master's or doctoral degree in which areas of school finance, economics, or statistics are an integral component, or shall have equivalent experience in an executive administrative or senior research position in the education or public administration field. The members appointed by the governor shall serve staggered three-year terms beginning and

*Section 257.26 probably intended

ending as provided in section 69.19 and are subject to senate confirmation as provided in section 2.32. The committee shall meet and hold hearings each year and shall continue in session until it has reviewed budgets of school districts, as provided in section 257.31. It may call in school board members and employees as necessary for the hearings. Legislators shall be notified of hearings concerning school districts in their constituencies.

The committee shall adopt its own rules of procedure under chapter 17A. The director of the department of education shall serve as chairperson, and the director of the department of management shall serve as secretary. The committee members representing the public are entitled to receive their necessary expenses while engaged in their official duties. Members shall be paid a per diem at the rate specified in section 7E.6. Per diem and expense payments shall be made from appropriations to the department of education.

The department of education shall employ a staff member to assist the school budget review committee.

Sec. 31. NEW SECTION. 257.31 DUTIES OF THE COMMITTEE.

1. The school budget review committee may recommend the revision of any rules, regulations, directives, or forms relating to school district budgeting and accounting, confer with local school boards or their representatives and make recommendations relating to any budgeting or accounting matters, and direct the director of the department of education or the director of the department of management to make studies and investigations of school costs in any school district.

2. The committee shall report to each session of the general assembly, which report shall include any recommended changes in laws relating to school districts, and shall specify the number of hearings held annually, the reasons for the committee's recommendations, information about the amounts of property tax levied by school districts for a cash reserve, and other information the committee deems advisable.

3. The committee shall review the proposed budget and certified budget of each school district, and may make recommendations. The committee may make decisions affecting budgets to the extent provided in this chapter. The costs and computations referred to in this section relate to the budget year unless otherwise expressly stated.

4. Not later than January 1, 1992, the committee shall adopt recommendations relating to the implementation by school districts and area education agencies of procedures pertaining to the preparation of financial reports in conformity with generally accepted accounting principles and submit those recommendations to the state board of education. The state board shall consider the recommendations and adopt rules under section 256.7 specifying procedures and requiring the school districts and area education agencies to conform to generally accepted accounting principles commencing with the school year beginning July 1, 1996.

5. If a district has unusual circumstances, creating an unusual need for additional funds, including but not limited to the following circumstances, the committee may grant supplemental aid to the district from any funds appropriated to the department of education for the use of the school budget review committee for the purposes of this subsection, and such aid shall be miscellaneous income and shall not be included in district cost, or may establish a modified allowable growth for the district by increasing its allowable growth; or both:

a. Any unusual increase or decrease in enrollment.

b. Unusual natural disasters.

c. Unusual initial staffing problems.

d. The closing of a nonpublic school, wholly or in part.

e. Substantial reduction in miscellaneous income due to circumstances beyond the control of the district.

f. Unusual necessity for additional funds to permit continuance of a course or program which provides substantial benefit to pupils.

g. Unusual need for a new course or program which will provide substantial benefit to pupils, if the district establishes the need and the amount of necessary increased cost.

h. Unusual need for additional funds for special education or compensatory education programs.

i. Year-round or substantially year-round attendance programs which apply toward graduation requirements, including but not limited to trimester or four-quarter programs. Enrollment in such programs shall be adjusted to reflect equivalency to normal school year attendance.

j. Unusual need to continue providing a program or other special assistance to non-English speaking pupils after the expiration of the three-year period specified in section 280.4.

k. Circumstances caused by unusual demographic characteristics.

l. Any unique problems of school districts.

6. The committee may grant transportation assistance aid to a school district from funds appropriated in this subsection for the purpose of providing additional funds for a budget year to school districts that have costs for mandatory school transportation based upon the cost per pupil transported that exceed one hundred ten percent of the state average cost of mandatory school transportation based upon the cost per pupil transported. School districts shall submit to the department of education the cost of providing mandatory school transportation in their transportation report filed by July 15 after each school year. The committee shall prioritize the requests of school districts ranking the districts by their mandatory transportation costs based upon the costs per pupil transported with consideration given to the geographic size of the district. Within the limits of the funds appropriated in this subsection, the committee shall pay transportation assistance to those districts ranked in the highest priority based upon the criteria listed in this subsection. The committee shall adopt rules under chapter 17A establishing a procedure for prioritizing requests. Transportation assistance payments are equal to the amount that each district's cost of mandatory transportation based upon the cost per pupil transported exceeds one hundred ten percent of the state average cost of transportation based upon the cost per pupil transported multiplied by the number of pupils transported. Payment for a school year shall be made by September 1 after each school year.

School districts shall also submit in their transportation report long-term plans to reduce their transportation costs. The long-term plans may include, but are not limited to, more efficient use of transportation resources, consolidation of transportation systems, or contracting with regional municipal or private transit systems. The school budget review committee shall review the long-range plans and make recommendations concerning reducing transportation costs to the school districts.

There is appropriated from the general fund of the state to the department of education for the use of the school budget review committee, for each fiscal year, the amount of three million five hundred thousand dollars, or as much thereof as may be necessary, to pay the transportation assistance to school districts ranked in the highest priority under this subsection.

7. The committee shall establish a modified allowable growth for a district by increasing its allowable growth when the district submits evidence that it requires additional funding for removal, management, or abatement of environmental hazards due to a state or federal requirement. Environmental hazards shall include but are not limited to the presence of asbestos, radon, or the presence of any other hazardous material dangerous to health and safety.

The district shall include a budget for the actual cost of the project that may include the costs of inspection, reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, developing of management plans, recordkeeping requirements, and encapsulation or removal of the hazardous material.

8. The committee may authorize a district to spend a reasonable and specified amount from its unexpended cash balance for 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 the tax levy provided in section 298.2.

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, if the costs are incurred within three years of the dissolution or reorganization.

Other expenditures, including but not limited to expenditures for salaries or recurring costs, are not 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 the amount not actually spent for the authorized purpose shall revert to its former status as part of the unexpended cash balance.

9. The committee may approve or modify the initial base year district cost of any district which changes accounting procedures.

10. When the committee makes a decision under subsections 3 through 9, it shall make all necessary changes in the district cost, budget, and tax levy. It shall give written notice of its decision, including all such changes, to the school board through the department of education.

11. A special needs adjustment program is established to be administered by the committee. A school district or area education agency is eligible to request additional funding for a budget year from moneys appropriated in this subsection if it submits evidence to the committee not later than December 15 of the base year that it has special needs that cannot be met through other funding sources available to it. A school district is eligible only if it meets the requirements specified in paragraphs "a" and "b". An area education agency is eligible only if it meets the requirements specified in paragraph "c".

a. A school district must meet the following requirements:

(1) If the request for additional funding relates to approved expenditures from the general operating fund, the district must have approved the instructional support program for the maximum amount.

(2) If the request for additional funding relates to expenditures from the schoolhouse fund, the district must have approved the use of the voter-approved physical plant and equipment levy for the maximum amount.

(3) If the request for additional funding relates to a need included in subsection 5, the district must have been denied additional funding under subsection 5 or received inadequate additional funding under subsection 5.

(4) Notwithstanding subparagraph 1, if the request for additional funding relates to expenditures for programs for gifted and talented children, the committee must have approved the maximum amount of additional allowable growth for programs for gifted and talented children.

(5) Notwithstanding subparagraph 1, if the request for additional funding relates to expenditures for programs for dropout prevention, the committee must have approved the maximum amount of additional allowable growth for programs for dropout prevention.

(6) If the expenditures of the school district for executive administration as a percent of the district's operating fund for the base year are equal to or less than one hundred ten percent of the average for the base year expenditures for executive administration of all school districts in the state as a percent of their operating funds.

b. A school district must meet at least one of the following criteria:

(1) The district is experiencing significant difficulty in meeting minimum state educational standards.

(2) The district is greater in area than one hundred fifty square miles.

(3) The district is experiencing extraordinary problems demonstrably linked to the demographic characteristics of that district.

(4) The average elementary or secondary pupil-teacher ratio of that district is greater than one hundred fifty percent of the state average pupil-teacher ratio.

c. An area education agency must meet the requirements that there are fewer than three and one-half public school pupils per square mile in the area education agency and the ratio of public school pupils to each professional staff member is substantially fewer than that ratio in other area education agencies. If the request for additional funding relates to a need included in section 257.32, the area education agency must have been denied additional funding under

section 257.32 or received inadequate additional funding under section 257.32. Approved payments to area education agencies shall be paid before payments are made to school districts.

d. There is appropriated from the general fund of the state to the department of education for the use of the committee for each fiscal year the sum of five million dollars, or so much thereof as may be necessary, to be used for distribution to area education agencies and school districts under this subsection. Not more than three hundred thousand dollars of the moneys appropriated in this paragraph shall be distributed to area education agencies.

If the moneys appropriated in this paragraph are reduced by the general assembly, the three hundred thousand dollar allocation for area education agencies shall be proportionally reduced.

12. All decisions by the committee under this chapter shall be made in accordance with reasonable and uniform policies which shall be consistent with this chapter. All such policies of general application shall be stated in rules adopted in accordance with chapter 17A. The committee shall take into account the intent of this chapter to equalize educational opportunity, to provide a good education for all the children of Iowa, to provide property tax relief, to decrease the percentage of school costs paid from property taxes, and to provide reasonable control of school costs. The committee shall also take into account the amount of funds available.

13. Failure by any school district to provide information or appear before the committee as requested for the accomplishment of review or hearing is justification for the committee to instruct the director of the department of management to withhold any state aid to that district until the committee's inquiries are satisfied completely.

14. The committee shall review the recommendations of the director of the department of education relating to the special education weighting plan, and shall establish a weighting plan for each school year pursuant to section 281.9, and report the plan to the director of the department of education.

15. The committee may recommend that two or more school districts jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment, and facilities as specified in section 280.15.

16. As soon as possible following June 30 of the base year, the school budget review committee shall determine for each school district the balance of funds, whether positive or negative, raised for special education instruction programs under the special education weighting plan established in section 281.9. The committee shall certify the balance of funds for each school district to the director of the department of management.

In determining the balance of funds of a school district under this subsection, the committee shall subtract the amount of any reduction in state aid that occurred as a result of a reduction in allotments made by the governor under section 8.31.

a. If the amount certified for a school district to the director of the department of management under this subsection for the base year is positive, the director of the department of management shall subtract the amount of the positive balance from the amount of state aid remaining to be paid to the district during the budget year. If the positive amount exceeds the amount of state aid that remains to be paid to the district, the school district shall pay the excess on a quarterly basis prior to June 30 of the budget year to the director of the department of management from other funds received by the district. The director of the department of management shall determine the amount of the positive balance that came from local property tax revenues and shall increase the district's total state school aids available under this chapter for the next following budget year by the amount so determined and shall reduce the district's tax levy computed under section 257.4 for the next following budget year by the amount necessary to compensate for the increased state aid.

b. If the amount certified for a school district to the director of the department of management under this subsection for the base year is negative, the director of the department of management shall determine the amount of the deficit that would have been state aid and the amount that would have been property taxes for each eligible school district.

There is appropriated from the general fund of the state to the school budget review committee for each fiscal year an amount equal to the state aid portion of five percent of the receipts for special education instruction programs in all districts that has a positive balance determined under paragraph "a" for the base year, or the state aid portion of all of the positive balances determined under paragraph "a" for the base year, whichever is less, to be used for supplemental aid payments to school districts. Except as otherwise provided in this lettered paragraph, supplemental aid paid to a district is equal to the state aid portion of the district's negative balance. The school budget review committee shall direct the director of the department of management to make the payments to school districts under this lettered paragraph.

A school district is only eligible to receive supplemental aid payments during the budget year if the school district certifies to the school budget review committee that for the year following the budget year it will notify the school budget review committee to instruct the director of the department of management to increase the district's allowable growth and will fund the allowable growth increase either by using moneys from its unexpended cash balance to reduce the district's property tax levy or by using cash reserve moneys to equal the amount of the deficit that would have been property taxes and any part of the state aid portion of the deficit not received as supplemental aid under this subsection. The director of the department of management shall make the necessary adjustments to the school district's budget to provide the additional allowable growth and shall make the supplemental aid payments.

If the amount appropriated under this lettered paragraph is insufficient to make the supplemental aid payments under this subsection, the director of the department of management shall prorate the payments on the basis of the amount appropriated.

17. Annually the school budget review committee shall review the amount of property tax levied by each school district for the cash reserve authorized in section 298.10. If in the committee's judgment, the amount of a district's cash reserve levy is unreasonably high, the committee shall instruct the director of the department of management to reduce that district's tax levy computed under section 257.4 for the following budget year by the amount the cash reserve levy is deemed excessive. A reduction in a district's property tax levy for a budget year under this subsection does not affect the district's authorized budget.

18. The committee shall perform the duties assigned to it under chapter 286A and section 257.32.

Sec. 32. NEW SECTION. 257.32 AREA EDUCATION BUDGET REVIEW.

1. An area education agency budget review procedure is established for the school budget review committee created in section 257.30. The school budget review committee, in addition to its duties under section 257.31, shall meet and hold hearings each year to review unusual circumstances of area education agencies, either upon the committee's motion or upon the request of an area education agency. The committee may grant supplemental aid to the area education agency from funds appropriated to the department of education for area education agency budget review purposes, or an amount may be added to the area education agency special education support services allowable growth for districts in an area or an additional amount may be added to district cost for media services or educational services for all districts in an area for the budget year either on a temporary or permanent basis, or both.

Unusual circumstances shall include but are not limited to the following:

a. An unusual increase or decrease in enrollment of children requiring special education or unusual need for additional moneys for special education support services.

b. Unusual need for additional moneys for media services.

c. Unusual need for additional moneys for educational services.

d. Unusual costs for building repair, building maintenance, or removal of environmental hazards.

e. Participation by the area education agency in telecommunications, electronic, and technological development with school districts, and related staff development programs.

2. When the school budget review committee makes a decision under subsection 1, it shall provide written notice of its decision, including all changes, to the board of directors of the area education agency, and to the department of management and the department of education.

3. All decisions by the school budget review committee under this section shall be made in accordance with reasonable and uniform policies which shall be consistent with this chapter.

4. Failure by an area education agency to provide information or appear before the school budget review committee as requested for the accomplishment of review or hearing constitutes justification for the committee to instruct the department of revenue and finance to withhold payments for the area education agency until the committee's inquiries are satisfied completely.

Sec. 33. NEW SECTION. 257.33 PRIOR ENRICHMENT APPROVAL.

If the electors of a school district approved the use of the additional enrichment amount prior to July 1, 1991, under chapter 442, or section 279.43, the approval for use of the enrichment amount shall continue in effect until the expiration of the period for which it was approved and districts may use the additional enrichment amount during that period. However, section 257.28 applies to the use of the additional enrichment amount.

Sec. 34. NEW SECTION. 257.34 CASH RESERVE INFORMATION.

If a school district receives less state school foundation aid under section 257.1 than is due under that section for a base year and the school district uses funds from its cash reserve during the base year to make up for the amount of state aid not paid, the board of directors of the school district shall include in its general fund budget document information about the amount of the cash reserve used to replace state school foundation aid not paid.

Sec. 35. NEW SECTION. 257.35 AREA EDUCATION AGENCY PAYMENTS.

The department of management shall deduct the amounts calculated for special education support services, media services, and educational services for each school district from the state aid due to the district pursuant to this chapter and shall pay the amounts to the respective area education agencies on a monthly basis from September 15 through June 15 during each school year. The department of management shall notify each school district of the amount of state aid deducted for these purposes and the balance of state aid shall be paid to the district. If a district does not qualify for state aid under this chapter in an amount sufficient to cover its amount due to the area education agency as calculated by the department of management, the school district shall pay the deficiency to the area education agency from other moneys received by the district, on a quarterly basis during each school year.

Sec. 36. NEW SECTION. 257.36 SPECIAL EDUCATION SUPPORT SERVICES BALANCES.

Notwithstanding chapters 273 and 281 and sections of this chapter relating to the moneys available to area education agencies for special education support services, for each school year, the department of education may direct the department of management to deduct amounts from the portions of school district budgets that fund special education support services in an area education agency. The total amount deducted in an area shall be based upon excess special education support services unreserved and undesignated fund balances in that area education agency for a school year as determined by the department of education. The department of management shall determine the amount deducted from each school district in an area education agency on a proportional basis. The department of management shall determine from the amounts deducted from the portions of school district budgets that fund area education agency special education support services the amount that would have been local property taxes and the amount that would have been state aid and for the next following budget year shall increase the district's total state school aid available under this chapter for area education agency special education support services and reduce the district's property tax levy for area education agency special education support services by the amount necessary for the property tax portion of the deductions made under this section during the budget year.

The amount deducted from a school district's budget shall not affect the calculation of the state cost per pupil or its district cost per pupil in that school year or a subsequent year.

*Sec. 37. NEW SECTION. *257.37 FUNDING MEDIA AND EDUCATIONAL SERVICES.*

Media services and educational services provided through the area education agencies shall be funded, to the extent provided, by an addition to the district cost of each school district, determined as follows:

1. The total amount funded in each area for media services in the budget year is equal to nine-tenths of one percent of the state cost per pupil for the budget year multiplied by the enrollment served in the area for the budget year. Thirty percent of the budget of an area for media services shall be expended for media resource material which shall only be used for the purchase or replacement of material required in section 273.6, subsection 1, paragraphs "a", "b", and "c". Funds shall be paid to area education agencies as provided in section 257.35. The costs shall be allocated to school districts in the area based upon the proportion of the enrollment served that resides in the district.

2. The total amount funded in each area for educational services in the budget year is equal to one percent of the state cost per pupil for the budget year multiplied by the enrollment served in the area for the budget year. Funds shall be paid to area education agencies as provided in section 257.35. The costs shall be allocated to school districts in the area based upon the proportion of the enrollment served that resides in the district.

3. "Enrollment served" means the basic enrollment plus the number of nonpublic school pupils served with media services or educational services, as applicable, except that if a nonpublic school pupil receives services through an area other than the area of the pupil's residence, the pupil shall be deemed to be served by the area of the pupil's residence, which shall by contractual arrangement reimburse the area through which the pupil actually receives services. Each school district shall include in the third Friday in September enrollment report the number of nonpublic school pupils within each school district for media and educational services served by the area.

4. If an area education agency does not serve nonpublic school pupils in a manner comparable to services provided public school pupils for media and educational services, as determined by the state board of education, the state board shall instruct the department of management to reduce the funds for media services and educational services one time by an amount to compensate for such reduced services. The media services budget shall be reduced by an amount equal to the product of the cost per pupil in basic enrollment for the budget year for media services times the difference between the enrollment served and the basic enrollment recorded for the area. The educational services budget shall be reduced by an amount equal to the product of the cost per pupil in basic enrollment for the budget year for educational services times the difference between the enrollment served and the basic enrollment recorded for the area.

This subsection applies only to media and educational services which cannot be diverted for religious purposes.

*Notwithstanding this subsection, an area education agency shall distribute to nonpublic schools media materials purchased wholly or partially with federal funds in a manner comparable to the distribution of such media materials to public schools as determined by the director of the department of education.**

Sec. 38. NEW SECTION. 257.38 PROGRAMS FOR RETURNING DROPOUTS AND DROPOUT PREVENTION.

Boards of school districts, individually or jointly with boards of other school districts, requesting to use additional allowable growth for programs for returning dropouts and dropout prevention, shall annually submit comprehensive program plans for the programs and budget costs, including requests for additional allowable growth for funding the programs, to the department of education as provided in this chapter. The program plans shall include:

1. Program goals, objectives, and activities to meet the needs of children who may drop out of school.

2. Student identification criteria and procedures.

*Item veto; see message at end of the Act

3. Staff in-service education design.
4. Staff utilization plans.
5. Evaluation criteria and procedures and performance measures.
6. Program budget.
7. Qualifications required of personnel administering the program.
8. A provision for dropout prevention and integration of dropouts into the educational program of the district.
9. A provision for identifying dropouts.
10. A program for returning dropouts.
11. Other factors the department requires.

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

Sec. 39. NEW SECTION. 257.39 DEFINITIONS.

As used in this chapter:

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

2. "Potential dropouts" are resident pupils who are enrolled in a public or nonpublic school who demonstrate poor school adjustment as indicated by two or more of the following:

a. High rate of absenteeism, truancy, or frequent tardiness.

b. Limited or no extracurricular participation or lack of identification with school, including but not limited to, expressed feelings of not belonging.

c. Poor grades, including but not limited to, failing in one or more school subjects or grade levels.

d. Low achievement scores in reading or mathematics which reflect achievement at two years or more below grade level.

e. Children in grades kindergarten through three who meet the definition of at-risk children adopted by the department of education.

Sec. 40. NEW SECTION. 257.40 PLANS FOR RETURNING DROPOUTS AND DROPOUT PREVENTION.

The board of directors of a school district requesting to use additional allowable growth for programs for returning dropouts and dropout prevention shall submit applications for approval for the programs to the department not later than November 1 preceding the budget year during which the program will be offered. The department shall review the program plans and shall prior to January 15 either grant approval for the program or return the request for approval with comments of the department included. An unapproved request for a program may be resubmitted with modifications to the department not later than February 1. Not later than February 15, the department shall notify the department of management and the school budget review committee of the names of the school districts for which programs using additional allowable growth for funding have been approved and the approved budget of each program listed separately for each school district having an approved program.

Sec. 41. NEW SECTION. 257.41 FUNDING FOR PROGRAMS FOR RETURNING DROPOUTS AND DROPOUT PREVENTION.

The budget of an approved program for returning dropouts and dropout prevention for a school district, after subtracting funds received from other sources for that purpose, shall be funded annually on a basis of one-fourth or more from the district cost of the school district and up to three-fourths by an increase in allowable growth as defined in section 257.8. 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 program for returning

dropouts and dropout prevention for that district and the sum of the amount funded from the district cost of the school district plus funds received from other sources.

Sec. 42. NEW SECTION. 257.42 GIFTED AND TALENTED CHILDREN.

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.

The parent or guardian of a pupil may request that a gifted and talented children program be established for pupils who qualify as gifted and talented children under section 257.44, including demonstrated achievement or potential ability in a single subject area.

The department shall employ a consultant for gifted and talented children programs.

The department of education shall adopt rules under chapter 17A relating to the administration of sections 257.42 through 257.49. The rules shall prescribe the format of program plans submitted under section 257.43 and shall require that programs fulfill specified objectives. The department shall encourage and assist school districts to provide programs for gifted and talented children whether or not additional allowable growth is requested under this chapter.

Sec. 43. NEW SECTION. 257.43 PROGRAM PLANS.

The program plans submitted by school districts shall include all of the following:

1. Program goals, objectives, and activities to meet the needs of gifted and talented children.
2. Student identification criteria and procedures.
3. Staff in-service education design.
4. Staff utilization plans.
5. Evaluation criteria and procedures and performance measures.
6. Program budget.
7. Qualifications required of personnel administering the program.
8. Other factors the department requires.

Sec. 44. NEW SECTION. 257.44 GIFTED AND TALENTED CHILDREN DEFINED.

"Gifted and talented children" are those identified as possessing outstanding abilities who are capable of high performance. Gifted and talented children are children who require appropriate instruction and educational services commensurate with their abilities and needs beyond those provided by the regular school program.

Gifted and talented children include those children with demonstrated achievement or potential ability, or both, in any of the following areas or in combination:

1. General intellectual ability.
2. Creative thinking.
3. Leadership ability.
4. Visual and performing arts ability.
5. Specific ability aptitude.

Sec. 45. NEW SECTION. 257.45 SUBMISSION OF PROGRAM PLANS.

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

districts for which gifted and talented children programs using additional allowable growth for funding have been approved and the approved budget of each program listed separately for each school district having an approved program.

Sec. 46. NEW SECTION. 257.46 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 257.8. 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. 47. NEW SECTION. 257.47 COOPERATION BY AREA EDUCATION AGENCIES.

The area education agencies in which the school districts having approved gifted and talented children programs are located shall cooperate with the school district in the identification and placement of gifted and talented children and may assist school districts in the establishment of such programs.

Sec. 48. NEW SECTION. 257.48 ADVISORY COUNCIL.

At the written request of one or more boards of school districts, in an area education agency, the area education agency board shall establish one or more gifted and talented children advisory councils and shall appoint members for four-year staggered terms. The terms of office of advisory council members shall commence on July 1 of each year. An advisory council shall consist of seven members including teachers, parents, school administrators, and other persons interested in education in the area. Except as otherwise provided in this section, members shall be eligible electors residing in the merged area. Members shall serve without compensation but shall be reimbursed for actual and necessary expenses and mileage incurred in the performance of their duties from funds available to the area education agency.

If an area education agency has a weighted enrollment of more than thirty-five thousand, the board may appoint additional advisory councils for each thirty-five thousand weighted enrollment or fraction of thirty-five thousand. If more than one advisory council is appointed by the board, the board shall divide the merged area along school district boundary lines for jurisdiction of the advisory councils, and membership of these advisory councils shall be appointed from the designated portion of the merged area.

Sec. 49. NEW SECTION. 257.49 DUTIES OF ADVISORY COUNCIL.

The gifted and talented children advisory council shall:

1. Elect a chairperson and vice chairperson from the membership of the advisory council.
2. Meet as often as deemed necessary by the advisory council.
3. Advise and assist a local board of directors in the establishment of gifted and talented children programs, when requested by the local board.
4. Review program plans and proposed budgets for a gifted and talented children program, in consultation with a gifted and talented children consultant employed by the area education agency, when requested by a local board.
5. When requested by a local board, evaluate the results of a gifted and talented children program and file a written report together with recommendations for improvement or change with the board of directors of the applicable school district, the area education agency and the department of education. The evaluation shall be conducted by three or more members of the advisory council.

Sec. 50. SPECIAL EDUCATION WEIGHTS. For the budget year beginning July 1, 1991, in making recommendations to the school budget review committee under section 281.9, subsection 4, the director of the department of education shall consider the changes in the value of the state cost per pupil determined under section 257.9 from the value of the state cost per pupil for the base year determined under section 442.8, Code 1989, and changes in the value of the district cost per pupil for school districts determined under section 257.10 from the value of the district cost per pupil for school districts determined under section 442.9, Code 1989. Notwithstanding section 281.9, subsection 4, for the budget year commencing July 1, 1991, the increase or decrease in the weighting assigned to each category of children requiring special education is not limited to two-tenths of the weighting assigned to pupils in a regular curriculum.

Sec. 51. Section 96.31, Code 1989, is amended to read as follows:

96.31 TAX FOR BENEFITS.

Political subdivisions may levy a tax outside their general fund levy limits to pay the cost of unemployment benefits. For school districts the cost of unemployment benefits shall be included in the district management levy pursuant to section 298.4.

Sec. 52. Section 111E.4, Code 1989, is amended to read as follows:

111E.4 PAYMENT IN LIEU OF PROPERTY TAXES.

As a part of the budget proposal submitted to the general assembly under section 455A.4, subsection 1, paragraph "c", the director of the department of natural resources shall submit a budget request to pay the property taxes for the next fiscal year on open space property acquired by the department which would otherwise be subject to the levy of property taxes. The assessed value of open space property acquired by the department shall be that determined under section 427.1, subsection 31, and the director may protest the assessed value in the manner provided by law for any property owner to protest an assessment. For the purposes of chapter ~~442~~ 257, the assessed value of the open space property acquired by the department shall be included in the valuation base of the school district and the payments made pursuant to this section shall be considered as property tax revenues and not as miscellaneous income. The county treasurer shall certify taxes due to the department. The taxes shall be paid annually from the departmental fund or account from which the open space property acquisition was funded. If the departmental fund or account has no moneys or no longer exists, the taxes shall be paid from funds as otherwise provided by the general assembly. If the total amount of taxes due certified to the department exceeds the amount appropriated, the taxes due shall be reduced proportionately so that the total amount equals the amount appropriated. This section applies to open space property acquired by the department on or after January 1, 1987.

Sec. 53. Section 256.21, unnumbered paragraphs 1, 4, and 7, Code 1989, are amended to read as follows:

If the general assembly appropriates money for grants to provide sabbaticals for teachers, a sabbatical program shall be established as provided in this section. ~~For the school years commencing July 1, 1988, July 1, 1989, and July 1, 1990, any~~ A teacher with at least seven years of teaching experience in this state may submit an application for a sabbatical to the department of education not later than November 1 of the preceding school year.

A sabbatical grant to a teacher shall be equal to the costs to the school district of the teacher's regular compensation as defined in section 294A.2 plus the cost to the district of the fringe benefits of the teacher. The grant shall be paid to the school district, and the district shall continue to pay the teacher's regular compensation as well as the cost to the district of the substitute teacher. Teachers and boards of school districts are encouraged to seek funding from other sources to pay the costs of sabbaticals for teachers. Grant moneys are miscellaneous income for purposes of chapter ~~442~~ 257.

Notwithstanding section 8.33, if moneys are appropriated by the general assembly for the sabbatical program for ~~either the~~ a fiscal year ~~beginning July 1, 1988 or July 1, 1989~~, the moneys

shall not revert at the end of that fiscal year but shall carry over and may be expended during the next fiscal year.

Sec. 54. Section 256A.3, subsection 5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Program grants funded under this subsection may integrate children not meeting at-risk criteria into the program and shall establish a fee for participation in the program in the manner provided in section 279.49, but grant funds shall not be used to pay the costs for those children.

Sec. 55. Section 256A.3, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 9. Subject to a decision by the council to initiate the programs, develop criteria for and award grants under section 279.51, subsection 2.

NEW SUBSECTION. 10. Encourage the establishment of programs that will enhance the skills of parents in parenting and in providing for the learning and development of their children.

Sec. 56. Section 265.6, Code 1989, is amended to read as follows:

265.6 STATE AID APPLICABLE.

If the state board of regents has established a laboratory school, it shall receive state aid pursuant to chapters 257 and 281 ~~and 442~~ for each pupil enrolled in the laboratory school in the same amount as the public school district in which the pupil resides would receive aid for that pupil and shall transmit the amount received to the institution of higher education at which the laboratory school has been established. If the board of a school district terminates a contract with the state board of regents for attendance of pupils in a laboratory school, the school district shall inform the ~~state comptroller~~ department of management of the number of these pupils who are enrolled in the district on the ~~second~~ third Friday of the following September. The ~~state comptroller~~ department of management shall pay to the school district, from funds appropriated in section ~~442.26~~ 257.16, an amount equal to the amount of state aid paid for each pupil in that school district for that school year in payments made as provided in section ~~442.26~~ 257.16. However, payments shall not be made for pupils for which an advance is received by the district under section ~~442.28~~ 257.13.

Sec. 57. Section 273.2, unnumbered paragraph 5, Code 1989, is amended to read as follows:

The area education agency board may provide for the following programs and services to local school districts, and at the request of local school districts to providers of child development services who have received grants under chapter 256A from the child development coordinating council, within the limits of funds available:

Sec. 58. Section 273.3, subsections 2 and 12, Code 1989, is amended to read as follows:

2. Be authorized to receive and expend money for providing programs and services as provided in sections 273.1 to 273.9, and chapters 257 and 281 ~~and 442~~. All costs incurred in providing the programs and services, including administrative costs, shall be paid from funds received pursuant to sections 273.1 to 273.9 and chapters 257 and 281 ~~and 442~~.

12. Prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 to 273.9 and chapter 281 within the limits of funds provided under section 281.9 and chapter ~~442~~ 257. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county in the territory of the area education agency in which the principal place of business of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall be not later than ~~November 10~~ February 1 of each year, the time, and the location of the public hearing. The proposed budget as approved by the board shall then be submitted to the state board of education, on forms provided by the department, no later than ~~December 1~~ February 15 preceding the next fiscal year for approval. The state board shall review the proposed budget of each area education agency and shall ~~prior to January 1~~ before March 1, either grant approval or return the budget without approval with comments of the state board included. ~~Any~~ An unapproved budget shall be resubmitted to the state board for final approval.

Sec. 59. Section 273.5, subsection 6, Code 1989, is amended to read as follows:

6. Submit to the department of education special education instructional and support program plans and applications, subject to criteria listed in chapter 281 and this chapter, for approval by ~~November 1~~ February 15 of each year for the school year commencing the following July 1.

Sec. 60. Section 273.9, Code 1989, is amended to read as follows:

273.9 FUNDING.

1. ~~For the school year beginning July 1, 1975, and each succeeding school year, school~~ School districts shall pay for the programs and services provided through the area education agency and shall include expenditures for the programs and services in their budgets, in accordance with ~~the provisions of~~ this section.

2. School districts shall pay the costs of special education instructional programs with the moneys available to the districts for each child requiring special education, by application of the special education weighting plan in section 281.9. Special education instructional programs shall be provided at the local level if practicable, or otherwise by contractual arrangements with the area education agency board as provided in section 273.3, subsection 5, but in each case the total money available through section 281.9 and chapter ~~442~~ 257 because of weighted enrollment for each child requiring special education instruction shall be made available to the district or agency which provides the special education instructional program to the child, subject to adjustments for transportation or other costs which may be paid by the school district in which the child is enrolled. Each district shall co-operate with its area education agency to provide an appropriate special education instructional program for each child who requires special education instruction, as identified and counted within the certification by the area director of special education or as identified by the area director of special education subsequent to the certification, and shall not provide a special education instructional program to a child who has not been so identified and counted within the certification or identified subsequent to the certification.

3. The costs of special education support services provided through the area education agency shall be funded ~~by an increase in the allowable growth of each school district, determined~~ as provided in ~~section 442.7~~ chapter 257. Special education support services shall not be funded until the program plans submitted by the special education directors of each area education agency as required by section 273.5 are modified as necessary and approved by the director of the department of education according to the criteria and limitations of ~~chapter~~ chapters 257 and 281 ~~and section 442.7~~.

4. The costs of media services provided through the area education agency shall be funded as provided in section ~~442.27~~ 257.37. Media services shall not be funded until the program plans submitted by the administrators of each area education agency as required by section 273.4 are modified as necessary and approved by the director of the department of education according to the criteria and limitations of ~~section~~ sections 257.37 and 273.6 ~~and of section 442.27~~.

5. The costs of educational services provided through the area education agency shall be funded within the limitations in section ~~442.27~~ 257.37.

The state board of education shall adopt rules under chapter 17A relating to the approval of program plans under this section.

Sec. 61. Section 273.12, Code 1989, is amended to read as follows:

273.12 FUNDS — USE RESTRICTED.

Funds generated for educational services under ~~the provisions of~~ section ~~442.27~~ 257.37 and subject to approval under ~~the provisions of~~ section 273.9, subsection 5, shall not be expended by an area education agency for the purpose of assisting either a public employer or employee organization in collective bargaining negotiations under chapter 20 if the public employer is a school district, or the employee organization consists of employees of a school district, located within the boundaries of the area education agency.

Sec. 62. Section 273.13, Code 1989, 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 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 by twenty-five percent of the reduction in administrative expenditure required by this section. Thereafter, the administrative expenditures shall not exceed five percent of the operating fund. Annually, the board of directors shall certify to the department of education the amounts of the area education agency's expenditures and its operating fund. For the purposes of this section, "base year" and "budget year" mean the same as defined in section 442.6, Code 1989, and section 257.2, and "administrative expenditures" means expenditures for executive administration.

Sec. 63. Section 274.37, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The boards in the respective districts, the boundaries of which have been changed under this section, complete in all respects, except for the passage of time prior to the effective date of the change, and when ~~all~~ the right of appeal of the change has expired, may enter into joint contracts for the construction of buildings for the benefit of the corporations whose boundaries have been changed, using funds accumulated under ~~section 278.1, subsection 7~~ the physical plant and equipment levy in section 298.2. The district in which the building is to be located may use any funds authorized in accordance with chapter 75. ~~Nothing in this section shall be construed to~~ This section does not permit the changed districts to expend any funds jointly which they are not entitled to expend acting individually.

Sec. 64. Section 275.12, subsection 5, Code 1989, is amended to read as follows:

5. The petition may also include a provision that the ~~schoolhouse tax~~ voter-approved physical plant and equipment levy provided in section ~~278.1, subsection 7~~ 298.2, will be voted upon at the election conducted under section 275.18.

Sec. 65. Section 275.14, Code 1989, is amended to read as follows:

275.14 OBJECTION — TIME OF FILING — NOTICE.

Within ten days after the petition is filed, the area education agency administrator shall fix a final date for filing objections to the petition which shall be not more than sixty days after the petition is filed and shall fix the date for a hearing on the objections to the petition. Objections shall be filed in the office of the administrator who shall give notice at least ten days prior to the final day for filing objections, by one publication in a newspaper published within the territory described in the petition, or if none is published ~~therein~~ in the territory, in a newspaper published in the county where the petition is filed, and of general circulation in the territory described. The notice shall also list the date, time, and location for the hearing on the petition as provided in section 275.15. The cost of publication shall be assessed to each district whose territory is involved in the ratio that the number of pupils in basic enrollment for the budget year, as defined in section ~~442.4~~ 257.6 in each district bears to the total number of pupils in basic enrollment for the budget year in the total area involved. Objections shall be in writing in the form of an affidavit and may be made by any person residing or owning land within the territory described in the petition, or who would be injuriously affected by the change petitioned for and shall be on file not later than twelve o'clock noon of the final day fixed for filing objections.

Objection forms shall be prescribed by the department of education and may be obtained from the area education agency administrator. Objection forms that request that property be removed from a proposed district shall include the correct legal description of the property to be removed.

Sec. 66. Section 275.20, Code 1989, is amended to read as follows:

275.20 SEPARATE VOTE IN EXISTING DISTRICTS.

The voters shall vote separately in each existing school district affected and voters residing in the entire existing district are eligible to vote ~~both~~ upon the proposition to create a new school corporation and the proposition to levy the ~~schoolhouse tax under section 278.1, subsection 7~~ voter-approved physical plant and equipment levy under section 298.2, if the petition included a provision for a vote to authorize the levy ~~the schoolhouse tax~~. If a proposition receives a majority of the votes cast in each of at least seventy-five percent of the districts, and also a majority of the total number of votes cast in all of the districts, the proposition is carried.

Sec. 67. Section 275.31, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If necessary to equalize the division and distribution, the board or boards may provide for the levy of additional taxes, which shall be sufficient to satisfy the mandatory levy required in section 76.2 or other liabilities of the districts, upon the property of a corporation or part of a corporation and for the distribution of the tax revenues so as to effect equalization. When the board or boards are considering the equalization levy, the division and distribution shall not impair the security for outstanding obligations of each affected corporation. Any owner of bonds of an affected corporation may bring suit in equity for adjustment of the division and distribution in compliance with this section. If the property tax levy for the amount estimated and certified to apply on principal and interest on lawful bonded indebtedness for a newly formed community school district is greater than the property tax levy for the amount estimated and certified to apply on principal and interest in the year preceding the reorganization or dissolution for a school district that is a party to the reorganization or dissolution, ~~and~~ that had a certified enrollment of less than six hundred for the year prior to the reorganization or dissolution, and that approved the reorganization or dissolution prior to July 1, 1989, the board of the newly formed district shall inform the department of management. The department of management shall pay debt service aid to the newly formed district in an amount that ~~will reduce~~ reduces the rate of the property tax levy for lawful bonded indebtedness in the portion of the newly formed district where the new rate is higher, to the rate that was levied in that portion of the district during the year preceding the reorganization or dissolution.

Sec. 68. Section 275.33, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The collective bargaining agreement of the district with the largest basic enrollment for the year prior to the reorganization, as defined in section ~~442.4~~ 257.6, in the new district shall serve as the base agreement and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the districts which are party to the reorganization, then that agreement shall serve as the base agreement, and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. The board of the newly formed district, using the base agreement as its existing contract, shall bargain with the combined employees of the existing districts for the school year beginning with the effective date of the reorganization. The bargaining shall be completed by March 15 prior to the school year in which the reorganization becomes effective or within one hundred eighty days after the organization of the new board, whichever is later. If a bargaining agreement was already concluded by the board and employees of the existing district with the contract serving as the base agreement for the school year beginning with the effective date of the reorganization, that agreement shall be void. However, if the base agreement contains multiyear provisions affecting school years subsequent to the effective date of the reorganization, the base agreement shall remain in effect as specified in the agreement.

Sec. 69. Section 275.55, unnumbered paragraph 4, Code 1989, 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~~ foundation property tax levy under section ~~442.2~~ 257.3, subsection 1. If the director approves a reduction in the ~~uniform~~ foundation property tax levy as provided in this section, the director shall notify the director of the department of management of the reduction.

Sec. 70. Section 277.2, Code 1989, is amended to read as follows:

277.2 SPECIAL ELECTION.

The board of directors in ~~any~~ a school corporation may call a special election at which ~~election~~ the voters shall have the powers exercised at the regular election with reference to the sale of school property and the application to be made of the proceeds, the authorization of seven members on the board of directors, the authorization to establish or change the boundaries of director districts, and the authorization of a ~~schoolhouse tax~~ voter-approved physical plant and equipment levy or indebtedness, as provided by law.

Sec. 71. Section 278.1, subsection 7, Code 1989, is amended by striking the subsection.

Sec. 72. Section 278.1, unnumbered paragraph 4, Code 1989, is amended by striking the unnumbered paragraph.

Sec. 73. Section 279.26, Code 1989, is amended to read as follows:

279.26 LEASE ARRANGEMENTS.

The board of directors of a local school district for which a ~~schoolhouse tax~~ voter-approved physical plant and equipment levy has been voted pursuant to section ~~278.1, subsection 7~~ 298.2, may enter into a rental or lease arrangement, consistent with the purposes for which the ~~schoolhouse tax~~ voter-approved physical plant and equipment levy has been voted, for a period not exceeding ten years and not exceeding the period for which the ~~schoolhouse tax~~ voter-approved physical plant and equipment levy has been authorized by the voters.

Sec. 74. Section 279.45, Code 1989, 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 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. For the purposes of this section, "base year" and "budget year" mean the same as defined in section 442.6, Code 1989, and section 257.2, and "administrative expenditures" means expenditures for executive administration.

Sec. 75. Section 279.46, Code 1989, is amended to read as follows:

279.46 RETIREMENT INCENTIVES — TAX.

The board of directors of a school district may adopt a program for payment of a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging its employees to retire before the normal retirement date as defined in chapter 97B. The program is available only to employees between fifty-nine and sixty-five years of age who notify the board of directors prior to March 1 of the fiscal year that they intend to retire not later than the next following June 30. An employee retiring under this section shall apply for a retirement allowance under chapter 97B or chapter 294. If the total estimated accumulated

cost to a school district of the bonus or other incentives for employees who retire under this section does not exceed the estimated savings in salaries and benefits for employees who replace the employees who retire under the program, the board may ~~certify for~~ include in the district management levy ~~a tax on all taxable property in the school district~~ an amount to pay the costs of the program provided in this section. ~~The levy certified under this section is in addition to any other levy authorized for that school district by law and is not subject to budget limitations otherwise provided by law. A board may amend its certified budget during a fiscal year to provide for payments required under this section. Moneys received from the levy imposed under this section are miscellaneous income for purposes of chapter 442.~~

Sec. 76. NEW SECTION. 279.51 PROGRAMS FOR AT-RISK CHILDREN.

1. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1990, the sum of eight million seven hundred thousand dollars. For the fiscal year beginning July 1, 1991, and each succeeding fiscal year, there is appropriated the sum of eleven million two hundred thousand dollars plus an additional amount equal to the state percent of growth as calculated in section 257.8 multiplied by the amount appropriated the previous fiscal year.

The moneys shall be allocated as follows:

a. Two hundred seventy-five thousand dollars of the funds appropriated shall be allocated to the area education agencies to assist school districts in developing program plans and budgets under this section and to assist school districts in meeting other responsibilities in early childhood education.

b. For the fiscal year beginning July 1, 1990, four million six hundred twenty-five thousand dollars, and for each fiscal year thereafter, six million one hundred twenty-five thousand dollars of the funds appropriated shall be allocated to the child development coordinating council established in chapter 256A for the purposes set out in subsection 2 of this section and section 256A.3.

c. For each of the fiscal years during the fiscal period beginning July 1, 1990, and ending June 30, 1994, eight hundred thousand dollars of the funds appropriated shall be allocated for the school-based youth services education program established in subsection 3. Subject to the approval of the state board of education, the allocation made in this paragraph may be renewed for additional four-year periods of time.

d. For the fiscal year beginning July 1, 1990, three million dollars, and for each fiscal year thereafter, four million dollars of the funds appropriated shall be allocated as grants to school districts that have elementary schools that demonstrate the greatest need for programs for at-risk students with preference given to innovative programs for the early elementary school years.

e. Additional funds available under this subsection as a result of additional growth provided to the appropriation in subsection 1 shall be distributed equally between paragraphs "b" and "d".

f. Not later than January 15, 1991, the department of education shall submit a report to the general assembly listing the moneys allocated under each of the paragraphs of this section and anticipated funding needed for the remainder of the fiscal year for each of those paragraphs. If the moneys appropriated under this section are insufficient to fund the grants under paragraphs "b" and "d", the department of education shall certify that information in the report and it is the intent of the general assembly that moneys shall be appropriated for the fiscal year beginning July 1, 1990, to supplement the appropriation in this section in an amount sufficient to fund grants under paragraphs "b" and "d", but not greater than two million five hundred thousand dollars.

2. Funds allocated under subsection 1, paragraph "b", shall be used by the child development coordinating council for the following:

a. To continue funding for programs previously funded by grants awarded under section 256A.3 and to provide additional grants under section 256A.3. The council shall seek to provide grants on the basis of the location within the state of children meeting at-risk definitions.

b. At the discretion of the child development coordinating council, award grants for the following:

(1) To school districts to establish programs for three-year, four-year, and five-year old at-risk children which is a combination of preschool and full-day kindergarten.

(2) To provide grants to provide educational support services to parents of at-risk children age birth through three years.

3. A school-based youth services education program is established. The department of education, in consultation with the department of human services, the department of employment services, the Iowa department of public health, and the division of job training and entrepreneurship assistance of the department of economic development, shall develop a four-year demonstration grant program that commences in the fiscal year beginning July 1, 1990. The department shall provide grants to individual middle schools or high schools to establish school-based youth services programs based upon program plans filed by the board of directors of the school district. Priority shall be given to schools with student populations characterized by high rates of a number of the following: school dropout and absenteeism; teenage pregnancy; juvenile court involvement; unemployment; teenage suicide; and teenage mental health, substance abuse, and other health problems. The department shall evaluate proposed programs based upon the department's analysis of effectiveness in reducing these rates within the schools.

Additional objectives of the programs shall be: to increase the ability of existing agencies within the community to address the multiple problems of teenagers and to coordinate their activities, to provide an accessible and attractive center for teenagers in or near school that they are most likely to use, and to facilitate joint planning to make the most economic and innovative use of community resources. Programs shall at a minimum provide job training and employment services, mental health and family counseling services, and primary health care services that include but are not limited to physical examinations, immunizations, hearing and vision screening, and preventive and primary health care services, in the context of the educational needs of the students. Programs shall not include abortion counseling or the dispensing of contraceptives. The department shall give additional consideration to program proposals that provide access to the center after school, in the evening and on weekends, and during the summer; that provide a twenty-four hour telephone hotline or similar service; and that provide access to day care or on-site day care.

The plan shall include the appointment by the board of a local advisory board for each proposed program, which at a minimum shall include a representative of the private industry council serving the area, parents of children enrolled in the school, a teacher recommended by the local teachers association, a representative from the health and mental health community in the area, teenagers enrolled in the school and recommended by the school student government, a representative from the nonprofit provider community, and a representative from the juvenile court system serving the area. Management of the program shall be by the school or by a nonprofit youth service organization. As used in this subsection, "youth service" means recreational services, employment services, civic services, or juvenile treatment services.

Program proposals shall include a written commitment from the school principal and the board of directors that the school will work to coordinate and integrate existing school services and activities with the center and shall include letters of support for the proposal from the local teachers association; parent-teacher organizations; community organizations; nonprofit agencies providing social services, health, or employment services in the area; and the area private industry council.

Grants for the program shall not be used to construct a new facility, but up to ten percent of the grant may be used to renovate an existing structure. In addition, up to ten percent of the grant funds may be used to provide each of the following service categories: day care, transportation, and recreation.

Program proposals shall include a contribution of at least twenty percent of the total costs of the program, which can include "in-kind" services. Partnerships between the public and

private sectors to provide employment and training opportunities for youth served by the program are particularly encouraged. The budget for a proposed program shall not exceed two hundred thousand dollars per year.

4. The department shall seek assistance from the first in the nation in education foundation established in chapter 257A and other foundations and public and private agencies in the evaluation of the programs funded under this section, and in the provision of support to school districts in developing and implementing the programs funded under this section.

5. The state board of education shall adopt rules under chapter 17A for the administration of this section.

Sec. 77. NEW SECTION. 279.52 OPTIONAL FUNDING OF ASBESTOS PROJECTS.

The board of directors may pay the actual cost of an asbestos project from any funds in the general fund of the district, funds received from the physical plant and equipment levy, funds received from the additional enrichment amount for an asbestos project in section 279.53, or moneys obtained through a federal asbestos loan program, to be repaid from any of the funds specified in this subsection over a three-year period.

For the purpose of this section, "cost of an asbestos project" includes the costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, developing of management plans and recordkeeping requirements relating to the presence of asbestos in school buildings of the district and its removal or encapsulation.

Sec. 78. NEW SECTION. 279.53 ADDITIONAL ENRICHMENT AMOUNT FOR ASBESTOS PROJECTS.

1. A school board may raise an additional enrichment amount for purposes of funding an asbestos project under section 279.52 as provided in this section.

2. The board shall determine the additional enrichment amount needed for an asbestos project, within the limits of this section, and shall direct the county commissioner of elections to submit the question of whether to raise that amount under this section and section 279.54 for a period not exceeding five years, to the qualified electors of the school district at a regular school election held during September of the base year or at a special election held not later than February 15 of the base year or February 15, 1995, whichever is earlier. Only one election on the question shall be held during a twelve-month period. If a majority of those voting on the question favors raising the additional enrichment amount for an asbestos project, the board may include the approved amount in its certified budget.

3. The additional enrichment amount needed for an asbestos project shall be raised within the limits provided in this section by an enrichment property tax or by a combination of an enrichment property tax and a school district income surtax. The method of raising the additional enrichment amount shall be determined by the board. Subject to the limitation in section 298.14, if the board uses a combination of an enrichment property tax and a school district income surtax, for each fiscal year the board shall determine the percent of income surtax to be expressed as full percentage points, not to exceed twenty percent.

Sec. 79. NEW SECTION. 279.54 SCHOOL DISTRICT INCOME SURTAX.

If a majority of those voting in an election approves raising the additional enrichment amount for an asbestos project under section 279.53 and this section, not later than March 15 of the previous school year the board shall certify to the department of management that the required procedures have been carried out, the method of funding the amount to be raised, and the department of management shall establish the amount of additional enrichment property tax to be levied or the amount of the combination of the enrichment property tax and the amount of enrichment income surtax to be imposed for each school year for which the additional enrichment amount for an asbestos project is authorized. The enrichment property tax and income surtax, if an income surtax is imposed, shall be levied and imposed, collected, and paid to the school district in the manner provided for the instructional support program in sections 257.21 through 257.26.

Moneys received are miscellaneous income for purposes of chapter 257.

Sec. 80. Section 280.4, subsection 4, Code 1989, is amended to read as follows:

4. In order to provide funds for the excess costs of instruction of non-English-speaking students above the costs of instruction of pupils in a regular curriculum, students identified as non-English-speaking are assigned an additional weighting ~~of two-tenths and~~ that ~~weighting~~ shall be included in the weighted enrollment of the school district of residence for a period not exceeding three years. However, the school budget review committee may grant supplemental aid or modified allowable growth, to a school district to continue funding a program for students after the expiration of the three-year period. The school budget review committee shall calculate the additional amount for the weighting to the nearest one-hundredth of one so that, to the extent possible, the moneys generated by the weighting will be equivalent to the moneys generated by the two-tenths weighting provided prior to July 1, 1991.

Sec. 81. Section 280.13A, unnumbered paragraph 3, Code 1989, is amended to read as follows:

It is not necessary that school districts that are parties to an agreement under this section must be engaged in sharing academic programming and receiving supplementary weighting under section ~~442.39~~ 257.11.

Sec. 82. Section 281.2, subsection 4, Code 1989, is amended to read as follows:

4. ~~Any funds~~ Moneys received by the school district of the child's residence for the child's education, derived from ~~funds~~ moneys received through chapter ~~442~~ 257, this chapter, and section 273.9 shall be paid by the school district of the child's residence to the appropriate education agency, private agency, or other school district providing special education for the child pursuant to contractual arrangements as provided in section 273.3, subsections 5 and 7.

Sec. 83. Section 281.8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

It ~~shall not be~~ is not incumbent upon the school districts to keep a child requiring special education in regular instruction when the child cannot sufficiently profit from the work of the regular classroom, nor to keep ~~such~~ a child requiring special education in the special class or instruction for children requiring special education when it is determined by the director of special education of an area education agency that the child can no longer benefit from the instruction or needs more specialized instruction available in special schools. However, the school district shall count the child requiring special education in the enrollment as provided in sections 257.6, 273.9, and 281.9 ~~and 442.4~~ and shall ~~insure~~ ensure that appropriate educational provisions are made for the child requiring special education within the limits of ~~funds~~ moneys available under ~~the provisions of~~ this chapter and chapters 257 and 273 ~~and 442~~.

Sec. 84. Section 281.9, subsections 2, 4, and 9, Code 1989, are amended to read as follows:

2. The weighting for each category of child multiplied by the number of children in each category in the enrollment of a school district, as identified and certified by the director of special education for the area, determines the weighted enrollment to be used in that district for purposes of computations required under the state school foundation plan in chapter ~~442~~ 257.

4. On December 1, 1987, and no later than December 1 every two years thereafter, for the school year commencing the following July 1, the director of the department of education shall report to the school budget review committee the average costs of providing instruction for children requiring special education in the categories of the weighting plan established under this section, and the director of the department of education shall make recommendations to the school budget review committee for needed alterations to make the weighting plan suitable for subsequent school years. The school budget review committee shall establish the weighting plan for each school year after the school year commencing July 1, 1987, and shall report the plan to the director of the department of education. Commencing December 1, 1990, the school budget review committee may establish weights to the nearest hundredth. The school budget review committee shall not alter the weighting assigned to pupils in a regular curriculum, but it may increase or decrease the weighting assigned to each category of children requiring special education by not more than two-tenths of the weighting assigned to pupils in a regular

curriculum. The state board of education shall adopt rules under chapter 17A, to implement the weighting plan for each year and to assist in identification and proper indexing of each child in the state who requires special education.

9. ~~Commencing with the school year beginning July 1, 1975, funds~~ Funds generated for special education instructional programs under this chapter and chapter ~~442~~ 257 shall not be expended for modifications of school buildings to make them accessible to children requiring special education. ~~Unencumbered funds generated for special education instructional programs for the school years beginning July 1, 1975 and July 1, 1976, shall not be expended for such purpose unless approved by the department of public instruction based upon applications received by the department prior to January 1, 1978 and approved prior to April 1, 1978.~~

Sec. 85. Section 282.3, subsection 1, Code 1989, is amended to read as follows:

1. The board may exclude from school children under the age of six years when in its judgment such children are not sufficiently mature to be benefited by regular instruction, or any incorrigible child or any child who in its judgment is so abnormal that regular instruction would be of no substantial benefit, or any child whose presence in school may be injurious to the health or morals of other pupils or to the welfare of such school. However, the board shall provide special education programs and services under ~~the provisions of~~ chapters 257, 273, and 281, ~~and 442~~ for all children requiring special education.

Sec. 86. Section 282.7, subsection 3, Code 1989, is amended to read as follows:

3. Notwithstanding ~~section~~ sections 28E.9 and 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~~ before 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~~ 257.11 as a result of that agreement.

Sec. 87. Section 282.24, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~There is established a~~ The 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"~~ 257.10.

Sec. 88. Section 282.28, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The area education agency shall submit a claim to the department of education by August 1 following the school year for the actual costs of the special education programs and services provided at the training school and juvenile home. The department shall review and approve or modify the claims by September 1 and shall notify the department of revenue and finance

of the approved claim amount. The total amount of the approved claim shall be paid by the department of revenue and finance to the area education agency by October 1. The total amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section ~~442.26~~ 257.16 during the remainder of that fiscal year to all school districts in the state. The portion of the total amount of the approved claim that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year. The department of revenue and finance shall transfer the total amount of the approved claim from the moneys appropriated under section ~~442.26~~ 257.16 for payment to the area education agency.

Sec. 89. Section 282.31, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. A child who lives in a facility pursuant to section 282.30, subsection 1, paragraph "a", and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The area education agency shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the area education agency by February 1. The area education agency shall submit a claim to the department of education by August 1 following the school year for the actual cost of the program. The department shall review and approve or modify all expenditures incurred in compliance with the guidelines pursuant to section 256.7, subsection 12, and shall notify the department of revenue and finance of the approved claim amount by September 1. The total amount of the approved claim shall be paid by the department of revenue and finance to the area education agency by October 1. The total amount paid by the department of revenue and finance shall be deducted monthly from the state school foundation aid paid under section ~~442.26~~ 257.16 during the remainder of that fiscal year to all school districts in the state. The portion of the total amount of the approved claims that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year. The department of revenue and finance shall transfer the total amount of the approved claims from the moneys appropriated under section ~~442.26~~ 257.16 for payment to the area education agencies.

Sec. 90. Section 282.31, subsection 3, Code 1989, is amended to read as follows:

3. The actual special education instructional costs, including transportation, for a child who requires special education shall be paid by the department of revenue and finance to the school district in which the facility or home is located, only when a district of residence cannot be determined, and the child was not included in the weighted enrollment of any district pursuant to section 281.9, and the payment pursuant to subsection 2, paragraph "a", was not made by any district. The district shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the district by February 1. The district shall submit a claim by August 1 following the school year for the actual cost of the program. The department shall review and approve or modify the claim and shall notify the department of revenue and finance of the approved claim amount by September 1. The total amount of the approved claim shall be paid by the department of revenue and finance to the school district by October 1. The total amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section ~~442.26~~ 257.16 during the remainder of that fiscal year to all school districts in the state. The portion of the total amount of the approved claims that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for the

budget year. The department of revenue and finance shall transfer the total amount of the approved claims from moneys appropriated under section ~~442.26~~ 257.16 for payment to the school district.

Sec. 91. Section 283A.9, Code 1989, is amended to read as follows:

283A.9 BUILDING FOR SCHOOL LUNCH FACILITY.

School districts ~~are authorized to~~ may purchase, erect, or otherwise acquire a building for use as a school lunch facility, and ~~to~~ equip ~~such~~ a building for ~~such~~ that use, and pay for ~~same~~ the acquisition or equipping from unencumbered funds on hand in the schoolhouse fund ~~derived from taxes voted under authority of section 278.1, subsection 7, or 275.32~~, subject to the terms of this section, or may pay for ~~same~~ the facility or equipment from the proceeds of the sale of school property sold under section 297.22, or from surplus remaining in the schoolhouse fund after retirement of a bond issue~~, or from a tax voted for said purposes~~.

Sec. 92. Section 285.2, unnumbered paragraph 3, Code 1989, is amended to read as follows:

The costs of providing transportation to nonpublic school pupils as provided in section 285.1 shall not be included in the computation of district cost under chapter ~~442~~ 257, but shall be shown in the budget as an expense from miscellaneous income. Any transportation reimbursements received by a local school district for transporting nonpublic school pupils shall not affect district cost limitations of chapter ~~442~~ 257. The reimbursements provided in this section are miscellaneous income as defined in section ~~442.5~~ 257.2.

Sec. 93. Section 286A.2, subsections 3, 4, and 5, Code 1989, are amended to read as follows:

3. "Base year" means base year as defined in section ~~442.6~~ 257.2.

4. "Budget year" means budget year as defined in section ~~442.6~~ 257.2.

5. "State percent of growth" is the state percent of growth calculated under section ~~442.7~~ 257.8.

Sec. 94. Section 286A.14, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

1. An area school budget review procedure is established for the school budget review committee created in section ~~442.12~~ 257.30. The school budget review committee, in addition to its duties under chapter ~~442~~ 257, shall meet and hold hearings each year under this chapter to review unusual circumstances of area schools, either upon the committee's motion or upon the request of an area school. The committee may grant supplemental aid to the area school from funds appropriated to the department of education for area school budget review purposes, or an amount may be added to the area school allowable growth for all cost centers and area school allowable growth for noninstructional functions for the budget year either on a temporary or permanent basis, or the committee may allow both.

Sec. 95. Section 291.13, Code 1989, is amended to read as follows:

291.13 GENERAL AND SCHOOLHOUSE FUNDS.

The money collected by ~~a tax authorized by the electors~~ the regular and voter-approved physical plant and equipment levies or the proceeds of the sale of bonds authorized by law or the proceeds of a tax estimated and certified by the board for the purpose of paying interest and principal on lawful bonded indebtedness ~~or for the purchase of sites as authorized by law~~, shall be ~~called~~ deposited in the schoolhouse fund and, except when authorized by the electors, may be used only for the purpose for which originally authorized or certified. The money collected by the district management levy shall be deposited in a subfund of the general fund of the school district. All other moneys received for any other purpose shall be ~~called~~ deposited in the general fund of the school district. The treasurer shall keep a separate account ~~with~~ for each fund, ~~paying no~~ and shall not pay an order that fails to state the fund upon which it is drawn and the specific use to which it is to be applied.

Sec. 96. Section 294A.2, subsections 1 and 2, Code 1989, are amended to read as follows:

1. "Certified enrollment in a school district" for the school years beginning July 1, 1987, July 1, 1988, and July 1, 1989, means that district's basic enrollment for the budget year beginning July 1, 1987 as defined in section 442.4, Code 1989. For each school year thereafter, certified enrollment in a school district means that district's basic enrollment for the budget year as defined in section 442.4, Code 1989, or section 257.2.

2. "Enrollment served" for the fiscal years beginning July 1, 1987, July 1, 1988, and July 1, 1989, means that area education agency's enrollment served for the budget year beginning July 1, 1987. For each school year thereafter, enrollment served means that area education agency's enrollment served for the budget year. Enrollment served shall be determined under section ~~442.27, subsection 12~~ 257.27.

Sec. 97. Section 294A.9, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Phase II is established to improve the salaries of teachers. For each fiscal year through the fiscal year beginning July 1, 1990, the department of education shall allocate to each school district for the purpose of implementing phase II ~~an~~ a per pupil amount equal to seventy-five dollars and ninety-three cents multiplied by the district's certified enrollment and to each area education agency for the purpose of implementing phase II ~~an~~ a per pupil amount equal to three dollars and fifty-five cents multiplied by the enrollment served in the area education agency~~, if the general assembly has appropriated sufficient moneys to the fund so that pursuant to section 294A.3, thirty-eight million five hundred thousand dollars will be allocated by the department to school districts and area education agencies for phase II. If, because of the amount of the appropriation made by the general assembly to the fund, less than thirty-eight million five hundred thousand dollars is allocated for phase II, the department of education shall adjust the amount for each student in certified enrollment and each student in enrollment served based upon the amount allocated for phase II.~~ Notwithstanding the per pupil amount of the payments specified in this section, for the fiscal year beginning July 1, 1991, and each succeeding fiscal year, the per pupil amounts upon which the phase II moneys are based shall be increased by an amount equal to the product of the state percent of growth calculated under section 257.8 and the per pupil amount for the previous fiscal year.

Sec. 98. Section 294A.14, Code 1989, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the amount per pupil of the payments specified in this section, for the fiscal year beginning July 1, 1991, and each succeeding fiscal year, if a school district's or area education agency's approved phase III plan for a fiscal year contains a component that includes a performance-based pay plan, the per pupil amount upon which the phase III moneys are based shall be increased by an amount equal to the product of the state percent of growth calculated under section 257.8 and the per pupil amount for the previous fiscal year.

**Sec. 99.* *Section 294A.14, unnumbered paragraph 4, Code 1989, is amended to read as follows:*

For the purpose of this section, a performance-based pay plan shall provide for salary increases for teachers who ~~demonstrate superior performance in completing assigned duties~~ take action to achieve superior performance through participation in additional course work, in-service programs, comprehensive school transformation programs, activities for students, comprehensive goal-oriented compensation mechanisms, or innovative education programs. *The plan shall include the method used to determine superior performance of a teacher. For school districts, the plan may include assessments of specific teaching behavior, assessments of student performance, assessments of other characteristics associated with effective teaching, or a combination of these criteria.**

Sec. 100. Section 294A.22, Code 1989, is amended to read as follows:

294A.22 PAYMENTS.

Payments for each phase of the educational excellence program shall be made by the department of revenue and finance on a quarterly basis, and the payments shall be separate from

*Item veto; see message at end of the Act

state aid payments made pursuant to sections ~~442.25~~ 257.16 and ~~442.26~~ 257.35. ~~For the school year beginning July 1, 1987, the first quarterly payment shall be made not later than October 15, 1987 taking into consideration the relative budget and cash position of the state resources.~~ The payments to a school district or area education agency may be combined and a separate accounting of the amount paid for each program shall be included.

Any payments made to school districts or area education agencies under this chapter are miscellaneous income for purposes of chapter ~~442~~ 257.

Sec. 101. Section 294A.25, subsection 1, Code 1989, is amended to read as follows:

1. For ~~each fiscal year commencing with~~ the fiscal year beginning July 1, ~~1987~~ 1990, there is appropriated from the general fund of the state to the department of education the amount of ninety-two million one hundred thousand eighty-five (92,100,085) dollars to be used to improve teacher salaries. For each fiscal year thereafter, there is appropriated an amount equal to the amount appropriated for the fiscal year beginning July 1, 1990, plus an amount sufficient to pay the costs of the additional funding provided for school districts and area education agencies under sections 294A.9 and 294A.14. The moneys shall be distributed as provided in this section.

Sec. 102. Section 294A.25, subsection 5, Code 1989, is amended to read as follows:

5. For ~~each~~ the fiscal year beginning July 1, 1990, and succeeding fiscal years, the remainder of moneys appropriated in subsection 1 to the department of education shall be deposited in the educational excellence fund to be allocated in an amount to meet the minimum salary requirements of this chapter for phase I, in an amount ~~of thirty-eight million five hundred thousand dollars~~ to meet the requirements for phase II, and the remainder of the appropriation for phase III.

Sec. 103. Section 296.7, Code 1989, is amended to read as follows:

296.7 INDEBTEDNESS FOR INSURANCE AUTHORIZED — TAX LEVY.

A school district or merged area school corporation ~~is authorized to~~ may contract indebtedness and ~~to~~ issue general obligation bonds or enter into insurance agreements obligating the school district or corporation to make payments beyond its current budget year to procure or provide for a policy of insurance, a self-insurance program, or establish and maintain a local government risk pool to protect the school district or corporation from tort liability, loss of property, environmental hazards, or any other risk associated with the operation of the school district or corporation. Taxes for the payment of the principal, premium, or interest on ~~such a bond~~ the bonds, the payment of ~~such an~~ the premium on the insurance policy, the payment of the costs of ~~such~~ a self-insurance program, the payment of the costs of ~~such~~ a local government risk pool, and the payment of ~~any~~ amounts payable under ~~any such~~ an insurance agreement authorized in this section may be levied in excess of any tax limitation imposed by statute. However, for a school district, a tax levied under this section shall be included in the district management levy under section 298.4. Such a self-insurance program or local government risk pool is not insurance and is not subject to regulation under chapters 505 through 523C. However, those self-insurance plans regulated pursuant to section 509A.14 shall remain subject to the requirements of section 509A.14 and rules adopted pursuant to that section.

If the board by resolution restricts the use of money in a fund as a reserve for uninsured liability or a self-insurance program, the use shall be restricted and unavailable for any other purpose until the board removes the restriction. The removal is not effective until all obligations of the restricted fund have been satisfied, or the next fiscal year, whichever occurs later.

Sec. 104. NEW SECTION. 297.35 CONTINUATION OF LOAN AGREEMENT.

A loan agreement between a school district and a bank, investment banker, trust company, insurance company, or insurance group that was made under section 297.36, Code 1989, prior to July 1, 1991, in order to make immediately available proceeds of the schoolhouse tax approved by the voters prior to July 1, 1991, and the levy of taxes to pay principal and interest thereafter shall continue in effect for the duration of the loan agreement.

Sec. 105. Section 297.36, Code 1989, is amended to read as follows:

297.36 LOAN AGREEMENTS.

In order to make immediately available proceeds of the ~~schoolhouse tax~~ voter-approved physical plant and equipment levy which has been approved by the voters as provided in section ~~278.1, subsection 7~~ 298.2, the board of directors may, with or without notice, borrow money and enter into loan agreements in anticipation of the collection of the tax with a bank, investment banker, trust company, insurance company, or insurance group.

By resolution, the board shall provide for an annual levy which is within the limits of the ~~tax approved by the voters~~ voter-approved physical plant and equipment levy to pay for the amount of the principal and interest due each year until maturity. The board shall file a certified copy of the resolution with the auditor of each county in which the district is located. The filing of the resolution with the auditor ~~shall make~~ makes it the duty of the auditor to annually levy the amount certified for collection until funds are realized to repay the loan and interest on the loan in full.

The loan must mature within the period of time authorized by the voters and shall bear interest at a rate which does not exceed the limits ~~provided~~ under chapter 74A. A loan agreement entered into pursuant to this section shall be in a form as the board of directors shall by resolution provide and the loan shall be payable as to both principal and interest from the proceeds of the annual levy of the ~~voted tax pursuant to section 278.1, subsection 7~~ voter-approved physical plant and equipment levy, or so much thereof as will be sufficient to pay the loan and interest on the loan.

The proceeds of a loan must be deposited in a fund which is separate from other district funds. Warrants paid from this fund must be for purposes authorized ~~by the voters as provided in section 278.1, subsection 7~~ for the voter-approved physical plant and equipment levy.

This section does not limit the authority of the board of directors to levy the full amount of the ~~voted tax~~ voter-approved physical plant and equipment levy, but if and to whatever extent the tax is levied in any year in excess of the amount of principal and interest falling due in that year under a loan agreement, the first available proceeds, to an amount sufficient to meet maturing installments of principal and interest under the loan agreement, shall be paid into the sinking fund for the loan before the taxes are otherwise made available to the school corporation for other school purposes, and the amount required to be annually set aside to pay principal of and interest on the money borrowed under the loan agreement ~~shall constitute~~ constitutes a first charge upon the proceeds of the ~~special voted tax~~ voter-approved physical plant and equipment levy, which tax shall be pledged to pay the loan and the interest on the loan.

This section is supplemental and in addition to existing statutory authority to finance the purposes specified in section ~~278.1, subsection 7~~ 298.2 for the physical plant and equipment levy, and for the borrowing of money and execution of loan agreements in connection with that section ~~and subsection~~, and is not subject to any other law. The fact that a school corporation may have previously borrowed money and entered into loan agreements under authority of this section does not prevent the school corporation from borrowing additional money and entering into further loan agreements if the aggregate of the amount payable under all of the loan agreements does not exceed the proceeds of the ~~voted tax~~ voter-approved physical plant and equipment levy.

Sec. 106. Section 298.1, Code 1989, is amended to read as follows:

298.1 SCHOOL TAXES.

The board of each school district shall estimate the amount of the proposed expenditures and proposed receipts for the general school purposes at a time and in a manner to effectuate the provisions of chapter ~~442~~ 257 and sections 281.9 and 281.11. Compliance with chapter 24 shall be observed.

Sec. 107. NEW SECTION. 298.2 IMPOSITION OF PHYSICAL PLANT AND EQUIPMENT LEVY.

1. A physical plant and equipment levy of not exceeding one dollar per thousand dollars of assessed valuation in the district is established except as otherwise provided in this subsection. The physical plant and equipment levy consists of the regular physical plant and equipment levy of not exceeding thirty-three cents per thousand dollars of assessed valuation in the district and a voter-approved physical plant and equipment levy of not exceeding sixty-seven cents per thousand dollars of assessed valuation in the district. However, the voter-approved physical plant and equipment levy may consist of a combination of a physical plant and equipment property tax levy and a physical plant and equipment income surtax as provided in subsection 3 with the maximum amount levied and imposed limited to an amount that could be raised by a sixty-seven cent property tax levy. The levy limitations of this subsection are subject to subsection 5.

2. The board of directors of a school district may certify for levy by March 15 of a school year a tax on all taxable property in the school district for the regular physical plant and equipment levy.

3. The board may, and upon the written request of not less than one hundred eligible electors or thirty percent of the number of eligible electors voting at the last regular school election, whichever is greater, shall, direct the county commissioner of elections to provide for submitting the proposition of levying the voter-approved physical plant and equipment levy for a period of time authorized by the voters in the notice of election, not to exceed ten years, in the notice of the regular school election. The proposition is adopted if a majority of those voting on the proposition at the election approves it. The voter-approved physical plant and equipment levy shall be funded either by a physical plant and equipment property tax or by a combination of a physical plant and equipment property tax and a physical plant and equipment income surtax, as determined by the board. However, if the board intends to enter into a rental or lease arrangement under section 279.26, or intends to enter into a loan agreement under section 297.36, only a property tax shall be levied for those purposes. Subject to the limitations of section 298.14, if the board uses a combination of a physical plant and equipment property tax and a physical plant and equipment surtax, for each fiscal year the board shall determine the percent of income surtax to be imposed expressed as full percentage points, not to exceed twenty percent.

If a combination of a property tax and income surtax is used, by March 15 of the previous school year, the board shall certify the percent of the income surtax to be imposed and the amount to be raised to the department of management and the department of management shall establish the rate of the property tax and income surtax for the school year. The physical plant and equipment property tax and income surtax shall be levied or imposed, collected, and paid to the school district in the manner provided for the instructional support program in sections 257.21 through 257.26.

4. The proposition to levy the voter-approved physical plant and equipment levy is not affected by a change in the boundaries of the school district, except as otherwise provided in this section. If each school district involved in a school reorganization under chapter 275 has adopted the voter-approved physical plant and equipment levy and if the voters have not voted upon the proposition to levy the voter-approved physical plant and equipment levy in the reorganized district, the existing voter-approved physical plant and equipment levy is in effect for the reorganized district for the least amount and the shortest time for which it is in effect in any of the districts.

Authorized levies for the period of time approved are not affected as a result of a failure of a proposition proposed to expand the purposes for which the funds may be expended.

5. If the board of directors of a school district in which the voters have authorized the schoolhouse tax prior to July 1, 1991, has entered into a rental or lease arrangement under section 279.26, Code 1989, or has entered into a loan agreement under section 297.36, Code 1989, the

levy shall continue for the period authorized and the maximum levy that can be authorized under the voter-approved physical plant and equipment levy is reduced by the rate of the schoolhouse tax.

Sec. 108. NEW SECTION. 298.3 REVENUES FROM THE LEVIES.

The revenue from the regular and voter-approved physical plant and equipment levies shall be placed in the schoolhouse fund and expended only for the following purposes:

1. The purchase and improvement of grounds. For the purpose of this subsection:

a. "Purchase of grounds" includes the legal costs relating to the property acquisition, costs of surveys of the property, costs of relocation assistance under state and federal law, and other costs incidental to the property acquisition.

b. "Improvement of grounds" includes grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks which are not parts of building service systems; demolition work; and special assessments against the school district for public improvements, as defined in section 384.37.

2. The construction of schoolhouses or buildings and opening roads to schoolhouses or buildings.

3. The purchase of buildings and the purchase of a single unit of equipment exceeding five thousand dollars in value.

4. The payment of debts contracted for the erection or construction of schoolhouses or buildings, not including interest on bonds.

5. Procuring or acquisition of libraries.

6. Repairing, remodeling, reconstructing, improving, or expanding the schoolhouses or buildings and additions to existing schoolhouses.

For the purpose of this subsection, "repairing" means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance; and "reconstructing" means rebuilding or restoring as an entity a thing which was lost or destroyed.

7. Expenditures for energy conservation.

8. The rental of facilities under chapter 28E.

9. Purchase of transportation equipment for transporting students.

10. Lease-purchase option agreements for school buildings.

11. Equipment purchases for recreational purposes.

Interest earned on money in the schoolhouse fund may be expended for a purpose listed in this section.

Sec. 109. NEW SECTION. 298.4 DISTRICT MANAGEMENT LEVY.

The board of directors of a school district may certify for levy by March 15 of a school year, a tax on all taxable property in the school for a district management levy. The revenue from the tax levied in this section shall be placed in the district management subfund of the general fund of the school district. The district management levy shall be expended only for the following purposes:

1. To pay the cost of unemployment benefits as provided in section 96.31.

2. To pay the costs of liability insurance and the costs of a judgment or settlement relating to liability together with interest accruing on the judgment or settlement to the expected date of payment.

3. To pay the costs of insurance agreements under section 296.7.

4. To pay the costs of a judgment under section 298.16.

5. To pay the cost of early retirement benefits to employees under section 279.46.

Sec. 110. Section 298.9, Code 1989, is amended to read as follows:

298.9 SPECIAL LEVIES.

If ~~a schoolhouse tax~~ the voter-approved physical plant and equipment levy, consisting solely

of a physical plant and equipment property tax levy, is voted at a special election and certified to ~~said~~ the board after the regular levy is made, ~~it~~ the board shall at its next regular meeting levy ~~such~~ the tax and cause ~~the same~~ it to be ~~forthwith~~ entered upon the tax list to be collected as other school taxes. If the certification is ~~so~~ filed prior to April 1, ~~said~~ the annual levy shall begin with the tax levy of the year of filing. If the certification is filed after April 1 in ~~any~~ a year, ~~such~~ the levy shall begin with the levy of the fiscal year succeeding the year of the filing of ~~such~~ the certification.

Sec. 111. Section 298.10, Code 1989, is amended to read as follows:

298.10 LEVY FOR CASH RESERVE.

The board of directors of a school district may certify for levy by March 15 of a school year, a tax on all taxable property in the school district in order to raise an amount for a necessary cash reserve for a school district's general fund. The amount raised for a necessary cash reserve does not increase a school district's authorized expenditures as defined in section ~~442.5, subsection 2~~ 257.7.

Sec. 112. NEW SECTION. 298.14 SCHOOL DISTRICT INCOME SURTAXES.

For each fiscal year, the cumulative total of the percents of surtax approved by the board of directors of a school district and collected by the department of revenue and finance under sections 257.21, 257.29, 279.54, and 298.2, and the enrichment surtax under section 442.15, Code 1989, shall not exceed twenty percent.

A school district income surtax fund is created in the office of treasurer of state. Income surtaxes collected by the department of revenue and finance under sections 257.21, 257.29, 279.54, and 298.2 and section 442.15, Code 1989, shall be deposited in the school district income surtax fund to the credit of each school district. A separate accounting of each surtax, by school district, shall be maintained.

The director of revenue and finance shall draw warrants in payment of the surtaxes collected in each school district. Warrants shall be payable in two installments to be paid on approximately the first day of December and the first day of February following collection of the taxes and shall be delivered to the respective school districts.

Sec. 113. Section 298.16, Code 1989, is amended to read as follows:

298.16 JUDGMENT TAX.

If the proper fund is not sufficient, then, unless its board has provided by the issuance of bonds for raising the amount necessary to pay ~~such~~ a judgment, the ~~voters thereof shall at their regular election vote a sufficient tax for the purpose~~ cost of the judgment shall be included in the district management levy.

Sec. 114. Section 301.30, unnumbered paragraph 3, Code 1989, is amended to read as follows:

The costs of providing textbook services to nonpublic school pupils as provided in section 301.1 shall not be included in the computation of district cost under chapter ~~442~~ 257, but shall be shown in the budget as an expense from miscellaneous income. Any textbook reimbursements received by a local school district for serving nonpublic school pupils shall not affect district cost limitations of chapter ~~442~~ 257. The reimbursements provided in this section are miscellaneous income as defined in section ~~442.5~~ 257.2.

Sec. 115. Section 331.512, subsection 12, Code 1989, is amended to read as follows:

12. Carry out duties relating to levy of school taxes as provided in chapter ~~442~~ 257.

Sec. 116. Section 422.9, subsection 6, unnumbered paragraph 3, Code 1989, is amended to read as follows:

~~The provisions of this~~ This subsection ~~shall~~ does not affect the amount of the taxpayer's checkoff to the Iowa election campaign fund under section 56.18, the checkoff for the fish and game protection fund in section 107.16, the credits from tax provided in sections 422.10, ~~422.11A, and~~ through 422.12 and the allocation of these credits between spouses if the taxpayers filed separate returns or separately on combined returns, or the amount of the taxpayer's school

district income surtax liability under sections 257.21, 257.29, 279.54, and 298.2, and section 442.15, Code 1989, as these items were properly computed or claimed on taxpayers' returns.

Sec. 117. Section 442.2, subsection 1, unnumbered paragraph 3, Code 1989, is amended to read as follows:

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 prior to July 1, 1989, and the reorganization or dissolution takes effect on or after July 1, 1988.

Sec. 118. Section 442.2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The reduced property tax rates of those reorganized districts that met the requirements of this section prior to July 1, 1989, shall continue to increase as provided in this section until they reach five dollars and forty cents.

Sec. 119. Section 442.9A, unnumbered paragraph 4, Code 1989, is amended to read as follows:

For purposes of this section, a reorganized school district is one in which reorganization was approved in an election pursuant to sections 275.18 and 275.20 prior to July 1, 1989, and will take effect on or after July 1, 1986.

Sec. 120. Section 442.13,* Code 1989, is amended by striking the section and inserting in lieu thereof the following:

442.13* SCHOOL BUDGET REVIEW COMMITTEE.

A school budget review committee is established in the department of education and consists of the director of the department of education, the director of the department of management, and three members who are knowledgeable in the areas of Iowa school finance or public finance issues appointed by the governor to represent the public. At least one of the public members shall possess a master's or doctoral degree in which areas of school finance, economics, or statistics are an integral component, or shall have equivalent experience in an executive administrative or senior research position in the education or public administration field. The members appointed by the governor shall serve staggered three-year terms beginning and ending as provided in section 69.19 and are subject to senate confirmation as provided in section 2.32. The committee shall meet and hold hearings each year and shall continue in session until it has reviewed budgets of school districts, as provided in section 257.31. It may call in school board members and employees as necessary for the hearings. Legislators shall be notified of hearings concerning school districts in their constituencies.

The committee shall adopt its own rules of procedure under chapter 17A. The director of the department of education shall serve as chairperson, and the director of the department of management shall serve as secretary. The committee members representing the public are entitled to receive their necessary expenses while engaged in their official duties. Members shall be paid a per diem at the rate specified in section 7E.6. Per diem and expense payments shall be made from appropriations to the department of education.

The department of education shall employ a staff member to assist the school budget review committee.

Sec. 121. Section 442.39, unnumbered paragraph 1, and subsections 2 and 4, Code 1989, are amended to read as follows:

In order to provide additional funds for school districts which send their resident pupils to another school district or to an area school for classes, which jointly employ and share the services of teachers under section 280.15, ~~or~~ which use the services of a teacher employed by another school district, or which jointly employ and share the services of school ~~administrators~~ superintendents under section 280.15 or 273.7A, a supplementary weighting plan for determining enrollment is adopted as follows:

2. Pupils attending classes in another school district or an area school, attending classes

*Section 442.12 probably intended

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 under a whole grade sharing agreement. The additional weighting of one-tenth ~~may~~ shall 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. If the school district reorganizes during that five-year period, the assignment of the additional weighting shall be transferred to the reorganized district until the expiration of the five-year period.

4. Pupils enrolled in a school district ~~in~~ which has approved a contract on or after October 1, 1989, for which ~~one or more administrators are~~ the superintendent is employed jointly under section 280.15~~,~~ or ~~in which one or more administrators are employed under section~~ 273.7A, are assigned a weighting of one plus ~~five-hundredths~~ twenty-five thousandths for each ~~administrator~~ superintendent who is jointly employed times the percent of the ~~administrator's~~ superintendent's time in which the ~~administrator~~ superintendent is employed in the school district. However, the total additional weighting assigned under this subsection for a budget year for a school district is ~~fifteen~~ seven and one-half and the total additional weighting that may be added cumulatively to the enrollment of school districts sharing ~~an administrator~~ a superintendent is ~~twenty-five~~ twelve and one-half.

~~For the purposes of this section, "administrators" includes the following:~~

~~a. Executive administrators, which includes the superintendent and such assistants as deputy, associate, and assistant superintendents who perform activities in the general direction and management of the affairs of the local school districts.~~

~~b. School administrators, which includes assistant principals, and other assistants in general supervision of the operations of the school. School administrators does not include principals.~~

~~c. Business administrators, which includes personnel associated with activities concerned with purchasing, paying for, transporting, exchanging, and maintaining goods and services for the school district.~~

Effective July 1, 1988, the additional weighting assigned under this subsection ~~may~~ shall 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~~. Additional weighting assigned under this subsection for contracts approved by a board of directors between July 1, 1988, and September 30, 1989, shall be continued under this subsection for a maximum of five years.

If the school district reorganizes during the five-year period for which weighting is assigned, the assignment of the additional weighting shall be transferred to the reorganized district until the expiration of the five-year period.

Sec. 122. Section 442.39A, Code 1989, is amended to read as follows:

442.39A SUPPLEMENTARY WEIGHTING AND SCHOOL REORGANIZATION.

~~For the school year beginning July 1, 1986 and succeeding school years, in~~ In determining weighted enrollment under section 442.4, ~~a~~ if the board of directors of a school district has approved a contract for sharing under section 442.39, subsection 2 or 4, and the school district has approved a reorganization prior to July 1, 1989, the reorganized school district shall include,

for a period of five years following the effective date of the reorganization, additional pupils added by the application of the supplementary weighting plan, ~~as determined under section 442.39~~, equal to the pupils added by the application of the supplementary weighting plan in the year preceding the reorganization. However, the weighting shall be reduced by the supplementary weighting added for a pupil whose residency is not within the reorganized district. For purposes of this section, a reorganized district is one in which the reorganization was approved in an election pursuant to sections 275.18 and 275.20 and takes effect on or after July 1, 1986.

Sec. 123. Section 613A.7, Code 1989, is amended to read as follows:

613A.7 INSURANCE.

The governing body of ~~any~~ a municipality may purchase a policy of liability insurance insuring against all or any part of liability which might be incurred by ~~such~~ the municipality or its officers, employees, and agents under ~~the provisions of~~ section 613A.2 and section 613A.8 and may similarly purchase insurance covering torts specified in section 613A.4. The governing body of ~~any~~ a municipality may adopt a self-insurance program, including but not limited to the investigation and defense of claims, the establishment of a reserve fund for claims, the payment of claims, and the administration and management of the self-insurance program, to cover all or any part of the liability. The governing body of ~~any~~ a municipality may join and pay funds into a local government risk pool to protect itself against any or all liability. The governing body of ~~any~~ a municipality may enter into insurance agreements obligating the municipality to make payments beyond its current budget year to provide or procure such policies of insurance, self-insurance program, or local government risk pool. The premium costs of ~~such~~ the insurance, the costs of ~~such~~ a self-insurance program, the costs of a local government risk pool, and the amounts payable under any such insurance agreements may be paid out of the general fund or any available funds or may be levied in excess of any tax limitation imposed by statute. However, for school districts, the costs shall be included in the district management levy as provided in section 296.7. Any independent or autonomous board or commission in the municipality having authority to disburse funds for a particular municipal function without approval of the governing body may similarly enter into insurance agreements, procure liability insurance, adopt a self-insurance program, or join a local government risk pool within the field of its operation. The procurement of such insurance constitutes a waiver of the defense of governmental immunity as to those exceptions listed in section 613A.4 to the extent stated in ~~such~~ the policy but shall have no further effect on the liability of the municipality beyond the scope of this chapter, but if a municipality adopts a self-insurance program or joins and pays funds into a local government risk pool such action does not constitute a waiver of the defense of governmental immunity as to the exceptions listed in section 613A.4. The existence of any insurance which covers in whole or in part any judgment or award which may be rendered in favor of the plaintiff, or lack of any such insurance, shall not be material in the trial of any action brought against the governing body of ~~any~~ a municipality, or its officers, employees, or agents and any reference to such insurance, or lack of ~~same~~ insurance, ~~shall be~~ is grounds for a mistrial. A self-insurance program or local government risk pool is not insurance and is not subject to regulation under chapters 505 through 523C.

Sec. 124. Section 613A.10, Code 1989, is amended to read as follows:

613A.10 TAX TO PAY JUDGMENT OR SETTLEMENT.

When a final judgment is entered against or a settlement is made by a municipality for a claim within the scope of section 613A.2 or 613A.8, payment shall be made and the same remedies ~~shall~~ apply in the case of nonpayment as in the case of other judgments against the municipality. If ~~said~~ a judgment or settlement is unpaid at the time of the adoption of the annual budget, ~~it~~ the municipality shall budget an amount sufficient to pay the judgment or settlement together with interest accruing ~~thereon~~ on it to the expected date of payment. ~~Such~~ A tax may be levied in excess of any limitation imposed by statute. However, for school districts the costs of a judgment or settlement under this section shall be included in the district management levy pursuant to section 298.4.

Sec. 125. If the electors of a school district have approved, prior to March 15, 1991, the schoolhouse tax levy to provide for the lease-purchase of school buildings or other authorized school district tax levy, the tax levy so approved shall continue in effect until the expiration of the period for which it was approved.

Sec. 126. Notwithstanding the effective date of 1989 Iowa Acts, Senate File 38, section 6, that section which amends section 294A.16, unnumbered paragraph 4, Code 1989, takes effect upon the enactment of this Act and applies to moneys received by a school district or area education agency for an approved phase III plan for the school year beginning July 1, 1988.

Sec. 127. Notwithstanding the election requirements of section 442.14, subsection 2, if the board of directors of a school district held an election prior to February 15, 1989, for approval to raise an additional enrichment amount for the school year beginning July 1, 1990, and the proposition failed, the board may resubmit the proposition at an election held not later than July 1, 1989.

Sec. 128. INCOME WEALTH DATA. The department of revenue and finance is directed to collect data on the income wealth and other nonproperty wealth of Iowa taxpayers by school district. The information shall include income wealth per student by school district and shall compile the information on a statewide basis. The department of revenue and finance shall report the results of its data collection to the general assembly meeting in 1991.

Sec. 129. The legislative council shall establish an interim study committee to review the property taxes paid in this state and to recommend a proposal that will reduce property taxes commencing July 1, 1991, by approximately thirty million dollars on a statewide basis. The study committee shall present its recommendations to the legislative council not later than December 1, 1989.

Sec. 130. The department of education is directed to conduct a survey of school districts to determine the academic, cocurricular, and extracurricular fees charged to students as a requirement for enrollment in the schools, or participation in an activity, of the school district. Both districtwide and building fees shall be included in the survey. The survey shall include the procedures used by the district for payment of fees for low-income pupils. The survey shall provide information listing the total of fees collected and of fees waived. The department of education shall report the results of the survey to the chairpersons and members of the house and senate committees on education by January 15, 1990.

Sec. 131. The department of education is directed to compile information to determine the age and condition of buildings and transportation equipment in use in the school corporation. The department shall report the results of its survey to the chairpersons and members of the house and senate committees on education by January 15, 1991.

Sec. 132. The insurance division of the department of commerce is directed to conduct a study of the health care and other risk pools that school districts are using and analyze them for their actuarial soundness and for the potential liability of the school district. The study shall include a listing of the names and addresses of persons providing self-insurance plans to school districts and an analysis of their operations.

Sec. 133. Notwithstanding section 442.12, Code 1989, the terms of office of members of the school budget review committee, appointed prior to May 1, 1990, pursuant to section 442.12, shall expire April 30, 1990.

Sec. 134. Chapter 260A, Code 1989, is repealed effective July 1, 1991.

Sec. 135. Chapter 257, Code 2001, is repealed effective July 1, 2001.

Sec. 136. Sections 279.43, 294A.11, 294A.24, 297.5, and 298.17, Code 1989, are repealed effective July 1, 1991.

Sec. 137. Sections 117 through 119, 121, 122, 126, 127, and 129 through 133 of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 138. Sections 57 and 128 of this Act take effect July 1, 1989.

Sec. 139. Sections 120 and 133 of this Act take effect May 1, 1990.

Sec. 140. Sections 54, 55, and 76 of this Act take effect July 1, 1990.

Sec. 141. Sections 1 through 51, 58 through 62, 64, 66, 70, 73 through 75, 77 through 80, 84, 93, 94, 96, 98, 99, 103, 105 through 115, and 123 through 125 of this Act take effect July 1, 1990, for the purpose of computations required for payment of state aid to and levying of property taxes by school districts for the budget year beginning July 1, 1991.

Sec. 142. Sections 52, 53, 56, 63, 65, 67 through 69, 71, 72, 81 through 83, 85 through 92, 95, 97, 100 through 102, 104, and 116 of this Act take effect July 1, 1991.

Approved May 5, 1989, except the items which I hereby disapprove and which are designated as section 37 and section 99. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Speaker of the House, this same date a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Mr. Speaker:

I hereby transmit House File 535, an Act relating to the financing of education programs of school districts and area education agencies including the establishment of a school foundation formula, the provision of property tax levies, allocation of educational excellence program moneys, provision for payment of programs for certain at-risk children, making appropriations, and providing effective dates.

House File 535 represents a historic step forward in Iowa's commitment to excellence in education. I commend the members of the General Assembly for the outstanding work embodied in this bill to give Iowans a school aid formula for the next decade and the next century that we can all be proud of.

This bill meets the school aid objectives that I set out in the beginning of the session.

- It's focus is on quality education for our children.
- It provides us with a student driven formula for the future.
- It maintains and increases the state's commitment to property tax replacement.
- It simplifies the formula and provides local school boards with some needed flexibility.
- It meets the future needs of schools in our state, and
- It treats all school districts with equity and fairness.

Just two days ago the U. S. Secretary of Education issued the report card for the nation's K-12 education system. His report card reaffirmed the fact that Iowa's education system is number one in the country. Not only do our children score number one in the country on tests of educational achievement, but our drop-out rate is also among the lowest in the country.

Despite that excellent record, we cannot afford to stand still. We must reduce our drop-out rate even further: we can't afford to let any of our children drop through the cracks of society. And this bill recognizes that fact by taking important steps to address the needs of at-risk children, particularly at an early age.

We also must make certain that our children are prepared to compete with children from all across the world for the jobs of the 21st century. To do that, we must increase our commitment to quality education. And this bill does that as well; in Fiscal Year 1991, for the first time, the state's support for K-12 education will exceed $1 billion. It makes it clear to the nation and the world that Iowa will continue to be a national and a world leader in educating our children.

I want to salute Dr. William Lepley and his staff of the Department of Education, the staff of the Department of Management, the Legislative Service Bureau and the Fiscal Bureau, and the staffs of the major educational organizations in Iowa for putting in hundreds of hours to help make this bill a reality. Without their help, we in policy-making positions would not have been able to accomplish this.

House File 535 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 37 of House File 535. This section of the bill would change the way our Area Education Agencies are funded so that they would receive an additional $4.2 million of property taxes. This is done by changing the weightings for educational and media services by AEAs. I understand that arguments can be made to provide additional money for these services. However, I believe it is premature and unwise at this time for the General Assembly to provide additional property tax dollars for this

purpose. The Department of Education is conducting a major restructuring study of the AEAs that has been mandated by the General Assembly.

That report is due on January 1. The Department of Education is reviewing the entire organizational structure and finances of the AEAs. We should not be providing substantial additional property tax funds to the AEAs prior to the time that report is completed. Instead, I am willing to consider recommendations for adjustments to AEA funding once the report is completed so that we can ensure that the dollars we are providing for these services are directed to where they are most needed.

I am unable to approve the item designated as Section 99 of House File 535. Currently, Phase III of our educational excellence program provides additional funds for teachers who do additional work or participate in performance-based pay systems. I am a strong supporter of this program and have protected it with my veto.

This legislation appropriately provides allowable growth to Phase III funds that are used for performance-based pay. I recommended that change so that teachers who are demonstrating superior performance would be able to achieve significant salary growth.

However, Section 99 could destroy our performance-based pay system by creating enormous loopholes in the definition of performance-based pay. Specifically, the current definition requires that teachers demonstrate superior performance in completing assigned duties. However, the amended version would effectively define performance-based pay as supplemental pay — that is, any additional work the teacher does would be considered performance-based pay.

I believe it is wiser for us to stay with the original definitions of performance-based pay. The Phase III monitoring committee has not recommended any change in the definition of performance-based pay and has indicated to me a need to provide additional incentives for school districts to adopt performance-based pay systems. Providing allowable growth should do so, but changing definitions would only cause confusion in local school districts.

Already at least 100 districts have implemented performance-based pay under the current definitions. At least 80 percent of the districts are moving in that direction. We should not pull the rug out from under these efforts.

I am willing to work with educational groups in refining the definition of performance-based pay, within appropriate parameters. However, I do not think it is wise at this point to reverse the state's policy on this important issue and discourage school districts in the adoption of real performance-based pay systems.

All other sections of House File 535 are approved as written by the General Assembly. In short, House File 535 represents an historic step forward for education in Iowa and I commend the General Assembly for its excellent work and look forward to its implementation.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 535 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 136

ELECTION LAWS

S.F. 371

AN ACT relating to elections and election procedures.

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

Section 1. Section 6.6, Code 1989, is amended to read as follows:

6.6 CERTIFICATION — SAMPLE BALLOT.

The state commissioner of elections shall, not less than ~~fifty-five~~ sixty-nine days preceding any election at which a constitutional amendment or public measure is to be submitted to a vote of the entire people of the state, transmit to the county commissioner of elections of each county a certified copy of ~~such~~ the amendment or measure and a sample of the ballot to be used in such cases, prepared in accordance with law.

Sec. 2. Section 43.4, unnumbered paragraph 2, Code 1989, 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~~ within seven days 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.

PARAGRAPH DIVIDED. 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, may 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.

Within fourteen days after the date of the caucus the county central committee shall certify to the county commissioner the names of those elected as party committee members and delegates to the county convention.

Sec. 3. Section 43.6, subsections 1 and 2, Code 1989, are amended to read as follows:

1. When a vacancy occurs in the office of senator in the congress of the United States, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general and section 69.13, subsection 1, requires that the vacancy be filled for the balance of the unexpired term at a general election, candidates for the office shall be nominated in the preceding primary election if the vacancy occurs ~~seventy-five~~ eighty-nine or more days ~~prior to~~ before the date of that primary election. If the vacancy occurs less than ~~ninety~~ one hundred four days before the date of that primary election, the state commissioner shall accept nomination papers for that office only until five o'clock p.m. on the ~~sixtieth~~ seventy-fourth day before the primary election, the provisions of section 43.11 notwithstanding. If the vacancy occurs later than ~~seventy-five~~ eighty-nine days before the date of that primary election, but not less than ~~seventy-five~~ eighty-nine days before the date of the general election, the nominations shall be made in the manner prescribed by this chapter for filling vacancies in nominations for offices to be voted for at the general election.

2. When a vacancy occurs in the office of county supervisor or any of the offices listed in section 39.17 and section 69.13, subsection 2, requires that the vacancy be filled for the balance of the unexpired term at a general election, candidates for the office shall be nominated in the preceding primary election if the vacancy occurs ~~sixty~~ seventy-four or more days ~~prior~~

~~to~~ before the date of that primary election. If the vacancy occurs less than ~~seventy-five~~ eighty-nine days before the date of that primary election, the commissioner shall accept nomination papers for that office only until five o'clock p.m. on the ~~forty-ninth~~ sixty-third day before the primary election, the provisions of section 43.11 notwithstanding. If the vacancy occurs later than ~~sixty~~ seventy-four days before the date of that primary election, but not less than ~~sixty~~ seventy-four days before the date of the general election, the nominations shall be made in the manner prescribed by this chapter for filling vacancies in nominations for offices to be voted for at the general election.

Sec. 4. Section 43.11, Code 1989, is amended to read as follows:

43.11 FILING OF NOMINATION PAPERS.

Nomination papers in behalf of a candidate shall be filed:

1. For an elective county office, in the office of the county commissioner not earlier than ~~seventy-eight~~ ninety-two days nor later than five o'clock p.m. on the ~~fifty-fifth~~ sixty-ninth day ~~prior to~~ before the day fixed for holding the primary election.

2. For United States senator, for an elective state office, for representative in Congress, and for member of the general assembly, in the office of the state commissioner not earlier than ~~eighty-five~~ ninety-nine days nor later than five o'clock p.m. on the ~~sixty-seventh~~ eighty-first day ~~prior to~~ before the day fixed for holding the primary election.

Sec. 5. Section 43.15, subsection 1, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

1. A signer may sign nomination papers for more than one candidate for the same office, and the signature is not invalid solely because the signer signed nomination papers for one or more other candidates for the office.

Sec. 6. Section 43.15, subsection 3, Code 1989, is amended to read as follows:

3. All signers, for all nominations, of each separate part of a nomination paper, shall reside in the same county, representative or senatorial district for members of the general assembly. In counties where the supervisors are elected from districts, signers of nomination petitions for supervisor candidates shall reside in the supervisor district the candidate seeks to represent.

Sec. 7. Section 43.16, unnumbered paragraphs 2 and 3, Code 1989, are amended to read as follows:

A person who has filed nomination petitions with the state commissioner may withdraw as a candidate not later than the ~~sixty-second~~ seventy-sixth day before the primary election by notifying the state commissioner in writing.

A person who has filed nomination papers with the commissioner may withdraw as a candidate not later than the ~~fifty-third~~ sixty-seventh day before the primary election by notifying the commissioner in writing.

Sec. 8. Section 43.21, Code 1989, is amended to read as follows:

43.21 TOWNSHIP OFFICE.

The name of a candidate for a township office shall be printed on the official primary ballot of the candidate's party if the candidate files the candidate's personal affidavit, in the form prescribed by section 43.18, with the commissioner not earlier than ninety-two days nor later than five o'clock p.m. of the ~~fifty-fifth~~ sixty-ninth day ~~prior to~~ before the primary election. If ~~prior to~~ before that time there is presented to the commissioner a nomination paper signed by at least ten eligible electors of the township requesting that the name of any person be placed on the primary ballot as a candidate for a township office, and the nomination paper is not accompanied by the candidate's personal affidavit, the commissioner shall advise the candidate that such an affidavit is required before the candidate's name may be placed on the ballot.

Sec. 9. Section 43.22, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The state commissioner shall, at least ~~fifty-five~~ sixty-nine days before a primary election, furnish to the commissioner of each county a certificate under the state commissioner's hand and seal, which certificate shall show:

Sec. 10. Section 43.23, Code 1989, is amended to read as follows:

43.23 DEATH OR WITHDRAWAL OF PRIMARY CANDIDATE.

1. ~~When any~~ If a person who has filed nomination papers with the state commissioner as a candidate in a primary election dies or withdraws up to the ~~sixty-second~~ seventy-sixth day before the primary election, the appropriate convention or central committee of that person's political party may designate one additional primary election candidate for the nomination that person was seeking, if the designation is submitted to the state commissioner in writing by five o'clock p.m. on the ~~fifty-seventh~~ seventy-first day before the date of the primary election. The name of any candidate so submitted shall be included in the appropriate certificate or certificates furnished by the state commissioner under section 43.22.

2. ~~When any~~ If a person who has filed nomination papers with the commissioner as a candidate in a primary election dies or withdraws up to the ~~fifty-third~~ sixty-seventh day before the primary election, the appropriate convention or central committee of that person's political party may designate one additional primary election candidate for the nomination that person was seeking, if the designation is submitted to the commissioner in writing by five o'clock p.m. on the ~~forty-ninth~~ sixty-third day before the primary election. The name of any candidate so submitted shall be placed on the appropriate ballot or ballots by the commissioner.

Sec. 11. Section 43.24, subsection 1, paragraphs a, b, and d, Code 1989, are amended to read as follows:

a. Those filed with the state commissioner, not less than ~~sixty~~ seventy-four days before the date of the election.

b. Those filed with the commissioner, not less than ~~fifty~~ sixty-four days before the date of the election.

d. Those filed with the city clerk under this chapter, at least ~~thirty~~ thirty-six days ~~prior to~~ before the municipal election.

Sec. 12. NEW SECTION. 43.29 FORM OF NAME ON BALLOT.

The name of a candidate printed on the ballot shall not include parentheses, quotation marks, or any personal or professional title.

Sec. 13. Section 43.30, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner may make sample ballots available to the public. The sample ballots shall be stamped with the words "sample ballot" and a facsimile of the commissioner's signature. A reasonable fee may be charged for printing costs if a person requests multiple copies of sample ballots.

Sec. 14. Section 43.45, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Upon the closing of the polls the precinct election officials shall immediately publicly canvass the vote in the following manner:

Sec. 15. Section 43.48, Code 1989, is amended to read as follows:

43.48 ELECTOR MAY ASCERTAIN VOTE CAST.

Any elector of the county shall have the right, before the day fixed for canvassing the returns, to ascertain the vote cast for any candidate in any precinct in the county, as shown on the outside of the envelope containing the ~~election register~~ tally list.

Sec. 16. Section 43.54, Code 1989, is amended to read as follows:

43.54 RIGHT TO PLACE ON BALLOT.

Each candidate ~~so~~ nominated ~~shall be~~ pursuant to section 43.53 is entitled to have the candidate's name printed on the official ballot to be voted for at the general election ~~without other~~

~~certificate~~ if the candidate files an affidavit in the form required by section 43.67 not later than five o'clock p.m. on the seventh day following the completion of the canvass.

Sec. 17. NEW SECTION. 43.56 PRIMARY ELECTION RECOUNT PROVISIONS.

Recounts of votes for primary elections shall be conducted following the procedure outlined in section 50.48. However, if a recount is requested for an office for which no candidate has received the required thirty-five percent to be nominated, the recount board shall consist of the following persons:

1. One person chosen by the candidate requesting the recount, who shall be named in the request.

2. One person chosen by the candidate who received the highest number of votes for the nomination being recounted. However, if the candidate who requested the recount received more votes than anyone else for the nomination, the candidate who received the second highest number of votes shall designate this person to serve on the recount board.

3. A third person mutually agreeable to the board members designated by the candidates.

A bond is not necessary for a primary election recount under these circumstances if the difference between the number of votes needed to be nominated and the number of votes received by the candidate requesting the recount is less than fifty votes or one percent of the total number of votes cast for the nomination in question, whichever is greater. If a bond is required, the bond shall be in the amount specified in section 50.48, subsection 2.

Sec. 18. Section 43.67, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Each candidate ~~so~~ nominated ~~shall be~~ pursuant to section 43.66 is entitled to have the candidate's name printed on the official ballot to be voted at the general election without other certificate, except that a candidate whose name was not printed on the official primary election ballot must execute and deliver to the commissioner or the state commissioner, as the case may be, an affidavit in substantially the following form:

Sec. 19. Section 43.73, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Not less than ~~fifty-five~~ sixty-nine days before the general election the state commissioner shall certify to each commissioner, under separate party headings, the name of each person nominated as shown by the official canvass made by the executive council, or as certified to the state commissioner by the proper persons when any person has been nominated by a convention or by a party committee, or by petition, the office to which the person is nominated, and the order in which the tickets of the several political parties shall appear on the official ballot.

Sec. 20. Section 43.76, Code 1989, is amended to read as follows:

43.76 WITHDRAWAL OF NOMINATED CANDIDATES.

1. A candidate nominated in a primary election for any office for which nomination papers are required to be filed with the state commissioner may withdraw as a nominee for that office on or before, but not later than, the ~~seventy-fifth~~ eighty-ninth day ~~prior to~~ before the date of the general election by so notifying the state commissioner in writing.

2. A candidate nominated in a primary election for any office for which nomination papers are required to be filed with the commissioner may withdraw as a nominee for that office on or before, but not later than, the ~~sixtieth~~ seventy-fourth day ~~prior to~~ before the date of the general election by so notifying the commissioner in writing.

Sec. 21. Section 43.77, subsections 3 and 4, Code 1989, are amended to read as follows:

3. The person nominated in the primary election as the party's candidate for that office subsequently withdrew as permitted by section 43.76, was found to lack the requisite qualifications for the office, or died, at a time not later than the ~~seventy-fifth~~ eighty-ninth day before the date of the general election in the case of an office for which nomination papers must be filed with the state commissioner and not later than the ~~sixtieth~~ seventy-fourth day before the date of the general election in the case of an office for which nomination papers must be filed with the county commissioner.

4. A vacancy has occurred in the office of senator in the Congress of the United States, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general, under the circumstances described in section 69.13, subsection 1, less than ~~seventy-five~~ eighty-nine days before the primary election and not less than ~~seventy-five~~ eighty-nine days before the general election, or in the office of county supervisor or any of the offices listed in section 39.17, under the circumstances described in section 69.13, subsection 2, less than ~~sixty~~ seventy-four days before the primary election and not less than ~~sixty~~ seventy-four days before the general election.

Sec. 22. Section 43.78, subsections 2 and 3, Code 1989, are amended to read as follows:

2. The name of any candidate designated to fill a vacancy on the general election ballot in accordance with subsection 1, paragraph "a", "b", or "c" shall be submitted in writing to the state commissioner not later than five o'clock p.m. on the ~~sixty-seventh~~ eighty-first day ~~prior to~~ before the date of the general election.

3. The name of any candidate designated to fill a vacancy on the general election ballot in accordance with subsection 1, paragraph "d", "e", or "f" shall be submitted in writing to the commissioner not later than five o'clock p.m. on the ~~fifty-fifth~~ sixty-ninth day ~~prior to~~ before the date of the general election.

Sec. 23. Section 43.79, Code 1989, is amended to read as follows:

43.79 DEATH OF CANDIDATE AFTER TIME FOR WITHDRAWAL.

The death of a candidate nominated as provided by law for any office to be filled at a general election, during the period beginning on the ~~seventy-fourth~~ eighty-eighth day before the general election, in the case of any candidate whose nomination papers were filed with the state commissioner, or beginning on the ~~fifty-ninth~~ seventy-third day before the general election, in the case of any candidate whose nomination papers were filed with the commissioner, and ending on the last day before the general election shall not operate to remove the deceased candidate's name from the general election ballot. If the deceased candidate was seeking the office of senator or representative in the Congress of the United States, governor, lieutenant governor, attorney general, senator or representative in the general assembly or county supervisor, section 49.58 shall control. If the deceased candidate was seeking any other office, and as a result of the candidate's death a vacancy is subsequently found to exist, the vacancy shall be filled as provided by chapter 69.

Sec. 24. Section 44.4, Code 1989, is amended to read as follows:

44.4 NOMINATIONS AND OBJECTIONS — TIME AND PLACE OF FILING.

Nominations made 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~~ ninety-nine days nor later than five o'clock p.m. on the ~~sixty-seventh~~ eighty-first day ~~prior to~~ before 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~~ before the date of an election called upon at least forty days' notice and not less than seven days ~~prior to~~ before 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~~ ninety-two days nor later than five o'clock p.m. on the ~~fifty-fifth~~ sixty-ninth day ~~prior to~~ before the date of the general election. Nominations made pursuant to this chapter or chapter 45 for city office shall be filed not more than seventy-two days nor later than five o'clock p.m. on the forty-seventh day ~~prior to~~ before the city election with the city clerk, who shall process them as provided by law.

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 the certificate or petition is filed and within the following time:

1. Those filed with the state commissioner, not less than ~~sixty~~ seventy-four days before the ~~day~~ date of election.

2. Those filed with the commissioner, not less than ~~fifty~~ sixty-four days before the ~~day~~ date of election.

3. Those filed with the city clerk, at least forty-two days ~~prior to~~ before the municipal election.

4. In case of nominations to fill vacancies occurring after the time when an original nomination for any office is required to be filed, objections shall be filed within three days after the filing of the certificate.

Sec. 25. Section 44.9, unnumbered paragraph 1 and subsections 1 and 2, Code 1989, are amended to read as follows:

Any candidate named under this chapter may withdraw the candidate's nomination by a written request, ~~signed and acknowledged by that person before any officer empowered to take acknowledgment of deeds. Such withdrawal must be~~ filed as follows:

1. In the office of the state commissioner, at least ~~sixty~~ seventy-four days before the ~~day~~ date of the election.

2. In the office of the proper commissioner, at least ~~fifty~~ sixty-four days before the ~~day~~ date of the election.

Sec. 26. Section 44.11, Code 1989, is amended to read as follows:

44.11 VACANCIES FILLED.

If a candidate named under this chapter declines a nomination, or dies before election day, or ~~should any~~ if a certificate of nomination ~~be~~ is held insufficient or inoperative by the officer with whom it is required to be filed, or in case any objection made to ~~any~~ a certificate of nomination, or to the eligibility of any candidate ~~therein~~ named in the certificate, is sustained by the board appointed to determine such questions, the vacancy or vacancies ~~thus occasioned~~ may be filled by the convention, or caucus, or in such manner as such convention or caucus has previously provided. The vacancy or vacancies shall be filled not less than ~~sixty~~ seventy-four days ~~prior to~~ before the election in the case of nominations required to be filed with the state commissioner, not less than ~~fifty~~ sixty-four days ~~prior to~~ before the election in the case of nominations required to be filed with the commissioner, ~~and~~ not less than thirty-five days ~~prior to~~ before the election in the case of nominations required to be filed in the office of the school board secretary, ~~or~~ and not less than forty-two days before the election in the case of nominations required to be filed with the city clerk.

Sec. 27. Section 45.1, subsection 1, Code 1989, is amended to read as follows:

1. Nominations for candidates for president and vice president and for state offices may be made by nomination papers signed by not less than one thousand eligible electors of the state. For candidates for president and vice president, the names and addresses of the candidates for presidential electors, one from each congressional district and two from the state at large, shall be printed on the face of or attached to each page of the nomination petition.

Sec. 28. Section 45.3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Each eligible elector who signs a nominating petition drawn up in accordance with this chapter shall add to the signature the elector's residence address and the date of signing. The person whose nomination is proposed by the petition ~~may~~ shall not sign it. A person may sign nomination petitions under this chapter for more than one candidate for the same office, and the signature is not invalid solely because the person signed nomination petitions for one or more other candidates for the office.

PARAGRAPH DIVIDED. Before the petition is filed, there shall be endorsed upon or attached to it an affidavit executed by that candidate, in substantially the following form:

Sec. 29. Section 46.20, Code 1989, is amended to read as follows:

46.20 DECLARATION OF CANDIDACY.

At least ~~ninety~~ one hundred four days ~~prior to~~ before the judicial election preceding expiration of the initial or regular term of office, a judge of the supreme court, court of appeals, or

district court including district associate judges, or a clerk of the district court who is required to stand for retention under section 602.1216 may file a declaration of candidacy with the state commissioner of elections to stand for retention or rejection at that election. If a judge or clerk fails to file the declaration, the office shall be vacant at the end of the term. District associate judges filing the declaration shall stand for retention in the judicial election district of their residence.

Sec. 30. Section 46.21, unnumbered paragraph 1, Code 1989, is amended to read as follows:

At least ~~fifty-five~~ sixty-nine days ~~prior to~~ before each judicial election, the state commissioner of elections shall certify to the county commissioner of elections of each county a list of the judges of the supreme court, court of appeals, and district court including district associate judges, and clerks of the district court to be voted on in each county at that election. The county commissioner of elections shall place the names upon the ballot in the order in which they appear in the certificate, unless only one county is voting thereon. The state commissioner of elections shall rotate the names in the certificate by county, or the county commissioner of elections shall rotate them upon the ballot by precinct if only one county is voting thereon. The names of all judges and clerks to be voted on shall be placed upon one ballot, which shall be in substantially the following form:

Sec. 31. Section 47.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. On the final date for filing nomination papers in the commissioner's office the office shall be open until the time for receiving nomination papers has passed.

Sec. 32. Section 47.6, subsection 1, Code 1989, is amended to read as follows:

1. The governing body of any political subdivision which has authorized a special election to which section 39.2 is applicable shall by written notice inform the commissioner who will be responsible for conducting the election of the proposed date of the special election. If a public measure will appear on the ballot at the special election the governing body shall submit the complete text of the public measure to the commissioner with the notice of the proposed date of the special election.

PARAGRAPH DIVIDED. If the proposed date of the special election coincides with the date of a regularly scheduled election, the notice shall be given no later than five o'clock p.m. on the last day on which nomination papers may be filed for the regularly scheduled election. Otherwise, the notice shall be given at least thirty days in advance of the date of the proposed special election. Upon receiving the notice, the commissioner shall promptly give written approval of the proposed date unless it appears that the special election, if held on that date, would conflict with a regular election or with another special election previously scheduled for that date.

Sec. 33. Section 48.31, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Upon receipt of a written request from the qualified elector, presented in person with proper identification in the office of the county commissioner of registration.

Sec. 34. Section 49.8, subsection 6, Code 1989, is amended to read as follows:

6. Precinct boundaries established by or pursuant to section 49.4, and not changed under subsection 1 since the most recent federal decennial census, may be changed once during the period beginning January 1 of the second year following a year in which a federal decennial census is taken and ending June 30 of the year immediately following the year in which the next succeeding federal decennial census is taken, if the commissioner recommends and the board of supervisors finds that the change will effect a substantial savings in election costs. Changes made under this subsection shall be made not later than ninety-nine days before a primary election, unless the changes will not take effect until January 1 of the next even-numbered year.

Sec. 35. Section 49.23, Code 1989, is amended to read as follows:

49.23 NOTICE OF CHANGE.

When a change is made from the usual polling place for the precinct or when the precinct polling place for any primary or general election is different from that used for the precinct at the last preceding primary or general election, notice of such change shall be given by publication in a newspaper of general circulation in the precinct not more than ~~fifteen~~ twenty nor less than ~~five~~ four days ~~prior to~~ before the day on which the election is to be held. In addition a notice of the present polling place for the precinct shall be posted, not later than the hour at which the polls open on the day of the election, on each door to the usual or former polling place in the precinct and shall remain there until the polls have closed.

Sec. 36. Section 49.31, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The name of a candidate printed on the ballot shall not include parentheses, quotation marks, or any personal or professional title.

Sec. 37. Section 49.37, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The commissioner shall arrange the partisan county offices on the ballot with the board of supervisors first, followed by the other county offices and township offices in the same sequence in which they appear in sections 39.17 and 39.22. Nonpartisan offices shall be listed below or to the right of partisan offices.

Sec. 38. Section 49.44, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner may prepare a summary for public measures if the commissioner finds that a summary is needed to clarify the question to the voters.

Sec. 39. Section 49.48, Code 1989, is amended to read as follows:

49.48 NOTICE FOR JUDICIAL OFFICERS AND CONSTITUTIONAL AMENDMENTS.

The state commissioner of elections shall prescribe a notice to inform voters ~~that the top~~ of the location on the ballot ~~contains~~ of the form for retaining or removing judicial officers and for ratifying or defeating proposed constitutional amendments. The notice shall be conspicuously attached to the voting machine or to the ballot.

Sec. 40. Section 49.53, Code 1989, is amended to read as follows:

49.53 PUBLICATION OF BALLOT AND NOTICE.

The commissioner shall not less than four nor more than twenty days ~~prior to~~ before the day of each election, except those for which different publication requirements are prescribed by law, publish notice of the election. The notice shall contain a facsimile of the portion of the ballot containing the first rotation as prescribed by section 49.31, subsection 2, and shall show the names of all candidates or nominees and the office each seeks, and all public questions, to be voted upon at the election. The sample ballot published as a part of the notice may at the discretion of the commissioner be reduced in size relative to the actual ballot but such reduction shall not cause upper case letters appearing on the published sample ballot to be less than five thirty-sixths of an inch high in candidates' names or in summaries of public measures. The notice shall also state the date of the election, the hours the polls will be open, the location of each polling place at which voting is to occur in the election, and the names of the precincts voting at each polling place, but the statement need not set forth any fact which is apparent from the portion of the ballot appearing as a part of the same notice. The notice shall include the full text of all public measures to be voted upon at the election.

PARAGRAPH DIVIDED. The notice shall be published in at least one newspaper, as defined in section 618.3, which is published in the county or other political subdivision in which the election is to occur or, if no newspaper is published there, in at least one newspaper of substantial circulation in the county or political subdivision. For the general election or the primary election the foregoing notice shall be published in at least two newspapers published in the county. However, if there is only one newspaper published in the county, publication in one newspaper shall be sufficient.

Sec. 41. Section 49.58, Code 1989, is amended to read as follows:

49.58 EFFECT OF DEATH OF CERTAIN CANDIDATES.

If any candidate nominated by a political party, as defined in section 43.2, for the office of senator or representative in the congress of the United States, governor, lieutenant governor, attorney general, or senator or representative in the general assembly dies during the period beginning on the ~~seventy-fourth~~ eighty-eighth day and ending on the last day before the general election, or if any candidate so nominated for the office of county supervisor dies during the period beginning on the ~~fifty-ninth~~ seventy-third day and ending on the last day before the general election, the vote cast at the general election for that office shall not be canvassed as would otherwise be required by chapter 50. Instead, a special election shall be held on the first Tuesday after the second Monday in December, for the purpose of electing a person to fill that office.

PARAGRAPH DIVIDED. Each candidate for that office whose name appeared on the general election ballot shall also be a candidate for the office in the special election, except that the deceased candidate's political party may designate another candidate in substantially the manner provided by section 43.78 for filling vacancies on the general election ballot. However, a political party which did not have a candidate on the general election ballot for the office in question may similarly designate a candidate for that office in the special election. The name of any replacement or additional candidate so designated shall be submitted in writing to the state commissioner, or the commissioner in the case of a candidate for county supervisor, not later than five o'clock p.m. on the first Tuesday after the date of the general election. No other candidate whose name did not appear on the general election ballot as a candidate for the office in question shall be placed on the ballot for the special election, in any manner. The special election shall be held and canvassed in the manner prescribed by law for the general election.

Sec. 42. Section 49.75, Code 1989, is amended to read as follows:

49.75 OATH.

Before opening the polls, each of the board members shall take the following oath: "I, A. B., do solemnly swear or affirm that I will impartially, and to the best of my knowledge and ability, perform the duties of precinct election official of this election, and will studiously endeavor to prevent fraud, deceit, and abuse in conducting the ~~same~~ election."

Sec. 43. Section 49.107, subsection 8, Code 1989, is amended to read as follows:

8. Serving as a member of a challenging committee under section 49.104, subsection 2, for the general election or the primary election by a precinct election official, a member of a city council, a mayor, a member of the county board of supervisors, a county attorney, treasurer, sheriff, auditor, or recorder, or a state senator or representative during the person's term of office or while being a candidate for any of those offices.

Sec. 44. Section 50.12, Code 1989, is amended to read as follows:

50.12 RETURN AND PRESERVATION OF BALLOTS.

Immediately after making ~~such~~ the proclamation, and before separating, the board members of each precinct in which votes have been received by paper ballot shall enclose in an envelope or other container all ballots which have been counted by them, except those endorsed "Rejected as double", "Defective", or "Objected to", and securely seal ~~such~~ the envelope. The signatures of all board members of the precinct shall be placed across the seal or the opening of the container so that it cannot be opened without breaking the seal. The precinct election officials shall return all the ballots to the commissioner, who shall carefully preserve them for six months. Ballots from elections for federal offices shall be preserved for twenty-two months.

Sec. 45. Section 50.13, Code 1989, is amended to read as follows:

50.13 DESTRUCTION OF BALLOTS.

If, at the expiration of ~~six months no~~ the length of time specified in section 50.12, a contest is not pending, the commissioner, without opening the package in which they have been enclosed,

shall destroy the ~~same~~ ballots, in the presence of two electors, one from each of the two leading political parties, who shall be designated by the chairperson of the board of supervisors.

Sec. 46. Section 50.19, Code 1989, is amended to read as follows:

50.19 PRESERVATION OF BOOKS — WHEN DESTROYED.

The commissioner may destroy precinct election registers, the declarations of eligibility signed by voters, and other material pertaining to ~~an~~ any election in which federal offices are not on the ballot, except the tally lists, six months after the election if ~~no~~ a contest is not pending. If a contest is pending all election materials shall be preserved until final determination of the contest. Before destroying the election registers and declarations of eligibility, the commissioner shall prepare records as necessary to permit compliance with section 48.31, subsection 1. Nomination papers for primary election candidates for state and county offices shall be destroyed ten days before the general election, if a contest is not pending.

Material pertaining to elections for federal offices, including ballots, precinct election registers, declarations of eligibility signed by voters, documents relating to absentee ballots, and challenges of voters, shall be preserved for twenty-two months after the election. If a contest is not pending the materials may be destroyed at the end of the retention period.

Sec. 47. Section 50.22, unnumbered paragraph 2, Code 1989, is amended to read as follows:

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 other than the registration receipt mailed pursuant to section 48.3 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.

Sec. 48. Section 50.22, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The special precinct board shall also canvass any absentee ballots which were received after the polls closed in accordance with section 53.17. If necessary, they shall reconvene again on the day of the canvass by the board of supervisors to canvass any absentee ballots which were timely received. The special precinct board shall submit their tally list to the supervisors before the conclusion of the canvass by the board.

Sec. 49. Section 50.24, Code 1989, is amended to read as follows:

50.24 CANVASS BY BOARD OF SUPERVISORS.

The county board of supervisors shall meet to canvass the vote at nine o'clock on the morning of the first Monday after the day of each election to which this chapter is applicable, unless the law authorizing the election specifies another date for the canvass. If that Monday is a public holiday, section 4.1, subsection 22 controls. Upon convening, the board shall open and canvass the tally lists and shall prepare abstracts stating, in words written at length, the number of votes cast in the county, or in that portion of the county in which the election was held, for each office and on each question on the ballot for the election. The board shall ~~also open and~~ contact the chairperson of the special precinct board before adjourning and include in the canvass any absentee ballots which were received after the polls closed in accordance with section 53.17 and which were canvassed by the special precinct board after election day. The abstract shall further indicate the name of each person who received votes for each office on the ballot, and the number of votes each person named received for that office, and the number of votes for and against each question submitted to the voters at the election.

Any obvious clerical errors in the tally lists from the precincts shall be corrected by the supervisors. Complete records of any changes shall be recorded in the minutes of the canvass.

Sec. 50. Section 52.5, Code 1989, is amended to read as follows:

52.5 EXAMINATION OF MACHINE.

A person or corporation owning or being interested in a voting machine or electronic voting system may request that the state commissioner call upon the board of examiners to examine and test the machine or system. Within seven days of receiving a request for examination and test, the state commissioner shall notify the board of examiners of the request in writing and set a time and place for the examination and test.

PARAGRAPH DIVIDED. The state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the testing and examination of any voting machine or electronic voting system by the board of examiners. The rules shall prescribe the method to be used in determining whether the machine or system is suitable for use within the state and performance standards for voting equipment in use within the state. The rules shall include standards for determining when recertification is necessary following modifications to the equipment or to the programs used in tabulating votes, and a procedure for rescinding certification if a system or machine is found not to comply with performance standards adopted by the state commissioner.

PARAGRAPH DIVIDED. The state commissioner may employ a competent person or persons to assist the examiners in their evaluation of the equipment and to advise the examiners as to the sufficiency of the equipment. Consultant fees shall be paid by the person who requested the certification. Following the examination and testing of the voting machine or system the examiners shall report to the state commissioner describing the testing and examination of the machine or system and upon the capacity of the machine or system to register the will of voters, its accuracy and efficiency, and with respect to its mechanical perfections and imperfections. Their report shall be filed in the office of the state commissioner and shall state whether in their opinion the kind of machine or system so examined can be safely used by voters at elections under the conditions prescribed in this chapter. If the report states that the machine or system can be so used, it shall be deemed approved by the examiners, and machines or systems of its kind may be adopted for use at elections as provided in this section. Any form of voting machine or system not so approved cannot be used at any election. ~~Prior to~~ Before actual ~~purchase~~ use by a county of a particular electronic voting system which has been approved for use in this state, the state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the development of vote counting programs and all procedures used in actual counting of votes by means of that system.

Sec. 51. Section 52.32, subsection 2, Code 1989, is amended to read as follows:

2. 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 special paper ballots or ballot cards are used and write-in votes are recorded directly upon the ballot, this subsection ~~does not apply~~ is optional, at the discretion of the commissioner. If write-in votes are not canvassed by the precinct election officials at the precinct where they were cast, they shall be tabulated at the counting center. 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. 52. Section 53.18, Code 1989, is amended to read as follows:

53.18 MANNER OF PRESERVING BALLOT AND APPLICATION.

Upon receipt of the absentee ballot, the commissioner shall at once record the number appearing on the application and ~~ballot~~ return carrier envelope and time of receipt of such ballot and enclose the same, unopened, together with the application made by the qualified elector, in a large carrier envelope on which shall appear the words "This envelope contains an absent voter's ballot for the election", and securely seal the same.

Sec. 53. NEW SECTION. 53.21 REPLACEMENT OF LOST ABSENTEE BALLOTS.

A voter who has requested an absentee ballot may obtain a replacement ballot if the voter declares that the original ballot was lost or did not arrive. The commissioner upon receipt of a written or oral request for a replacement ballot shall provide a duplicate ballot. The same serial number that was assigned to the records of the original absentee ballot request shall be used on the envelopes and records of the replacement ballot.

The commissioner shall include with the replacement ballot two copies of a statement in substantially the following form: "The absentee ballot which I requested on _____(date)_____ has been lost or was never received. If I find this absentee ballot I will return it, unvoted, to the commissioner.

_____

(Signature of voter)

_____

(Date)"

The voter shall enclose one copy of the above statement in the return carrier envelope with the ballot envelope and retain a copy for the voter's records.

Sec. 54. Section 53.39, Code 1989, is amended to read as follows:

53.39 REQUEST FOR BALLOT.

~~The provisions of section~~ Section 53.2 ~~shall~~ does not apply in connection with the primary and general elections in the case of a qualified elector of the state of Iowa serving in the armed forces of the United States~~;~~ ~~in~~. In any such case an application for ballot as provided for in ~~said~~ that section ~~shall~~ is not ~~be~~ required and an absent voter's ballot shall be sent or made available to any such ~~voter~~ elector upon a request ~~being made therefor~~ as provided ~~for~~ in this division. All official ballots to be voted by qualified absent voters in the armed forces of the United States at the primary election and the general election shall be printed prior to forty days before the ~~said~~ respective elections and shall be available for transmittal to such qualified electors in the armed forces of the United States at least forty days ~~prior to~~ before the respective elections. The provisions of this chapter ~~shall~~ apply to absent voting by qualified voters in the armed forces of the United States at ~~said~~ primary and general elections except as modified by the provisions of this division.

Sec. 55. Section 53.40, unnumbered paragraph 4, Code 1989, is amended to read as follows:

If the affidavit on the ballot envelope shows that the affiant is not a qualified voter on the day of the election at which ~~said~~ the ballot is offered for voting, the envelope shall not be opened, but the envelope and ballot contained ~~therein~~ in the envelope shall be preserved and returned by the precinct election officials to the commissioner, who shall preserve ~~same~~ them for the period of time and under the conditions provided for in sections 50.12 ~~to~~ through 50.15 and section 50.19.

Sec. 56. Section 53.41, Code 1989, is amended to read as follows:

53.41 RECORDS BY COMMISSIONER.

The commissioner of each county shall establish and maintain a record of all requests for ballots which are made, and of all ballots transmitted, and the manner of transmittal, from and received in the commissioner's office under the provisions of this division. ~~In the event~~ If more than one request for absent voter's ballot for a particular election ~~shall be~~ is made to the commissioner by or on behalf of a voter in the armed forces of the United States, the request first received shall be honored, except that if one of the requests is made by the voter, and a request on the voter's behalf has not been previously honored, ~~such~~ the request of the voter shall be honored in preference to a request made on the voter's behalf by another. Not more than one ballot shall be transmitted by the commissioner to any voter for a particular election. ~~In the event~~ If the commissioner ~~shall receive~~ receives more than one absent voter's ballot, provided for by this division, from or purporting to be from any one voter for a particular election, all of ~~said~~ the ballots so received from or purporting to be from such voter ~~shall be null and~~ are void, and the commissioner shall not deliver any of ~~said~~ the ballots to the precinct

election officials ~~of election~~, but shall retain them in the commissioner's office, and preserve them for the period and under the conditions provided for in sections 50.12 ~~to~~ through 50.15 and section 50.19.

Sec. 57. Section 53.44, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Absentee ballots issued under this division shall be returned in the same manner and within the same time limits specified in section 53.17.

Sec. 58. Section 54.5, Code 1989, is amended to read as follows:

54.5 PRESIDENTIAL NOMINEES.

The names of the candidates for president and vice president of a political party as defined in the law relating to primary elections, shall, by five o'clock p.m. on the ~~sixty-seventh~~ eighty-first day ~~prior to~~ before the election, be certified to the state commissioner by the chairperson and secretary of the state central committee of the party.

However, if the national nominating convention of a political party adjourns later than eighty-nine days before the general election the certificate showing the names of that party's candidates for president and vice president shall be filed within five days after adjournment.

As an alternative to the certificate by the state central committee, the certificate of nomination issued by the political party's national nominating convention may be used to certify the names of the party's candidates for president and vice president. If certificates of nomination are received from both the state central committee and the national nominating convention of a political party, and there are differences between the two certificates, the certificate filed by the state central committee shall prevail.

The state central committee shall also file a list of the names and addresses of the party's presidential electors, one from each congressional district and two from the state at large, not later than five o'clock p.m. on the eighty-first day before the general election.

Sec. 59. Section 69.12, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When a vacancy occurs in any nonpartisan elective office of a political subdivision of this state, and the statutes governing the office in which the vacancy occurs require that it be filled by election or are silent as to the method of filling the vacancy, it shall be filled pursuant to this section. As used in this section, "pending election" means any election at which there will be on the ballot either the office in which the vacancy exists, or any other office to be filled or any public question to be decided by the voters of the same political subdivision in which the vacancy exists.

Sec. 60. Section 69.12, subsection 1, paragraph a, subparagraph (1), Code 1989, is amended to read as follows:

(1) ~~Sixty~~ Seventy-four or more days prior to the election, if it is a general or primary election.

Sec. 61. Section 69.12, subsection 1, paragraph b, subparagraph (1), Code 1989, is amended to read as follows:

(1) The ~~fifty-fifth day prior to~~ final filing date for candidates filing with the state commissioner or commissioner, as the case may be, for a general or primary election.

Sec. 62. Section 69.13, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the unexpired term of office in which the vacancy occurs will expire within seventy days after the date of the next pending election, section 69.11 applies.

Sec. 63. Section 277.4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Nomination papers for all candidates for election to office in each school district shall be filed with the secretary of the school board not more than ~~sixty-five~~ sixty-four days, nor less than forty days prior to the election. Nomination petitions shall be filed not later than five

o'clock p.m. on the last day for filing. If the school board secretary is not readily available during normal office hours, the secretary may designate a full-time employee of the school district who is ordinarily available to accept nomination papers under this section.

PARAGRAPH DIVIDED. Each candidate shall be nominated by a petition signed by not less than ten eligible electors of the district. Signers of nomination petitions shall include their addresses and the date of signing, and must reside in the same district as the candidate if directors are elected by district, rather than at large. A person may sign nomination petitions for more than one candidate for the same office, and the signature is not invalid solely because the person signed nomination petitions for one or more other candidates for the office. The petition shall ~~include~~ be filed with the affidavit of the candidate being nominated, stating the candidate's name, place of residence, that such person is a candidate and is eligible for the office the candidate seeks, and that if elected the candidate will qualify for the office.

Sec. 64. Section 278.2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Petitions filed under this section shall be filed with the secretary of the school board at least seventy-five days before the date of the annual school election, if the question is to be included on the ballot at that election. The petition shall include the signatures of the petitioners, a statement of their place of residence, and the date on which they signed the petition.

Sec. 65. Section 279.7, unnumbered paragraph 4, Code 1989, is amended to read as follows:

Nomination petitions shall be filed in the manner provided in section 277.4, except that the petitions shall be filed not less than ~~thirty~~ twenty-five days ~~prior to~~ before the date set for the election.

Sec. 66. Section 280A.11, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The governing board of a merged area is a board of directors composed of one member elected from each director district in the area by the electors of the respective district. Members of the board shall be residents of the district from which elected. Successors shall be chosen at the annual school elections for members whose terms expire. The term of a member of the board of directors is three years and commences at the organization meeting. Vacancies on the board ~~which occur more than ninety days prior to the next regular school election may~~ shall be filled at the next regular meeting of the board by appointment by the remaining members of the board. A member so chosen shall be a resident of the district in which the vacancy occurred and shall serve until a member is elected pursuant to section 69.12 to fill the vacancy for the balance of the unexpired term. A vacancy is defined in section 277.29. A member shall not serve on the board of directors who is a member of a board of directors of a local school district or a member of an area education agency board.

Sec. 67. Section 280A.15, subsection 2, Code 1989, is amended to read as follows:

2. 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. A person may sign nomination petitions for more than one candidate for the same office, and the signature is not invalid solely because the person signed nomination petitions for one or more other candidates for the office. 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. 68. Section 303B.3, unnumbered paragraph 2, Code 1989, is amended to read as follows:

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 district. In each county whose commissioner of elections is responsible under section 47.2 for conducting elections held for a regional library board district, 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. 69. Section 331.306, Code 1989, is amended to read as follows:

331.306 PETITIONS OF ELIGIBLE ELECTORS.

If a petition of the voters is authorized by this chapter, the petition is valid if signed by eligible electors of the county equal in number to at least ten percent of the votes cast in the county for the office of president of the United States or governor at the preceding general election, unless otherwise provided by state law. The petition shall include the signatures of the petitioners, a statement of their place of residence, and the date on which they signed the petition.

Petitions authorized by this chapter shall be filed with the board of supervisors not later than eighty-two days before the date of the general election if the question is to be voted upon at the general election. If the petition is found to be valid, the board of supervisors shall, not later than sixty-nine days before the general election, notify the county commissioner of elections to submit the question to the qualified electors at the general election.

Sec. 70. Section 362.4, Code 1989, is amended to read as follows:

362.4 PETITION OF ELIGIBLE ELECTORS.

If a petition of the voters is authorized by the city code, the petition is valid if signed by eligible electors of the city equal in number to ten percent of the persons who voted at the last preceding regular city election, but not less than ten persons, unless otherwise provided by state law. The petition shall include the signatures of the petitioners, a statement of their place of residence, and the date on which they signed the petition.

Sec. 71. Section 372.13, subsection 2, paragraph b, Code 1989, is amended to read as follows:

b. By a special election held to fill the office for the remaining balance of the unexpired term. If the council opts for a special election or a valid petition is filed under paragraph "a", the special election may be held concurrently with any pending election as provided by section 69.12 if by so doing the vacancy will be filled not more than ninety days after it occurs. Otherwise, a special election to fill the office shall be called at the earliest practicable date. If there are concurrent vacancies on the council and the remaining council members do not constitute a quorum of the full membership, a special election shall be called at the earliest practicable date. The council shall give the county commissioner at least sixty days' written notice of the date chosen for the special election. A special election held under this subsection is subject to sections 376.4 through 376.11, but the dates for actions in relation to the special election shall be calculated with regard to the date for which the special election is called.

Sec. 72. Section 376.4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

An eligible elector of a city may become a candidate for an elective city office by filing with the city clerk a valid petition requesting that the elector's name be placed on the ballot for that office. The petition must be filed not more than ~~seventy-two~~ seventy-one days nor less than forty-seven days before the date of the election, and must be signed by eligible electors equal in number to at least two percent of those who voted to fill the same office at the last regular city election, but not less than ten persons. A person may sign nomination petitions for more than one candidate for the same office, and the signature is not invalid solely because the person signed nomination petitions for one or more other candidates for the office. Nomination petitions shall be filed not later than five o'clock p.m. on the last day for filing.

Sec. 73. Section 467A.5, subsection 3, Code 1989, is amended to read as follows:

3. At each general election a successor shall be chosen for each commissioner whose term will expire in the succeeding January. Nomination of candidates for the office of commissioner shall be made by petition in accordance with chapter 45, except that each candidate's nominating petition shall be signed by at least twenty-five eligible electors of the district. The petition form shall be furnished by the county commissioner of elections. Every candidate shall file with the nomination papers an affidavit stating the candidate's name, the candidate's residence, that the person is a candidate and is eligible for the office of commissioner, and that if elected the candidate will qualify for the office. ~~An eligible elector shall not in any one year sign the nominating petitions of a number of candidates greater than the number of commissioners to be elected in that year.~~ The signed petitions shall be filed with the county commissioner of elections not later than five o'clock p.m. on the fifty-fifth day prior to the general election. The votes for the office of district commissioner shall be canvassed in the same manner as the votes for county officers, and the returns shall be certified to the commissioners of the district. A plurality shall be sufficient to elect commissioners, and no primary election for the office shall be held. If the canvass shows that the two candidates receiving the highest and the second highest number of votes for the office of district commissioner are both residents of the same township, the board shall certify as elected the candidate who received the highest number of votes for the office and the candidate receiving the next highest number of votes for the office who is not a resident of the same township as the candidate receiving the highest number of votes.

Sec. 74. Section 602.1216, Code 1989, is amended to read as follows:

602.1216 RETENTION OF CLERKS OF THE DISTRICT COURT.

A clerk of the district court shall stand for retention in office, in the county of the clerk's office, upon the petition of ten percent of all ~~eligible and registered~~ qualified electors in the county to the state commissioner of elections, at the judicial election in 1988 and every four years thereafter, under sections 46.17 through 46.24. The petition shall be filed in the office of the state commissioner not later than one hundred twenty days before the general election. A clerk who is not retained in office is ineligible to serve as clerk, in the county in which the clerk was not retained, for the four years following the retention vote.

Sec. 75. Section 50.14, Code 1989, is repealed.

Approved May 8, 1989

CHAPTER 137

EGG EXCISE TAX REFUNDS

S.F. 386

AN ACT relating to refunds from excise taxes on egg sales.

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

Section 1. Section 179.5A, Code 1989, is amended to read as follows:

179.5A RIGHT TO REFUND NOT SUBJECT TO EXECUTION OR TRANSFER.

The right of a person to a refund under this chapter or under ~~chapters~~ chapter 181, 182, 183A, 184A, 185, or 185C, ~~or 196A~~ is not subject to execution, levy, attachment, garnishment, or other legal process, and is not transferable or assignable at law or in equity.

Sec. 2. Section 196A.18, Code 1989, is amended to read as follows:

196A.18 REFUNDS.

A producer who has paid ~~the tax~~ a nonrefundable promotion import tax in another state

on eggs produced in Iowa may, by application in writing to the council, secure a refund in the amount ~~paid or any portion thereof~~ of the import tax paid which does not exceed the amount of tax paid under this chapter. The refund shall be payable only when the application shall have been made to the council within sixty days after the end of the calendar quarter during which the eggs were sold by the producer. Each application for refund by a producer shall have attached ~~thereto~~ to it proof of the import tax paid and the tax paid under this chapter. The proof of tax paid may be in the form of a duplicate or certified copy of the purchase invoice by the purchaser.

Sec. 3. Section 196A.19, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Moneys collected under the authority of this chapter ~~shall be~~ are subject to audit by the auditor of state ~~and~~. The moneys shall be used by the Iowa egg council first for the payment of collection ~~and refund~~ expenses, second for payment of the costs and expenses arising in connection with conducting referendums, and third for market development. ~~Any moneys~~ Moneys remaining in the Iowa egg fund after a referendum is held when a majority of the voters do not favor extending the tax shall continue to be expended in accordance with ~~the provisions of~~ this chapter until exhausted.

Approved May 8, 1989

CHAPTER 138

SEXUAL ABUSE

S.F. 426

AN ACT relating to sexual abuse, including sexual abuse in the third degree and sexual abuse which constitutes a forcible felony, to release on appeal from a conviction of sexual abuse in the third degree, to evidence admissible in an action for damages arising from an injury resulting from an act of sexual abuse, and providing penalties.

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

Section 1. NEW SECTION. 668.15 DAMAGES RESULTING FROM SEXUAL ABUSE – EVIDENCE.

In an action against a person accused of sexual abuse, as defined in section 709.1, by an alleged victim of sexual abuse for damages arising from an injury resulting from the act of sexual abuse, evidence concerning the past sexual behavior of the alleged victim is not admissible.

Sec. 2. Section 702.11, Code 1989, is amended to read as follows:

702.11 FORCIBLE FELONY.

A "forcible felony" is any felonious child endangerment, assault, murder, sexual abuse other than sexual abuse in the third degree committed between spouses or in violation of section 709.4, subsection 2, paragraph "c", subparagraph (4), kidnapping, robbery, arson in the first degree, or burglary in the first degree.

Sec. 3. Section 709.4, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

709.4 SEXUAL ABUSE IN THE THIRD DEGREE.

A person commits sexual abuse in the third degree when the person performs a sex act under any of the following circumstances:

1. The act is done by force or against the will of the other participant, whether or not the other participant is the person's spouse or is cohabiting with the person.

2. The act is between persons who are not at the time cohabiting as husband and wife and if any of the following are true:

a. The other participant is suffering from a mental defect or incapacity which precludes giving consent.

b. The other participant is twelve or thirteen years of age.

c. The other participant is fourteen or fifteen years of age and any of the following are true:

(1) The person is a member of the same household as the other participant.

(2) The person is related to the other participant by blood or affinity to the fourth degree.

(3) The person is in a position of authority over the other participant and uses that authority to coerce the other participant to submit.

(4) The person is six or more years older than the other participant.

Sexual abuse in the third degree is a class "C" felony.

Sec. 4. Section 811.1, subsection 1, Code 1989, is amended to read as follows:

1. A defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of a class "A" felony, murder, felonious assault, sexual abuse in the second degree, sexual abuse in the third degree ~~in violation of section 709.4, subsections 1 and~~ 3, kidnapping, robbery in the first degree, arson in the first degree, or burglary in the first degree.

Sec. 5. Section 811.1, subsection 2, Code 1989, is amended to read as follows:

2. A defendant appealing a conviction of a class "A" felony, murder, felonious assault, sexual abuse in the second degree, sexual abuse in the third degree ~~in violation of section 709.4, subsections 1 and~~ 3, kidnapping, robbery in the first degree, arson in the first degree, or burglary in the first degree.

Approved May 8, 1989

CHAPTER 139

EXCURSION BOAT GAMBLING AMENDMENTS

S.F. 525

AN ACT relating to excursion gambling boats, by providing licensing requirements, by providing for the allocation of revenue, by providing for the accounting of receipts, by providing restrictions on the operation of gambling games, and providing a penalty.

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

Section 1. Section 99F.4, as enacted by 1989 Iowa Acts, Senate File 124, section 4, is amended by adding the following new subsections:

NEW SUBSECTION. 16. To set the payout rate for all slot machines.

NEW SUBSECTION. 17. To define the duration of an excursion which shall be at least three hours during the excursion season. For the off season, the commission shall adopt rules limiting times of admission to excursion gambling boats consistent with maximum loss per player per gambling excursion specified in subsection 4.

NEW SUBSECTION. 18. To provide for the continuous videotaping of all gambling activities on an excursion boat. The videotaping shall be performed under guidelines set by rule of the division of criminal investigation and the rules may be required that all or part of the original tapes be submitted to the division on a timely schedule.

NEW SUBSECTION. 19. To provide for adequate security aboard each excursion gambling boat.

NEW SUBSECTION. 20. To provide that gambling games shall be conducted only during the same hours when alcoholic beverages are lawfully sold or dispensed as provided in section 123.49.

NEW SUBSECTION. 21. To establish minimum charges for admission to excursion gambling boats and regulate the number of free admissions.

NEW SUBSECTION. 22. Drug testing, as permitted by section 730.5, shall be required periodically, not less than every sixty days, of persons employed as captains, pilots, or physical operators of excursion gambling boats under the provisions of this bill.

Sec. 2. Section 99F.7, subsection 1, as enacted by 1989 Iowa Acts, Senate File 124, section 7, is amended by striking the subsection and inserting in lieu thereof the following:

1. If the commission is satisfied that this chapter and its rules adopted under this chapter applicable to licensees have been or will be complied with, the commission shall issue a license for a period of not more than three years to an applicant to own a gambling game operation and to an applicant to operate an excursion gambling boat. The commission shall decide which of the gambling games authorized under this chapter it will permit. The commission shall decide the number, location, and type of excursion gambling boats licensed under this chapter for operation on the rivers, lakes, and reservoirs of this state. The license shall set forth the name of the licensee, the type of license granted, the place where the excursion gambling boats will operate and dock, and the time and number of days during the excursion season and the off season when gambling may be conducted by the licensee. The commission shall not allow a licensee to conduct gambling games on an excursion gambling boat while docked during the off season if the licensee does not operate gambling excursions for a minimum number of days during the excursion season.

Sec. 3. Section 99F.7, subsection 5, paragraph c, as enacted by 1989 Iowa Acts, Senate File 124, section 7, is amended by striking the paragraph and inserting in lieu thereof the following:

c. A section is reserved solely for activities and interests of persons under the age of twenty-one and is staffed to provide adequate supervision.

Sec. 4. Section 99F.7, subsection 8, as enacted by 1989 Iowa Acts, Senate File 124, section 7, is amended by striking the subsection and inserting in lieu thereof the following:

8. A license shall not be granted if there is substantial evidence that the applicant is not of good repute and moral character or if the applicant has pled guilty to, or has been convicted of, a felony.

Sec. 5. Section 99F.7, subsection 10, paragraph b, as enacted by 1989 Iowa Acts, Senate File 124, section 7, is amended by striking the paragraph and inserting in lieu thereof the following:

b. If licenses to conduct gambling games and to operate an excursion gambling boat are in effect, pursuant to a referendum as set forth in this section and are subsequently disapproved by a referendum of the county electorate, the licenses issued by the commission after a referendum approving gambling games on excursion gambling boats shall remain valid and are subject to renewal for a total of nine years from the date of original issue unless the commission revokes a license at an earlier date as provided in this chapter.

c. If, after the effective date of 1989 Iowa Acts, Senate File 124, section 99F.1, subsection 5, 99F.4, subsection 4, or 99F.9, subsection 2 is amended, the board of supervisors of a county in which excursion boat gambling has been approved, shall submit to the county electorate a proposition to approve or disapprove the conduct of gambling games on excursion gambling boats at a special election at the earliest practicable time. If excursion boat gambling is not approved at the election, paragraph "b" does not apply to the licenses and the commission shall cancel the licenses issued for the county within sixty days of the unfavorable referendum.

Sec. 6. Section 99F.9, subsection 6, as enacted by 1989 Iowa Acts, Senate File 124, section 9, is amended by striking the subsection and inserting in lieu thereof the following:

6. A person under the age of twenty-one years shall not make a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted.

Sec. 7. Section 99F.11, subsection 3, as enacted by 1989 Iowa Acts, Senate File 124, section 11, is amended by striking the subsection and inserting in lieu thereof the following:

3. Three percent of the adjusted gross receipts shall be deposited in the gamblers assistance fund specified in section 99E.10, subsection 1, paragraph "a".

Sec. 8. Section 99F.12, unnumbered paragraph 2, as enacted by 1989 Iowa Acts, Senate File 124, section 12, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The licensee shall furnish to the commission reports and information as the commission may require with respect to its activities. The gross receipts and adjusted gross receipts from gambling shall be separately handled and accounted for from all other moneys received from operation of an excursion gambling boat. The commission may designate a representative to board a licensed excursion gambling boat, who shall have full access to all places within the enclosure of the boat, who shall directly supervise the handling and accounting of all gross receipts and adjusted gross receipts from gambling, and who shall supervise and check the admissions. The compensation of a representative shall be fixed by the commission but shall be paid by the licensee.

Sec. 9. Section 99F.15, subsection 2, as enacted by 1989 Iowa Acts, Senate File 124, section 15, is amended by striking the subsection and inserting in lieu thereof the following:

2. A person knowingly permitting a person under the age of twenty-one years to make a wager is guilty of a simple misdemeanor.

Sec. 10. APPLICABILITY. This Act shall take effect only if Senate File 124 is enacted by the Seventy-third General Assembly.

Approved May 8, 1989

CHAPTER 140

ADOPTION INFORMATION FORMS

H.F. 196

AN ACT relating to the collection of certain adoption information according to federal regulations.

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

Section 1. Section 600.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An adoption information form completed by the petitioner containing the data specified under federal regulations adopted pursuant to Pub. L. No. 99-509, as codified in 42 U.S.C. § 679 and 679A.

Sec. 2. Section 600.13, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The clerk of the district court shall attach to the certified copy of the decree delivered to the department, a copy of the adoption information form required to be attached to the adoption petition under section 600.6, subsection 5.

Approved May 8, 1989

CHAPTER 141

CITY HEALTH OFFICERS
H.F. 430

AN ACT authorizing the appointment or designation of a city health officer.

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

Section 1. NEW SECTION. 137.16 APPOINTMENT OF CITY HEALTH OFFICER.
A city which is part of a county or district health department may appoint or designate a city health officer for the city. The city health officer shall enforce the rules and regulations of the county or district health board within the city.

Approved May 8, 1989

CHAPTER 142

CANTEEN FUNDS AT CORRECTIONAL INSTITUTIONS
H.F. 432

AN ACT relating to canteen funds under the authority of the director of the department of corrections.

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

Section 1. Section 246.310, Code 1989, is amended to read as follows:
246.310 CANTEENS.
The director may maintain a canteen at any institution under the director's jurisdiction for the sale to persons confined in the institution of items such as toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. The director shall specify the items to be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen and any interest earned on the fund. Any money in the fund over the amount needed to do normal business transactions, and to reimburse any accounts which have subsidized the canteen fund, shall be considered profit. This money may remain in the canteen fund and be used for any purchase which the superintendent approves that will directly and collectively benefit the inmates ~~during their incarceration~~ of the institution.

Approved May 8, 1989

CHAPTER 143

GRAIN DEALERS AND WAREHOUSERS REGULATION

H.F. 533

AN ACT relating to the regulation of grain management, by providing for licensing and regulation of grain dealers and warehouse operators and the administration of licensing and regulation within the department of agriculture and land stewardship and by the Iowa grain indemnity board.

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

DIVISION I

Section 101. Sections 542.2, 542.9, 542.10, 542.13, 542A.7, 543.4, and 543.10, Code 1989, are amended by striking from the sections the words "warehouse division" and inserting in lieu thereof the words "warehouse bureau".

DIVISION II

Section 201. Section 542.3, subsection 4, paragraph a, Code 1989, is amended to read as follows:

a. The grain dealer shall have and maintain a net worth of at least ~~fifty~~ seventy-five thousand dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 grain dealer if the person has a net worth of less than ~~twenty-five~~ thirty-seven thousand five hundred dollars.

Sec. 202. Section 542.3, subsection 5, paragraph a, Code 1989, is amended to read as follows:

a. The grain dealer shall have and maintain a net worth of at least ~~twenty-five~~ thirty-seven thousand five hundred dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net deficiency. However, a person shall not be licensed as a class 2 grain dealer if the person has a net worth of less than ~~ten~~ seventeen thousand five hundred dollars.

DIVISION III

Sec. 301. Section 542.3, subsection 4, paragraph b, Code 1989, is amended to read as follows:

b. The grain dealer 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 grain dealer submit more than one such unqualified opinion per year. The grain dealer 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 grain dealer makes this election the department shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four-month period without good cause, in the manner provided in section 542.9. In addition, the department shall cause a grain dealer 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 grain dealer submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement.~~ However, at any time the department may require 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 a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.

Sec. 302. Section 542.3, subsection 5, paragraph b, Code 1989, is amended to read as follows:

b. The grain dealer 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 grain dealer submit more than one such unqualified opinion per year. The grain dealer 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 grain dealer makes this election the department shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four-month period without good cause, in the manner provided in section 542.9. In addition, the department shall cause a grain dealer 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 grain dealer submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement.~~ However, at any time the department may require 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 a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.

Sec. 303. Section 543.6, subsection 4, paragraph b, Code 1989, is 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 audited financial statement.~~ However, at any time the department may require 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 a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements.

Sec. 304. Section 543.6, subsection 5, paragraph b, Code 1989, is 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 audited financial statement.~~ However, at any time the department may require 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 a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements.

DIVISION IV

Sec. 401. Section 542.3, subsection 4, paragraph c, Code 1989, is amended to read as follows:

c. The grain dealer shall have and maintain current assets equal to at least ~~ninety~~ one hundred percent of current liabilities or provide a deficiency bond or an irrevocable letter of credit under the following conditions:

(1) A grain dealer with current assets equal to at least ~~forty-five~~ fifty percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than six consecutive months in a twelve-month period.

(2) A grain dealer with current assets equal to less than ~~forty-five~~ fifty percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than thirty consecutive days in a twelve-month period.

Sec. 402. Section 542.3, subsection 5, paragraph c, Code 1989, is amended to read as follows:

c. The grain dealer shall have and maintain current assets equal to at least ~~ninety~~ one hundred percent of current liabilities or provide a deficiency bond or an irrevocable letter of credit under the following conditions:

(1) A grain dealer with current assets equal to at least ~~forty-five~~ fifty percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than six consecutive months in a twelve-month period.

(2) A grain dealer with current assets equal to less than ~~forty-five~~ fifty percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than thirty consecutive days in a twelve-month period.

Sec. 403. Section 542.15, subsection 7, Code 1989, is amended to read as follows:

7. A grain dealer shall not purchase grain on credit during any time period in which the grain dealer's current assets are less than ~~forty-five~~ fifty percent of current liabilities.

DIVISION V

Sec. 501. Section 543.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A person employed or appointed by the department and carrying out the duties of the department acting as receiver under this chapter shall be deemed to be an employee of the state as defined in section 25A.2. Chapter 25A is applicable to any claim as defined in section 25A.2 against the person carrying out the duties of the department acting as receiver.

Sec. 502. Section 543.4, subsection 3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When the court approves the sale of commodities, the department shall employ a merchandiser to effect the sale of those commodities. A person employed or appointed as a merchandiser is deemed to be an employee of the state as defined in section 25A.2 and chapter 25A is applicable to any claim as defined in section 25A.2 against the person acting as a merchandiser. A person employed as a merchandiser must meet the following requirements:

DIVISION VI

Sec. 601. Section 542.16, Code 1989, is amended by adding the following new subsection and renumbering the subsequent subsections:

NEW SUBSECTION. 3. Disclosure to the Iowa grain indemnity fund board in regard to licensees who present liability to the fund.

Sec. 602. Section 543.24, Code 1989, is amended by adding the following new subsection and renumbering the subsequent subsections:

NEW SUBSECTION. 3. Disclosure to the Iowa grain indemnity fund board in regard to licensees who present liability to the fund.

DIVISION VII

Sec. 701. Section 542.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may deny a license to an applicant if any of the following apply:

1. The applicant has caused liability to the Iowa grain depositors and sellers indemnity fund in regard to a license issued under this chapter or chapter 543, and the liability has not been discharged, settled, or satisfied.

2. The applicant is owned or controlled by a person who has caused liability to the fund through operations under a license issued under this chapter or chapter 543 and the liability has not been discharged, settled, or satisfied.

Sec. 702. Section 543.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. The department may deny a license to an applicant if any of the following apply:

a. The applicant has caused liability to the Iowa grain depositors and sellers indemnity fund through operations under a license issued under this chapter or chapter 542, and the liability has not been discharged, settled, or satisfied.

b. The applicant is owned or controlled by a person who has caused liability to the fund through operations under a license issued under this chapter or chapter 542, and the liability has not been discharged, settled, or satisfied.

DIVISION VIII

Sec. 801. Section 543.6, subsection 1, Code 1989, is amended to read as follows:

1. The department ~~is authorized~~, upon application to it, ~~to~~ may issue to ~~any~~ a warehouse operator or to ~~any~~ a person about to become a warehouse operator a license ~~or licenses~~ for the operation of a warehouse ~~or warehouses~~ in accordance with ~~the provisions of~~ this chapter and ~~such~~ the rules ~~as may be made~~ adopted by the department under ~~the authority of~~ section 543.5. A single license to operate two or more warehouses located anywhere within ~~a twenty-five mile radius of a central office~~ the state may be issued.

Sec. 802. Section 543.6, subsection 3, Code 1989, is amended to read as follows:

3. An application for a warehouse license shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and net worth of the applicant. The financial statement must be prepared according to ~~normally~~ generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon written request, the department ~~or a designated employee~~ may allow asset valuations in accordance with a competent appraisal. Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

Sec. 803. Section 543.7, subsection 7, Code 1989, is amended to read as follows:

7. A tariff on a form to be prescribed by the department~~,~~ for storage, ~~conditioning of stored products, and~~ receiving and loadout charges.

Sec. 804. Section 543.15, unnumbered paragraph 1, Code 1989, is amended to read as follows:

All agricultural products in storage in a licensed warehouse and all agricultural products which have been deposited temporarily in a licensed warehouse pending storage or for purposes other than storage, shall be kept fully insured by the warehouse operator for the current value of the agricultural products against loss by fire, inherent explosion, or windstorm.

PARAGRAPH DIVIDED. The insurance shall be carried in an insurance company or companies authorized to do business in this state, and evidence of the insurance coverage in a form approved by the department shall be filed with the department. An insurance policy shall not be canceled by the insurance company on less than ~~sixty~~ ninety days' notice by certified mail to the department and the principal unless the policy is being replaced with another policy

and evidence of the new policy is filed with the department at the time of cancellation of the policy on file. The insurance shall be provided by, and carried in the name of, the warehouse operator. However, whenever the department shall receive notice from an insurance company that it has canceled the insurance of a licensed warehouse, the department shall automatically suspend the warehouse license if replacement insurance is not received by the department within seventy-five days of receipt of the notice of cancellation. The department shall cause an inspection of the licensed warehouse immediately at the end of the seventy-five day period. If replacement insurance is not filed within another ten days following suspension, the warehouse license shall be automatically revoked. When a license is revoked, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation. The department shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the revocation. The notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection. Claimants against the insurance have precedence in the following order:

DIVISION IX

Sec. 901. Section 543A.1, subsection 1, Code 1989, is amended by striking the subsection.

Sec. 902. Section 543A.1, subsection 10, Code 1989, is amended to read as follows:

10. "Seller" means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, but excludes a person who executes a credit sale contract as a seller. However, "seller" does not include a person licensed as a grain dealer in any jurisdiction who sells grain to a licensed grain dealer.

Sec. 903. Section 543A.3, subsections 1 and 2, Code 1989, is amended to read as follows:

1. The grain depositors and sellers indemnity fund is created in the state treasury as a separate account. The general fund of the state is not liable for claims presented against the grain depositors and sellers indemnity fund under section 543A.6. The fund consists of a per-bushel fee on ~~assessable~~ purchased grain remitted by licensed grain dealers and licensed warehouse operators; an annual fee charged to and remitted by licensed grain dealers and licensed warehouse operators; delinquency penalties; sums collected by the department by legal action on behalf of the fund; and interest, property, or securities acquired through the use of moneys in the fund. The fiscal year of the fund begins July 1. Fiscal quarters of the fund begin July 1, October 1, January 1, and April 1. The finances of the fund shall be calculated on an accrual basis in accordance with generally accepted accounting principles. The moneys collected under this section and deposited in the fund shall be used exclusively to indemnify depositors and sellers as provided in section 543A.6 and to pay the administrative costs of this chapter.

2. A per-bushel fee shall be assessed on all purchased grain. As used in this chapter, "purchased grain" means grain which is entered in the company owned paid position as evidenced on the grain dealer's daily position record. However, if the grain dealer provides documentation regarding the transaction satisfactory to the department, the following transactions shall be excluded from the fee:

a. Grain purchased from the United States government or any of its subdivisions or agencies.

b. Grain purchased from a person licensed as a grain dealer in any jurisdiction.

c. Grain purchased under a credit sale contract entered into on or before the date of delivery.

PARAGRAPH DIVIDED. The grain dealer ~~or warehouse operator~~ shall forward the per-bushel fee to the department on a quarterly basis in the manner and using the forms prescribed by the department. A licensee is delinquent if the licensee fails to submit the full fee or quarterly forms when due, or if upon examination, an underpayment of the fee is found by the department. ~~If the per-bushel fee has not been received by the department by the date required by the department, the~~ 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.~~ However, a licensee who fails to submit the full fee or quarterly forms when due, is subject to a minimum payment of ten dollars. 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~~ and any penalty due have not been received by the department within thirty days after ~~the payment was due~~ notice by the department, 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. 904. Section 543A.3, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. Payment of the full annual fee shall be made before a grain dealer's or warehouse operator's license is issued or renewed. If a licensee amends its license during the fiscal year for which an annual fee was paid, and the licensing entity remains the same, the licensee is required to pay a further fee only if the amendment changes the licensee's class from class 2 to class 1.

Sec. 905. Section 543A.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A grain dealer may choose to pass on the cost of a per-bushel fee to the sellers by an itemized discount noted on the settlement sheet. However, if the per-bushel fee is not in effect, no grain dealer shall make such a discount on the purchase of grain. A discount made nominally for the per-bushel fee while the fee is not in effect is grounds for license suspension and revocation under chapter 542.

Sec. 906. Section 543A.4, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The duties of the board include the review and determination of claims, and the review and approval of administrative costs of the fund. To carry out these duties, the board has the power to adopt rules regarding its organization and procedures for determining claims. Further, the board shall approve rules proposed by the department for the administration of the per-bushel fee prior to their adoption by the department. The board may provide comment and advice to the department in regard to the department's administration of chapters 542 and 543 where the department's policies and rules may affect the exposure of the fund to liability. However, the board shall not become actively involved in a determination by the department as to whether disciplinary action is to be taken against a particular licensee. The board is not a forum for review or appeal in regard to any particular action taken by the department against a licensee.

NEW UNNUMBERED PARAGRAPH. The department through the grain warehouse bureau shall perform the administrative functions necessary for the operation of the board and the fund. Administrative costs approved by the board shall be paid from the fund. The rules of the department shall contain the rules of the board adopted for its organization and its procedures. The department shall adopt rules for the administration of the per-bushel fee upon the board's approval of the rules proposed by the department. The secretary of agriculture, as president of the board as well as head of the department of agriculture and land stewardship, shall administer the department so as to minimize the risk of loss to the fund while protecting interests of depositors and sellers of grain. Policies and rules for the administration of chapters 542 and 543 which, as determined by the secretary of agriculture, may affect the exposure of the fund, shall be presented to the board for comment prior to their adoption by the department. The department shall make reports to the board in regard to licensee investigations which may result in disciplinary action against a licensee and exposure of the fund. The reports may be discussed by the board in closed session pursuant to section 21.5, and are confidential. In making the report, the department shall make available to the board records of licensees which are otherwise confidential under section 22.7, 542.16, or 543.24. However, a determination to take disciplinary action against a particular licensee shall be made exclusively by the department. A report to the board is not a prerequisite to disciplinary action against a licensee. Review of any action against a licensee, whether or not relating to the fund, shall be made exclusively through the department.

Sec. 907. Section 543A.5, subsection 1, Code 1989, is amended to read as follows:

1. The board shall review annually the debits of and credits to the grain depositors and sellers indemnity fund created in section 543A.3 and shall make any adjustments in the per-bushel fee required under section 543A.3, subsection 2, and the dealer-warehouse fee required under section 543A.3, subsection 3, that are necessary to maintain the fund within the limits established under this section. Not later than the first day of May of each year, the board shall determine the proposed amount of the per-bushel fee based on the expected volume of grain on which the fee is to be collected and that is likely to be handled under this chapter, and shall also determine any adjustment to the dealer-warehouse fee. The board shall make any changes in the previous year's fees in accordance with chapter 17A. Changes in the fees shall become effective on the following first day of July. The per-bushel fee shall not exceed one-quarter cent per bushel on all ~~assessable~~ purchased grain as defined in section 543A.3. Until the per-bushel fee is adjusted or waived as provided in this section, the per-bushel fee is one-quarter cent on all ~~assessable~~ purchased grain.

Sec. 908. Section 543A.6, Code 1989, is amended to read as follows:

543A.6 CLAIMS AGAINST FUND.

1. PERSONS WHO MAY FILE CLAIMS — TIME OF FILING. A depositor or seller may file a claim ~~concerning assessable grain~~ with the department for indemnification of a loss from the grain depositors and sellers indemnity fund. A claim shall be filed in the manner prescribed by the board. A claim shall not be filed prior to the incurrence date, which is the earlier of the following:

a. The revocation, termination, or cancellation of the license of the grain dealer or warehouse operator, ~~or the~~.

b. The filing of a petition in bankruptcy by a grain dealer or warehouse operator.

PARAGRAPH DIVIDED. ~~However, to~~ To be timely, a claim shall be filed within one hundred twenty days of the ~~revocation, termination, or cancellation of the license of the grain dealer or warehouse operator. The value of a loss is to be measured as follows:~~ incurrence date.

2. NOTICE. The department shall cause notice of the opening of the claim period to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the licensee and the claim incurrence date. The notice shall also state that any claims against the fund on account of the licensee shall be sent by ordinary mail to the department within one hundred twenty days after the incurrence date, and that the failure to make a timely claim relieves the fund from liability to the claimant. This notice may be incorporated by the department with a notice required by section 542.12 or 543.14.

3. DETERMINATION OF ELIGIBILE* CLAIMS. The board shall determine a claim to be eligible for payment from the fund if the board finds all of the following:

a. That the claim was timely filed.

b. That the incurrence date was on or after May 15, 1986.

c. That the claimant qualifies as a depositor or seller.

d. That the claim derives from a covered transaction. For purposes of this paragraph, a claim derives from a covered transaction if the claimant is a seller who transferred title to the grain to the grain dealer other than by credit sale contract within six months of the incurrence date, or if the claimant is a depositor who delivered the grain to the warehouse operator.

e. That there is adequate documentation to establish the existence of a claim and to determine the amount of the loss.

~~a~~ 4. VALUE OF LOSS — WAREHOUSE CLAIMS. The board shall determine the dollar value of a claim incurred by a depositor holding a warehouse receipt or a scale weight ticket for grain that the depositor delivered for storage to the licensed warehouse operator ~~or grain dealer. The value shall be based on the average fair market price being paid for the grain to producers by the three licensed grain dealers nearest the warehouse operator or grain dealer on the earlier of the following:~~

*According to enrolled Act

~~(1) The date of license revocation, termination, or cancellation.~~

~~(2) The date on which the licensed warehouse operator or licensed grain dealer filed a petition in bankruptcy.~~ If the department has been appointed by the court as receiver of the grain assets of the warehouse operator, the value shall be presumed to be as stated in the plan of disposition approved by the court. If the warehouse operator has filed a petition in bankruptcy, the value shall be presumed to be based upon the fair market price, free-on-board from the site of the warehouse operator, being paid to producers for grain by the grain terminal operator nearest the warehouse operator on the date the petition was filed. If there is neither a department receivership nor a bankruptcy filing, the value shall be presumed to be based upon the fair market price, free-on-board from the site of the warehouse operator, being paid to producers for grain by the grain terminal operator nearest the warehouse operator on the date of license revocation or cancellation. If more than one date applies to a claim, the board may choose between the two. However, the board may accept ~~the~~ an alternative valuation of a claim ~~as determined by a court of competent jurisdiction as the value of the claim~~ upon a showing of just cause by the depositor or department. All depositors filing claims under this section shall be bound by the value determined by the board. The value of the loss is the outstanding balance on the validated claim at time of payment from the fund.

~~b~~ 5. VALUE OF LOSS — GRAIN DEALER CLAIMS. The dollar value of a claim incurred by a seller who has sold grain or delivered grain for sale or exchange and who is a creditor of the licensed grain dealer for all or part of the value of the grain shall be based on the amount stated on the obligation on the date of the sale. If the sold grain was unpriced, the value of a claim shall be presumed to be based upon the fair market price, free-on-board from the site of the grain dealer, being paid to producers for grain by the grain terminal operator nearest the grain dealer on the date of the license revocation or cancellation or the filing of a petition in bankruptcy. If more than one date applies to a claim, the board may choose between the two. However, the board may accept ~~the~~ an alternative valuation of a claim ~~as determined by a court of competent jurisdiction as the value of the claim~~ upon a showing of just cause by the seller or department. All sellers filing claims under this section shall be bound by the value determined by the board. The value of the loss is the outstanding balance on the validated claim at the time of payment from the fund.

~~2. The grain depositors and sellers indemnity fund is liable to a depositor or seller for a claim which arises on or after May 15, 1986, for ninety percent of the loss, as determined under subsection 1, but not more than one hundred fifty thousand dollars per claimant.~~

~~3. The board shall determine the validity of all claims presented against the fund.~~

6. PROCEDURE — APPEAL. The board, through the department, shall provide for notice to each depositor and seller upon its determination of eligibility and value of loss. Within twenty days of the notice, the depositor or seller may request a hearing for the review of either determination. The request shall be made in the manner provided by the board. The hearing and any further appeal shall be conducted as a contested case subject to chapter 17A. A depositor or seller whose claim has been refused by the board may appeal the refusal to either the district court of Polk county or the district court of the county in which the depositor or seller resides. ~~The board shall provide for payment from the fund to a depositor or seller whose claim has been found to be valid.~~

~~4. If at any time the fund does not contain sufficient assets to pay valid claims, the department shall hold those claims for payment until the fund again contains sufficient assets. Claims against the fund shall be paid in the order in which they are found to be valid. However, no claims shall be paid before the fund initially reaches one million dollars.~~

7. PAYMENT OF CLAIMS. Upon a determination that the claim is eligible for payment, the board shall provide for payment of ninety percent of the loss, as determined under subsection 4, but not more than one hundred fifty thousand dollars per claimant. If at any time the board determines that there are insufficient funds to make payment of all claims, the board may order that payment be deferred on specified claims. The department, upon the board's

instruction, shall hold those claims for payment until the board determines that the fund again contains sufficient assets.

~~5~~ 8. SUBROGATION OF FUND. In the event of payment of a loss under this section, the fund is subrogated to the extent of the amount of any payments to all rights, powers, privileges, and remedies of the depositor or seller against any person regarding the loss. The depositor or seller shall render all necessary assistance to aid the department and the board in securing the rights granted in this section. No action or claim initiated by a depositor or seller and pending at the time of payment from the fund shall be compromised or settled without the consent of the board.

DIVISION X

Sec. 1001. Section 542.1, subsection 9, Code 1989, is amended to read as follows:

9. "Financial institution" means a bank or savings and loan association authorized by the state of Iowa or by the laws of the United States, which is a member of the federal deposit insurance corporation or the federal savings and loan insurance corporation, respectively; or the national bank for cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233.

Sec. 1002. Section 543.1, subsection 25, Code 1989, is amended to read as follows:

25. "Financial institution" means a bank or savings and loan association authorized by the state of Iowa or by the laws of the United States, which is a member of the federal deposit insurance corporation or the federal savings and loan insurance corporation, respectively; or the national bank for cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233.

DIVISION XI

Sec. 1101. Section 543.1, subsection 18, Code 1989, is amended to read as follows:

18. "Grain Standards Act" means the United States Grain Standards Act, ~~as amended to and including January 1, 1977~~ 7 U.S.C. ch. 3.

Sec. 1102. Section 543.39, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A licensed warehouse operator may store grain in any other ~~licensed~~ warehouse in Iowa ~~in addition to the warehouse operator's own facilities~~ licensed in accordance with section 543.6 or the United States Warehouse Act, 7 U.S.C. ch. 10, subject to the following conditions:

DIVISION XII

Sec. 1201. Section 542.18, Code 1989, is repealed.

Approved May 8, 1989

CHAPTER 144

VOTER REGISTRATION FORMS

H.F. 255

AN ACT relating to forms for the registration of voters.

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

Section 1. NEW SECTION. 48.21 VOTER REGISTRATION FORMS IN INCOME TAX RETURNS.

The director of the department of revenue and finance shall insert securely in each individual income tax return form or instruction booklet two voter registration forms, designed according to rules adopted by the state voter registration commission.

Sec. 2. NEW SECTION. 48.22 VOTER REGISTRATION FORMS WITH DRIVER'S LICENSE AND IDENTIFICATION CARD FORMS.

The state department of transportation shall design its forms for operators' licenses, chauffeurs' licenses, and nonoperators' identification cards so that the forms may also serve as voter registration cards. The forms shall contain spaces for the information required by section 48.6 and applicable rules of the state voter registration commission. All persons applying for operators' licenses, chauffeurs' licenses, and nonoperators' identification cards shall be asked if they desire to register to vote or change their voter registration at the same time. Each form containing a completed voter registration shall be sent to the county auditor of the county in which the voter maintains residence within one business day of completion. The state voter registration commission, in consultation with the director of the state department of transportation, shall adopt rules and forms for the implementation of this section.

Approved May 8, 1989

CHAPTER 145

AREAS OF HISTORICAL SIGNIFICANCE
WITHIN SPECIAL LAND USE DISTRICTS
S.F. 71

AN ACT authorizing a special land use district to designate an area for preservation as an area of historical significance.

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

Section 1. Section 303.34, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purpose of this section, the term "city" includes a special land use district established pursuant to subchapter IV of this chapter.

Approved May 8, 1989

CHAPTER 146

CONTIGUITY OF CERTAIN CITIES FOR LOCAL OPTION TAX PURPOSES
S.F. 167

AN ACT specifying that under certain circumstances a city is not contiguous to another for purposes of a local option sales and services tax.

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

Section 1. Section 422B.1, subsection 2, Code 1989, is amended to read as follows:

2. A local option tax shall be imposed only after an election at which a majority of those voting on the question favors imposition and shall then be imposed until repealed as provided in subsection 5, paragraph "a". If the tax is a local vehicle tax imposed by a county, it shall apply to all incorporated and unincorporated areas of the county. If the tax is a local sales and services tax imposed by a county, it shall only apply to those incorporated areas and the

unincorporated area of that county in which a majority of those voting in the area on the tax favor its imposition. For purposes of the local sales and services tax, 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. For purposes of the local sales and services tax, a city is not contiguous to another city if the only road access between the two cities is through another state.

Approved May 8, 1989

CHAPTER 147

SALES TAX EXEMPTION FOR CERTAIN MEDIA PRODUCTS
S.F. 213

AN ACT exempting from the sales, services, and use tax the sale of certain films, tapes, discs, and records to a person engaged in the business of leasing, renting, or selling these items and providing effective and retroactive effective dates.

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

Section 1. Section 422.45, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 41. The gross receipts from the sale of motion picture films, video and audio tapes, video and audio discs and records, or other media which can be seen, heard, or read to a person regularly engaged in the business of leasing, renting, or selling this property if the ultimate leasing, renting, or selling of the property is subject to tax under this division. The exemption provided in this subsection is retroactive to July 1, 1984.

Sec. 2. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 8, 1989

CHAPTER 148

ELECTRIC UTILITIES' ENERGY MANAGEMENT
S.F. 266

AN ACT requiring electric utilities to have in effect a comprehensive energy management program before increased revenue requirements may be finally approved by the utilities board.

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

Section 1. Section 476.6, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 17. COMPREHENSIVE ENERGY MANAGEMENT REQUIRED FOR ELECTRIC UTILITIES. An electric utility shall not have an increased revenue requirement finally approved under this section unless the utilities board finds that the electric utility has in effect a comprehensive energy management program which meets the primary objectives of section 476A.6, subsection 4.

Approved May 8, 1989

CHAPTER 149

TOWNSHIP RESERVE ACCOUNT FOR EMERGENCY SERVICES
H.F. 581

AN ACT authorizing a reserve account for fire protection, emergency warning, and ambulance services provided by townships.

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

Section 1. Section 359.43, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Of the levies authorized under subsections 1 and 2, the township trustees may credit to a reserve account annually an amount not to exceed ten cents per thousand dollars of the assessed value of the taxable property in the township for the purchase or replacement of supplies and equipment required to carry out the services specified under section 359.42. Notwithstanding section 453.7, interest earned on moneys credited to the reserve account shall be credited to the reserve account.

Approved May 8, 1989

CHAPTER 150

COUNTY AND CITY INFRACTIONS
H.F. 596

AN ACT relating to the handling and use of county and municipal infractions, making a Code correction in regard to such infractions, and providing for penalties and remedies for such infractions.

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

Section 1. Section 331.307, subsection 4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

An officer authorized by a county to enforce a county code or regulation may issue a civil citation to a person who commits a county infraction. The citation may be served by personal service ~~or~~ as provided in rule of civil procedure 56.1, by certified mail addressed to the defendant at the defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in rule of civil procedure 60 and subject to the conditions of rule of civil procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

Sec. 2. Section 331.307, subsection 5, Code 1989, is amended by adding the following new paragraph a, and relettering the remaining paragraphs:

NEW PARAGRAPH. a. The matter shall be tried before a magistrate or district associate judge in the same manner as a small claim.

Sec. 3. Section 331.307, subsections 9 and 10, Code 1989, are amended to read as follows:

9. When judgment has been entered against a defendant, the court may ~~impose a civil penalty or may grant appropriate relief to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court.~~ do any of the following:

a. Impose a civil penalty by entry of a personal judgment against the defendant.

b. Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court.

c. Grant appropriate alternative relief ordering the defendant to abate or cease the violation.

d. Authorize the county to abate or correct the violation.

e. Order that the county's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both.

PARAGRAPH DIVIDED. If a defendant willfully ~~fails to pay the civil penalty or~~ violates the terms of ~~any other~~ an order imposed by the court, the failure is contempt.

The magistrate or district associate judge shall have jurisdiction to assess or enter judgment for costs of abatement or correction in an amount not to exceed the jurisdictional amount for a money judgment in a civil action pursuant to section 631.1, subsection 1, for magistrates and section 602.6306, subsection 2, for district associate judges. If the county seeks abatement or correction costs in excess of those amounts, the case shall be referred to the district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appeal pursuant to section 631.13.

10. A defendant ~~against whom a judgment is entered~~ or the county may file a motion for a new trial or ~~a motion for a reversal of a judgment as provided by law or rule of civil procedure~~ may appeal the decision of the magistrate or district associate judge to the district court. The procedure on appeal shall be the same as for a small claim pursuant to section 631.13. A factual determination made by the trial court, supported by substantial evidence as shown in the record, is binding for purposes of appeal relating to the violation at issue, but shall not be admissible or binding as to any future violation for the same or similar ordinance provision by the same defendant.

Sec. 4. Section 331.307, subsection 12, Code 1987, is amended to read as follows:

12. The issuance of a civil citation for a county infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution.

Sec. 5. Section 364.22, subsection 4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

An officer authorized by a city to enforce a city code or regulation may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service ~~or~~ as provided in rule of civil procedure 56.1, by certified mail addressed to the defendant at the defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in rule of civil procedure 60 and subject to the conditions of rule of civil procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

Sec. 6. Section 364.22, subsection 5, unnumbered paragraph 1, Code 1989, is amended to read as follows:

In ~~proceedings before the court for a~~ municipal infraction proceedings:

Sec. 7. Section 364.22, subsection 5, Code 1989, is amended by adding the following new paragraph a and relettering the remaining paragraphs:

NEW PARAGRAPH. a. The matter shall be tried before a magistrate or district associate judge in the same manner as a small claim.

Sec. 8. Section 364.22, subsections 9, 10, and 12, Code 1989, are amended to read as follows:

9. When judgment has been entered against a defendant, the court may ~~impose a civil penalty or may grant appropriate relief to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court.~~ do any of the following:

a. Impose a civil penalty by entry of a personal judgment against the defendant.

b. Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court.

c. Grant appropriate alternative relief ordering the defendant to abate or cease the violation.

d. Authorize the city to abate or correct the violation.

e. Order that the city's costs for abatement or correction of the violation be entered as a personal judgement against the defendant or assessed against the property where the violation occurred, or both.

PARAGRAPH DIVIDED. If a defendant willfully ~~fails to pay the civil penalty or~~ violates the terms of ~~any other~~ an order imposed by the court, the failure is contempt.

The magistrate or district associate judge shall have jurisdiction to assess or enter judgment for costs of abatement or correction in an amount not to exceed the jurisdictional amount for a money judgment in a civil action pursuant to section 631.1, subsection 1, for magistrates and section 602.6306, subsection 2, for district associate judges. If the city seeks abatement or correction costs in excess of those amounts, the case shall be referred to the district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appeal pursuant to section 631.13.

10. ~~A~~ The defendant ~~against whom a judgement is entered~~ or the city may file a motion for a new trial or ~~a motion for a reversal of a judgment as provided by law or rule of civil procedure~~ may appeal the decision of the magistrate or district associate judge to the district court. The procedure on appeal shall be the same as for a small claim pursuant to section 631.13. A factual determination made by the trial court, supported by substantial evidence as shown in the record, is binding for purposes of appeal relating to the violation at issue, but shall not be admissible or binding as to any future violation for the same or similar ordinance provision by the same defendant.

12. The issuance of a civil citation for a municipal infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution.

Sec. 9. Section 331.307, subsection 12, Code 1987, which was inadvertently omitted in the 1987 Code Supplement and the 1989 Code, shall be published in the 1989 Code Supplement, with the amendment enacted in this Act.

Approved May 8, 1989

CHAPTER 151

SORGHUM PRODUCTS

H.F. 650

AN ACT relating to products derived from sorghum, including labeling requirements, and making a penalty applicable.

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

Section 1. Section 189.14, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person shall not package a liquid or semisolid product, or label the product, as sorghum, imitation sorghum, or sorghum blend, or use the word "sorghum" in a prominent location on the label of the product or sell or offer for sale a product labeled as sorghum, imitation sorghum, or sorghum blend or which contains a label with the word "sorghum" prominently displayed, unless the product label states that the product is sorghum syrup as defined in section 190.1, imitation sorghum, or a sorghum blend. As used in this subsection, "imitation sorghum" means a product that has the flavor of sorghum but contains no sorghum

syrup as defined in section 190.1. "Sorghum blend" means a product that is not entirely sorghum syrup as defined in section 190.1.

Sec. 2. Section 190.1, subsection 68, Code 1989, is amended to read as follows:

68. SORGHUM SYRUP. Sorghum syrup is liquid food derived by the concentration and heat treatment of the juice of sorghum cane including sorgo and sorghum vulgare. Sorghum syrup must contain not less than seventy-four percent by weight of soluble solids derived solely from juices of sorghum cane.

Approved May 8, 1989

CHAPTER 152

FUEL PRICE SURVEYS

H.F. 660

AN ACT requiring the performance of monthly fuel surveys by the department of natural resources.

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

Section 1. Section 93.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Perform monthly fuel surveys which establish a statistical average of motor fuel prices for various motor fuels provided throughout the state. Additionally, the department shall perform monthly fuel surveys in cities with populations of over fifty thousand which establish a statistical average of motor fuel prices for various motor fuels provided in those individual cities. The survey results shall be publicized in a monthly press release issued by the department.

Approved May 8, 1989

CHAPTER 153

SURETY BONDS FOR PUBLIC OFFICERS

H.F. 668

AN ACT relating to bonds for state, county, and city officers, including waiver of the exemption of a homestead from execution and liability of the officers.

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

Section 1. Section 64.15, Code 1989, is amended to read as follows:

64.15 BONDS OF DEPUTY OFFICERS AND CLERKS.

Bonds required by law of deputy state, county, and city officers shall, unless otherwise provided, be in such amounts as may be fixed by the governor, board of supervisors, or the council, as the case may be, with sureties as required for the bonds of the principal, and filed with the same officer. ~~The giving of such bond shall not relieve the principal from liability for the official acts of the deputy~~ Any loss of moneys caused by a deputy shall be paid by the deputy or the surety on the deputy's bond and the deputy's principal is not liable for the

loss. The reasonable cost of the bonds required of deputy county officers, clerks, and cashiers employed by county officers shall be paid by the county where the bond is filed.

The exemptions provided in section 561.16 and chapter 627 are applicable to any claim made against a deputy state, county, or city officer and each bond shall so provide.

Sec. 2. NEW SECTION. 64.15A BONDS OF PRINCIPAL OFFICERS.

The exemptions provided in section 561.16 and chapter 627 are applicable to any claim made against a state, county, or city officer and each bond shall so provide.

Sec. 3. Section 561.22, Code 1989, is amended to read as follows:

561.22 WAIVER.

If a homestead exemption waiver is contained in a written contract affecting agricultural land as defined in section 172C.1, or dwellings, buildings, or other appurtenances located on the land, the contract must contain a statement in substantially the following form, in boldface type of a minimum size of ten points, and be signed and dated by the person waiving the exemption at the time of the execution of the contract: "I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I voluntarily give up my right to this protection for this property with respect to claims based upon this contract." A principal or deputy state, county, or city officer shall not be required to waive the officer's homestead exemption in order to be bonded as required pursuant to chapter 64.

Approved May 8, 1989

CHAPTER 154

TATTOOING

S.F. 122

AN ACT relating to the practice of tattooing and providing penalties.

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

Section 1. NEW SECTION. 139.43 TATTOOING – PERMIT REQUIREMENT – PENALTY.

1. A person shall not own, control and lease, act as an agent for, conduct, manage, or operate an establishment to practice the art of tattooing or engage in the practice of tattooing without first applying for and receiving a permit from the Iowa department of public health.

2. A minor shall not obtain a tattoo and a person shall not provide a tattoo to a minor. For the purposes of this section, "minor" means an unmarried person who is under the age of eighteen years.

3. A person who fails to meet the requirements of subsection 1 or a person providing a tattoo to a minor is guilty of a serious misdemeanor.

4. The Iowa department of public health shall:

a. Adopt rules pursuant to chapter 17A and establish and collect all fees necessary to administer this section. The provisions of chapter 17A, including licensing provisions, judicial review, and appeal, shall apply to this chapter.

b. Establish minimum safety and sanitation criteria for the operation of tattooing establishments.

5. If the Iowa department of public health determines that a provision of this section has been or is being violated, the department may order that a tattooing establishment not be operated until the necessary corrective action has been taken. If the establishment continues

to be operated in violation of the order of the department, the department may request that the county attorney or the attorney general make an application in the name of the state to the district court of the county in which the violations have occurred for an order to enjoin the violations. This remedy is in addition to any other legal remedy available to the department.

Approved May 11, 1989

CHAPTER 155

STUDENT FREE SPEECH LIMITATIONS

S.F. 224

AN ACT relating to student exercise of free expression in the public schools.

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

Section 1. NEW SECTION. 280.21 STUDENT EXERCISE OF FREE EXPRESSION.

1. Except as limited by this section, students of the public schools have the right to exercise freedom of speech, including the right of expression in official school publications.

2. Students shall not express, publish, or distribute any of the following:

a. Materials which are obscene.

b. Materials which are libelous or slanderous under chapter 659.

c. Materials which encourage students to do any of the following:

(1) Commit unlawful acts.

(2) Violate lawful school regulations.

(3) Cause the material and substantial disruption of the orderly operation of the school.

3. There shall be no prior restraint of material prepared for official school publications except when the material violates this section.

4. Each board of directors of a public school shall adopt rules in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its jurisdiction. The board shall make the code available to the students and their parents.

5. Student editors of official school publications shall assign and edit the news, editorial, and feature content of their publications subject to the limitations of this section. Journalism advisers of students producing official school publications shall supervise the production of the student staff, to maintain professional standards of English and journalism, and to comply with this section.

6. Any expression made by students in the exercise of free speech, including student expression in official school publications, shall not be deemed to be an expression of school policy, and the public school district and school employees or officials shall not be liable in any civil or criminal action for any student expression made or published by students, unless the school employees or officials have interfered with or altered the content of the student speech or expression, and then only to the extent of the interference or alteration of the speech or expression.

7. "Official school publications" means material produced by students in the journalism, newspaper, yearbook, or writing classes and distributed to the student body either free or for a fee.

8. This section does not prohibit a board of directors of a public school from adopting otherwise valid rules relating to oral communications by students upon the premises of each school.

Sec. 2. Section 256.9, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 35. Develop a model written publications code including reasonable provisions for the regulation of the time, place, and manner of student expression.

Approved May 11, 1989

CHAPTER 156

DNA PROFILING OF CRIMINAL OFFENDERS

S.F. 233

AN ACT providing for DNA profiling of certain criminal offenders.

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

Section 1. NEW SECTION. 13.10 PHYSICAL CRIMINAL EVIDENCE — DNA PROFILING.

The attorney general shall adopt rules in consultation with the division of criminal investigation, department of public safety, for the purpose of classifying felonies and indictable misdemeanors which shall require the offender to submit a physical specimen for DNA profiling as a condition of probation, parole, or work release. Factors to be considered shall include the deterrent effect of DNA profiling, the likelihood of repeated violations, and the seriousness of the offense.

Upon appropriation or receipt of sufficient funds, the division of criminal investigation shall carry out DNA profiling of submitted physical specimens. The division may contract with private entities for DNA profiling. "DNA profiling" means the procedure established by the division of criminal investigation, department of public safety, for determining a person's genetic identity.

Sec. 2. Section 901.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of ~~any~~ a public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources. Notwithstanding section 13.10, the court may determine if the defendant shall be required to provide a physical specimen to be submitted for DNA profiling if the defendant is to be placed on probation or work release. The court shall consider the deterrent effect of DNA profiling, the likelihood of repeated violations by the defendant, and the seriousness of the offense. When funds have been allocated from the general fund of the state, or funds are provided by other public or private sources, the court shall order DNA profiling. The court shall order a presentence investigation when the offense is a class "B," class "C," or class "D" felony. A presentence investigation for a class "B," class "C," or class "D" felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty. The court may order a presentence investigation when the offense is an aggravated or serious misdemeanor.

Sec. 3. Section 906.4, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 13.10, the board may determine if the defendant shall be required to provide a physical specimen to be submitted for DNA profiling as a condition of parole or work release. The board shall consider the deterrent effect of DNA profiling, the likelihood of repeated violations by the offender, and the

seriousness of the offense. When funds have been allocated from the general fund of the state, or funds have been provided by other public or private sources, the board shall order DNA profiling if appropriate.

Approved May 11, 1989

CHAPTER 157

TELECOMMUNICATIONS DEVICES FOR THE DEAF
S.F. 428

AN ACT relating to the installation and use of telecommunications devices for deaf persons in an enhanced 911 service area.

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

Section 1. NEW SECTION. 477B.9 TELECOMMUNICATIONS DEVICES FOR THE DEAF.

By January 1, 1990, each county shall provide for the installation and use of at least one telecommunications device for the deaf at a public safety answering point.

Approved May 11, 1989

CHAPTER 158

CONSUMER ADVOCATE DIVISION EMPLOYEES
S.F. 170

AN ACT relating to personnel serving the consumer advocate division of the department of justice and the utilities division of the department of commerce, deleting provisions relating to the consumer advocate's authority to utilize employees of the utilities division, expanding the authority to employ consultants and technical advisors pursuant to contract, revising provisions relating to compensation, and providing effective dates.

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

Section 1. Section 475A.3, Code 1989, is amended to read as follows:

475A.3 OFFICE — EMPLOYEES — EXPENSES.

1. OFFICE. The office of consumer advocate shall be a separate division of the department of justice and located at the same location as the utilities division of the department of commerce. Administrative support services ~~shall~~ may be provided to the consumer advocate division by ~~the utilities division of~~ the department of commerce.

2. EMPLOYEES. The consumer advocate may employ attorneys, legal assistants, secretaries, clerks, and other employees the consumer advocate finds necessary for the full and efficient discharge of the duties and responsibilities of the office. The consumer advocate may employ consultants as expert witnesses or technical advisors pursuant to contract ~~in any proceeding in which the consumer advocate division is a party~~ as the consumer advocate finds necessary for the full and efficient discharge of the duties of the office. Employees of the consumer advocate division, other than the consumer advocate, are subject to merit employment, except as provided in section 19A.3.

3. SALARIES, EXPENSES, AND APPROPRIATION. The salary of the consumer advocate shall be fixed by the attorney general within the salary range set by the general assembly~~, notwithstanding 1981 Iowa Acts, chapter 9, sections 6 and 7 and subsequent amendments to those sections~~. The salaries of employees of the consumer advocate ~~and the~~ shall be at rates of compensation consistent with current standards in industry. The reimbursement of expenses for the employees and the consumer advocate ~~are~~ is as provided by law. The appropriation for the office of consumer advocate shall be a separate line item contained in the appropriation from the utility trust fund created pursuant to section 476.10.

Sec. 2. Section 475A.4, subsection 2, Code 1989, is amended by striking the subsection.

Sec. 3. Section 20.4, subsection 9, Code 1989, is amended to read as follows:

9. Persons employed by the state department of justice, except nonsupervisory employees of the consumer advocate division who are employed primarily for the purpose of performing technical analysis of nonlegal issues.

Sec. 4. EFFECTIVE DATES.

1. Except as provided in subsection 2 of this section, this Act takes effect July 1, 1989.
2. Section 2 of this Act takes effect April 1, 1990.

Approved May 15, 1989

CHAPTER 159

JAIL REPORT

S.F. 391

AN ACT relating to reporting county jail information to the director of the department of corrections.

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

Section 1. NEW SECTION. 356.49 JAIL REPORT.

A county sheriff shall file, on a monthly basis, a written report with the director of the department of corrections. The report shall include, but not be restricted to, the total number of men, women, and juveniles held in the jail for the reporting month. The director shall adopt and provide a uniform reporting form to be utilized by county sheriffs.

Approved May 15, 1989

CHAPTER 160

DESTRUCTION OF COURT FILES

S.F. 491

AN ACT relating to the destruction of the contents of an original court file.

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

Section 1. Section 602.8103, subsection 3, Code 1989, is amended to read as follows:

3. After the original record is reproduced and after approval of a majority of the judges of the district court by court order, destroy the original records including, but not limited to, dockets, journals, scrapbooks, files, and marriage license applications. The order shall state the specific records which are to be destroyed. An original court file shall not be destroyed until ~~after ten years from the date a decree or judgment entry is signed and entered of record and~~ after the contents have been reproduced, ~~but if the matter is dismissed with prejudice before judgment or decree, the original file may be destroyed one year from the date of the dismissal and after its reproduction is authorized and completed as provided in this subsection~~. As used in this subsection and subsection 4, "destroy" includes the transmission of the original records which are of general historical interest to any recognized historical society or association.

Approved May 15, 1989

CHAPTER 161

ALCOHOLIC BEVERAGES CONTROL

S.F. 118

AN ACT relating to the administration of the state's liquor control laws by the alcoholic beverages division of the department of commerce.

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

Section 1. Section 123.3, subsection 12, paragraph b, Code 1989, is amended by striking the paragraph.

Sec. 2. Section 123.22, unnumbered paragraph 1, Code 1989, 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~~ liter or, in the case of alcoholic liquor personally obtained outside the United States, ~~one gallon~~ four liters for personal consumption only in a private home or other private accommodation. 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. 3. Section 123.27, subsection 2, Code 1989, is amended to read as follows:

2. On any legal holiday except those designated by the administrator ~~and approved by the executive council~~.

Sec. 4. Section 123.29, subsection 3, Code 1989, is amended by striking the subsection.

Sec. 5. Section 123.29, subsection 4, paragraph c, unnumbered paragraph 2, Code 1989, is amended to read as follows:

If the administrator is satisfied that the facts stated in such affidavit are true and that the applicant is a person fit and proper to be entrusted with the permit applied for, ~~it~~ the permit shall be issued ~~upon the filing by the applicant of a bond in the penal sum of two thousand~~

~~dollars, with approved sureties, conditioned that the applicant will faithfully observe the provisions of this chapter~~.

Sec. 6. Section 123.29, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not prohibit a member of the clergy of any church or denomination which uses vinous liquor in its sacramental ceremonies from purchasing, having shipped by interstate or intrastate common carrier, possessing, and using such vinous liquor for sacramental purposes.

Sec. 7. Section 123.32, subsection 3, Code 1989, is amended to read as follows:

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~~ certified 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~~ division shall make such investigation as the administrator deems necessary and may require the applicant to appear ~~before the department of inspections and appeals and~~ to 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. The administrator may appoint a member of the division or may request the department of inspections and appeals to receive the testimony under oath and evidence. 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. 8. Section 123.180, subsection 2, Code 1989, is amended to read as follows:

2. At the time of applying for a vintner's certificate of compliance, each applicant shall file with the division a list of all class "A" wine permittees with whom it intends to do business ~~and shall designate the geographic area in which its products are to be distributed by the permittees. Vintner's certificate holders may appoint more than one class "A" wine permittee to service the same geographic territory~~. The listing of class "A" wine permittees ~~and geographic areas~~ as filed with the division may be amended from time to time by the holder of the certificate of compliance.

Sec. 9. Section 455C.4, subsection 3, Code 1989, is amended to read as follows:

3. A dealer or a distributor may ~~not~~ refuse to accept and to pay the refund value of an empty wine or alcoholic liquor container which is marked to indicate that it was sold by a state liquor store. The alcoholic beverages division shall not reimburse a dealer or a distributor the refund value on an empty wine or alcoholic liquor container which is marked to indicate that the container was sold by a state liquor store.

Approved May 15, 1989

CHAPTER 162

SENIOR JUDGES' BENEFITS

S.F. 459

AN ACT relating to payment of a senior judge's medical insurance premium and annuity.

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

Section 1. Section 602.9203, subsection 2, paragraph b, Code 1989, is amended to read as follows:

b. Meets the minimum requirements for entitlement to an annuity as specified in section 602.9106. However, a judge who elects to retire prior to attaining the age of sixty-five and who has not had twenty-five years of consecutive service, may serve as a senior judge, but shall not be paid an annuity pursuant to section 602.9204 until attaining age sixty-five.

Sec. 2. Section 602.9204, Code 1989, is amended to read as follows:

602.9204 ANNUITY OF SENIOR JUDGE AND RETIRED SENIOR JUDGE.

A senior judge or a retired senior judge shall not be paid a salary. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows: The annuity paid to a senior judge or retired senior judge shall be an amount equal to three percent of the current basic salary, as of the time each payment is made, of the office in which the senior judge last served as a judge before retirement as a judge or senior judge, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed fifty percent of the current basic salary. In addition, if a senior judge is under sixty-five years of age at the time the judge becomes a senior judge, the state shall pay the state's share of the senior judge's medical insurance premium until the judge attains age sixty-five.

Approved May 15, 1989

CHAPTER 163

NONSTATUTORY LIENS

S.F. 508

AN ACT relating to liens on real or personal property and providing a remedy and an effective date.

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

Section 1. NEW SECTION. 584.5 NONSTATUTORY LIENS.

A person claiming a common law lien, an equitable servitude lien, or a lien of similar nature which is other than a statutory lien, shall first give notice to any legal and equitable owners and persons in possession of the real or personal property against which the lien is sought. If the lien is filed by an owner of the real or personal property, notice shall first be given to any person with a lien or other interest in the property. The notice shall be given pursuant to the Iowa rules of civil procedure. Prior to the filing of the lien in any office of record in the county where the real or personal property is located, the district court in such county shall hold a hearing to determine the validity of the lien. Pendency of such a proceeding shall not be indexed under section 617.10 and shall not constitute lis pendens or constructive notice to third persons under sections 617.11 through 617.15. A bona fide purchaser takes title to the real or personal property free of any claims arising from such proceeding unless proper filing is made in the office of the county recorder as provided in this section. The person claiming the lien is required to prove the validity of the lien by a preponderance of the evidence. If the court determines the person claiming the lien has, willfully and maliciously proceeded, a judgment may be entered against the person claiming the lien in favor of any resisting party for reasonable damages, including actual damages, costs, and reasonable attorneys' fees incurred by the resisting party. A lien, as described in this section, shall not be filed in any office of record other than as provided in this section and if such lien is filed other than as provided in this section, the lien shall be null and void and of no force or effect. If after hearing the

district court enters an order determining the lien to be valid, the person claiming the lien shall file a certified copy of the order in the office of the county recorder where the real or personal property is located. An appeal from the district court arising from such proceeding is by certiorari.

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

Approved May 15, 1989

CHAPTER 164

HEALTH CARE INSURANCE

H.F. 729

AN ACT relating to insurance coverage for health care services, requiring that coverage be made available for care provided by certain registered nurses, providing for direct payment, modifying provisions relating to preferred providers, and providing for data collection and utilization review.

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

Section 1. Section 145.3, subsection 3, paragraph h, Code 1989, is amended to read as follows:

h. The commissioner of insurance and the director of public health require the collection of physicians and registered nurses billing information from third-party payers and self-insurers as specified by the health data commission ~~by July 1, 1986~~. This billing information shall be collected for physicians as defined by section 135.1 and for registered nurses licensed under chapter 152. The collection, correlation, and development of this data shall include, but not be limited to, information and reports covering the physician designations as defined in section 135.1 and registered nurses licensed under chapter 152 and shall be made available annually.

Sec. 2. Section 509.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A provision shall be made available to policyholders, under group policies covering hospital, medical, or surgical expenses, for payment of covered services determined to be medically necessary provided by registered nurses certified by a national certifying organization, which organization shall be identified by the Iowa board of nursing pursuant to rules adopted by the board, if the services are within the practice of the profession of a registered nurse as that practice is defined in section 152.1, under terms and conditions agreed upon between the insurer and the policyholder, subject to utilization controls. This subsection shall not require payment for nursing services provided by a certified nurse practicing in a hospital, nursing facility, health care institution, physician's office, or other noninstitutional setting if the certified nurse is an employee of the hospital, nursing facility, health care institution, physician, or other health care facility or health care provider. This subsection applies to group policies delivered or issued for delivery in this state on or after July 1, 1989, and to existing group policies on their next anniversary or renewal dates, or upon expiration of the applicable collective bargaining contract, if any, whichever is later. This subsection does not apply to blanket, short-term travel, accident only, limited or specified disease, or individual or group conversion policies, policies rated on a community basis, or policies designed only for issuance to persons for eligible coverage under Title XVIII of the federal Social Security Act, or any other similar coverage under a state or federal government plan.

Sec. 3. Section 514.7, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A provision shall be available in approved contracts with hospital and medical service corporate subscribers under group subscriber contracts or plans covering medical and surgical service, for payment of covered services determined to be medically necessary provided by certified registered nurses certified by a national certifying organization, which organization shall be identified by the Iowa board of nursing pursuant to rules adopted by the board, if the services are within the practice of the profession of a registered nurse as that practice is defined in section 152.1, under terms and conditions agreed upon between the corporation and subscriber group, subject to utilization controls. This paragraph shall not require payment for nursing services provided by a certified registered nurse practicing in a hospital, nursing facility, health care institution, a physician's office, or other noninstitutional setting if the certified registered nurse is an employee of the hospital, nursing facility, health care institution, physician, or other health care facility or health care provider. This paragraph applies to group subscriber contracts delivered in this state on or after July 1, 1989, and to group subscriber contracts on their anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to limited or specified disease or individual contracts or contracts designed only for issuance to subscribers eligible for coverage under Title XVIII of the federal Social Security Act, contracts which are rated on a community basis, or any other similar coverage under a state or federal government plan.

Sec. 4. Section 514.21, Code 1989, is amended to read as follows:

514.21 UTILIZATION REVIEW PROGRAM.

A utilization review program shall be established for purposes of health care cost control, according to usual and customary third-party insurance payment or reimbursement procedures, by a corporation subject to this chapter and by physician providers as defined in section 135.1 and registered nurse providers licensed under chapter 152. This utilization review program shall not be used directly or indirectly to circumvent the provisions for payment or reimbursement to providers of health care services as provided in section 509.3, ~~subsection~~ subsections 7 and 8, and section 514.7.

Sec. 5. Section 514B.1, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The health care services available to enrollees under prepaid group plans covering hospital, medical, or surgical expenses, may include, at the option of the employer purchaser, a provision for payment of covered services determined to be medically necessary provided by a certified registered nurse certified by a national certifying organization, which organization shall be identified by the Iowa board of nursing pursuant to rules adopted by the board, if the services are within the practice of the profession of a registered nurse as that practice is defined in section 152.1, under terms and conditions agreed upon between the employer purchaser and the health maintenance organization, subject to utilization controls. This paragraph shall not require payment for nursing services provided by a certified registered nurse practicing in a hospital, nursing facility, health care institution, a physician's office, or other noninstitutional setting if the certified registered nurse is an employee of the hospital, nursing facility, health care institution, physician, or other health care facility or health care provider. This paragraph applies to services provided under plans within this state made on or after July 1, 1989, and to existing group plans on their next anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is later. This paragraph does not apply to enrollees eligible for coverage under an individual contract or coverage designed only for issuance to enrollees eligible for coverage under Title XVIII of the federal Social Security Act, or under coverage which is rated on a community basis, or any other similar coverage under a state or federal government plan.

Sec. 6. Section 514F.1, Code 1989, 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, 152, 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, 152, 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 15, 1989

CHAPTER 165

CHILD CUSTODY AND VISITATION MEDIATION

H.F. 20

AN ACT relating to dissolution of marriage and related proceedings by providing for a pilot program of mandatory mediation of contested issues of child custody and visitation.

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

Section 1. LEGISLATIVE FINDINGS. The general assembly finds that the determination of child custody and visitation arrangements in a dissolution of a marriage is an issue of great importance to the social and emotional welfare of the children and parents involved; that mediation has proven to be an effective means of decision-making regarding child custody and visitation in a dissolution case; and that mediation has proven to be a cost-effective means of settling disputes while ensuring that the essential rights of the persons involved are protected. The general assembly determines that a pilot program of mandatory mediation relating to the issues of child custody and visitation in dissolution cases should be established under the supervision of the supreme court.

Sec. 2. PILOT PROGRAM FOR MEDIATION OF CHILD CUSTODY AND VISITATION ISSUES IN DISSOLUTION CASES – CONFIDENTIALITY.

1. The supreme court shall implement a pilot program for mandatory mediation of child custody and visitation issues in dissolution cases as described in this Act. The pilot program shall be established in a district court for which the appropriate judicial officers have agreed that the district court will serve as the pilot program site for a period of two years beginning January 1, 1990, and ending December 31, 1991. The supreme court shall cause a preliminary report to be submitted to the general assembly in January 1991, with a final report to be submitted in January 1992. The final report shall contain recommendations regarding the adoption of mediation of child custody and visitation issues in dissolution cases in courts throughout the state. The final report shall include, but not be limited to, all of the following:

a. The average length of time for cases to proceed from commencement to final settlement in the mediation process.

b. The degree of party compliance with the terms of a settlement.

c. The frequency of modifications of mediated settlements.

d. The satisfaction of the parties with respect to access to mediation, participation in mediation, and fairness of the mediation process.

e. The amount of time and money saved by the parties and court as a result of proceeding through mediation rather than litigation.

2. For the purposes of this Act, unless the context otherwise requires:

a. "Administrator" means the state court administrator or the administrator's designee.

b. "Court" means the district court in which the pilot program for the mandatory mediation of child custody and visitation issues is located.

c. "Order" means a court order or modification of a court order for the dissolution of a marriage, a child custody award, a visitation order, or a mediation order.

d. "Program" means the pilot program for the mandatory mediation of child custody and visitation issues in dissolution cases established by this Act.

3. The memoranda, work products, and case files of the mediator and all other confidential communications in the possession of the mediator in a mediation proceeding conducted pursuant to this Act shall be kept confidential, unless otherwise ordered by the court, the lawful custodian of the records, or by another person duly authorized to release the records.

Sec. 3. MEDIATION OF CONTESTED ISSUES IN DISSOLUTION CASES. For the purposes of the program:

1. In a proceeding on a petition, or other application for an order, or modification of an order for the dissolution of a marriage where the custody of or visitation with a child is contested, the court shall order mediation and the procedures to be followed by the parties in mediation.

The purpose of the mediation is to reduce acrimony which may exist between the parties in order to promote a workable settlement of contested issues concerning the custody of or visitation with a child. The primary purpose of the mediation is the development of an agreement which is in the best interests of the child.

2. The court shall assign a qualified mediator as described in subsection 7. The court shall not designate a mediator who represents one of the parties, who has one of the parties as a patient or a client, or who otherwise has a conflict of interest which might affect the proceedings. The fact that the person designated as mediator was the conciliator for the parties under section 598.16 is not in itself a disqualification.

3. Upon designation or selection of the mediator, the court shall issue a mediation order setting forth the procedures to be followed and the date for filing a written mediation report. The administrator shall adopt rules for these purposes.

4. The mediator shall be in charge of the mediation proceedings subject to court supervision. The mediator shall be impartial and shall use the mediator's best efforts to effect a settlement of the contested issues. The mediator shall inform the parties of the factors the court must consider under sections 598.21 and 598.41 and chapter 598A.

5. The mediator shall not require mediation if one or more of the following conditions exist:

a. The mediator determines there is no reasonable possibility that mediation will promote settlement of the issues in a custody dispute.

b. The mediator determines there is a substantial allegation of direct physical or significant emotional harm to a party or to a child.

c. The mediator determines that mediation will otherwise fail to serve the best interests of the child.

d. The mediator determines that a verified petition alleging domestic abuse has been filed by a party pursuant to chapter 236.

6. If a mediator determines, pursuant to subsection 5, that a mediation is not required, then the mediator shall request in writing to the court that the mediation be waived.

7. The court shall develop and maintain a list of qualified mediators available to conduct mediation proceedings under this Act. Persons listed may be, but are not required to be,

members of the staff of a dispute resolution center under chapter 679, that is under contract to the court to provide mediation services pursuant to this Act.

To qualify as a mediator, a person must have twenty-five hours of training in mediation techniques and mediation procedures as they apply to the Iowa court system.

8. Mediation proceedings under this Act shall be held in private. Except for the contents of an agreement signed by the parties and the mediator, all verbal and written communications relating to the subject matter of the mediation and transmitted between any party and the mediator or any other person present during any stage of the proceeding are confidential communications. The mediator or a party or other person shall not be examined in any judicial or administrative proceeding regarding the contents of the agreement or any communications made confidential by this Act or subject to judicial or administrative process requiring the disclosure of these confidential communications without the consent of the parties. However, this Act does not prohibit the mediator's reporting of information concerning abuse if the mediator is otherwise required by law to report the information.

9. Except as otherwise provided in the mediation order issued pursuant to this Act, the mediator shall exclude counsel from participation in the mediation proceeding unless the mediator determines that including counsel is appropriate or necessary.

10. The mediator shall consider the needs and interests of the child. The mediator may interview the child and may require the child's participation in the proceeding if the mediator determines the child's participation is appropriate or necessary.

11. Any agreement reached by the parties as a result of mediation shall be reported to the court on or before the reporting date established by the court. The agreement may include supporting factual information.

12. If the parties have not reached agreement as a result of mediation, the mediator shall report that fact to the court on or before the reporting date established by the court. The report shall state the mediation procedures undertaken and other nonconfidential matters that the court requires. This report shall be a part of the record unless otherwise ordered by the court.

13. The costs of mediation procedures shall be paid by the parties unless one or both of the parties are indigent, pursuant to rules prescribed by the administrator.

Approved May 15, 1989

CHAPTER 166

CHILD SUPPORT

H.F. 403

AN ACT relating to child support awards by requiring the application of uniform support guidelines by the courts and the department of human services and providing an effective date.

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

Section 1. Section 234.39, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

234.39 RESPONSIBILITY FOR COST OF SERVICES.

It is the intent of this chapter that an individual receiving foster care services and the individual's parents or guardians, shall have primary responsibility for paying the cost of the care and services. The support obligation established and adopted under this section shall be consistent with the limitations on legal liability established under sections 222.78 and 230.15, and by any other statute limiting legal responsibility for support which may be imposed on

a person for the cost of care and services provided by the department. Support obligations shall be established as follows:

1. For an individual to whom section 234.35, subsection 2 or 4, or section 234.36 is applicable, a dispositional order of the juvenile court requiring the provision of foster care shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department, if a support obligation has not previously been established under an order of the district court or court of comparable jurisdiction in another state. The court shall establish the amount of the parent's or guardian's support obligation and the amount of support debt accrued and accruing in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the court may adjust the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. The order shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and enter the disbursements in a record book. If payments are not made as ordered, the child support recovery unit shall certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section 598.21, subsection 8.

2. For an individual served by the department of human services under section 234.35, subsection 3, the department shall determine the obligation of the individual's parent or guardian in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the department may adjust the prescribed obligation for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. An obligation determined under this subsection may be modified only in accordance with conditions under section 598.21, subsection 8.

Sec. 2. Section 252A.3, subsections 1 and 2, Code 1989, are amended to read as follows:

1. A spouse in one state is hereby declared to be liable for the support of the spouse and any child or children under eighteen years of age and any other dependent residing or found in the same state or in another state having substantially similar or reciprocal laws~~, and, if possessed of sufficient means or able to earn such means, may be required to pay for their support a fair and reasonable sum according to the spouse's means, as may be determined by the~~. The court having jurisdiction of the respondent in a proceeding instituted under this chapter shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4.

2. A parent in one state is hereby declared to be liable for the support of the parent's child or children under eighteen years of age residing or found in the same state or in another state having substantially similar or reciprocal laws, whenever the other parent of such child or children is dead, or cannot be found, or is incapable of supporting ~~such~~ the child or children, and, if the liable parent is possessed of sufficient means or able to earn ~~such~~ the means~~, the liable parent may be required to pay for the support of such child or children a fair and reasonable sum according to the parent's means, as may be determined by the~~. The court having jurisdiction of the respondent in a proceeding instituted under this chapter shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4.

Sec. 3. Section 252A.6, subsection 11, Code 1989, is amended to read as follows:

11. If, on the return day of the summons, the respondent appears at the time and place specified in the summons and fails to answer the petition or admits the allegations of the petition, or, if, after a hearing has been duly held by the court in the responding state in accordance

with this section, the court has found and determined that the prayer of the petitioner, or any part of the prayer, is supported by the evidence adduced in the proceeding, and that the petitioner is in need of and entitled to support from the respondent, the court shall make and enter an order directing the respondent to furnish support to the petitioner and to pay a sum as the court ~~shall determine, having due regard to the parties' means and circumstances~~ determines pursuant to section 598.21, subsection 4. A certified copy of the order shall be transmitted by the court to the court in the initiating state and the copy shall be filed with and made a part of the records of the court in the proceeding. Upon entry of an order for support or upon failure of a person to make payments pursuant to an order for support, the court may require the respondent to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the respondent's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

Sec. 4. Section 252C.2, subsections 2 and 3, Code 1989, are amended to read as follows:

2. The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department by the responsible person in an amount equal to the public assistance payment, except that the support debt is limited to the amount of a support obligation established by court order or by the administrator. If a court order has not been entered, the administrator may establish a support debt ~~in an amount determined to be consistent with the debtor's ability to pay and the needs of the dependent child~~, both as to amounts accrued and accruing, ~~and with the schedule of minimum support guidelines in~~ pursuant to section ~~252C.10~~ 598.21, subsection 4. However, a support debt is not created in favor of the department against a responsible person for the period during which the responsible person is a recipient on the person's own behalf of public assistance for the benefit of the dependent child or the dependent child's caretaker.

3. The provision of child support collection or paternity determination services under chapter 252B to an individual, even though the individual is ineligible for public assistance, creates a support debt due and owing to the individual or the individual's child or ward by the responsible person in the amount of a support obligation established by court order or by the administrator. If a court order has not been entered, the administrator may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person, ~~in an amount determined to be consistent with the responsible person's ability to pay and the needs of the dependent child,~~ both as to amounts accrued and accruing, ~~and with the schedule of minimum support guidelines in~~ pursuant to section ~~252C.10~~ 598.21, subsection 4.

Sec. 5. Section 252C.4, subsection 4, Code 1989, is amended to read as follows:

4. The court shall ~~consider the schedule of minimum support guidelines in section 252C.10 in establishing~~ establish the monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4.

Sec. 6. Section 598.21, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. The supreme court is authorized to prescribe uniform child support guidelines and criteria to be effective October 12, 1989, and to review the guidelines at least once every four years, pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485.

a. Upon every judgment of annulment, dissolution, or separate maintenance, the court may order either parent or both parents to pay an amount reasonable and necessary for supporting a child. In establishing the amount of support, consideration shall be given to the responsibility of both parents to support and provide for the welfare of the minor child and of a child's need, whenever practicable, for a close relationship with both parents. There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the correct amount of child support to be awarded. A variation from the guidelines shall not be considered by a court without a record

or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under the criteria prescribed by the supreme court.

b. The guidelines prescribed by the supreme court shall be used by the department of human services in determining child support payments under sections 252C.2 and 252C.4. A variation from the guidelines shall not be considered by the department without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under criteria prescribed by the supreme court.

Sec. 7. Section 675.25, Code 1989, is amended to read as follows:

675.25 FORM OF JUDGMENT — CONTENTS OF SUPPORT ORDER — COSTS.

~~The judgment shall be for periodic amounts, equal or varying, having regard to the obligation of the father under section 675.1, as the court directs,~~ Upon a finding or verdict of paternity pursuant to section 675.24, the court shall establish the father's monthly support payment and the amount of the support debt accrued or accruing pursuant to section 598.21, subsection 4, until the child reaches majority or until the child finishes high school, if after majority. The court may order the father to pay amounts the court deems appropriate ~~for past and future support and maintenance of the child and~~ for the reasonable and necessary expenses incurred by or for the mother in connection with prenatal care, the birth of the child, and postnatal care of the child and the mother. The court may award the prevailing party the reasonable costs of suit, including but not limited to reasonable attorney fees.

Sec. 8. Section 252C.10, Code 1989, is repealed.

Sec. 9. This Act takes effect October 12, 1989.

Approved May 15, 1989

CHAPTER 167

PAYMENT FOR UNIFORM CITATION AND COMPLAINT SUPPLIES

H.F. 572

AN ACT relating to the payment for uniform citation and complaint forms.

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

Section 1. Section 805.6, subsection 3, Code 1989, is amended to read as follows:

3. Supplies of the uniform citation and complaint for municipal corporations, ~~and~~ county agencies ~~shall be paid for by the county. Supplies of the uniform citation and complaint for~~, and all other agencies shall be paid for out of the budget of the municipal corporation, county, or other agency ~~concerned~~ receiving the fine resulting from use of the citation and complaint.

Approved May 15, 1989

CHAPTER 168

ENHANCED 911 TELEPHONE SERVICE

H.F. 735

AN ACT relating to enhanced 911 emergency telephone communications systems, and providing for the Act's applicability, and providing a special effective date.

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

Section 1. Section 477B.3, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

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~~ agency operating within the area is entitled to nonvoting membership on the board. A township which does not operate its own public safety agency, but contracts for the provision of public safety services, is not entitled to membership on the joint 911 service board, but its contractor is entitled to membership according to the contractor's status as a public or private safety agency. 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:

Sec. 2. Section 477B.3, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An alternative legal entity created pursuant to chapter 28E as a substitute for a joint 911 service board, as permitted by this subsection, may be created by either:

a. Agreement of the parties entitled to voting membership on a joint 911 service board.

b. Agreement of the members of a joint 911 service board.

An alternative chapter 28E entity has all of the powers of a joint 911 service board and any additional powers granted by the agreement. As used in this chapter, "joint 911 service board" includes an alternative chapter 28E entity created for that purpose, except as specifically limited by the chapter 28E agreement or unless clearly provided otherwise in this chapter. A chapter 28E agreement related to E911 service shall permit the participation of a private safety agency or other persons allowed to participate in a joint 911 service board, but the terms, scope, and conditions of participation are subject to the chapter 28E agreement.

Sec. 3. Section 477B.6, Code 1989, is amended to read as follows:

477B.6 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~~ mechanism:

~~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 general election ballot in each electoral precinct to be served, in whole or in part, by the proposed E911 service area, provided the request is timely submitted to permit inclusion. 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. 4. Section 477B.7, unnumbered paragraph 1, Code 1989, is amended to read as follows:

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. A joint 911 service board shall not commit a political subdivision to appropriate property tax revenues to fund an E911 service plan without the consent of the political subdivision. A joint 911 service board may approve a 911 service plan, including a funding formula requiring appropriations by participating political subdivisions, subject to the approval of the funding formula by each political subdivision. However, a political subdivision may agree in advance to appropriate property tax revenues or other moneys according to a formula or plan developed by an alternative chapter 28E entity.

Sec. 5. Section 477B.7, subsection 1, paragraph a, subparagraph (1), Code 1989, is amended to read 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 has been

approved by the joint 911 service board and by the service area referendum, and that collection of the surcharge is to begin within one hundred days.

Sec. 6. Section 477B.7, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The surcharge shall terminate at the end of twenty-four months if the joint E911 service plan has not been approved by the administrator within eighteen months of the original notice to the provider to impose the surcharge, and shall not be reimposed until a service plan is approved by the administrator and the administrator gives providers notice as required by paragraph "a", subparagraphs (1) and (2).

Sec. 7. APPLICABILITY. Section 3 of this Act is applicable to all referendums approved by either a county board of supervisors or a joint 911 service board, or both, on or after July 1, 1989. Section 3 is not applicable to a referendum approved prior to July 1, 1989, notwithstanding that the actual referendum election or balloting is conducted on or after July 1, 1989.

Sec. 8. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 15, 1989

CHAPTER 169

VOLUNTARY FOSTER CARE PLACEMENT

H.F. 402

AN ACT relating to foster care by establishing certain provisions regarding voluntary foster care placements.

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

Section 1. Section 232.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 52A. "Voluntary placement" means a foster care placement in which the department provides foster care services to a child according to a signed placement agreement between the department and the child's parent or guardian.

Sec. 2. NEW SECTION. 232.175 PURPOSE AND POLICY.

It is the purpose and policy of this division to provide court oversight for placements that involve a handicapped child placed voluntarily in foster care by the child's parent or guardian, through review of the voluntary placements every six months by the department's foster care review committees or by a local foster care review board. It is the purpose and policy of this division to assure the additional safeguard of court oversight as required by Pub. L. No. 96-272, as codified in 42 U.S.C.§ 671(a)(16), 627(a)(2)(B), and 675(1),(5), while maintaining parental decision-making authority.

Sec. 3. NEW SECTION. 232.176 JURISDICTION.

The court shall have exclusive jurisdiction over voluntary placement proceedings.

Sec. 4. NEW SECTION. 232.177 VENUE.

Venue for voluntary placement proceedings shall be determined in accordance with section 232.62.

Sec. 5. NEW SECTION. 232.178 PETITION.

1. The department shall file a petition to initiate a voluntary placement proceeding in accordance with criteria established pursuant to the Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. § 627(a).

2. The petition and subsequent court documents shall be entitled "In the interests of .... , a child".

3. The petition shall state the names and residence of the child and the child's living parents, guardian, custodian, and guardian ad litem, if any; the age of the child; and the length of time the child has been in foster care.

4. The petition shall allege that the child is placed in foster care on the basis of a signed voluntary placement agreement between the department and the child's parent or guardian; that the child has an emotional, physical, or intellectual handicap which requires care and treatment; that the child's parent or guardian has demonstrated a willingness to fulfill responsibilities to the child as defined in the case permanency plan; and that the voluntary placement is in the child's best interests.

Sec. 6. NEW SECTION. 232.179 APPOINTMENT OF COUNSEL AND GUARDIAN AD LITEM.

Upon the filing of a petition, the court shall appoint a guardian ad litem to represent the best interests of the child unless the court determines that the child already has a guardian ad litem who represents the child's best interests. If the child's parent, guardian, or custodian desires counsel but cannot pay the counsel's expenses, the court may appoint counsel.

Sec. 7. NEW SECTION. 232.180 DUTIES OF COUNTY ATTORNEY.

Upon the filing of a petition and the request of the department, the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition as provided under section 232.90.

Sec. 8. NEW SECTION. 232.181 SOCIAL REPORT.

Upon the filing of a petition, the department shall submit a social report. The report shall include the child's handicap, the case permanency plan, a description of the foster care placement, and a description of parental participation in developing the child's case permanency plan and the parent's compliance with responsibilities to the child as defined in the plan.

Sec. 9. NEW SECTION. 232.182 INITIAL DETERMINATION.

1. Upon the filing of a petition, the court shall fix a time for an initial determination hearing and give notice of the hearing to the child's parent, guardian, or custodian, counsel or guardian ad litem, and the department.

2. A parent who does not have custody of the child may petition the court to be made a party to proceedings under this division.

3. An initial determination hearing is open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing only if the court determines that the possibility of damage or harm to the 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.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. After the hearing is concluded, the court shall make and file written findings as to whether the voluntary foster care placement is in the child's best interests. The court shall determine that voluntary foster care placement is in the child's best interests if the court finds that both of the following conditions exist:

a. The child has an emotional, physical, or intellectual handicap which requires care and treatment.

b. The child's parent or guardian has demonstrated a willingness to fulfill responsibilities to the child as defined in the case permanency plan.

6. The hearing may be waived and the court may issue the findings required under subsection 5 on the basis of the department's written report if all parties agree to the hearing's waiver.

Sec. 10. NEW SECTION. 232.183 DISPOSITIONAL HEARING.

1. Following an entry of an initial determination order pursuant to section 232.182, the court shall hold a dispositional hearing in order to determine the future status of the child based on the child's best interests. Notice of the hearing shall be given to the child and the child's parent, guardian, or custodian, and the department.

2. The dispositional hearing shall be held within eighteen months of the date the child was placed in foster care. The dispositional hearing may be held in conjunction with the initial determination hearing.

3. A dispositional hearing is open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the 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.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. Following the hearing, the court shall issue a dispositional order. The dispositional orders which the court may enter subject to its continuing jurisdiction are as follows:

a. An order that the child's voluntary placement shall be terminated.

b. An order that the child's voluntary placement may continue if the department and the child's parent or guardian continue to agree to the voluntary placement.

c. An order that the child remain in foster care and that the county attorney or department file, within three days, a petition alleging the child to be a child in need of assistance.

6. With respect to each child whose placement was approved pursuant to subsection 5, the court shall continue to hold periodic dispositional hearings. The hearings shall not be waived or continued beyond eighteen months following the last dispositional hearing. After a dispositional hearing, the court shall enter one of the dispositional orders authorized under subsection 5.

7. A dispositional hearing is not required if the court has approved either the local foster care review board review or the department's administrative review procedure as defined under section 234.42, and all parties agree. This provision does not eliminate the initial judicial determination required under section 232.182.

Sec. 11. CODIFICATION. The Code editor shall codify this Act as a new division XI of chapter 232, unless the Code editor determines that a different codification is preferable.

Approved May 15, 1989

CHAPTER 170

THEFT OF TELEPHONE SERVICE

H.F. 513

AN ACT prohibiting the theft of telephone service, and making penalties applicable.

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

Section 1. Section 714.1, subsection 7, Code 1989, is amended to read as follows:

7. Obtains gas, electricity or water from a public utility or obtains cable television or telephone service from an unauthorized connection to the supply or service line or by intentionally altering, adjusting, removing or tampering with the metering or service device so as to cause inaccurate readings.

Approved May 15, 1989

CHAPTER 171

NONPROFIT CORPORATION FILINGS

H.F. 678

AN ACT relating to certain filings with the secretary of state by nonprofit corporations.

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

Section 1. Section 504A.9, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Such statement shall be executed by the corporation by its president or a vice president. ~~If the registered office is changed from one county to another, such statement shall be executed in duplicate.~~ Such statement shall be delivered to the secretary of state for filing and recording in the secretary of state's office, and the statement shall be filed and recorded in the office of the county recorder; ~~and if the registered office is changed from one county to another, the same shall be filed and recorded in the office of the recorder of the county in which the registered office was located prior to the filing of such statement in the office of the secretary of state, and in the office of the recorder of the county to which the registered office is changed.~~ If the registered office is changed from one county to another, the statement shall be filed and recorded in the office of the county recorder of the county to which the registered office is changed, and a certified copy of the statement shall be furnished by the secretary of state and delivered to the office of the county recorder for filing in the county in which the registered office was located prior to the filing of the statement.

Sec. 2. Section 504A.9, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the annual report pursuant to section 504A.83, provided that the form contains the information required in this section. If the secretary of state determines that an annual report does not contain the information required by section 504A.83 but otherwise meets the requirements of this section for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent before returning the annual report to the corporation pursuant to section 504A.84. The secretary of state shall deliver a notice certifying the change in registered office or registered agent to the office of the county recorder for filing and recording. A statement of change of registered office or registered agent pursuant to this paragraph shall be executed by a person authorized to execute the annual report.

Sec. 3. Section 504A.32, unnumbered paragraph 2, Code 1989, is amended to read as follows:

~~Any~~ Except for a statement of change of registered office or registered agent filed pursuant to section 504A.9 or 504A.73, and an annual report filed pursuant to section 504A.83, any instrument required to be filed and recorded in the office of the secretary of state only, shall be returned by the secretary to the corporation or its representative. Any instrument required

to be filed and recorded in the office of the county recorder shall be returned by the recorder to the corporation or its representative.

Sec. 4. Section 504A.69, unnumbered paragraph 2, Code 1989, is amended to read as follows:

~~Such~~ The application shall be made on forms prescribed and furnished by the secretary of state and shall be executed ~~in duplicate~~ by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such application.

Sec. 5. Section 504A.70, Code 1989, is amended to read as follows:

504A.70 FILING OF APPLICATION FOR CERTIFICATE OF AUTHORITY.

~~Duplicate originals of the~~ The application of the corporation for a certificate of authority, together with a certificate of good standing or existence, duly certified by the proper officer of the state or country under the laws of which it is incorporated, shall be delivered to the secretary of state for filing in the secretary of state's office.

Upon the filing of the application the secretary of state shall issue a certificate of authority to conduct affairs in this state to which the secretary shall affix the ~~other duplicate original~~ application, and send the same to the corporation or its representative.

Sec. 6. Section 504A.73, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the annual report pursuant to section 504A.83, provided that the form contains the information required in this section. If the secretary of state determines that an annual report does not contain the information required by section 504A.83 but otherwise meets the requirements of this section for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent before returning the annual report to the corporation pursuant to section 504A.84. The secretary of state shall deliver a notice certifying the change in registered office or registered agent to the office of the county recorder for filing and recording. A statement of change of registered office or registered agent pursuant to this paragraph shall be executed by a person authorized to execute the annual report.

Sec. 7. Section 504A.77, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The requirements in respect to the form and contents of ~~such~~ the application, the manner of its execution, the filing ~~of duplicate originals thereof~~ of the application with the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

Sec. 8. Section 504A.79, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~Duplicate originals of such~~ The application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this chapter, the secretary shall, when all fees due the secretary have been paid as in this chapter prescribed:

Sec. 9. Section 504A.85, subsection 8, Code 1989, is amended by striking the subsection.

Sec. 10. Section 504A.85, subsection 13, Code 1989, is amended to read as follows:

13. Filing any other statement or report, except a statement of change of registered office or registered agent, of a domestic or foreign corporation, five dollars.

Sec. 11. Section 504A.87, subsection 3, Code 1989, is amended to read as follows:

3. The payment to the secretary of state by the corporation of all annual license fees and penalties ~~then~~ due and ~~theretofore~~ becoming due ~~and an additional penalty of twenty-five dollars~~.

Approved May 15, 1989

CHAPTER 172

BANK OFFICES AND UNITED COMMUNITY BANK OFFICES

H.F. 98

AN ACT relating to the establishment of bank offices within a municipal corporation or urban complex in which the principal place of business of the bank is located and the formation of united community bank offices.

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

Section 1. NEW SECTION. 422.63A UNITED COMMUNITY BANK OFFICE FRANCHISE TAX TREATMENT.

A united community bank established pursuant to section 524.1213 shall pay the franchise tax due under this division on behalf of itself and its united community bank offices in the same manner and on the same basis as would have been paid if the merger or consolidation authorized by section 524.1213 had not occurred. The department shall adopt rules to implement this section.

Sec. 2. Section 524.1202, subsection 2, paragraph a, subparagraphs (1) through (3), Code 1989, are amended to read as follows:

(1) If the municipal corporation or urban complex has a population of one hundred thousand or less according to the most recent federal census, the state bank shall not establish more than ~~three~~ four bank offices.

(2) If the municipal corporation or urban complex has a population of more than one hundred thousand but not more than two hundred thousand according to the most recent federal census, the state bank shall not establish more than ~~four~~ five bank offices.

(3) If the municipal corporation or urban complex has a population of more than two hundred thousand according to the most recent federal census, the state bank shall not establish more than ~~five~~ six bank offices.

Sec. 3. NEW SECTION. 524.1213 UNITED COMMUNITY BANK OFFICES.

1. A bank may convert to a united community bank office as provided in this section.

2. A united community bank office formed under this section shall have a united community bank office board, at least one-half or more of the members of which shall be residents of the county in which the united community bank office is located. The liability of the united community bank office board shall be limited as provided in section 524.614. The bank establishing and operating the united community bank office may indemnify members of the united community bank office board as agents of the bank in the manner and in the instances authorized by section 496A.4A.

3. Any two or more state banks, national banks, or state and national banks that are located in this state, that are affiliates as defined in section 524.1101, and that individually have been in existence and operated as banks continuously in this state for at least five years, may be merged or consolidated into a single state or national bank, and the resulting entity shall be a "united community bank". Subject to subsection 9, the resulting united community bank of the merger or consolidation:

a. Shall retain and operate as its principal place of business one of the principal places of business of the banks that are the parties to the merger or consolidation.

b. May retain and continue to operate as united community bank offices of the resulting bank any of the remaining principal places of business of the banks that are the parties to the merger or consolidation.

c. May retain and continue to operate as retained bank offices of the resulting united community bank any of the bank offices that are being operated as of the date of the merger or consolidation by any of the banks that are parties to the merger or consolidation.

d. May establish additional bank offices within the municipal corporation or urban complex in which a united community bank office referred to in paragraph "b" is located, provided that

the number of bank offices of the resulting bank within that municipal corporation or urban complex, including bank offices retained under paragraph "c" and bank offices established under the authority of this paragraph, but excluding the united community bank office, shall not exceed the maximum number of bank offices permitted by section 524.1202, subsection 2, paragraph "a", for a bank located within that municipal corporation or urban complex.

e. May retain and continue to operate and may establish in conjunction with the resulting bank, or with any retained united community bank office, or with any other retained bank office, any facility authorized by section 524.1202, subsection 2, paragraph "c" or "d", and in operation at the time of the merger or consolidation or established after the merger or consolidation.

f. May relocate any principal place of business and any bank offices operated pursuant to this section by complying with other provisions of law applicable to relocation.

4. For purposes of subsection 3, the period of existence and operation of a bank shall be deemed continuous, notwithstanding any of the following:

a. Any direct or indirect change in the name, ownership, or control of the bank.

b. Any rechartering of the bank, or any merger or consolidation with one or more banks.

c. The bank acquired its initial assets and liabilities from the federal deposit insurance corporation, or other transferor, pursuant to a purchase and assumption transaction or any other type of transaction involving the transfer of ownership of a failed bank or other bank.

5. All united community bank offices and other bank offices retained by the resulting bank of a merger or consolidation under the authority of this section shall be deemed bank offices established under the authority of section 524.1201 for all intents and purposes of this chapter, except as is otherwise expressly provided in this section.

6. This section does not alter the limitations upon bank holding companies contained in section 524.1802.

7. This section shall be strictly construed as an exception to the bank office limitations contained in section 524.1202. It is the intent of the general assembly that a court or regulatory agency shall not deem, construe, or interpret this section to permit statewide branch banking or to permit the establishment of a bank office at any location in this state unless specifically authorized by this section or section 524.312 or 524.1202.

8. This section does not authorize the establishment of a bank office or an integral facility at any time by any bank except as a direct and immediate consequence of a merger or consolidation of two or more affiliated banks and as expressly permitted by subsection 3. This section does not authorize the resulting bank of a merger or consolidation to establish or retain any united community bank office, bank office, or integral facility at any location other than those expressly permitted by subsection 3, or to preserve any business location acquired in the merger or consolidation for subsequent use.

9. The resulting bank of a merger or consolidation shall not retain any united community bank office or any other bank office within the municipality or urban complex in which the principal office of the resulting bank is located if the resulting bank then would have a greater number of bank offices within that municipality or urban complex than is expressly permitted by section 524.1202, subsection 2.

10. As used in this section, the term "bank" does not include any entity unless it is chartered as a state or national bank and is authorized by its bylaws to, and actually does, accept deposits, pay checks, and make commercial loans.

Approved May 18, 1989

CHAPTER 173

FOREIGN MONEY JUDGMENTS

S.F. 111

AN ACT relating to foreign money judgments and providing an effective date.

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

Section 1. NEW SECTION. 626B.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Foreign judgment" means a judgment, decree, or order of a court of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support of dependents.

2. "Foreign state" means any governmental unit other than the United States, a state, district, commonwealth, territory, insular possession of the United States, the Panama Canal Zone, the Trust Territory of the Pacific Islands, or the Ryukyu Islands.

Sec. 2. NEW SECTION. 626B.2 APPLICATION AND ENFORCEABILITY.

This chapter applies to any foreign judgment which is final and conclusive, and enforceable where rendered even though the judgment is subject to an appeal or an appeal from that judgment is pending. Except as provided in section 626B.3, a foreign judgment is conclusive between the parties to the extent that the judgment grants or denies recovery of a sum of money. The final and conclusive foreign judgment is enforceable in the same manner and to the same extent as the judgment of a sister state which is entitled to full faith and credit.

Sec. 3. NEW SECTION. 626B.3 INCONCLUSIVE JUDGMENTS.

1. A foreign judgment is not conclusive in any of the following cases:

a. The foreign judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

b. Except as provided in section 626B.4, the court of the foreign state did not have personal jurisdiction over the defendant.

c. The court of the foreign state did not have jurisdiction over the subject matter involved in the action.

2. A foreign judgment need not be recognized in any of the following cases:

a. The defendant in the proceedings in the court of the foreign state did not receive notice of the proceedings in sufficient time to enable the defendant to defend against the action.

b. The foreign judgment was obtained by fraud.

c. The cause of action on which the foreign judgment was based is contrary to the public policy of this state.

d. The foreign judgment conflicts with a previous, final, and conclusive foreign judgment or other judgment.

e. The proceeding in the foreign court was contrary to a settlement agreement entered into between the parties prior to the foreign judgment's being rendered by the court in the foreign state.

f. The court where the plaintiff is seeking to enforce the foreign judgment determines that jurisdiction in the court of the foreign state was based upon personal service only, and the doctrine of forum non conveniens applies to the original action.

Sec. 4. NEW SECTION. 626B.4 PERSONAL JURISDICTION.

1. A foreign judgment shall not be refused recognition in a court of this state for lack of personal jurisdiction if any of the following occurred:

a. The defendant was served personally in the foreign state.

b. The defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or for the purpose of contesting jurisdiction of the court in the foreign state over the defendant.

c. The defendant, prior to the commencement of the proceedings in the court of the foreign state, had agreed to submit to the jurisdiction of that court in the action concerning the subject matter involved.

d. The defendant was domiciled, had its principal place of business, or otherwise had acquired corporate status in the foreign state when the proceedings were instituted.

e. The defendant had a business office in the foreign state and the proceedings in the court of the foreign state involved a cause of action arising out of business done by the defendant through that office in the foreign state.

f. The defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a cause of action arising out of that operation.

2. A court of this state may recognize other bases of jurisdiction.

Sec. 5. NEW SECTION. 626B.5 EFFECT OF APPEAL.

Upon satisfactory proof by the defendant that an appeal is pending or that the defendant is entitled to and intends to appeal the foreign judgment, the court may stay the proceedings until the appeal has been determined or until a sufficient period of time has expired during which the defendant could have commenced an appeal in the court of the foreign state.

Sec. 6. NEW SECTION. 626B.6 OTHER FOREIGN JUDGMENTS.

This chapter does not prevent the recognition of a foreign judgment by a court of this state in a situation not specifically covered in this chapter.

Sec. 7. NEW SECTION. 626B.7 UNIFORMITY OF INTERPRETATION.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 8. NEW SECTION. 626B.8 SHORT TITLE.

This chapter may be cited as the uniform foreign money-judgments recognition Act.

Sec. 9. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 18, 1989

CHAPTER 174

COUNTY TREASURER'S FEE FOR USE TAX COLLECTION

S.F. 132

AN ACT relating to the fee retained by county treasurers for use tax collection on vehicles.

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

Section 1. Section 423.6, subsection 1, Code 1989, is amended to read as follows:

1. The tax upon the use of all vehicles subject to registration or subject only to the issuance of a certificate of title shall be collected by the county treasurer or the state department of transportation pursuant to section 423.7. The county treasurer shall retain ~~twenty-five cents~~ one dollar from each tax payment collected, to be credited to the county general fund.

Approved May 18, 1989

CHAPTER 175

TAX EXEMPTION FOR BEGINNING FARMER LOAN PROGRAM BONDS AND NOTES

S.F. 423

AN ACT exempting from state taxes certain bonds and notes issued by the agricultural development authority.

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

Section 1. Section 175.17, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Bonds and notes issued by the authority for purposes of financing the beginning farmer loan program provided in section 175.12 are exempt from taxation by the state, and interest earned on the bonds and notes is deductible in determining net income for purposes of the state individual and corporate income tax under divisions II and III of chapter 422.

Sec. 2. Section 422.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 19. Subtract interest earned on bonds and notes issued by the agricultural development authority as provided in section 175.17, subsection 10, to the extent the interest is included in federal adjusted gross income.

Sec. 3. Section 422.35, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Subtract the interest earned from bonds and notes issued by the agricultural development authority as provided in section 175.17, subsection 10, to the extent the interest is included in federal taxable income.

Approved May 18, 1989

CHAPTER 176

TAX VALUATION OF SPECIAL PURPOSE TOOLING

S.F. 515

AN ACT relating to the assessment and valuation of special purpose tooling property.

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

Section 1. Section 441.21, subsection 1, paragraph b, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The actual value of special purpose tooling, which is subject to assessment and taxation as real property under section 427A.1, subsection 1, paragraph "e", but which can be used only to manufacture property which is protected by one or more United States or foreign patents, shall not exceed the fair and reasonable exchange value between a willing buyer and a willing seller, assuming that the willing buyer is purchasing only the special purpose tooling and not the patent covering the property which the special purpose tooling is designed to manufacture nor the rights to manufacture the patented property. For purposes of this paragraph, special purpose tooling includes dies, jigs, fixtures, molds, patterns, and similar property. The assessor shall not take into consideration the special value or use value to the present owner of the special purpose tooling which is designed and intended solely for the manufacture of property protected by a patent in arriving at the actual value of the special purpose tooling.

Approved May 18, 1989

CHAPTER 177

LEGALIZATION OF VENTURA CONSTRUCTION PROJECT

S.F. 526

AN ACT to legalize proceedings of the city council of the City of Ventura relating to the method of payment for a construction project and providing an effective date.

WHEREAS, the City of Ventura is undertaking the construction of certain improvements to Lake Street and McIntosh Road; and

WHEREAS, the City of Ventura applied for and received a rise grant pursuant to Iowa Code chapter 315 for a portion of the construction costs of the project; and

WHEREAS, after receiving the rise grant, the project was subsequently expanded; and

WHEREAS, the city council published a notice to bidders, pursuant to Iowa Code section 384.97, on September 21 and 28, 1988, received sealed bids from prospective contractors, and subsequently awarded a contract on October 10, 1988, to the lowest responsible bidder, Allied Construction Co.; and

WHEREAS, the City of Ventura did not satisfy the requirements of Iowa Code chapter 384 with respect to procedures required of a city in fixing amounts to be assessed against private property prior to entering into the contract; and

WHEREAS, it was the intent of the city council that these procedures be followed in order that special assessments may be levied to pay for the cost of construction under the contract; now therefore,

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

Section 1. That the city of Ventura is authorized to undertake actions necessary to satisfy the requirements of Iowa Code chapter 384 relating to special assessments to pay a portion of the costs of certain improvements to Lake Street and McIntosh Road for which a contract was awarded by the city to Allied Construction Company, and that upon satisfaction of these requirements and proper determination of the amount of the assessments, the contract for the construction of such improvements shall be deemed to have been entered into as required by Iowa Code chapter 384 for the purpose of using special assessments to pay for the construction, and shall be hereby legalized, validated, and confirmed.

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

Approved May 18, 1989

CHAPTER 178

GUARDIANS, CONSERVATORS, MEDICAL DECISION MAKERS, AND REPRESENTATIVE PAYEES

H.F. 585

AN ACT relating to guardians and conservators, by providing for notice to proposed wards, formation of state and local emergency medical boards, immunity from liability, waiver of filing fees and costs, training of guardians and conservators, and implementation of a representative payee project.

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

Section 1. NEW SECTION. 135.39A STATE EMERGENCY MEDICAL BOARD.

A state emergency medical board is established to formulate policy and guidelines for the operations of local emergency medical boards, and to act if a local board does not exist.

The state board is comprised of medical professionals and lay persons appointed by the director and the council on human services according to rules adopted by the department. The state board and its members are not liable, jointly or severally, for actions or omissions taken or made in the official discharge of their duties, except those acts or omissions constituting willful or wanton misconduct.

Sec. 2. NEW SECTION. 217.40 TRAINING FOR GUARDIANS AND CONSERVATORS.

The department of human services, or a person designated by the director, shall establish training programs designed to assist all duly appointed guardians and conservators in understanding their fiduciary duties and liabilities, the special needs of the ward, and how to best serve the ward and the ward's interests.

Sec. 3. NEW SECTION. 217.43 LOCAL EMERGENCY MEDICAL BOARD.

1. Each county in this state may establish and fund a local emergency medical board. The local board shall be comprised of medical professionals and lay persons appointed pursuant to the guidelines established by the state emergency medical board.

2. The local board may act as a surrogate decision maker for patients incapable of making their own medical care decisions if no other surrogate decision maker is available to act. The local board may exercise decision-making authority in situations where there is sufficient time to review the patient's condition, and a reasonably prudent person would consider a decision to be medically necessary. Such medically necessary decisions shall constitute good cause for subsequently filing a petition in the district court for appointment of a guardian pursuant to chapter 633, but the local board shall continue to act in the patient's best interests until a guardian is appointed.

3. The local board and its members shall not be held liable, jointly or severally, for any actions or omissions taken or made in the official discharge of their duties, except those acts or omissions constituting willful or wanton misconduct. A physician or other health care provider who acts on a decision or directive of the local board or state board shall not be held liable for any damages resulting from that act, unless such physician's or other health care provider's actions or omissions constitute negligence in the practice of the profession or occupation, or willful or wanton misconduct.

Sec. 4. Section 237.13, subsection 5, Code 1989, is amended to read as follows:

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~~ 633.650.

Sec. 5. NEW SECTION. 249D.60 REPRESENTATIVE PAYEE PROJECT.

1. The department of elder affairs shall provide appropriate public and private organizations with written notice of the department's intent to serve as sponsor of the representative payee project in Iowa. The director shall designate a departmental staff person to serve as the project staff coordinator.

2. The department shall provide logistical support for the project including office space, telephone communications, office supplies, and postage.

3. The department shall provide for the training of representative payees.

4. The department shall establish and maintain an advisory council for the project which shall hold meetings quarterly. The department shall determine the council's membership by rule.

5. The department shall assist representative payees, and shall negotiate banking services for the project.

6. The department shall designate a volunteer, who may be a representative payee, as the public liaison to inform interested agencies and persons about the project, and to undertake to increase public awareness and referral of potential clients.

7. A person acting as a representative payee shall be considered acting in a fiduciary capacity, and shall be liable for acts or omissions of the representative payee constituting a breach of the fiduciary duty imposed by chapter 633.

8. For purposes of this section, "representative payee" means a person appointed by the social security administration to provide financial management services, without compensation, to individuals receiving social security administration or other government benefits, who are medically incapable of making responsible financial decisions.

Sec. 6. Section 602.8102, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 105A. Provide written notice to all duly appointed guardians and conservators of their liability as provided in sections 633.633A and 633.633B.

Sec. 7. NEW SECTION. 633.27A DOCKETING GUARDIANSHIP AND CONSERVATORSHIP PROCEEDINGS.

When a petition is filed for a conservatorship or guardianship, or a combined petition as provided in section 633.627, the administration thereof shall be treated as a separate proceeding, with a separate docket number, from the date of the filing of the petition. The clerk shall clearly indicate on the docket whether the proceedings are voluntary or involuntary and whether a guardianship, a conservatorship, or combined.

Sec. 8. Section 633.63, subsection 3, Code 1989, is amended to read as follows:

3. A private nonprofit corporation organized under chapter 504 or 504A is qualified to act as a guardian, as defined in section 633.3, subsection 19, or a conservator, as defined in section 633.3, subsection 7, where the assets subject to the conservatorship are less than fifteen thousand dollars, ~~if the department of human services, under rules established by the department, finds the corporation a suitable agency to perform such duties and determines that~~ the corporation does not possess a proprietary or legal interest in an organization which provides direct services to the individual.

Sec. 9. Section 633.557, Code 1989, is amended to read as follows:

633.557 APPOINTMENT OF GUARDIAN ON VOLUNTARY PETITION.

A guardian may also be appointed by the court upon the verified petition of the proposed ward, without further notice, if the proposed ward is other than a minor under the age of fourteen years, provided the court determines that such an appointment will inure to the best interest of the applicant. However, if an involuntary petition is pending, the court shall be governed by section 633.634. The petition shall provide the proposed ward notice of a guardian's powers as provided in section 633.562.

Sec. 10. Section 633.561, subsection 2, Code 1989, is amended to read as follows:

2. The court shall ensure that all proposed wards entitled to representation have been provided with notice of the right to representation and right to be personally present at all proceedings and shall make findings of fact in any order of disposition setting out the manner in which notification was provided.

Sec. 11. NEW SECTION. 633.562 NOTIFICATION OF GUARDIANSHIP POWERS.

In a proceeding for the appointment of a guardian, the proposed ward shall be given written notice which advises the proposed ward that if a guardian is appointed, the guardian may, without court approval, provide for the care of the ward, manage the ward's personal property and effects, assist the ward in developing self-reliance and receiving professional care, counseling, treatment or services as needed, and ensure that the ward receives necessary emergency medical services. The notice shall also advise the proposed ward that, upon the court's approval, the guardian may change the ward's permanent residence to a more restrictive

residence, and arrange for major elective surgery or any other nonemergency major medical procedure. The notice shall clearly advise the proposed ward in boldfaced type of a minimum size of ten points, of the right to counsel and the potential deprivation of the proposed ward's civil rights. In an involuntary guardianship proceeding, the notice shall be served upon the proposed ward with the notice of the filing of the petition as provided in section 633.554.

Sec. 12. Section 633.572, Code 1989, is amended to read as follows:

633.572 APPOINTMENT OF CONSERVATOR ON VOLUNTARY PETITION.

A conservator may also be appointed by the court upon the verified petition of the proposed ward, without further notice, if the proposed ward is other than a minor under the age of fourteen years, provided the court determines that such an appointment will inure to the best interest of the applicant. However, if an involuntary petition is pending, the court shall be governed by section 633.634. The petition shall provide the proposed ward notice of a conservator's powers as provided in section 633.576.

Sec. 13. Section 633.575, subsection 2, Code 1989, is amended to read as follows:

2. The court shall ensure that all proposed wards entitled to representation have been provided with notice of the right to representation and right to be personally present at all proceedings and shall make findings of fact in any order of disposition setting out the manner in which notification was provided.

Sec. 14. NEW SECTION. 633.576 NOTIFICATION OF CONSERVATORSHIP POWERS.

In a proceeding for the appointment of a conservator, the proposed ward shall be given written notice which advises the proposed ward that if a conservator is appointed, the conservator may, without court approval, manage the proposed ward's principal, income, and investments, sue and defend any claim by or against the ward, sell and transfer personal property, and vote at corporate meetings. The notice shall also advise the proposed ward that, upon the court's approval, the conservator may invest the ward's funds, execute leases, make payments to or for the benefit of the ward, support the ward's legal dependents, compromise or settle any claim, and do any other thing that the court determines is in the ward's best interests. The notice shall clearly advise the proposed ward, in boldfaced type of a minimum size of ten points, of the right to counsel and the potential deprivation of the proposed ward's civil rights. In an involuntary conservatorship proceeding, the notice shall be served upon the proposed ward with the notice of the filing of the petition as provided in section 633.568.

Sec. 15. Section 633.591, Code 1989, is amended to read as follows:

633.591 VOLUNTARY PETITION FOR APPOINTMENT OF CONSERVATOR — STANDBY BASIS.

Any person of full age and sound mind may execute a verified petition for the voluntary appointment of a conservator of the person's property upon the express condition that such petition shall be acted upon by the court only upon the occurrence of an event specified or the existence of a described condition of the mental or physical health of the petitioner, the occurrence of which event, or the existence of which condition, shall be established in the manner directed in said petition. The petition shall advise the proposed ward of a conservator's powers as provided in section 633.576.

Sec. 16. NEW SECTION. 633.633A LIABILITY OF GUARDIANS AND CONSERVATORS.

Guardians and conservators shall not be held personally liable for actions or omissions taken or made in the official discharge of the guardian's or conservator's duties, except for any of the following:

1. A breach of fiduciary duty imposed by this Code.

2. Willful or wanton misconduct in the official discharge of the guardian's or conservator's duties.

Sec. 17. NEW SECTION. 633.633B TORT LIABILITY OF GUARDIANS AND CONSERVATORS.

The fact that a person is a guardian or conservator shall not in itself make the person personally liable for damages for the acts of the ward.

Sec. 18. Section 633.672, Code 1989, is amended to read as follows:

633.672 PAYMENT OF COURT COSTS IN CONSERVATORSHIPS.

No order shall be entered approving an annual report of a conservator until the court costs which have been docketed have been paid or provided for. The court may, upon application, enter an order waiving payment of the court costs in indigent cases. However, if the conservatorship subsequently becomes financially capable of paying any waived costs, the conservator shall immediately pay the costs.

Sec. 19. Section 633.673, Code 1989, is amended to read as follows:

633.673 COURT COSTS IN GUARDIANSHIPS.

The ward or the ward's estate shall be charged with the court costs of a ward's guardianship, including the guardian's fees and the fees of the attorney for the guardian. The court may, upon application, enter an order waiving payment of the court costs in indigent cases. However, if the ward or ward's estate becomes financially capable of paying any waived costs, the costs shall be paid immediately.

Sec. 20. Section 633.679, Code 1989, is amended to read as follows:

633.679 PETITION TO TERMINATE.

At any time, ~~not less than six months~~ after the appointment of a guardian or conservator, the person under guardianship or conservatorship may apply to the court by petition, alleging that the person is no longer a proper subject thereof, and asking that the guardianship or conservatorship be terminated.

Sec. 21. Section 633.651, Code 1989, is repealed.

Approved May 22, 1989

CHAPTER 179

COURT PROCEEDINGS FOR SUPPORT OF DEPENDENT CHILDREN

H.F. 662

AN ACT relating to court proceedings involving child support orders where the dependent child resides in another state.

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

Section 1. Section 252C.4, subsection 1, Code 1989, is amended to read as follows:

1. If a timely written request for a hearing is received, the administrator shall certify the matter to the district court in the county in which the order has been filed, or if no such order has been filed, then to a district court in the county where the dependent child resides or, where the dependent child resides in another state, to the district court where the absent parent resides.

Sec. 2. Section 252C.5, Code 1989, is amended to read as follows:

252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY ORDER — ORDER EFFECTIVE AS DISTRICT COURT DECREE.

A true copy of any order entered by the administrator pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the

district court in the county in which the dependent child resides or, where the dependent child resides in another state, in the office of the district court in the county in which the absent parent resides. Upon filing, the clerk shall enter the order in the judgment docket, and the administrator's order shall be presented, ex parte, to the district court for review and approval, and unless defects appear on the face of the order or on the attachments, the district court shall approve the order, and the order shall have all the force, effect, and attributes of a docketed order or decree of the district court.

Approved May 22, 1989

CHAPTER 180

DEVELOPMENT CORPORATIONS

H.F. 273

AN ACT relating to economic development corporations in Iowa.

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

Section 1. NEW SECTION. 28.149 MULTIPLE CORPORATIONS.

The public directors, by a majority vote, may create more than one corporation. Each additional corporation shall be governed by this chapter. An additional corporation may act as a general partner in a limited partnership under chapter 545.

Sec. 2. Section 496B.8, subsection 4, Code 1989, is amended to read as follows:

4. Each financial institution which becomes a member of a development corporation is hereby authorized to acquire, purchase, hold, sell, assign, mortgage, pledge, or otherwise dispose of, any bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of, the development 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; provided that the amount of the capital stock of any development corporation which may be acquired by any member pursuant to the authority granted herein, shall not exceed ten percent of the loan limit of such member. The amount of capital stock of a development corporation which any member is authorized to acquire pursuant to the authority granted herein, is in addition to the amount of capital stock in other corporations which such member may otherwise be authorized to acquire~~, provided, however, that no financial institution shall become a shareholder or member of more than one development corporation~~.

Approved May 22, 1989

CHAPTER 181

LIABILITY ARISING FROM FOOD DONATIONS

H.F. 529

AN ACT relating to the exemption from civil and criminal liability arising from the donation of food.

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

Section 1. Section 122B.1, subsection 2, Code 1989, is amended to read as follows:

2. A gleaner, or a restaurant, food establishment, food service establishment, school, manufacturer of foodstuffs, or other person who, in good faith, donates food to a charitable or nonprofit organization for ultimate free distribution to needy individuals is not subject to criminal or civil liability arising from the condition of the food if the donor reasonably inspects the food at the time of the donation and finds the food fit for human consumption. The immunity provided by this subsection does not extend to a donor or gleaner if damages result from the negligence, recklessness, or intentional misconduct of the donor, or if the donor or gleaner has, or should have had, actual or constructive knowledge that the food is tainted, contaminated, or harmful to the health or well-being of the ultimate recipient.

Approved May 22, 1989

CHAPTER 182

AVIATION AUTHORITIES

H.F. 551

AN ACT to modify the requirements for establishing an aviation authority.

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

Section 1. Section 330.23, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Sections 330.17 through 330.20 do not apply to the abolition of an airport commission by a city pursuant to this section for the purpose of establishing an administrative agency pursuant to chapter 392 to manage and control all or part of its airport. The commission shall stand abolished sixty days from the date of the city council's final approval abolishing the airport commission pursuant to this section, unless the council designates a different effective date.

Sec. 2. Section 330A.3, Code 1989, is amended to read as follows:

330A.3 CREATION.

~~Two~~ One or more municipalities may ~~under the provisions of this chapter enter into an agreement creating~~ provide by ordinance for the creation of an airport authority in the manner and for the purposes ~~hereinafter~~ provided under this chapter. The authority shall be created by agreement adopted by ordinance between two or more municipalities, or by ordinance of a single municipality. ~~Such~~ An authority ~~so created shall be~~ is a ~~joint~~ public instrumentality and public body corporate to be known as "..... Airport Authority", ~~and which is hereby authorized to~~. An airport authority may exercise its jurisdiction, powers, and duties as ~~herein~~ set forth in this chapter. Provisions for the disposition of the authority's rights and properties in the event of dissolution of the authority shall be set forth in the agreement or ordinance creating the authority.

Sec. 3. Section 330A.5, Code 1989, is amended to read as follows:

330A.5 BOARD.

Each authority shall have a board of an odd number of three or more members and ~~said~~ the board shall be the governing body of the authority exercising all of the rights, duties, and powers conferred by this chapter upon the authority. ~~Board membership shall be established in the following manner: Committee members shall elect in separate ballots from among their membership seven persons, provided, however, that the maximum number of municipalities is represented on said board. Committee members elected to the board shall resign from the committee. Where a committee consists of less than seven members such committee shall elect sufficient nonmembers to the board so that the board consists of seven persons.~~ The board members shall be appointed by the governing bodies of the member municipalities. The number to be appointed by each municipality shall be provided for in the agreement or ordinance creating the authority. However, ~~no~~ an elected official or full-time paid employee of ~~any~~ a member municipality is not eligible for ~~election~~ appointment to the board. ~~The term of the two persons first so elected shall be for five years, of the next three persons so elected for three years, and of the next two persons so elected for one year. Thereafter, as those terms expire, the terms of successors shall be for five years.~~ Board members shall serve for terms of four years at the pleasure of the municipality appointing the members except members of the initial board shall determine their respective terms by lot so the terms of one-half of the members expire at the end of two years. The remaining initial terms shall expire at the end of four years. Each member of the board shall qualify by taking an oath to faithfully perform the duties of office. Within forty-five days after ~~any~~ a vacancy occurs on the board by death, resignation, change of residence or removal of ~~any~~ a member, or from any other cause, the successor of ~~such~~ the member shall be ~~elected in the same manner as the member's predecessor was elected and shall serve for the unexpired term of the predecessor~~ appointed by the member municipality represented by the vacancy and shall serve until the term expires. The board shall, ~~elect one of its members as chairperson who shall hold office for two years, and it shall also elect one of its members as secretary, who shall hold office for two years, and it shall also elect one of its members as treasurer, who shall hold office for two years and who~~ within ten days after its appointment, organize by electing a chairperson, a secretary, and a treasurer, each for a term of two years. The treasurer shall execute an adequate surety bond in a penal sum to be fixed ~~from time to time~~ by the authority, conditioned upon the faithful performance of the duties of office, the premium on which shall be paid by the authority. Board members and officers shall serve until a ~~successor is~~ their successors are duly elected and qualified. ~~In no event~~ A salary shall a ~~salary~~ not be paid to a board member~~,~~; however, each board member shall be reimbursed for actual expenses incurred in the performance of the member's duties. All actions by an authority ~~shall~~ require the affirmative vote of a majority of the board of ~~an~~ the authority ~~as it may exist at the time~~.

Sec. 4. Section 330A.6, subsection 1, paragraph c, Code 1989, is amended to read as follows:

c. Number of ~~committee~~ board members to be appointed ~~from such~~ by the municipality.

Sec. 5. Section 330A.6, subsection 2, Code 1989, is amended to read as follows:

2. After the hearing, and if in the best interests of the municipality, the municipality shall enact an ordinance authorizing the ~~joining~~ creation of the authority.

Sec. 6. Section 330A.7, subsections 1 and 2, Code 1989, are amended to read as follows:

1. ~~Whenever an authority has been created by two or more municipalities, any one~~ One or more of ~~such~~ the member municipalities may withdraw ~~therefrom but no~~ from the authority, except that a municipality shall ~~be permitted to~~ not withdraw ~~from any authority~~ after any obligations ~~thereof~~ have been incurred by the authority unless ~~in the opinion of the authority~~ satisfactory provision has been made by the withdrawing municipality for the payment of its portion of ~~such~~ the outstanding obligations. ~~Whenever~~ If an authority has been created ~~by two or more municipalities any~~ pursuant to this chapter, a municipality which did not ~~having joined~~ join in the original agreement may subsequently join ~~in~~ the authority with the approval

of the member municipalities.

2. ~~Any~~ A municipality wishing to withdraw from or to become a member of an existing authority shall signify its ~~desire~~ intention by resolution and shall publish ~~said~~ the resolution at least one time in a newspaper of general circulation in ~~such~~ the municipality giving notice of a hearing to be held on the question of withdrawing or joining and its intention to withdraw or join. ~~Said~~ The resolution shall be published ~~in a newspaper of general circulation in such withdrawing or joining municipality~~ at least fourteen days prior to the date of the hearing. A withdrawing municipality shall state in ~~said~~ the resolution ~~why it wishes to withdraw and~~ how it intends to pay its portion of the outstanding ~~obligation~~ obligations of the authority, if any. A joining municipality shall state in ~~said~~ the resolution the information required in section 330A.6. A copy of ~~said~~ the resolution shall be certified to the authority by the municipality at least fourteen days in advance of ~~said~~ the hearing. The board shall by resolution indicate whether a satisfactory provision has been made for the payment of the outstanding obligations of the authority, as required under subsection 1. After the hearing and ~~if in the best interest of the municipality~~ if the outstanding obligations of the authority have been adequately provided for by the municipality, the municipality ~~shall~~ may enact an ordinance ~~authorizing the withdrawing or joining~~ to withdraw from or join the authority. ~~The authority shall by resolution express its consent to such withdrawal, or joining, if satisfactory provision has been made as aforesaid.~~

Sec. 7. Chapter* 330A.8, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 16. To designate employees upon whom are conferred all the powers of a peace officer as defined in section 801.4.

Sec. 8. NEW SECTION. 330A.9 DISSOLUTION OF AN AUTHORITY.

When an authority has fully discharged all of its debts and obligations or has arranged for the assumption of its debts and obligations by another public agency, it may be dissolved by unanimous consent of the member municipalities upon enactment of an ordinance to dissolve the authority by each member municipality. If all members withdraw from the authority, the authority is dissolved. When the business and affairs of an authority have been closed upon dissolution, that fact shall be certified by the chairperson of the board to the recorders of the counties in which the authority was situated and to the secretary of state.

Sec. 9. NEW SECTION. 330A.10 TRANSITION.

For those authorities established prior to July 1, 1989, the terms of all board members in office shall expire on December 31, 1989. The provision for successor board members shall be by agreement of the member municipalities and in accordance with section 330A.5. Authorities in existence prior to July 1, 1989, remain in existence on or after July 1, 1989, except as provided in this chapter.

Sec. 10. Section 384.24, subsection 3, paragraph n, Code 1989, is amended to read as follows:

n. The reconstruction, extension, and improvement of an airport ~~already~~ owned or operated by the city, an agency of the city, or a multimember governmental body of which the city is a participating member.

Sec. 11. Section 801.4, subsection 7, Code 1989, is amended by adding the following new lettered paragraph immediately following paragraph "h" and relettering subsequent lettered paragraphs:

NEW LETTERED PARAGRAPH. i. Employees of an aviation authority designated as "peace officers" by the authority under section 330A.8, subsection 16.

Sec. 12. Section 330A.4, Code 1989, is repealed.

Approved May 22, 1989

*"Section" probably intended

CHAPTER 183

CREDIT SERVICES ORGANIZATIONS

H.F. 496

AN ACT relating to credit services organizations, by requiring their registration, imposing regulation, and providing penalties.

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

Section 1. NEW SECTION. 533C.1 DEFINITIONS.

In this chapter, unless the context otherwise requires:

1. "Buyer" means an individual who is solicited to purchase or who purchases the services of a credit services organization.

2. "Consumer reporting agency" has the meaning assigned by section 603(f), Fair Credit Reporting Act, 15 U.S.C. § 1681a(f) as amended through January 1, 1989.

3. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment offered or granted primarily for personal, family, or household purposes.

Sec. 2. NEW SECTION. 533C.2 CREDIT SERVICES ORGANIZATION DEFINED — EXEMPTIONS.

1. A credit services organization is a person who, with respect to the extension of credit by others and in return for the payment of money or other valuable consideration, provides, or represents that the person can or will provide, any of the following services:

a. Improving a buyer's credit record, history, or rating.

b. Obtaining an extension of credit for a buyer.

c. Providing advice or assistance to a buyer with regard to paragraph "a" or "b".

2. The following are exempt from this chapter:

a. A person authorized to make loans or extensions of credit under the laws of this state or the United States who is subject to regulation and supervision of this state or the United States, or a lender approved by the United States secretary of housing and urban development for participation in a mortgage insurance program under the National Housing Act, 12 U.S.C. § 1701 et seq.

b. A bank or savings and loan association whose deposits or accounts are eligible for insurance by the federal deposit insurance corporation or the federal savings and loan insurance corporation, or successor deposit insurance entities, or a subsidiary of a bank or savings and loan association.

c. A credit union doing business in this state.

d. A nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code, as defined in section 422.3.

e. A person licensed as a real estate broker or salesperson, under section 117.20, acting within the course and scope of that license.

f. A person licensed to practice as an attorney in this state acting within the course and scope of the person's practice as an attorney.

g. A broker-dealer registered with the securities and exchange commission or the commodity futures trading commission acting within the course and scope of the regulations of the commission that person is registered with.

h. A consumer reporting agency.

Sec. 3. NEW SECTION. 533C.3 PROHIBITED CONDUCT.

A credit services organization, a salesperson, agent, or representative of a credit services organization, or an independent contractor who sells or attempts to sell the services of a credit services organization shall not:

1. Charge a buyer or receive from a buyer money or other valuable consideration before completing performance of all services the credit services organization has agreed to perform for the buyer, unless the credit services organization has obtained a bond in accordance with

section 533C.4 or established and maintained a surety account at a federally insured bank or savings and loan association located in this state in the amount required by section 533C.4, subsection 5.

2. Charge a buyer or receive from a buyer money or other valuable consideration solely for referral of the buyer to a retail seller who will or may extend credit to the buyer if the credit that is or will be extended to the buyer is substantially the same as that available to the general public.

3. Make or use a false or misleading representation in the offer or sale of the services of a credit services organization.

4. Engage, directly or indirectly, in a fraudulent or deceptive act, practice, or course of business in connection with the offer or sale of the services of a credit services organization.

Sec. 4. NEW SECTION. 533C.4 BOND — SURETY ACCOUNT.

1. This section applies to a credit services organization required by section 533C.3, subsection 1, to obtain a surety bond or establish a surety account.

2. If a bond is obtained, a copy of it shall be filed with the secretary of state. If a surety account is established, notification of the depository, the trustee, and the account number shall be filed with the secretary of state.

3. If a bond is obtained, the bond shall be executed by a surety company authorized to do business in this state, and the bond shall be continuous in nature until cancelled by the surety with not less than thirty days' written notice to both the credit services organization and to the secretary of state. The notice shall indicate the surety's intent to cancel the bond effective on a date at least thirty days after the date of the notice.

4. The bond or surety account required must be in favor of the state for the benefit of any person who is damaged by a violation of this chapter.

5. A person claiming against the bond or surety account for a violation of this chapter may maintain an action at law against the credit services organization and against the surety or trustee. The surety or trustee is liable only for damages awarded under section 533C.9, subsection 1, and not the punitive damages permitted under that section. The aggregate liability of the surety or trustee to all persons damaged by a credit services organization's violation of this chapter shall not exceed the amount of the surety account or bond.

6. The bond or the surety account shall be in an amount of at least ten thousand dollars.

7. A depository holding money in a surety account under this chapter shall not convey money in the account to the credit services organization that established the account or a representative of the credit services organization unless the credit services organization or representative presents a statement issued by the secretary of state indicating that section 533C.5, subsection 6, has been satisfied in relation to the account. The secretary of state may conduct investigations and require submission of information as necessary to enforce this subsection.

Sec. 5. NEW SECTION. 533C.5 REGISTRATION.

1. A credit services organization shall file a registration statement with the secretary of state before conducting business in this state. The registration statement must contain both of the following:

a. The name and address of the credit services organization.

b. The name and address of any person who directly or indirectly owns or controls ten percent or more of the outstanding shares of stock in the credit services organization.

2. The registration statement must also contain one of the following:

a. A full and complete disclosure of any litigation or unresolved complaint filed with a governmental authority of this state relating to the operation of the credit services organization.

b. A notarized statement that there has been no litigation or unresolved complaint filed with a governmental authority of this state relating to the operation of the credit services organization.

3. The credit services organization shall update the statement not later than the ninetieth day after the date on which a change in the information required in the statement occurs.

4. A credit services organization registering under this section shall maintain a copy of the registration statement in the files of the credit services organization. The credit services organization shall allow a buyer to inspect the registration statement on request.

5. The secretary of state may charge each credit services organization that files a registration statement with the secretary of state a reasonable fee not to exceed one hundred dollars to cover the cost of filing. The secretary of state shall not require a credit services organization to provide information other than that provided in the registration statement.

6. The bond or surety account shall be maintained until two years after the date that the credit services organization ceases to operate.

Sec. 6. NEW SECTION. 533C.6 DISCLOSURE STATEMENT.

1. Before executing a contract or agreement with a buyer, or receiving money or other valuable consideration, a credit services organization shall provide the buyer with a statement in writing, containing all of the following:

a. A complete and detailed description of the services to be performed by the credit services organization for the buyer and the total cost of the services.

b. A statement explaining the buyer's rights to proceed against the bond or surety account required by section 533C.4.

c. The name and address of the surety company which issued the bond, or the name and address of the depository and the trustee, and the account number of the surety account.

2. The credit services organization shall maintain on file for a period of two years after the date the statement is provided, an exact copy of the statement, signed by the buyer, acknowledging receipt of the statement.

Sec. 7. NEW SECTION. 533C.7 FORM IN TERMS OF CONTRACT.

1. A contract between the buyer and a credit services organization for the purchase of the services of the credit services organization must be in writing, dated, signed by the buyer, and must include all of the following:

a. A conspicuous statement in boldface type, in immediate proximity to the space reserved for the signature of the buyer, as follows: "You, the buyer, may cancel this contract at any time before midnight of the third day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right."

b. The terms and conditions of payment, including the total of all payments to be made by the buyer, whether to the credit services organization or to another person.

c. A full and detailed description of the services to be performed by the credit services organization for the buyer, including all guarantees and all promises of full or partial refunds, and the estimated date by which the services are to be performed or estimated length of time for performing the services.

d. The address of the credit services organization's principal place of business and the name and address of its agent in the state authorized to receive service of process.

2. The contract must have attached two easily detachable copies of the notice of cancellation. The notice must be in boldface type and in the following form:

"Notice of Cancellation

You may cancel this contract, without any penalty or obligations, within three days after the date the contract is signed.

If you cancel, any payment made by you under this contract will be returned within ten days after the date of receipt by the seller of your cancellation notice.

To cancel this contract, mail or deliver a signed, dated copy of this cancellation notice or other written notice to: (name of seller) at (address of seller) (place of business) not later than midnight (date).

(date)

(Purchaser's signature)

3. The credit services organization shall give to the buyer a copy of the completed contract and all other documents the credit services organization requires the buyer to sign at the time they are signed.

Sec. 8. NEW SECTION. 533C.8 WAIVER.

1. A credit services organization shall not attempt to cause a buyer to waive a right under this chapter.

2. A waiver by a buyer of any part of this chapter is void.

Sec. 9. NEW SECTION. 533C.9 ACTION FOR DAMAGES.

1. A buyer injured by a violation of this chapter may bring an action for recovery of damages. The damages awarded shall not be less than the amount paid by the buyer to the credit services organization, plus reasonable attorney's fees and court costs.

2. The buyer may also be awarded punitive damages.

Sec. 10. NEW SECTION. 533C.10 INJUNCTION.

1. The attorney general or a buyer may bring an action in a district court to enjoin a violation of this chapter.

Sec. 11. NEW SECTION. 533C.11 STATUTE OF LIMITATIONS.

An action shall not be brought under section 533C.9 after ten years after the date of the execution of the contract for services to which the action relates.

An action shall not be brought under section 533C.12 after four years after the date of the execution of the contract for services to which the action relates.

Sec. 12. NEW SECTION. 533C.12 CRIMINAL PENALTY.

A person who violates a provision of this chapter commits a serious misdemeanor.

Sec. 13. NEW SECTION. 533C.13 BURDEN OF PROVING EXEMPTION.

In an action under this chapter, the burden of proving an exemption under section 533C.2, subsection 2, is upon the person claiming the exemption.

Sec. 14. NEW SECTION. 533C.14 REMEDIES CUMULATIVE.

The remedies provided by this chapter are in addition to other remedies provided by law.

Approved May 22, 1989

CHAPTER 184

MOTORIZED BICYCLE SAFETY FLAGS

H.F. 663

AN ACT requiring motorized bicycles to be equipped with bicycle safety flags and providing a penalty.

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

Section 1. Section 321.275, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 9. BICYCLE SAFETY FLAGS REQUIRED ON MOTORIZED BICYCLES. When operated on a highway, a motorized bicycle shall have a bicycle safety flag which extends not less than five feet above the ground attached to the rear of the motorized bicycle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches, and be day-glow in color.

Sec. 2. Section 805.8, subsection 2, paragraph h, Code 1989, is amended to read as follows:

h. For operating, passing, turning and standing violations under sections 321.236, subsections 3, 4, 9 and 12, 321.275, subsections 1 through 8, 321.295, 321.297, 321.299, 321.303, 321.304, subsections 1 and 2, 321.305, 321.306, 321.311, 321.312, 321.314, 321.315, 321.316, 321.318, 321.323,

321.340, 321.344, 321.353, 321.354, 321.363, 321.365, 321.366, 321.368, 321.382 and 321.395, the scheduled fine is fifteen dollars.

Sec. 3. Section 805.8, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. u. For failure of having a bicycle safety flag on a motorized bicycle in violation of section 321.275, subsection 9, the scheduled fine is five dollars.

Approved May 22, 1989

CHAPTER 185

MOTOR VEHICLE REGISTRATIONS AND CERTIFICATES OF TITLE

H.F. 784

AN ACT relating to motor vehicle registrations and certificates of title and providing penalties and effective dates.

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

Section 1. Section 321.24, unnumbered paragraph 3, Code 1989, 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~~. Attached to the certificate of title shall be an 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. 2. Section 321.31, subsection 2, Code 1989, is amended to read as follows:

2. County records system. Each county treasurer's office shall maintain a county records system for vehicle registration and certificate of title documents. The records system shall consist of information from the certificate of title including the notation and cancellation of security interests, and information from the registration receipt, ~~and such~~. The information shall be maintained ~~by retention of one copy of the registration receipt~~ in a ~~registration number file and one copy of the title certificate in a title number file. In lieu of retaining one copy of the registration receipt and one copy of the title certificate, the information may be maintained in such other~~ manner ~~as may be~~ approved by the department, ~~provided such information is accessible by title certificate number and registration number~~.

~~The county treasurer may make photostatic, microfilm, or other photographic copies of certificates of title, registration receipts, or other records, reports or documents which are required to be retained by the county treasurer. When copies of records have been made, the county treasurer may destroy the original records three years after they have been issued, in such manner as prescribed by the department. When copies of records are no longer of use, they may be destroyed in a manner prescribed by the department.~~ Records of vehicle certificates of title for vehicles that are delinquent for five or more consecutive years may be destroyed by the county treasurer. ~~Photostatic,~~ Automated files, optical disks, microfiche records, and photostatic, microfilm or other photographic copies of records shall be admissible in evidence when duly certified and authenticated by the officer having custody and control of the ~~copies of~~ records.

Sec. 3. Section 321.52, subsection 4, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A person who titled the person's motor vehicle before May 1, 1989, may have a title issued on that motor vehicle to the person without the "REBUILT" designation, if the person can show adequate proof that the wrecked or salvage motor vehicle was inspected by a peace officer prior to being repaired prior to September 1, 1988, and show proof through receipts of used parts and photos of the damage to the wrecked or salvage motor vehicle that the motor vehicle did not have major damage requiring repairs or replacement of more than two of the vehicle's component parts. Upon proper application and payment of a two dollar fee, the county treasurer shall issue to the person the title to the person's motor vehicle without the "REBUILT" designation.

Sec. 4. Section 321.134, Code 1989, is amended to read as follows:

321.134 MONTHLY PENALTY.

1. On the first day of the second month following the beginning of each registration year a penalty of five percent of the annual registration fee shall be added to the registration fees not paid by that date and an additional penalty of five percent shall be added the first day of each succeeding month, until the fee is paid. A penalty shall not be less than five dollars. If the owner of a vehicle surrenders the registration plates for a vehicle prior to the plates becoming delinquent, to the county treasurer of the county where the vehicle is registered, or to the department if the vehicle is registered under chapter 326, the owner may register the vehicle any time thereafter upon payment of the registration fee for the registration year without penalty. The penalty on vehicles registered under chapter 326 shall accrue February 1 of each year.

2. The annual registration fee for trucks, truck tractors, and road tractors, as provided in sections 321.121 and 321.122, may be payable in two equal semiannual installments if the annual registration fee exceeds the registration fee for a vehicle with a gross weight exceeding five tons. The penalties provided in ~~the preceding unnumbered paragraph~~ subsection 1 shall be computed on the amount of the first installment only and on the first day of the seventh month of the registration period the same rate of penalty shall apply to the second installment, until

the fee is paid. Semiannual installments do not apply to commercial vehicles subject to proportional registration, with a base state other than the state of Iowa, as defined in section 326.2, subsection 6. The penalty on vehicles registered under chapter 326 accrues August 1 of each year.

3. If a penalty applies to a vehicle registration fee provided for in sections 321.121 and 321.122, the same penalty shall be assessed on the fees collected to increase the registered gross weight of the vehicle, if the increased gross weight is requested within forty-five days from the date the delinquent vehicle is registered for the current registration period.

4. Notwithstanding subsections 1 through 3, if a vehicle registration is delinquent for twenty-four months or more, a flat penalty and fee shall be assessed for the delinquent period in addition to the current registration fee. The flat penalty and fee shall be one hundred fifty percent of the current annual registration fee.

Sec. 5. Section 321.153, Code 1989, is amended to read as follows:

321.153 TREASURER'S REPORT TO DEPARTMENT.

The county treasurer shall on the tenth day of each month ~~report under oath~~ certify under county seal to the department, on forms furnished by it, ~~giving~~ a full and complete statement of all fees and penalties ~~so~~ received by the county treasurer during the preceding calendar month~~, and shall forward to the treasurer of state a duplicate of such report~~.

Sec. 6. Section 2 and this section of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 22, 1989

CHAPTER 186

HAZARDOUS MATERIALS TRANSPORTATION

H.F. 792

AN ACT relating to transportation of hazardous materials and providing an effective date.

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

Section 1. 1989 Iowa Acts, Senate File 442, section 2, is amended by striking the section and inserting in lieu thereof the following:

SEC. 2. Section 321.450, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this section, or the age requirements under section 321.449, the age requirements under section 321.449 and the rules adopted under this section pertaining to compliance with regulations adopted under U.S.C., Title 49, and found in 49 C.F.R. § 177.804, shall not apply to retail dealers of fertilizers, petroleum products, and pesticides and their employees while delivering fertilizers, petroleum products, and pesticides to farm customers within a one-hundred-mile radius of their retail place of business. Notwithstanding contrary provisions of this chapter, motor vehicles registered for a maximum gross weight of five tons or less shall be exempt from the requirements of placarding and of carrying hazardous materials shipping papers if the hazardous materials which are transported are clearly labeled.

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

Approved May 22, 1989

CHAPTER 187

CIVIL SERVICE

H.F. 573

AN ACT relating to city and county civil service, by providing for meetings of civil service commissions, by providing for civil service medical examinations, and by providing an effective date.

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

Section 1. Section 341A.5, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The commission shall hold an organizational meeting immediately after its establishment and shall elect one of its members as chairperson. The commission shall hold regular meetings at least once ~~every three months~~ annually, and may hold ~~such~~ additional meetings as may be required in the fulfillment of its responsibilities. All commission meetings shall be public meetings.

Sec. 2. Section 400.8, subsection 1, Code 1989, is amended to read as follows:

1. The commission ~~shall at such times as shall be found~~, when necessary under ~~such~~ the rules, including minimum and maximum age limits, ~~as~~ which shall be prescribed and published in advance by the commission and posted in the city hall, shall hold examinations for the purpose of determining the qualifications of applicants for positions under civil service, other than promotions, which examinations shall be practical in character and shall relate to ~~such~~ matters ~~as~~ which will fairly test the mental and physical ability of the applicant to discharge the duties of the position to which the applicant seeks appointment. ~~Provided, however, that such~~ However, the physical examination of applicants for appointment to the positions of police officer, police matron or fire fighter shall be held under the direction of and as specified by the boards of trustees of the fire or police retirement systems established by section 411.5 and the commission may conduct a medical examination of an applicant after a conditional offer of employment has been made to the applicant. An applicant shall not be discriminated against on the basis of height, weight, sex, or race in determining physical or mental ability of the applicant. Reasonable rules relating to strength, agility, and general health of applicants shall be prescribed. The costs of the physical examination required under this subsection shall be paid from the trust and agency fund of the city.

Sec. 3. Section 400.11, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The commission ~~shall~~, within ninety days after the beginning of each competitive examination for original appointment or for promotion, shall certify to the city council a list of the names of the ten persons who qualify with the highest standing as a result of each examination for the position they seek to fill, or ~~such~~ the number ~~as may~~ which have qualified if less than ten, in the order of their standing, and all newly created offices or other vacancies in positions under civil service which ~~shall~~ occur before the beginning of the next examination for ~~such~~ the positions shall be filled from ~~said~~ the lists, or from the preferred list existing as provided for in case of diminution of employees, within thirty days. If a tie occurs in the examination scores which would qualify persons for the tenth position on the list, the list of the names of the persons who qualify with the highest standing as a result of each examination shall include all persons who qualify for the tenth position. Preference for temporary service in civil service positions shall be given those on ~~such~~ the lists. However, the commission may certify a list of names eligible for appointment subject to successfully completing a medical examination. The medical examination shall be provided pursuant to commission rules adopted under section 400.8.

Sec. 4. Section 400.17, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Except as otherwise provided, ~~no~~ a person shall not be appointed or employed in any capacity in the fire or police department, or any department which is governed by the civil service,

until ~~such~~ the person ~~shall have~~ has passed a civil service examination as provided in this chapter, and has been certified to the city council as being eligible for ~~such~~ the appointment; ~~provided, however, that in cases of~~. However, in an emergency, in which the peace and order of the city is threatened by reason of fire, flood, storm, or mob violence, making additional protection of life and property necessary, ~~in which case~~ the person having the appointing power may deputize additional persons, without examination, to act as peace officers until ~~such~~ the emergency ~~shall have~~ has passed. A person may be appointed to a position subject to successfully completing a civil service medical examination. ~~In no case shall any~~ A person shall not be appointed or employed in any capacity in the fire or police department, or any department which is governed by civil service, unless ~~such~~ the person:

Sec. 5. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 22, 1989

CHAPTER 188

COMPREHENSIVE LAND MANAGEMENT PLANS

H.F. 623

AN ACT relating to developing comprehensive management plans with owners of highly erodible land.

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

Section 1. NEW SECTION. 159.32 COMPREHENSIVE MANAGEMENT PLAN — HIGHLY ERODIBLE ACRES.

The department shall request cooperation from the federal government, including the agricultural conservation and stabilization service and the soil conservation service, to investigate methods to preserve land which is highly erodible, as provided in the federal Food Security Act of 1985, 16 U.S.C. § 3801 et seq., for the purpose of developing with owners of the land a comprehensive management plan for the land. The plan may be based on the soil conservation plan of the federal soil conservation service and may include a farm unit conservation plan and a comprehensive agreement as provided in chapter 467A. The extension services at Iowa state university of science and technology shall cooperate with the department in developing the comprehensive plan.

The investigation shall include methods which help to preserve highly erodible land from row crop production through production of alternative commodities, and financial incentives. The department shall report to the governor and the general assembly not later than January 15, 1990, of the department's progress in the investigation. The department shall report to the governor and the general assembly not later than January 15, 1991, on the department's recommendation for programs necessary to preserve highly erodible land from injury or destruction.

Approved May 22, 1989

CHAPTER 189

GEOGRAPHIC DATA BASE SYSTEMS
H.F. 675

AN ACT relating to the establishment and financing of geographic data base systems by cities and counties.

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

Section 1. Section 22.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. However, notwithstanding subsections 1 and 2, a government body which maintains a geographic computer data base is not required to permit access to or use of the data base by any person except upon terms and conditions acceptable to the governing body. The governing body shall establish reasonable rates and procedures for the retrieval of specified records, which are not confidential records, stored in the data base upon the request of any person.

Sec. 2. Section 331.441, subsection 2, paragraph b, Code 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (11) The acquiring, developing, and improving of a geographic computer data base system suitable for automated mapping and facilities management.

Sec. 3. Section 384.24, subsection 3, paragraph j, Code 1989, is amended to read as follows:

j. The equipping of fire, police, sanitation, street, and civil defense departments and the acquiring, developing, and improving of a geographic computer data base system suitable for automated mapping and facilities management.

Approved May 22, 1989

CHAPTER 190

MOBILE HOME TAXES
H.F. 755

AN ACT relating to mobile home taxes and providing an effective date.

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

Section 1. Section 135D.22, subsection 3, Code 1989, is amended to read as follows:

3. The amount thus computed shall be the annual tax for all mobile homes, except as follows:

a. For the sixth through ninth years after the year of manufacture the annual tax is ninety percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.

b. For all mobile homes ten or more years after the year of manufacture the annual tax is eighty percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.

Sec. 2. This Act takes effect July 1, 1990.

Approved May 22, 1989

CHAPTER 191

COUNTY CONSERVATION BOARD LAND ACQUISITIONS AND EXCHANGES

H.F. 141

AN ACT relating to the approval of the natural resource commission of county conservation board acquisitions or developments.

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

Section 1. Section 111A.4, subsections 2 and 3, Code 1989, are amended to read as follows:

2. To acquire in the name of the county by gift, purchase, lease, agreement, exchange, or otherwise, in fee or with conditions, suitable real estate within or without the territorial limits of the county for public museums, parks, preserves, parkways, playgrounds, recreation centers, forests, wildlife, and other conservation purposes and for participation in watershed, drainage, and flood control programs for the purpose of increasing the recreational resources of the county. The natural resource commission, the county board of supervisors, or the governing body of any city, upon request of the county conservation board, may transfer to the county conservation board for use as museums, parks, preserves, parkways, playgrounds, recreation centers, play fields, tennis courts, skating rinks, swimming pools, gymnasiums, rooms for arts and crafts, camps and meeting places, community forests, wildlife areas, and other recreational purposes, any land and buildings owned or controlled by the department of natural resources or the county or city and not devoted or dedicated to any other inconsistent public use. In acquiring or accepting land, due consideration shall be given to its scenic, historic, archaeologic, recreational, or other special features, and land shall not be acquired or accepted unless, in the opinion of the board ~~and the natural resource commission~~, it is suitable or, in the case of exchange, is suitable and of substantially the same value as the property exchanged from the standpoint of its proposed use. An exchange of property approved by the county conservation board and the board of supervisors is not subject to section 331.361, subsection 2.

3. The county conservation board shall file with ~~and obtain approval of~~ the natural resource commission ~~on~~ all ~~proposals for acquisition or exchange~~ acquisitions or exchanges of land~~, and all general development plans before any such program is executed~~ within one year. ~~Approval of the natural resource commission is not necessary unless the value of the proposed exchange property or the cost of the proposed acquisition or development program exceeds twenty-five thousand dollars.~~

Approved May 22, 1989

CHAPTER 192

COMMERCIAL FISHING LICENSES

H.F. 198

AN ACT relating to the issuance and possession of commercial fishing operators' licenses.

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

Section 1. Section 109B.4, subsection 1, Code 1989, is amended to read as follows:

1. A person shall not use or operate commercial gear ~~without possessing~~ unless at least one individual at the site where the commercial gear is being operated possesses an appropriate valid commercial license, or a designated operator's license. A license is valid from the date of issue to January 10 of the succeeding calendar year ~~for which it was issued~~.

Sec. 2. Section 109B.4, subsection 2, Code 1989, is amended to read as follows:

2. ~~It is lawful for a~~ A commercial fisher ~~to~~ may designate a person as a designated operator to lift and to fish with any ~~or all~~ licensed commercial fishing gear owned by the commercial fisher. ~~The commercial fisher shall submit the names and addresses of the persons to be designated as designated operators when applying for a commercial fishing license.~~ A commercial fisher shall not have more than five designated operators. A designated operator's license shall be assigned to not more than three operators during a year and a designated operator's license shall be valid for use only by an operator who possesses the license and has signed the license. The signature of any preceding designated operator who possessed the license shall be crossed out. A designated operator shall not lift or fish any commercial fishing gear without ~~having first procured~~ possessing a designated operator's license which is signed by the operator. A designated operator's license which is not signed by the operator in possession of the license is forfeited to the state.

Sec. 3. Section 109B.11, subsection 1, Code 1989, is amended by adding the following new lettered paragraph:

NEW PARAGRAPH. d. An individual possessing a valid commercial turtle license may have the assistance of one unlicensed individual in the commercial taking of turtles.

Sec. 4. Section 109B.12, subsection 1, Code 1989, is amended by adding the following new lettered paragraph:

NEW PARAGRAPH. d. An individual possessing a valid commercial mussel license may have the assistance of one unlicensed individual in the commercial taking of mussels.

Approved May 22, 1989

CHAPTER 193

MULTIFLORA ROSE AND PURPLE LOOSESTRIFE

H.F. 669

AN ACT prohibiting the sale or distribution of purple loosestrife (lythrum salicaria) and multiflora rose (rosa multiflora), and subjecting violators to a penalty.

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

Section 1. Section 317.25, Code 1989, is amended to read as follows:

317.25 TEASEL AND PURPLE LOOSESTRIFE PROHIBITED.

~~No~~ A person shall not sell, offer for sale, or distribute teasel (Dipsacus) biennial, the multiflora rose (rosa multiflora), purple loosestrife (lythrum salicaria), or seeds ~~thereof~~ of them in any form in this state. However, the multiflora rose (rosa multiflora) may be sold, offered for sale, or distributed when used for understock for either cultivated roses or ornamental shrubs in gardens. Any person violating the provisions of this section ~~shall be~~ is subject to a fine of not exceeding one hundred dollars.

Approved May 22, 1989

CHAPTER 194

VICTIM COUNSELING

H.F. 674

AN ACT relating to victim counseling and services.

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

Section 1. Section 22.7, subsection 2, Code 1989, is amended to read as follows:

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a crime victim ~~of sexual assault or domestic violence~~ and the victim's ~~sexual assault or domestic violence~~ counselor are not subject to disclosure except as provided in section 236A.1.

Sec. 2. Section 236A.1, subsections 1, 2, and 7, Code 1989, are amended to read as follows:

1. As used in this section:

a. "Victim" means a person who consults a victim counselor for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a ~~sexual assault or domestic violence~~ violent crime committed against the person.

b. "Victim counselor" means a person who is engaged in a ~~sexual assault~~ crime victim center ~~or domestic violence center~~, is certified as a counselor by the ~~sexual assault or domestic violence~~ crime victim center, and is under the control of a direct services supervisor of a ~~sexual assault or domestic violence~~ crime victim center, whose primary purpose is the rendering of advice, counseling, and assistance to the victims of ~~sexual assault or domestic violence~~ crime. To qualify as a "victim counselor" under this section, the person must also have completed at least twenty hours of training provided by the center in which the person is engaged, by the Iowa organization of victim assistance, by the Iowa coalition against sexual abuse, or by the Iowa coalition against domestic violence, which shall include but not be limited to, the dynamics of victimization, substantive laws relating to violent crime, sexual assault, and domestic violence, crisis intervention techniques, communication skills, working with diverse populations, an overview of the state criminal justice system, information regarding pertinent hospital procedures, and information regarding state and community resources for victims of ~~sexual assault or domestic violence~~ crime.

c. "~~Sexual assault~~ Crime victim center" means any office, institution, agency, or crisis center offering assistance to victims of ~~sexual assault~~ crime and their families through crisis intervention, accompaniment during medical and legal proceedings, and follow-up counseling.

~~d. "Sexual assault" means any act of sexual abuse or other unlawful sexual conduct under chapter 709, 726 or 728.~~

~~e. "Domestic violence center" means any office, institution, shelter, host home, agency or crisis center offering assistance to victims of domestic violence through crisis intervention, referral to or provision of emergency shelter, and assistance and advocacy regarding medical and legal proceedings.~~

~~f. "Domestic violence" means any act of domestic abuse, as defined in section 236.2, subsection 1, and includes those acts commonly referred to as spouse abuse.~~

~~g~~ d. "Confidential communication" means ~~information transmitted between a victim of sexual assault or domestic violence and a victim counselor in the course of the counseling relationship and in confidence by a means which, so far as the victim is aware, does not disclose the information to a third person other than any who is present to further the interests of the victim in the consultation or to whom disclosure is reasonably necessary for the transmission of the information or for accomplishment of the purposes for which the counselor is consulted, and includes all information received and any advice, report, or working paper given or prepared by the counselor in the course of the relationship with the victim.~~ information shared between a crime victim and a victim counselor within the counseling relationship, and

includes all information received by the counselor and any advice, report, or working paper given to or prepared by the counselor in the course of the counseling relationship with the victim.

Confidential information is confidential information which, so far as the victim is aware, is not disclosed to a third party with the exception of a person present in the consultation for the purpose of furthering the interest of the victim, a person to whom disclosure is reasonably necessary for the transmission of the information, or a person with whom disclosure is necessary for accomplishment of the purpose for which the counselor is consulted by the victim.

2. A victim counselor shall not be examined or required to give evidence in any civil or criminal proceeding as to any confidential communication made by a victim to the counselor, nor shall a clerk, secretary, stenographer, or any other employee who types or otherwise prepares or manages the confidential reports or working papers of a ~~sexual assault or domestic violence~~ victim counselor be required to produce evidence of any such confidential communication, unless the victim waives this privilege in writing or disclosure of the information is compelled by a court pursuant to subsection 7. Under no circumstances shall the location of a ~~domestic violence~~ crime victim center or the identity of the victim counselor be disclosed in any civil or criminal proceeding.

7. Upon the motion of a party, accompanied by a written offer of proof, a court may compel disclosure of certain information if the court determines that all of the following conditions are met:

a. The information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act ~~of sexual assault or domestic violence~~ which is the subject of a criminal proceeding.

b. The probative value of the information outweighs the harmful effect, if any, of disclosure on the victim, the counseling relationship, and the treatment services.

c. The information cannot be obtained by reasonable means from any other source.

Approved May 22, 1989

CHAPTER 195

SPECIAL QUALITY GRAINS PROGRAM

H.F. 59

AN ACT relating to the purchase and sale of grain by providing for the offering of a special quality grains electronic bulletin board service through the department of agriculture and land stewardship and providing for an advisory committee study of grain marketing to draft proposed legislation to develop the market for special quality grains.

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

Section 1. LEGISLATIVE INTENT. It is the intent of the general assembly to develop a quality grain program under the auspices of the department of agriculture and land stewardship. Mindful of the potential impact of state laws involving grain standards and inspection on the competitiveness of Iowa grain in the world marketplace, the general assembly intends that development of the quality grain program be based on a high degree of private and government cooperation. As the leading corn and soybean state in the nation, Iowa should be a leader in the promotion and marketing of quality agricultural products. Success in this leadership role requires both government and industry to work together. A study of the options and impact of state inspection standards is needed to guide the development of the quality grain program and foster the desired cooperation between the private sector and state government.

Sec. 2. NEW SECTION. 159.24A SPECIAL QUALITY GRAINS ELECTRONIC BULLETIN BOARD.

1. The department shall establish within the international trade bureau of the marketing division a special quality grains electronic bulletin board system. The system shall be available to any and all buyers and sellers of special quality grains for the purpose of posting the availability of special quality grains, or a demand for special quality grains.

2. The department shall actively promote the use of this system by both of the following:

a. Sellers who are producers or elevators.

b. Buyers who are government buying agencies, elevators, commercial firms, or others.

3. The system shall be limited to an informational service to permit one party of a potential transaction to learn basic preliminary information needed to locate and contact a second party if there is a commonality of demand and supply. The system shall not be operated as a trading system for completion of a contract, without express legislative permission. The department or the state shall not be liable for any action in connection with facilitating the initial contact between the parties through the electronic bulletin board system. The department or the state makes no warranties with regard to the information supplied to the bulletin board or to system participants.

Sec. 3. ADVISORY COMMITTEE.

1. The secretary of agriculture shall establish an advisory committee to develop recommendations on legislation to assure that Iowa agricultural producers receive the actual market value of above standard quality grain when sold to buyers and to establish a market which encourages the development of markets for above standard quality or special quality grains. The advisory committee's charge includes, but is not limited to, the following:

a. Drafting proposed legislation that may incorporate the major terms of or accomplish the objectives of House File 59, as introduced during the 1989 session of the general assembly. The proposed legislation may also incorporate other recommended legislative changes based upon the advisory committee's work.

b. Investigating the feasibility and advisability of expanding the electronic bulletin board to include marketing and the actual performance of trades.

c. Investigating other methods to assure that Iowa producers receive the fair market value for grain that is delivered to buyers in above standard condition.

d. Studying the impact of a proposed quality grain program on Iowa's competitiveness in the national and world marketplace.

2. The advisory committee shall research the general subject of grain marketing, including federal grain inspection and grading standards, procedures, and requirements, and other relevant information. The advisory committee shall conduct six public hearings, one in each congressional district of the state, to gather public input on state quality grain initiatives.

3. The speaker of the house of representatives shall appoint two representatives, the minority leader of the house shall appoint one representative, the majority leader of the senate shall appoint two senators, and the minority leader of the senate shall appoint one senator to the advisory committee. No more than two members from each house shall be from the same political party. The legislative service bureau shall provide staff and other support for the advisory committee. The secretary of agriculture shall appoint as public members of the advisory committee, the titular head or the titular head's designee of the following organizations:

a. Iowa farm bureau federation.

b. National farmers' union.

c. National farm organization.

d. Iowa corn growers' association.

e. Iowa soybean association.

f. Iowa grain and feed association.

g. Iowa institute for cooperation.

All members, public and private, shall be voting members of the advisory committee. The advisory committee shall adopt its own rules.

The committee shall elect a chairperson from among the legislative members of the committee.

4. The advisory committee shall report its recommendations to the general assembly on or before January 15, 1990. The advisory committee may continue to offer advice and assistance during the course of development of the quality grain program, except that the advisory committee shall be dissolved May 1, 1991.

Approved May 22, 1989

CHAPTER 196

MARKETING OF IOWA PRODUCTS AND SERVICES

H.F. 272

AN ACT relating to the Iowa logo program by providing for the use of a label or trademark to identify Iowa products and services, authorizing the establishment of guidelines, and providing an effective date.

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

Section 1. Section 15.108, subsection 2, paragraph b, Code 1989, is amended to read as follows:

b. Aid in the marketing and promotion ~~and development~~ of ~~manufacturing~~ ~~in~~ Iowa products and services. The department may adopt, subject to the approval of the board, a label or trademark identifying ~~quality~~ Iowa products and services together with any other appropriate design or inscription and this label or trademark shall be registered in the office of the secretary of state.

(1) The department may register or file the label or trademark under the laws of the United States or any foreign country which permits registration, making the registration as an association or through an individual for the use and benefit of the department.

(2) The department shall establish guidelines for granting authority to use the label or trademark to persons or firms who make a satisfactory showing to the department that the ~~products meet~~ product or service meets the guidelines as ~~constituting bona fide, quality Iowa products~~ manufactured, processed, or originating in Iowa. The trademark or label use shall be registered with the department.

(3) A person shall not use the label or trademark or advertise it, or attach it on any promotional literature, manufactured article or agricultural product ~~except as provided in this lettered paragraph~~ without the approval of the department.

(4) The department may deny permission to use the label or trademark if the department believes that the planned use would adversely affect the use of the label or trademark as a marketing tool for Iowa products or its use would be inconsistent with the marketing objectives of the department. Notwithstanding chapter 17A, the Iowa administrative procedure Act, the department may suspend permission to use the label or trademark prior to an evidentiary hearing which shall be held within a reasonable period of time following the denial.

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

Approved May 22, 1989

CHAPTER 197

DRUGS, DEVICES, AND COSMETICS

H.F. 343

AN ACT relating to the labeling, advertising, adulteration, misbranding, and dispensing of drugs, devices, and cosmetics, providing penalties, and providing properly related matters.

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

Section 1. NEW SECTION. 203B.1 TITLE.

This chapter may be cited as the "Iowa Drug, Device, and Cosmetic Act".

Sec. 2. NEW SECTION. 203B.2 DEFINITIONS – APPLICABILITY.

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

1. "Advertising" means any representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of drugs, devices, or cosmetics.

2. "Board" means the board of pharmacy examiners.

3. "Contaminated with filth" means not securely protected from dust, dirt, and as far as is necessary by all reasonable means, from all foreign or injurious contaminations.

4. "Cosmetic" means any of the following, but does not include soap:

a. An article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part of a human body for cleaning, beautifying, promoting attractiveness, or altering the appearance.

b. An article intended for use as a component of an article defined in paragraph "a".

5. "Counterfeit drug" means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any such likeness, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed the drug and which falsely purports or is represented to be the product of, or to have been packed or distributed by, such other drug manufacturer, processor, packer, or distributor.

6. "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory of any of these, which is any of the following:

a. Recognized as a device in the official United States Pharmacopoeia National Formulary or any supplement to it.

b. Intended for use in the diagnosis of diseases or other conditions, or in the cure, mitigation, treatment, or prevention of diseases or other conditions in a human.

c. Intended to affect the structure or any function of the body of a human, and which does not achieve any of its principal intended purposes through chemical action within or on the body of a human and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

7. "Drug" means any of the following, but does not include a device:

a. An article recognized as a drug in the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to either document.

b. An article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in a human.

c. An article, other than food, intended to affect the structure or any function of the body of a human.

d. An article intended for use as a component of any articles specified in paragraphs "a", "b", or "c".

8. "Federal Act" means the federal Food, Drug, and Cosmetic Act, which is codified in 21 U.S.C. § 301 et seq.

9. "Immediate container" does not include a package liner.

10. "Label" means a display of written, printed, or graphic matter upon the immediate container of an article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label is not complied with unless the word, statement, or other information also appears on the outside container or wrapper of the retail package of the article, or is easily legible through the outside container or wrapper.

11. "Labeling" means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers, or accompanying an article.

12. "New drug" means either of the following:

a. Any drug, the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in its labeling, except that a drug not so recognized is not a new drug if at any time prior to the enactment of this chapter it was subject to the federal Act, and if at that time its labeling contained the same representations concerning the conditions of its use.

b. Any drug, the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under the conditions prescribed, recommended, or suggested in its labeling, has become recognized as safe and effective, but which has not, other than in such investigations, been used to a material extent or for a material time under the conditions prescribed, recommended, or suggested in its labeling.

13. "Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to either document.

14. "Person" means an individual, partnership, corporation, or association.

15. "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

16. "Safe" as used in this chapter has reference to the health of a human.

17. "Secretary" means the secretary of the United States department of health and human services.

The provisions of this chapter regarding the selling of drugs, devices, or cosmetics are applicable to the manufacture, production, processing, packaging, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such article, in the conduct of any drug, device, or cosmetic establishment.

Sec. 3. NEW SECTION. 203B.3 PROHIBITED ACTS.

The following acts and the causing of the acts within this state are unlawful:

1. The introduction or delivery for introduction into commerce of any drug, device, or cosmetic that is adulterated or misbranded.

2. The adulteration or misbranding of any drug, device, or cosmetic in commerce.

3. The receipt in commerce of a drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

4. The introduction or delivery for introduction into commerce of a drug, device, or cosmetic in violation of section 203B.12 or 203B.13.*

5. The dissemination of any false advertising.

6. The refusal to permit entry or inspection, or to permit the taking of a sample or to permit access to or copying of any record as authorized by section 203B.18; or the failure to establish or maintain any record or make any report required under section 512(j), 512(l), or 512(m) of the federal Act, or the refusal to permit access to or verification or copying of any such required record.

7. The manufacture within this state of a drug, device, or cosmetic that is adulterated or misbranded.

*Section 203B.13 not enacted

8. The giving of a guaranty or undertaking referred to in section 203B.5, subsection 2, if the guaranty or undertaking is false, except by a person who relied upon a guaranty or undertaking to the same effect, signed by, and containing the name and address of, the person residing in this state from whom the person received the drug, device, or cosmetic in good faith.

9. The removal or disposal of a detained or embargoed drug, device, or cosmetic in violation of section 203B.6, subsection 1.

10. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a drug, device, or cosmetic, if the act is done while the article is held for sale, whether or not it would be the first sale, after shipment in commerce; and if the action results in the article being adulterated or misbranded.

11. Forging, counterfeiting, simulating, or falsely representing, or without proper authority using a mark, stamp, tag, label, or other identification device authorized or required by rules or regulations adopted under this chapter or the federal Act.

12. Making, selling, disposing of, or keeping in possession, control, or custody, or concealing a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another trademark, trade name, mark, imprint, or device or a likeness of any trademark, trade name, mark, imprint, or device upon a drug or drug container or the labeling thereof so as to render the drug a counterfeit drug.

13. The doing of an act which causes a drug to be a counterfeit drug, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit drug.

14. The use by a person to the person's own advantage, or the revealing, other than to the board or to the person's authorized representative or to the courts when relevant in a judicial proceeding under this chapter, of any information acquired under authority of this chapter concerning any method or process which as a trade secret is entitled to protection.

15. The use, on the labeling of a drug or device or in advertising relating to a drug or device, of a representation or suggestion that approval of an application with respect to the drug or device is in effect under section 203B.12 or section 505, 515, or 520(g) of the federal Act, or that the drug or device complies with the provisions of any of those sections.

16. The use, in labeling, advertising, or other sales promotion of a reference to a report or analysis furnished in compliance with section 203B.18 or section 704 of the federal Act.

17. If a prescription drug is distributed or offered for sale in this state, the failure of the manufacturer, packer, or distributor of the prescription drug to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer the drug who makes written request for information as to the drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the federal Act. This subsection does not exempt any person from a labeling requirement imposed by or under this chapter.

18. a. Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trademark, trade name, or other identifying mark or imprint of another trademark, trade name, mark, or imprint or any likeness of such a trademark, trade name, mark, or imprint.

b. Selling, dispensing, disposing of; causing to be sold, dispensed, or disposed of; or concealing or keeping in possession, control, or custody, with intent to sell, dispense, or dispose of, a drug, device, or container thereof, with knowledge that the trademark, trade name, or other identifying mark or imprint of another trademark, trade name, mark, or imprint or any likeness of any trademark, trade name, mark, or imprint has been placed thereon in a manner prohibited by paragraph "a".

c. Making, selling, disposing of; causing to be made, sold, or disposed of; keeping in possession, control, or custody; or concealing with intent to defraud any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another trademark, trade name, mark, or imprint or any

likeness of any trademark, trade name, mark, or imprint upon a drug or container or labeling thereof so as to render the drug a counterfeit drug.

19. The failure to register in accordance with section 510 of the federal Act, the failure to provide any information required by section 510(j) or 510(k) of the federal Act, or the failure to provide a notice required by section 510(j)(2) of the federal Act.

20. a. The failure or refusal to:

(1) Comply with a requirement prescribed under section 518 or 520(g) of the federal Act.

(2) Furnish any notification or other material or information required by or under section 519 or 520(g) of the federal Act.

b. With respect to any device, the submission of any report required by or under this chapter that is false or misleading in any material respect.

21. The movement of a device in violation of an order under section 304(g) of the federal Act or the removal or alteration of any mark or label required by the order to identify the device as detained.

22. The failure to provide the notice required by section 412(b) or 412(c) of the federal Act, the failure to make the reports required by section 412(d)(1)(B) of the federal Act, or the failure to meet the requirements prescribed under section 412(d)(2) of the federal Act.

Sec. 4. NEW SECTION. 203B.4 INJUNCTION PROCEEDINGS.

The board may apply to the district court for, and the court has jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of section 203B.3 whether or not there exists an adequate remedy at law.

Sec. 5. NEW SECTION. 203B.5 PENALTIES AND GUARANTY.

1. A person who violates a provision of this chapter is guilty of a serious misdemeanor; but if the violation is committed after a conviction of the person under this section has become final, the person is guilty of an aggravated misdemeanor.

2. A person is not subject to the penalties of subsection 1 if the person establishes a guaranty or undertaking signed by, and containing the name and address of another person residing in this state from whom the person received the article in good faith, to the effect that the article is not adulterated or misbranded.

3. A publisher, radio-broadcast licensee, or agency or medium which disseminates false advertising, except the manufacturer, packer, distributor, or seller of the article to which false advertising relates, is not liable under this section for the dissemination of the false advertising, unless the person knew or believed that the advertising was deceptive, false, or misleading or the person has refused upon the request of the board to furnish the board the name and address, if known, of the manufacturer, packer, distributor, seller, or advertising agency which caused the person to disseminate the advertisement.

Sec. 6. NEW SECTION. 203B.6 EMBARGO.

1. If a duly authorized agent of the board finds, or has probable cause to believe, that a drug, device, or cosmetic is adulterated or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter, or is in violation of section 203B.12 or 203B.13,* the agent shall affix to the article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by an authorized agent or the court. It is unlawful for a person to remove or dispose of the detained or embargoed article by sale or otherwise without such permission.

2. When an article is adulterated or misbranded or is in violation of section 203B.12 or 203B.13 and has been detained or embargoed, a petition may be filed with the district court in whose jurisdiction the article is located, detained, or embargoed for an order for condemnation of the article. If a duly authorized agent has found that an article which is embargoed or detained is not adulterated or misbranded, the agent shall remove the tag or other marking.

*Section 203B.13 not enacted

3. If the court finds that a sampled, detained, or embargoed article is adulterated or misbranded, the article shall be destroyed at the expense of the claimant of the article, under the supervision of the agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of the article or the claimant's agent; but if the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after costs, fees, storage, and other expenses have been paid and a good and sufficient bond, conditioned that the article shall be so labeled or processed, has been executed, may by order direct that the article be delivered to the claimant for such labeling or processing under the supervision of a duly authorized agent of the board. The expense of supervision shall be paid by the claimant. The article shall be returned to the claimant and the bond shall be discharged on the representation to the court by the board that the article is no longer in violation of this chapter, and that the expenses of supervision have been paid.

Sec. 7. NEW SECTION. 203B.7 PROSECUTIONS.

The attorney general, or a county attorney, or a city attorney to whom the board reports a violation of this chapter, shall cause appropriate court proceedings to be instituted without delay and to be prosecuted in the manner required by law. Before a violation of this chapter is reported to any such attorney for the institution of a criminal proceeding, the person against whom the proceeding is contemplated shall be given appropriate notice and an opportunity to present the person's views before the board or its agent, either orally or in writing, in person or by attorney, with regard to the contemplated proceeding. However, the drug, device, or cosmetic shall be embargoed by the duly authorized agent.

Sec. 8. NEW SECTION. 203B.8 MINOR VIOLATIONS.

This chapter does not require the board to report minor violations for prosecution, or for the institution of proceedings under this chapter, if the board believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

Sec. 9. NEW SECTION. 203B.9 DRUGS AND DEVICES — ADULTERATION.

A drug or device is adulterated under any of the following circumstances:

1. a. If it consists in whole or in part of any filthy, putrid, or decomposed substance.

b. If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health.

c. If it is a drug and the methods used in, or the facilities or controls used for its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that the drug meets the requirements of this chapter as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

d. If its container is composed, in whole or part, of any poisonous or deleterious substance which may render the contents injurious to health.

2. If it purports to be or is represented as a drug, the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standards set forth in the official compendium. A determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in the official compendium, or in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the federal Act. A drug defined in an official compendium is not adulterated under this subsection because it differs from the standard of strength, quality, or purity set forth in the official compendium, if its difference in strength, quality, or purity from such standards is plainly stated on its label. If a drug is recognized in both the United States Pharmacopoeia National Formulary and the Homeopathic Pharmacopoeia of the United States it is subject to the United States Pharmacopoeia National Formulary unless it is labeled and offered for sale as a homeopathic drug, in which case it is subject to the Homeopathic Pharmacopoeia of the United States and not to the United States Pharmacopoeia National Formulary.

3. If it is not subject to subsection 2 and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

4. If it is a drug and any substance has been mixed or packed with it so as to reduce its quality or strength, or any substance has been substituted for it wholly or in part.

5. If it is, or purports to be or is represented as, a device which is subject to a performance standard established under section 514 of the federal Act, unless the device is in all respects in conformity with such standard.

6. If it is a device banned by the board or by the United States food and drug administration.

7. If it is a device and the methods used in, or the facilities or controls used for its manufacture, packing, storage, or installation are not in conformity with applicable requirements under section 520(f)(1) of the federal Act or an applicable condition as prescribed by an order under section 520(f)(2) of the federal Act.

8. If it is a device for which an exemption has been granted under section 520(g) of the federal Act for investigational use and the person who was granted the exemption or any investigator who uses the device under the exemption fails to comply with a requirement prescribed by or under that section.

Sec. 10. NEW SECTION. 203B.10 DRUGS AND DEVICES — MISBRANDING — LABELING.

A drug or device is misbranded under any of the following circumstances:

1. If its labeling is false or misleading in any particular.

2. If in a package form unless it bears a label containing both of the following:

a. The name and place of business of the manufacturer, packer, or distributor.

b. An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

However, under paragraph "a" reasonable variations shall be permitted, and exemptions as to small packages shall be allowed, in accordance with rules adopted by the board.

3. If any word, statement, or other information required by or under the authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

4. If it is for use by humans and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such a substance, which derivative, after investigation, has been designated as habit forming, by rules adopted by the board under this chapter or by regulations adopted by the secretary pursuant to section 502(d) of the federal Act; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning — May Be Habit Forming."

5. a. If it is a drug, unless both of the following apply:

(1) Its label bears, to the exclusion of any other nonproprietary name except the applicable systematic chemical name or the chemical formula:

(a) The established name of the drug, as specified in paragraph "c", if such exists; and

(b) If the drug is fabricated from two or more ingredients, the established name and quantity of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. However, the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this subparagraph subdivision, applies only to prescription drugs.

(2) For a prescription drug, the established name of the prescription drug or of an ingredient is printed, on the label and on any labeling on which a name for the prescription drug or an ingredient is used, prominently and in type at least half as large as that used thereon for any proprietary name or designation for the prescription drug or ingredient. However, to the extent that compliance with subparagraph (1), subparagraph subdivision (b) or this subparagraph is impracticable, exemptions shall be allowed under rules or regulations adopted by the board or the secretary under the federal Act.

b. If it is a device and it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name, as defined in paragraph "d", prominently printed in type at least half as large as that used thereon for any proprietary name or designation for the device, except that to the extent compliance with this paragraph is impracticable, exemptions shall be allowed under rules or regulations adopted by the board or the secretary under the federal Act.

c. As used in paragraph "a", the term "established name", with respect to a drug or ingredient thereof, means one of the following:

(1) The applicable official name designated pursuant to section 508 of the federal Act.

(2) If no such official name exists and the drug or ingredient is an article recognized in an official compendium, then its official title in the compendium.

(3) If neither subparagraph (1) nor (2) applies, then the common or usual name, if any, of the drug or ingredient. However, if subparagraph (2) applies to an article recognized in the United States Pharmacopoeia National Formulary and in the Homeopathic Pharmacopoeia of the United States under different official titles, the official title used in the United States Pharmacopoeia National Formulary applies unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the Homeopathic Pharmacopoeia of the United States applies.

d. As used in paragraph "b", the term "established name" with respect to a device means one of the following:

(1) The applicable official name of the device pursuant to section 508 of the federal Act.

(2) If no such official name exists and the device is an article recognized in an official compendium, then its official title in the compendium.

(3) If neither subparagraph (1) nor (2) applies, then any common or usual name of the device.

6. Unless its labeling bears both of the following:

a. Adequate directions for use.

b. Adequate warnings against use in those pathological conditions, or by children, where its use may be dangerous to health, or against unsafe dosage or methods or durations of administration or application, in the manner and form necessary for the protection of users.

However, if a requirement of paragraph "a", as applied to a drug or device, is not necessary for the protection of the public health, the board or the secretary shall adopt rules or regulations exempting the drug or device from that requirement.

7. If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed in the official compendium. However, the method of packing may be modified with the consent of the board or the secretary. If a drug is recognized in both the United States Pharmacopoeia National Formulary and the Homeopathic Pharmacopoeia of the United States, it is subject to the requirements of the United States Pharmacopoeia National Formulary with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it is subject to the Homeopathic Pharmacopoeia of the United States, and not to the United States Pharmacopoeia National Formulary. However, if an inconsistency exists between this subsection and subsection 5 as to the name by which the drug or its ingredients shall be designated, subsection 5 prevails.

8. If it has been found by the board or the secretary to be a drug liable to deterioration, unless it is packaged in the form and manner, and its label bears a statement of the precautions that the board or the secretary by rule or regulation requires as necessary for the

protection of public health. Such a rule or regulation shall not be established for a drug recognized in an official compendium until the board or the secretary has informed the appropriate body charged with the revision of the official compendium of the need for such packaging or labeling requirements and that body has failed within a reasonable time to prescribe such requirements.

9. a. If it is a drug and its container is so made, formed, or filled as to be misleading.

b. If it is an imitation of another drug.

c. If it is offered for sale under the name of another drug.

10. If it is dangerous to health when used in the dosage or manner, or with the frequency or duration prescribed, recommended, or suggested in its labeling.

11. If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless both of the following apply:

a. It is from a batch with respect to which a certificate or release has been issued pursuant to section 506 of the federal Act.

b. The certificate or release is in effect with respect to the drug.

12. If it is, or purports to be, or is represented as a drug, composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless both of the following apply:

a. It is from a batch with respect to which a certificate or release has been issued pursuant to section 507 of the federal Act.

b. The certificate or release is in effect with respect to the drug.

However, this subsection does not apply to any drug or class of drugs exempted by regulations adopted under section 507(c) or 507(d) of the federal Act.

13. If it is a color additive, the intended use of which is for the purpose of coloring only, unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to that color additive, as contained in regulations adopted under section 706 of the federal Act.

14. If it is a prescription drug distributed or offered for sale in this state, unless the manufacturer, packer, or distributor includes in all advertising and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to the prescription drug a true statement of all of the following:

a. The established name as defined in subsection 5, printed prominently and in type at least half as large as that used for any trade or brand name thereof.

b. The formula showing quantitatively each ingredient of the prescription drug to the extent required for labels under subsection 5.

c. Other information in brief summary relating to side effects, contraindications, and effectiveness as required in regulations adopted pursuant to section 701(e) of the federal Act.

15. If it was manufactured, prepared, propagated, compounded, or processed in an establishment in this state not duly registered under section 510 of the federal Act, if it was not included on a list required by section 510(j) of the federal Act, if a notice or other information respecting it was not provided as required by that section or section 510(k) of the federal Act, or if it does not bear the symbols from the uniform system for identification of devices prescribed under section 510(e) of the federal Act that are required by regulation.

16. If it is a drug and its packaging or labeling is in violation of an applicable regulation adopted pursuant to section 3 or 4 of the federal Poison Prevention Packaging Act of 1970, 15 U.S.C. § 1471 et seq.

17. If a trademark, trade name, or other identifying mark, imprint, or device of another trademark, trade name, mark, or imprint or any likeness of the foregoing has been placed thereon or upon its container with intent to defraud.

18. In the case of a restricted device distributed or offered for sale in this state, if either of the following applies:

a. Its advertising is false or misleading in any particular.

b. It is sold, distributed, or used in violation of regulations adopted pursuant to section 520(e) of the federal Act.

19. In the case of a restricted device distributed or offered for sale in this state, unless the manufacturer, packer, or distributor includes in all advertising and other descriptive printed matter issued by the manufacturer, packer, or distributor with respect to the device both of the following:

a. A true statement of the device's established name as defined in subsection 5, printed prominently and in type at least half as large as that used for any trade or brand name thereof.

b. A brief statement of the intended uses of the device and relevant warnings, precautions, side effects, and contraindications; and in the case of a specific device made subject to regulations adopted pursuant to the federal Act, a full description of the components of the device or the formula showing quantitatively each ingredient of the device to the extent required in regulations under the federal Act.

20. If it is a device subject to a performance standard established under section 514 of the federal Act, unless it bears labeling as prescribed in that performance standard.

21. If it is a device and there was a failure or refusal to comply with any requirement prescribed under section 518 of the federal Act respecting the device, or to furnish material required by or under section 519 of the federal Act respecting the device.

If an article is alleged to be misbranded because the labeling or advertising is misleading, then in determining whether the labeling or advertising is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling or advertising fails to reveal facts material in the light of such representations, or material with respect to consequences which may result from the use of the article to which the labeling or advertising relates, under the conditions of use prescribed in the labeling or advertising or under customary or usual conditions of use.

The representation of a drug, in its labeling, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

Sec. 11. NEW SECTION. 203B.11 EXEMPTIONS IN CASES OF DRUGS AND DEVICES — DISPENSING BY PRESCRIPTION ONLY.

1. The board shall adopt rules exempting from any labeling or packaging requirement of this chapter drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packaged, on condition that such drugs and devices are not adulterated or misbranded upon removal from the processing, labeling, or repacking establishment.

2. Drug and device labeling or packaging exemptions adopted pursuant to the federal Act shall apply to drugs and devices in this state except insofar as modified or rejected by rules adopted by the board.

3. a. This lettered paragraph applies to a drug intended for use by humans which is any of the following:

(1) Is a habit-forming drug to which section 203B.10, subsection 4 applies.

(2) Because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer the drug.

(3) Is limited by an approved application under section 505 of the federal Act to use under the professional supervision of a practitioner licensed by law to administer the drug.

Such a drug shall be dispensed only upon a written prescription of a practitioner licensed by law to administer the drug, or upon an oral prescription of such a practitioner which is reduced promptly to writing and filed by the pharmacist, or by refilling any such written or oral prescription if the refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The

act of dispensing a drug contrary to this paragraph while the drug is held for sale results in the drug being misbranded.

b. A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer the drug is exempt from section 203B.10, except subsection 1, subsection 9, paragraphs "b" and "c", and subsections 11 and 12, and the packaging requirements of subsections 7, 8, and 16, if the drug bears a label containing the name and address of the dispenser, the date of the prescription or of its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in the prescription. This exemption does not apply to a drug dispensed in the course of the conduct of the business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph "a" of this subsection.

c. The board may, by rule, remove a drug subject to section 203B.10, subsection 4, and section 505 of the federal Act from the requirements of paragraph "a" of this subsection when such requirements are not necessary for the protection of the public health.

d. A drug which is subject to paragraph "a" of this subsection is misbranded if, at any time prior to dispensing, its label fails to bear the statement: "Caution: Federal Law Prohibits Dispensing Without Prescription", or "Caution: State Law Prohibits Dispensing Without Prescription". A drug to which paragraph "a" of this subsection does not apply is misbranded if, at any time prior to dispensing, its label bears the caution statement quoted in the preceding sentence.

e. Prescription drug samples dispensed by a practitioner licensed by law to administer such drugs are exempt from section 203B.10.

Sec. 12. NEW SECTION. 203B.12 NEW DRUGS.

1. A person shall not sell, deliver, offer for sale, hold for sale, or give away a new drug unless both of the following apply:

a. An application with respect to the new drug has been approved and the approval has not been withdrawn under section 505 of the federal Act.

b. A copy of the letter of approval or approvability issued by the United States food and drug administration is on file with the secretary of the board, if the product is manufactured in this state.

2. A person shall not use in humans a new drug limited to investigational use unless the person has filed with the United States food and drug administration a completed and signed "Notice of Claimed Investigational Exemption for a New Drug" form in accordance with 21 C.F.R. § 312.1 and the exemption has not been terminated. The drug shall be plainly labeled in compliance with section 505(i) or 507(d) of the federal Act.

3. This section does not apply to either of the following:

a. A drug which is not a new drug as defined in the federal Act.

b. A drug which is licensed under the federal Public Health Service Act of July 1, 1944, 42 U.S.C. § 201 et seq. or under the Animal Virus, Serum, Toxin, Antitoxin Act of March 4, 1913, 21 U.S.C. § 151 et seq.

Sec. 13. NEW SECTION. 203B.14 COSMETICS — ADULTERATION.

A cosmetic is adulterated if any of the following apply:

1. It bears or contains a poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in its labeling or under customary or usual conditions of use. However, this does not apply to coal-tar hair dye if the label of the dye bears the following legend conspicuously displayed: "Caution — This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness"; and the label bears adequate directions for the preliminary testing. For the purposes of this subsection and subsection 5, "hair dye" does not include eyelash dyes or eyebrow dyes.

2. It consists in whole or in part of any filthy, putrid, or decomposed substance.

3. It has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

4. Its container is composed, in whole or in part, of a poisonous or deleterious substance which may render the contents injurious to health.

5. It is not a hair dye and it is, or it bears or contains a color additive which is, unsafe within the meaning of section 706(a) of the federal Act.

Sec. 14. NEW SECTION. 203B.15 COSMETICS — MISBRANDING.

A cosmetic is misbranded if any of the following apply:

1. Its labeling is false or misleading in any particular.

2. If in package form unless it bears a label containing both of the following:

a. The name and place of business of the manufacturer, packer, or distributor.

b. An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label.

3. A word, statement, or other information required by or under the authority of this chapter to appear on the label or labeling is not prominently placed there with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

4. Its container is so made, formed, or filled as to be misleading.

5. It is a color additive, unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to that color additive prescribed under section 706 of the federal Act. This subsection does not apply to packages of color additives which, with respect to their use of cosmetics, are marketed and intended for use only in or on hair dyes, as specified in section 203B.14, subsection 1.

6. Its packaging or labeling is in violation of an applicable regulation adopted pursuant to section 3 or 4 of the federal Poison Prevention Packaging Act of 1970, 15 U.S.C. § 1471 et seq.

The board shall adopt rules exempting from any labeling requirement of this chapter, cosmetics which are in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where they are originally processed or packed, on condition that such cosmetics are not adulterated or misbranded upon removal from the processing, labeling, or repacking establishment. Cosmetic labeling exemptions adopted under the federal Act apply to cosmetics in this state except as modified or rejected by rules adopted by the board.

Sec. 15. NEW SECTION. 203B.16 FALSE ADVERTISING.

1. The advertising of a drug, device, or cosmetic is false if it is false or misleading in any particular.

2. For the purpose of this chapter, advertising is false if it represents a drug, device, or cosmetic to have any effect in the diagnosis, prevention, or treatment of arthritis, blood disorders, bone or joint diseases, kidney diseases or disorders, cancer, diabetes, gall bladder disease or disorders, heart and vascular disease, high blood pressure, diseases or disorders of the ear, mental disease or mental retardation, degenerative neurological diseases, paralysis, prostate gland disorders, conditions of the scalp affecting hair loss, baldness, endocrine disorders, sexual impotence, tumors, venereal diseases, varicose ulcers, breast enlargement, purifying blood, metabolic disorders, immune system disorders or conditions affecting the immune system, extension of life expectancy, stress and tension, brain stimulation or performance, the body's natural defense mechanisms, blood flow, and depression. However, advertising not in violation of subsection 1 is not false under this subsection if it is disseminated only to members of the medical, dental, or veterinary professions, 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. However, if the board determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named in this subsection, the board shall by rule authorize the advertising of drugs having curative or therapeutic effect for such disease, subject to the conditions and restrictions the board deems necessary in the interests of the public health. However, this subsection does not indicate that self-medication for diseases other than those named in this subsection is safe and efficacious.

Sec. 16. NEW SECTION. 203B.17 RULES – HEARINGS.

1. The board may adopt rules pursuant to chapter 17A for the efficient enforcement of this chapter. The board may make the rules adopted under this chapter conform, insofar as practicable, with those regulations adopted pursuant to the federal Act.

2. Hearings authorized or required by this chapter shall be conducted by the board or by an officer, agent, or employee designated by the board.

Sec. 17. NEW SECTION. 203B.18 INSPECTIONS.

1. a. For purposes of enforcement of this chapter, the board or any of its authorized agents, upon presenting appropriate credentials to the owner, operator, or agent in charge, may do both of the following:

(1) Enter at reasonable times any factory, warehouse, or other establishment in which drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into commerce or after such introduction; or enter a vehicle being used to transport or hold drugs, devices, or cosmetics in commerce.

(2) Inspect at reasonable times and within reasonable limits and in a reasonable manner such a factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein, and obtain samples necessary to the enforcement of this chapter. In the case of a factory, warehouse, establishment, or consulting laboratory in which prescription drugs are manufactured, processed, packed, or held, the inspection shall extend to all things therein, including records, files, papers, processes, controls, and facilities, bearing on whether prescription drugs or restricted devices which are adulterated or misbranded or which may not be manufactured, introduced into commerce, or sold or offered for sale by reason of any provision of this chapter, have been or are being manufactured, processed, packed, transported, or held in violation of or bearing on a violation of this chapter. An inspection authorized for prescription drugs by the preceding sentence shall not extend to financial data, sales data other than shipment data, pricing data, personnel data other than data as to qualifications of technical and professional personnel performing functions subject to this chapter, and research data other than data relating to new drugs, and antibiotic drugs, and devices, and subject to reporting and inspection under regulations lawfully issued pursuant to section 505(i) or 505(j), or section 507(d) or 507(g), section 519, or section 520(g) of the federal Act, and data, relating to other drugs, or devices which in the case of a new drug would be subject to reporting or inspection under lawful regulations issued pursuant to section 505(j) of the federal Act. The inspection shall be commenced and completed with reasonable promptness.

b. Paragraph "a" does not apply to any of the following:

(1) Pharmacies which maintain establishments in conformance with laws of this state regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs, or devices, upon prescription of practitioners licensed to administer the drugs or devices to patients under the care of the practitioners in the course of their professional practice, and which do not, either through a subsidiary or otherwise, manufacture, prepare, propagate, compound, or process drugs or devices for sale other than in the regular course of their business of dispensing or selling drugs or devices at retail.

(2) Practitioners licensed by law to prescribe or administer drugs or prescribe or use devices, and who manufacture, prepare, propagate, compound, or process drugs, or manufacture or process devices solely for use in the course of their professional practice.

(3) Persons who manufacture, prepare, propagate, compound, or process drugs, or manufacture or process devices solely for use in research, teaching, or chemical analysis and not for sale.

(4) Duly employed sales representatives of pharmaceutical companies acting in the normal and customary performance of their duties.

(5) Other classes of persons the board exempts from the application of this section by rule upon a finding that inspection as applied to such classes of persons in accordance with this section is not necessary for the protection of the public health.

2. Upon completion of an inspection of a factory, warehouse, consulting laboratory, or other establishment and prior to leaving the premises, the authorized agent making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by the authorized agent which, in the judgment of the authorized agent, indicate that any drug, device, or cosmetic in the establishment meets either of the following:

a. Consists in whole or in part of a filthy, putrid, or decomposed substance.

b. Has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

A copy of the report shall be sent promptly to the board.

3. If the authorized agent making an inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the authorized agent shall give to the owner, operator, or agent in charge a receipt describing the sample obtained.

4. A person required under this chapter or section 519 or 520(g) of the federal Act to maintain records and a person who is in charge or custody of such records shall, upon request of an authorized agent designated by the board, permit the authorized agent at all reasonable times to have access and to copy and verify such records.

5. For the purposes of enforcing this chapter, carriers engaged in commerce, and persons receiving drugs, devices, or cosmetics in commerce or holding such articles so received, shall, upon the request of a duly authorized agent of the board, permit the agent, at reasonable times, to have access to and to copy all records showing the movement in commerce of a drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof. It is unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when the request is accompanied by a statement in writing specifying the nature or kind of drug, device, or cosmetic to which the request relates.

6. Evidence obtained under this section or evidence which is directly or indirectly derived from such evidence obtained under this section, shall not be used in a criminal prosecution of the person from whom the evidence was obtained; and carriers are not subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of drugs, devices, or cosmetics in the usual course of business as carriers.

Sec. 18. NEW SECTION. 203B.19 PUBLICITY.

1. The board may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter, including the nature of the charges and their disposition.

2. The board may also cause to be disseminated information regarding drugs, devices, or cosmetics, in situations involving, in the opinion of the board, imminent danger to health, or gross deception of the consumer. This section does not prohibit the board from collecting, reporting, and illustrating the results of investigations by the board.

Sec. 19. NEW SECTION. 203B.20 CHAPTER NOT APPLICABLE TO COMMERCIAL FEED.

This chapter does not apply to the Iowa Commercial Feed Law of 1974 under chapter 198 or to administrative rules adopted pursuant to chapter 198.

Sec. 20. NEW SECTION. 203B.21 CHAPTER NOT APPLICABLE TO ANIMAL DRUGS.
This chapter does not apply to drugs intended for use for animals and not for humans.

Sec. 21. Section 125.2, subsection 3, Code 1989, is amended to read as follows:
3. "Chemical substance" means alcohol, wine, spirits, and beer as defined in chapter 123 and drugs as defined in section ~~203A.2~~ 203B.2, subsection ~~3~~ 7, which when used improperly could result in chemical dependency.

Sec. 22. Section 147.99, Code 1989, is amended to read as follows:
147.99 DUTIES OF SECRETARY.
The secretary of the board of pharmacy examiners shall, upon the direction of ~~said examiners~~ the board, make inspections of alleged violations of the provisions of this title relative to the practice of pharmacy and of chapters ~~203~~ 203B, 204, and 205. ~~Said~~ The secretary shall be allowed necessary traveling and hotel expenses in making such inspections.

Sec. 23. Section 155A.12, subsection 9, Code 1989, is amended to read as follows:
9. Been convicted of an offense or subjected to a penalty or fine for violation of chapter 147, ~~203, 203A~~ 203B, 204, or the Federal Food, Drug and Cosmetic Act. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of this section.

Sec. 24. Section 159.6, subsection 8, Code 1989, is amended to read as follows:
8. Regulation and inspection of foods, drugs, and other articles, Title X, but chapters ~~203~~ 203B, 204 and 205 of ~~said~~ that title shall be enforced as ~~therein~~ provided in those chapters.

Sec. 25. Section 189.2, subsection 1, Code 1989, is amended to read as follows:
1. Execute and enforce this title, except chapters ~~203, 203A~~ 203B, 204, 204A and 205.

Sec. 26. Section 203A.21, subsection 3, Code 1989, is amended to read as follows:
3. The board may seek relief pursuant to section ~~203A.4~~ 203B.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.

Sec. 27. Section 205.11, Code 1989, is amended to read as follows:
205.11 ENFORCEMENT.
The provisions of this chapter and chapters ~~203~~ 203B and 204 shall be administered and enforced by the board of pharmacy examiners. In discharging any duty or exercising any power under ~~said~~ those chapters, the board of pharmacy examiners shall be governed by all the provisions of chapter 189, which govern the department of agriculture and land stewardship when discharging a similar duty or exercising a similar power with reference to any of the articles dealt with in this title, to the extent that chapter 189 is not inconsistent with this chapter and chapters 203B and 204.

Sec. 28. Section 205.12, Code 1989, is amended to read as follows:
205.12 CHEMICAL ANALYSIS OF DRUGS.
Any chemical analysis deemed necessary by the board of pharmacy examiners in the enforcement of this chapter and chapters ~~203~~ 203B and 204 shall be made by the department of agriculture and land stewardship when requested by ~~said~~ the board of pharmacy examiners.

Sec. 29. Section 205.13, Code 1989, is amended to read as follows:
205.13 APPLICABILITY OF OTHER STATUTES.
Insofar as applicable the provisions of chapter 189, shall apply to the articles dealt with in this chapter and chapters ~~203~~ 203B and 204. The powers vested in the department of agriculture and land stewardship by ~~said~~ chapter 189 shall be deemed for the purpose of this chapter and chapters ~~203~~ 203B and 204 to be vested in the board of pharmacy examiners.

Sec. 30. Section 331.756, subsection 40, Code 1989, is amended to read as follows:

40. Prosecute violations of the Iowa drug, device, and cosmetic Act as requested by the board of pharmacy examiners as provided in section ~~203A.7~~ 203B.7.

Sec. 31. REPEALS.

1. Chapter 203, Code 1989, is repealed.
2. Sections 203A.1 through 203A.20, Code 1989, are repealed.

Sec. 32. CODE EDITOR TRANSFER. The Code editor shall transfer section 203A.21, Code 1989, to the new chapter 203B created by this Act.

Approved May 22, 1989

CHAPTER 198

CORN PROMOTION BOARD

H.F. 734

AN ACT relating to the powers and duties of the Iowa corn promotion board.

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

Section 1. Section 185C.1, subsection 2, Code 1989, is amended to read as follows:

2. "Promotional order" means an order administered pursuant to this chapter which establishes a program for the promotion, research, and market development of corn and provides for ~~an~~ a state assessment to finance the program.

Sec. 2. Section 185C.1, subsection 10, Code 1989, is amended to read as follows:

10. "Assessment" means ~~an excise tax on each bushel of corn marketed in this state as provided in this chapter~~ a state or federal assessment.

Sec. 3. Section 185C.1, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 13. "State assessment" means a state excise tax on each bushel of corn marketed in this state which is imposed for purposes related to market development.

NEW SUBSECTION. 14. "Federal assessment" means a federal excise tax or other charge which is imposed for purposes related to market development.

Sec. 4. Section 185C.7, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the board is reconstituted pursuant to section 185C.8, the terms of the directors shall be controlled by this section. However, the initial terms of the reconstituted board shall be staggered. To the extent practicable, one-third of the elected directors shall serve an initial term of one year, one-third of the elected directors shall serve an initial term of two years, and one-third of the elected directors shall serve an initial term of three years. The terms shall be determined by board members drawing lots. The board elected under this paragraph shall not contain two directors from the same district serving the same term.

Sec. 5. Section 185C.8, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Following recommencement of the promotional order, or termination of the promotional order's suspension as provided in section 185C.24, the secretary shall order the reconstitution of the board. An election of directors shall be held within thirty days from the date of the order. The secretary shall call for, provide for notice of, conduct, and certify the results of the election in a manner consistent with section 185C.5

through 185C.7. Directors shall serve terms as provided in section 185C.7. Rules or procedures adopted by the board and in effect at the date of suspension shall continue in effect upon reconstitution of the board. The Iowa corn growers association may nominate two resident producers as candidates for each director position. Additional candidates may be nominated by a written petition of at least twenty-five producers.

Sec. 6. Section 185C.13, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. To the extent provided by federal law, be responsible for collection of receipts from the federal assessment, and for expenditure of proceeds from the federal assessment.

Sec. 7. Section 185C.15, Code 1989, is amended to read as follows:

185C.15 TERM OF PROMOTIONAL ORDER.

A promotional order shall be effective for four years from its effective date. Upon the date that order is due to expire the order shall automatically be extended for an additional four years from the date that the order or last extension would otherwise expire, except as provided in section 185C.24.

Sec. 8. Section 185C.16, Code 1989, is amended to read as follows:

185C.16 NOTICE OF REFERENDUM.

Notice of a referendum election to initiate or ~~extend~~ terminate a promotional order shall be given by publication in a newspaper of general circulation in this state at least ten days prior to the date of the referendum and in any other reasonable manner as may be determined by the secretary for the initial referendum and by the board for extension of the promotional order.

Sec. 9. Section 185C.21, Code 1989, is amended to read as follows:

185C.21 STATE ASSESSMENT.

1. The board shall set the state assessment rate. ~~Assessments~~ State assessments collected pursuant to the promotional order shall be paid into the corn promotion fund established in section 185C.26. ~~An~~ Except as provided in subsection 2, a state assessment shall not exceed one-quarter of one cent per bushel upon corn marketed in this state. The rate of the state assessment shall be determined by the board but shall not be changed, once established, during a marketing year. However, a board which has been reconstituted pursuant to section 185C.8, may change the rate of the state assessment in the marketing year in which the board is reconstituted.

2. Upon request of the board, the secretary shall call a special referendum for producers to vote on whether to authorize an increase in the state assessment above one-quarter of one cent per bushel, notwithstanding subsection 1. The special referendum shall be conducted as provided in this chapter for referendum elections. However, the special referendum shall not affect the existence or length of the promotional order in effect. If a majority of the producers voting in the special referendum approve the increase, the board, at the end of the marketing year, may increase the assessment to the amount approved in the special referendum. However a state assessment shall not exceed one-half of one cent per bushel of corn marketed in this state.

Sec. 10. Section 185C.22, Code 1989, is amended to read as follows:

185C.22 STATE ASSESSMENT ON PURCHASE INVOICE.

After a promotional order has been issued, the first purchaser at the time of payment for corn shall show the total amount of state assessment deducted from the sale on the purchase invoice.

Sec. 11. Section 185C.23, Code 1989, is amended to read as follows:

185C.23 DEDUCTION OF STATE ASSESSMENT.

The state assessment shall be deducted from the purchase price of corn at the time of sale, and forwarded to the board by the first purchaser in the manner and at intervals determined by the board.

Sec. 12. Section 185C.24, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

185C.24 CANCELLATION AND SUSPENSION.

1. The board shall be suspended and board operations and terms of members shall cease upon either of the following events:

a. The state assessment is terminated pursuant to section 185C.25.

b. The state assessment is suspended pursuant to section 185C.25A.

2. However, notwithstanding subsection 1, the board shall continue to operate until proceeds remaining in the corn promotion fund are disbursed. Disbursement shall be made as provided for payment of moneys under section 185C.26.

3. The secretary shall order that the board be reconstituted upon either of the following events:

a. Recommencement of the promotional order, pursuant to section 185C.25.

b. Termination of the promotional orders' suspension, pursuant to section 185C.25A.

4. Until the board is reconstituted under section 185C.8, the secretary has the powers to perform the duties of the board as provided in this chapter, including the collection of the state assessment at the rate in effect on the date when collection of the state assessment was terminated pursuant to section 185C.25. However, the secretary shall not expend funds from state assessment.

Sec. 13. Section 185C.25, Code 1989, is amended to read as follows:

185C.25 ~~ASSESSMENT NULLIFIED~~ EFFECTIVE PERIOD OF PROMOTIONAL ORDER.

1. ~~An~~ A state assessment adopted upon the initiation of a promotional order shall be ~~of~~ collected during the effective period of the order, and shall have no ~~force or~~ effect upon termination of the promotional order. ~~At least sixty days but not more than one hundred eighty days prior to the termination date of a promotional order, the secretary shall cause notice to be published in accordance with section 185C.16, and a referendum on the question of whether a promotional order shall be extended for an additional four-year period shall be conducted. If the secretary finds that a majority of the total number of producers voting favor the promotional order, then the order shall continue to be in effect for an additional four-year period. If a referendum should fail, another referendum shall not be held within one hundred eighty days.~~ Upon adoption or extension of the promotional order, the order shall be effective for the period described in section 185C.15 unless the order is terminated as provided in this section or suspended as provided in section 185C.25A.

2. The secretary shall call a referendum to terminate the promotional order if all the following conditions are met:

a. The secretary receives a petition signed by at least five percent of the state's producers reported in the most recent United States census of agriculture.

b. The petition is signed by at least five percent of the state's producers residing in each of five districts according to the most recent United States census of agriculture.

c. The secretary receives the petition not less than one hundred fifty days from the date that the order is due to expire, but receives the petition not more than two hundred forty days before the date that the order is due to expire.

3. The secretary shall conduct the election as provided for a referendum under this chapter, including sections 185C.16 through 185C.20. If upon counting and tabulating the ballots, the secretary determines that a majority of voting producers favor termination of the state assessment, the secretary, in cooperation with the board, shall terminate the state assessment in an orderly manner as soon as practicable.

4. If the assessment is terminated, another referendum shall not be held for at least one hundred eighty days from the date that the assessment is terminated. A succeeding referendum to restore the assessment shall be called by the secretary upon petition of at least five hundred producers requesting a referendum. The petitioners shall guarantee the costs of the succeeding referendum. The secretary shall conduct the election as provided for a referendum under this chapter not later than one hundred fifty days after the secretary receives the

petition. If a referendum held pursuant to this subsection is approved by producers, the promotional order shall commence no later than two hundred ten days following the date that the petition is received by the secretary.

Sec. 14. NEW SECTION. 185C.25A COLLECTION OF FEDERAL ASSESSMENT.

Prior to the collection of the federal assessment, the board may approve the continued collection of the state assessment during the collection of the federal assessment. If the collection of the state assessment would be in addition to, and not an offset against, the collection of the federal assessment, the board shall suspend the collection of the state assessment. On the date of the termination or suspension of the federal assessment, the promotional order shall recommence and the suspension of the state assessment shall terminate.

Sec. 15. Section 185C.26, Code 1989, is amended to read as follows:

185C.26 DEPOSIT OF FUNDS.

~~Assessments~~ State assessments collected by the board from a sale of corn shall be deposited in the office of the treasurer of state together with any gifts, or any federal or state grant as may be received by the board, and placed in a special fund to be known as the corn promotion fund. Moneys collected shall be subject to audit by the auditor of state. From moneys collected, the board shall first pay all the direct and indirect costs incurred by the secretary and the costs of referendums, elections, and other expenses incurred in the administration of this chapter, and thereafter moneys may be expended for the purpose of market development. The fund shall be subject at all times to warrants by the director of revenue and finance, drawn upon the written requisition of the chairperson of the board and attested to by the secretary of the board.

Sec. 16. Section 185C.27, Code 1989, is amended to read as follows:

185C.27 REFUND OF ASSESSMENT.

A producer who has sold corn and had ~~an~~ a state assessment deducted from the sale price ~~may~~, by application in writing to the board, may secure a refund in the amount deducted. The refund shall be payable only when the application shall have been made to the board within sixty days after the deduction. Application forms shall be given by the board to each first purchaser when requested and the first purchaser shall make the applications available to any producer. Each application for refund by a producer shall have attached ~~thereto~~ to the application proof of the assessment deducted. The proof of assessment may be in the form of a duplicate or certified copy of the purchase invoice by the first purchaser. The board shall have thirty days from the date the application for refund is received to remit the refund to the producer. The board may provide for refunds of a federal assessment as provided by federal law. Unless inconsistent with federal law, refunds shall be made under section 185C.26.

Sec. 17. Section 185C.28, Code 1989, is amended to read as follows:

185C.28 APPROPRIATION.

~~All moneys~~ Moneys deposited in the corn promotion fund, including federal moneys to the extent permitted by federal law, are appropriated for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions set forth in this chapter.

Sec. 18. Section 185C.29, Code 1989, is amended to read as follows:

185C.29 REMISSION OF EXCESS FUNDS.

After the costs of elections, referendum, necessary board expenses, and administrative costs have been paid, at least seventy-five percent of the remaining funds from state assessments in the corn promotion fund shall be allocated to organizations selected by the corn promotion board on the basis of their ability to carry out the purposes of this chapter. The funds can only be used for research, promotion, and education in co-operation with agencies ~~who are~~ equipped to ~~do this kind of work~~ perform these activities.

The Iowa corn promotion board shall not ~~engage in~~ expend any funds on political activity, and it shall be a condition of any allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

Sec. 19. Section 185C.32, Code 1989, is amended to read as follows:

185C.32 FIRST PURCHASER INFORMATION.

Every first purchaser shall upon request furnish the secretary with such information as is necessary to enable the secretary and the board to carry out the provisions of this chapter. Such information shall be provided as prescribed by the secretary. The secretary may examine any records relating to the purchase or the state assessment of corn by any first purchaser. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas as may be necessary for the proper administration of this chapter. When requested by the board, the secretary shall employ these powers in the manner requested.

Sec. 20. Section 185C.33, Code 1989, is amended to read as follows:

185C.33 ANNUAL REPORT.

The board shall make an annual report, containing a financial statement, to the secretary and the chairpersons of the committees on agriculture of the senate and house of representatives, on or before December 1 of each year, showing all income and expenses, including board expenses, and other relevant information concerning assessments collected and expended under ~~the provisions of~~ this chapter.

Approved May 22, 1989

CHAPTER 199

NEW INFRASTRUCTURE LOAN PROJECTS

S.F. 466

AN ACT allowing a speculative industrial building built by a local community development organization to be eligible under the rural community 2000 loan program as a new infrastructure.

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

Section 1. Section 15.285, subsection 1, Code 1989, is amended to read as follows:

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, speculative shell buildings built by a local community development organization, and other projects described in section 384.24, subsection 4.

Approved May 22, 1989

CHAPTER 200

VEHICLE WEIGHTS

S.F. 256

AN ACT relating to the allowable axle weights for vehicles transporting raw materials which are removed from a road under construction.

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

Section 1. Section 321.463, Code 1989, is amended by adding the following new unnumbered paragraph immediately following unnumbered paragraph 5:

NEW UNNUMBERED PARAGRAPH. In addition, the weight on any one axle, including a tandem axle, of a vehicle which is transporting raw materials which are removed from a road under construction, may exceed the legal maximum weight otherwise allowed under this chapter by ten percent if the gross weight on any particular group of axles on the vehicle does not exceed the gross weight allowed under this chapter for that group of axles. However, if the vehicle exceeds the ten percent tolerance allowed for any one axle or tandem axle under this paragraph the fine to be assessed for the axle or tandem axle shall be computed on the difference between the actual weight and the ten percent tolerance weight allowed for the axle or tandem axle under this paragraph. This paragraph applies only to vehicles operating along a route of travel approved by the department.

Sec. 2. Section 321.463, unnumbered paragraph 8, Code 1989, is amended to read as follows:

~~The~~ Except as otherwise provided, the amount of the fine to be assessed shall be computed on the difference between the actual weight and the maximum legal weight specified in this section by applying the appropriate rate in the preceding schedule for the total amount of overload.

Approved May 22, 1989

CHAPTER 201

WATER AND CUPS IN LOCOMOTIVES

S.F. 349

AN ACT relating to the provision of potable water and sanitary cups by a railroad in all locomotive engine and caboose areas, and providing for enforcement.

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

Section 1. NEW SECTION. 327F.38 PROVISION OF POTABLE WATER.

All railroads shall provide sanitary cups and potable water which is refrigerated or is cooled with ice made from potable water in the locomotive engine and caboose car areas. For the purposes of this section, a locomotive engine includes all railroad engines used in train or yard service. The department shall enforce the requirements of this section upon the receipt of a written complaint.

Approved May 22, 1989

CHAPTER 202

LIVESTOCK TRANSPORTATION CERTIFICATES

S.F. 497

AN ACT relating to transportation certificates for livestock by requiring inclusion of the driver's license number of the owner of the livestock on the transportation certificate.

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

Section 1. Section 172B.3, subsection 2, paragraph b, Code 1989, is amended to read as follows:

b. The name, driver's license number, and address of the owner of the livestock.

Approved May 22, 1989

CHAPTER 203

CITY TAX FOR MUSICAL, ARTISTIC, AND CULTURAL PURPOSES

S.F. 86

AN ACT relating to the authority of a city to levy a tax for the support of municipal bands and other musical groups and support of certain tax exempt artistic and cultural organizations.

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

Section 1. Section 384.12, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A tax not to exceed thirteen and one-half cents per thousand dollars of assessed value for the support of ~~a municipal band~~ instrumental or vocal musical groups, one or more organizations which have tax-exempt status under section 501(c)(3) of the Internal Revenue Code and are organized and operated exclusively for artistic and cultural purposes, or any of these purposes, subject to the following:

Approved May 22, 1989

CHAPTER 204

CHEMICAL EMERGENCIES

S.F. 512

AN ACT relating to chemical emergencies, providing for the establishment of the Iowa emergency response commission and specifying its powers and duties, providing for intergovernmental agreements, providing for the designation of local emergency planning districts and the appointment of local emergency planning committees, providing for immunity from liability, providing disclosure requirements, authorizing civil actions by the commission, and providing properly related matters.

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

Section 1. Section 29.1, Code 1989, is amended to read as follows:

29.1 DEPARTMENT OF PUBLIC DEFENSE.

The department of public defense is composed of the military division, the disaster services division, and the veterans affairs division. The adjutant general is the director of the department of public defense and the budget and personnel of all of the divisions are subject to the approval of the adjutant general. The Iowa emergency response commission established by section 30.2 is attached to the department of public defense for organizational purposes.

Sec. 2. NEW SECTION. 30.1 DEFINITIONS.

For the purposes of this chapter, unless the context otherwise requires:

1. "Commission" means the Iowa emergency response commission.

2. "Committee" means a local emergency planning committee appointed by the commission.

3. "Emergency Planning and Community Right-to-know Act" means Pub. L. No. 99-499, Title III, 42 U.S.C. § 11001 et seq., as amended to January 1, 1989.

Sec. 3. NEW SECTION. 30.2 IOWA EMERGENCY RESPONSE COMMISSION ESTABLISHED.

1. The Iowa emergency response commission is established. The commission is responsible directly to the governor. The commission is attached to the department of public defense for routine administrative and support services only.

2. The commission is composed of twelve members appointed by the governor. One member shall be appointed to represent the department of agriculture and land stewardship, one to represent the department of employment services, one to represent the department of justice, one to represent the department of natural resources, one to represent the department of public defense, one to represent the Iowa department of public health, one to represent the department of public safety, one to represent the state department of transportation, one to represent the fire service institute of the Iowa state university of science and technology, and one to represent the office of the governor. Two representatives from private industry shall also be appointed by the governor, subject to confirmation by the senate.

3. The commission members shall be appointed for staggered terms of three years each, beginning and ending as provided in section 69.19. Vacancies shall be filled in the same manner as the original appointments were made.

Sec. 4. NEW SECTION. 30.3 OFFICERS AND MEETINGS.

The members of the commission shall select a chairperson and a vice chairperson from their membership. The commission shall meet at least twice per year but may meet as often as necessary. Meetings shall be set by a majority of the commission or upon the call of the chairperson, or in the chairperson's absence, upon the call of the vice chairperson.

Sec. 5. NEW SECTION. 30.4 EXPENSES.

The members of the commission are entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties.

Sec. 6. NEW SECTION. 30.5 COMMISSION POWERS AND DUTIES.

1. The commission has the powers necessary to carry out the functions and duties specified in state law and the Emergency Planning and Community Right-to-know Act, including the powers to solicit and accept gifts and grants, and to adopt rules pursuant to chapter 17A. All federal funds, grants, and gifts shall be deposited with the treasurer of state and used only for the purposes agreed upon as conditions for receipt of the funds, grants, or gifts.

2. The commission may enter into agreements pursuant to chapter 28E to accomplish any duty imposed upon the commission by the Emergency Planning and Community Right-to-know Act, but the commission shall not compensate any governmental unit for the performance of duties pursuant to such an agreement. Funding for administering the duties of the commission under sections 30.7, 30.8, and 30.9 shall be included in the budgets of the department of employment services, the department of natural resources, and the department of public defense, respectively.

3. The commission may request from any state agency or official the information and assistance necessary to perform the duties of the commission. All state departments, divisions, agencies, and offices shall make available upon request information which is requested and which is not by law confidential.

Sec. 7. NEW SECTION. 30.6 COMMISSION DUTIES.

1. The commission shall designate local emergency planning districts and appoint persons to serve on local emergency planning committees. The commission may, upon request, revise its designations of districts and appointments of committee members.

2. The commission shall supervise and coordinate the activities of the committees.

3. Upon request by a state or local official or any person, the commission shall obtain from a facility owner or operator the emergency and hazardous chemical inventory information which the owner or operator is required to prepare and submit pursuant to section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022, and provide the information to the requesting party.

4. The commission shall make available to the public upon request during normal working hours material safety data sheets, lists of hazardous chemicals, inventory forms, toxic chemical release forms, and follow-up emergency notices in its possession pursuant to section 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11044.

5. The commission shall perform all other functions and duties as specified in the Emergency Planning and Community Right-to-know Act.

Sec. 8. NEW SECTION. 30.7 DUTIES TO BE ALLOCATED TO DEPARTMENT OF EMPLOYMENT SERVICES.

Agreements negotiated by the commission and the department of employment services shall provide for the allocation of duties to the department of employment services as follows:

1. Material safety data sheets or a list for chemicals required to be submitted to the commission under section 311 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021, shall be submitted to the department of employment services. Submission to that department constitutes compliance with the requirement for notification to the commission.

2. Emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022, shall be submitted to the department of employment services. Submission to that department constitutes compliance with the requirement for notification to the commission.

3. The department of employment services shall advise the commission of the failure of any facility owner or operator to submit information as required under sections 311 and 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021 and 11022.

4. The department of employment services shall make available to the public upon request during normal working hours the information forms in its possession pursuant to sections 312 and 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022 and 11044.

Sec. 9. NEW SECTION. 30.8 DUTIES TO BE ALLOCATED TO DEPARTMENT OF NATURAL RESOURCES.

Agreements negotiated by the commission and the department of natural resources shall provide for the allocation of duties to the department of natural resources as follows:

1. Emergency notifications of releases required to be submitted to the commission under section 304 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11004, shall be submitted to the department of natural resources. Submission to that department constitutes compliance with the requirement for notification to the commission.

2. The department of natural resources shall advise the commission of the failure of any facility owner or operator to submit a notification as required under section 304 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11004.

3. The department of natural resources shall make available to the public upon request during normal working hours the information in its possession pursuant to section 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11044.

Sec. 10. NEW SECTION. 30.9 DUTIES TO BE ALLOCATED TO DEPARTMENT OF PUBLIC DEFENSE.

Agreements negotiated by the commission and the department of public defense shall provide for the allocation of duties to the department of public defense as follows:

1. Comprehensive emergency response plans required to be developed under section 303 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11003, shall be submitted to the department of public defense. Committee submission to that department constitutes compliance with the requirement for reporting to the commission. After initial submission, a plan need not be resubmitted unless revisions are requested by the commission. The department of public defense shall review the plan on behalf of the commission and shall incorporate the provisions of the plan into its responsibilities under chapter 29C.

2. The department of public defense shall advise the commission of the failure of any committee to submit an initial comprehensive emergency response plan or a revised plan requested by the commission.

3. The department of public defense shall make available to the public upon request during normal working hours the information in its possession pursuant to section 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11044.

Sec. 11. NEW SECTION. 30.10 POWERS OF LOCAL EMERGENCY PLANNING COMMITTEES.

The local emergency planning committee appointed by the commission for each local emergency planning district has the powers necessary to carry out the functions and duties specified in state law and the Emergency Planning and Community Right-to-know Act.

Sec. 12. NEW SECTION. 30.11 LIABILITY OF COMMITTEE MEMBERS.

A person appointed as a member of a local emergency planning committee is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the functions and duties specified in the state law and the Emergency Planning and Community Right-to-know Act, except for acts and omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

Sec. 13. NEW SECTION. 30.12 CIVIL ACTION.

1. The commission may commence a civil action against an owner or operator of a facility who has violated federal requirements to do any of the following:

a. Provide notification under section 302(c) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11002(c).

b. Submit a material safety data sheet or a list under section 311(a) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021(a).

c. Make available information requested under section 311(c) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021(c).

d. Complete and submit an inventory form under section 312(a) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022(a), containing tier I information unless tier II information is submitted for the same period of time.

e. Provide information under section 303(d) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11003(d).

f. Submit tier II information under section 312(e)(1) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022(e)(1).

2. The Iowa district court shall have jurisdiction over actions brought under this section and may grant any appropriate relief.

Approved May 22, 1989

CHAPTER 205

HOUSING DISCRIMINATION

S.F. 56

AN ACT establishing familial status as a protected class in Iowa's discriminatory housing law and providing an exception for housing for elderly persons and certain owner-occupied housing.

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

Section 1. Section 601A.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12. "Familial status" means one or more individuals under the age of eighteen domiciled with either of the following:

a. A parent or another person having legal custody of the individual or individuals.

b. The designee of the parent or the other person having custody of the individual or individuals, with the written permission of the parent or other person.

Sec. 2. Section 601A.8, subsections 1 through 3, Code 1989, are amended to read as follows:

1. To refuse to sell, rent, lease, assign or sublease any real property or housing accommodation or part, portion or interest therein, to any person because of the race, color, creed, sex, religion, national origin, ~~or~~ disability, or familial status of such person.

2. To discriminate against any person because of the person's race, color, creed, sex, religion, national origin, ~~or~~ disability, or familial status, in the terms, conditions or privileges of the sale, rental, lease assignment or sublease of any real property or housing accommodation or any part, portion or interest therein.

3. To directly or indirectly advertise, or in any other manner indicate or publicize that the purchase, rental, lease, assignment, or sublease of any real property or housing accommodation or any part, portion or interest therein, by persons of any particular race, color, creed, sex, religion, national origin, ~~or~~ disability, or familial status is unwelcome, objectionable, not acceptable or not solicited.

Sec. 3. Section 601A.12, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Housing accommodations provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program, and housing for older persons. As used in this subsection, "housing for older persons" means housing communities consisting of accommodations intended for either of the following:

a. For ninety percent occupancy by at least one person fifty-five years of age or older per unit, and providing significant facilities and services specifically designed to meet the physical or social needs of such persons.

b. For and occupied solely by persons sixty-two years of age or older.

Sec. 4. Section 601A.12, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than four families living independently of each other, if the owner resides in one of the housing accommodations for which the owner qualifies for the homestead tax credit under section 425.1.

Approved May 22, 1989

CHAPTER 206

EARLY CHILDHOOD AND KINDERGARTEN PROGRAMS

S.F. 223

AN ACT relating to early childhood and kindergarten programs.

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

Section 1. STATEMENT OF GOALS. It is the goal of the general assembly to ensure that early childhood educational opportunities are available to meet the needs of all children in this state through a coordinated early childhood education delivery system. This coordinated system should involve the participation of parents, communities, school districts, and other government agencies and allow each school district to adopt the program which is best suited to the needs of the community, using both local and state resources and expertise. Suitable instructional materials, curricula, and staff should be made available to meet the needs of children with developmental deficiencies and those with special needs, in addition to those needed to fulfill the needs of all children and families of the community.

Sec. 2. Section 234.6, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 8. Provide consulting and technical services to the director of the department of education, or the director's designee, upon request, relating to prekindergarten, kindergarten, and before and after school programming and facilities.

NEW SUBSECTION. 9. Recommend rules for their adoption by the council of human services for before and after school child care programs, conducted within and by or contracted for by school districts, that are appropriate for the ages of the children who receive services under the programs.

Sec. 3. Section 237A.1, subsection 7, paragraph a, Code 1989, is amended to read as follows:

a. An instructional program administered by a public or nonpublic school system ~~approved or~~ accredited by the department of education or the state board of regents, except a program provided under section 279.49.

Sec. 4. Section 237A.22, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Advise and provide technical services to the director of the department of education or the director's designee, upon request, relating to prekindergarten, kindergarten, and before and after school programming and facilities.

Sec. 5. Section 256.7, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 13. By July 1, 1990, adopt rules establishing early childhood and early elementary certification or endorsement standards for teachers, elementary school principals, licensed child care providers, and administrators who work with children from three through eight years of age, which shall require knowledge of aspects of child development from birth through eight years of age.

NEW SUBSECTION. 14. Prescribe guidelines for facility standards, maximum class sizes, and maximum in classroom pupil-teacher and teacher-aide ratios for grades kindergarten through three and before and after school and summer child care programs provided under the direction of the school district. The department also shall indicate modifications to such guidelines necessary to address the needs of at-risk children.

Sec. 6. Section 256.9, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 35. Develop standards and instructional materials to do all of the following:

a. Assist school districts in developing appropriate before and after school programs for elementary school children.

b. Assist school districts in the development of child care services and programs to complement half-day and all-day kindergarten programs.

c. Assist school districts in the development of appropriate curricula for all-day, everyday kindergarten programs.

d. Assist school districts in the development of appropriate curricula for the early elementary grades one through three.

e. Assist prekindergarten instructors in the development of appropriate curricula and teaching practices.

Standards and materials developed shall include materials which employ developmentally appropriate practices and incorporate substantial parental involvement. The materials and standards shall include alternative teaching approaches including collaborative teaching and alternative dispute resolution training. The department shall consult with the child development coordinating council, the state day care advisory committee, the department of human services, the state board of regents center for early developmental education, the area education agencies, the department of child development in the college of family and consumer sciences at Iowa state university of science and technology, the early childhood elementary division of the college of education at the university of Iowa, and the college of education at the university of northern Iowa, in developing these standards and materials.

For purposes of this section "substantial parental involvement" means the physical presence of parents in the classroom, learning experiences designed to enhance the skills of parents in parenting and in providing for their children's learning and development, or educational materials which may be borrowed for home use.

NEW SUBSECTION. 36. By July 1, 1990, develop or direct the area education agencies to develop, a statewide technical assistance support network to provide school districts, or district subcontractors under section 279.49, with assistance in creating developmentally appropriate programs under section 279.49.

NEW SUBSECTION. 37. Administer and approve grants to school districts which provide innovative in-school programming for at-risk children in grades kindergarten through three, in addition to regular school curricula for children participating in the program, with the funds for the grants being appropriated for at-risk children by the general assembly. Grants approved shall be for programs in schools with a high percentage of at-risk children. Preference shall be given to programs which integrate at-risk children with the rest of the school population, which agree to limit class size and pupil-teacher ratios, which include parental involvement, which demonstrate community support, which cooperate with other community agencies, which provide appropriate guidance counseling services, and which use teachers with an early childhood endorsement. Grant programs shall contain an evaluation component that measures student outcomes.

Sec. 7. Section 256A.2, unnumbered paragraph 2, Code 1989, is amended to read as follows:

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. Members of the council shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties and shall receive per diem compensation at the level authorized under section 7E.6, subsection 1, paragraph "a".

Sec. 8. Section 256A.3, subsection 4, Code 1989, is amended to read as follows:

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, and the development of an at-risk children definition for use in school-district-sponsored early elementary and before and after school child care programs.

Sec. 9. Section 256A.3, subsection 5, paragraph e, Code 1989, is amended to read as follows:

e. The degree to which the program involves and works with the parents, and includes home visits, ~~optional parental~~ instruction for parents on parenting ~~and tutoring~~ skills, on enhancement of skills in providing for their children's learning and development, and the physical, mental, and emotional development of children, and experiential education.

Sec. 10. Section 279.49, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

279.49 ALL-DAY, EVERYDAY KINDERGARTEN OR CHILD DAY CARE PROGRAMS.

The board of directors of a school corporation may operate or contract for the operation of a program to provide child day care to children not enrolled in school or to students enrolled in kindergarten through grade six before and after school, or to both. The person employed to be responsible for a program operated by a board shall be an appropriately certificated teacher under chapter 260 or the program operated by contract with the board shall be licensed as a child care center under chapter 237A. The board shall require the employment of adequate personnel for a program to meet the personnel standards adopted by the state board of education, pursuant to section 256.7, subsections 13 and 14, or the department of human services, pursuant to section 237A.12, subsection 1.

The board may establish a fee for the cost of participation in a before and after school program. The fee shall be established pursuant to a sliding fee schedule based upon staffing costs and other expenses and a family's ability to pay. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed upon fee. The board may require the parent or guardian to furnish transportation of the child.

The board may utilize or make application for program subsidies from any existing day care funding streams.

Programs established under this section for before and after school child day care shall include, but are not limited to, parental involvement in program design and direction, activities designed to further children's physical, mental, and emotional development, and a parental education component to educate parents about the physical, mental, and emotional development of children.

Sec. 11. LOCAL EARLY CHILDHOOD EDUCATION COMMITTEES. The boards of the local school districts shall by October 1, 1989, assemble and supervise committees in their respective communities to review the need for all-day, everyday kindergarten, before and after school child care, and child care during school holidays and vacations. The committees shall also consider the need for additional prekindergarten programs for at-risk children and may consider the need for other, school-based prekindergarten programs. As much as is possible, the committee members shall include, but are not limited to, representatives of local businesses, service organizations, educators, head start educators, parents, private child care providers, county home extension economists, area education agencies, the school board, and the community education advisory board, and persons knowledgeable about developmentally appropriate learning. The committee shall hold hearings, and solicit comments from community preschool and day care providers, and report to the state board of education by October 1, 1990, regarding the committee's recommendations on the establishment of child care programs and curricula. A copy of the report shall also be filed with the secretary of the local school district. A summary of any oral, or copies of any written comments made by local preschool or child care providers shall be attached to the reports.

Sec. 12. REVIEW AND RECOMMENDATIONS. The child development coordinating council, established under chapter 256A, shall review existing entities providing technical assistance and program development support to early childhood programs, including, but not limited to, resource and referral centers, the county home extension service, and area education agencies. By January 1, 1990, the council shall provide recommendations in a report to the general assembly on the use of existing entities and resources and the development of additional resources to provide assistance in program development for all types of early childhood programs, including, but not limited to, prekindergarten programs, licensed child care centers, registered family day care homes, and unregistered family day care homes.

Sec. 13. Section 10 of this Act is effective January 1, 1992.

Approved May 22, 1989

CHAPTER 207

COURT FEES

S.F. 434

AN ACT relating to elimination of the filing and docketing fee for a petition for modification of a dissolution decree and reduction of the fee for a certificate and seal and increasing certain other probate fees.

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

Section 1. Section 602.8105, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. 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~~ to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of the modification, or an appeal or writ of error, forty-five dollars. Four dollars of the fee shall be deposited in the court revenue distribution account established under section 602.8108, and 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 633.31, subsection 2, paragraphs a, b, c, f, i, k, and l, Code 1989, are amended to read as follows:

a. For services performed in short form probates pursuant to sections 450.22 and 450.44 ..... ~~$10.00~~ 15.00

b. For services performed in probate of will without administration ..... ~~10.00~~ 15.00

c. For filing and indexing a transcript ..... ~~3.00~~ 5.00

f. For certificate and seal ..... ~~20.00~~ 10.00

i. For certifying change of title ..... ~~2.00~~ 5.00

k. For other services performed in the settlement of the estate of any decedent, minor, insane person, or other persons laboring under legal disability, except where actions are brought by the administrator, guardian, trustee, or person acting in a representative capacity or against that person, or as may be otherwise provided herein, where the value of the personal property and real estate of such a person falls within the following indicated amounts, the fee opposite such amount shall be charged.

Up to $3,000.00	5.00
3,000.00 to 5,000.00	10.00
5,000.00 to 7,000.00	15.00
7,000.00 to 10,000.00	20.00
10,000.00 to 15,000.00	25.00
15,000.00 to 25,000.00	30.00
For each additional $25,000.00 or major fraction thereof	~~20.00~~ 25.00

l. For services performed in small estate administration ..... ~~10.00~~ 15.00

Approved May 22, 1989

CHAPTER 208

APPLE STANDARDS

H.F. 331

AN ACT relating to standards for apples established by the secretary of agriculture, providing for the establishment of fees, and providing penalties.

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

Section 1. NEW SECTION. 159.32 STANDARDS FOR APPLES.

1. The secretary may establish standards for apples. The standards shall conform to those established by regulations of the United States department of agriculture pursuant to the federal Agricultural Marketing Act of 1946, as codified in 7 U.S.C. 1621 et seq.

2. The secretary may establish independent standards, including grades or other classifications, of apples. The establishment of independent standards shall be based on a determination that the standards will benefit the apple industry. Independent standards shall be based on factors relating to the condition of the apples, which may relate to the following: maturity, form, ripeness, cleanliness, color, freshness, shape, size, smoothness, or soundness. The independent standards may be based on the following: the care of picking or packing; the level of decay, browning, or freezing; or damage caused by disease, pests, dirt, or other foreign matter, broken skin, bruises, sunburn, or sprayburn. The secretary, before establishing independent standards, shall consult with representatives of interested persons, including producers.

3. The secretary may inspect apples according to the standards, including grades, established pursuant to this section. The secretary may certify that inspected apples comply with the standards. The secretary may set fees necessary for inspection or certification.

4. A person who, for profit or pecuniary advantage, knowingly misrepresents that the apples have been inspected or certified according to the standards established pursuant to this section is guilty of a fraudulent practice as provided in chapter 714.

Approved May 23, 1989

CHAPTER 209

CHILDREN, YOUTH, AND FAMILIES

S.F. 88

AN ACT relating to children, youth, and families, providing for the collection, development, and dissemination of statistical information, eliminating certain requirements for review and reporting by the county board of social welfare, providing for the continued existence of the division of children, youth and families in the department of human rights, and providing an effective date.

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

Section 1. Section 15.108, subsection 9, paragraph a, Code 1989, is amended to read as follows:

a. Collect and assemble, or cause to have collected and assembled, all pertinent information available regarding the industrial, agricultural, and public and private recreation and tourism opportunities and possibilities of the state of Iowa, including raw materials and products that may be produced from them; power and water resources; transportation facilities; available markets; the availability of labor; the banking and financing facilities; the availability of industrial sites; the advantages of the state as a whole, and the particular sections of the state, as industrial locations; the development of a grain alcohol motor fuel industry and its related

products; and other fields of research and study as the board deems necessary. This information, as far as possible, shall consider both the encouragement of new industrial enterprises in the state and the expansion of industries now existing within the state, and allied fields to those industries. The information shall also consider the changing composition of the Iowa family, the level of poverty among different age groups and different family structures in Iowa society, and the changing composition of the Iowa work force and the impact of those changes on Iowa families. The department shall work with the division of children, youth and families of the department of human rights in developing the information relating to the family.

Sec. 2. Section 234.11, unnumbered paragraph 2, Code 1989, is amended by striking the paragraph.

Sec. 3. Section 601K.32, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Cooperate with the department of economic development in connection with that department's collection, assembly, and dissemination of information on the changing composition of the Iowa family, the level of poverty among different age groups and different family structures in Iowa society, and the changing composition of the Iowa work force and the impact of those changes on Iowa families.

Sec. 4. REPEAL. Section 601K.40, Code 1989, is repealed.

Sec. 5. EFFECTIVE DATE. This Act takes effect June 29, 1989.

Approved May 23, 1989

CHAPTER 210

EDUCATIONAL STANDARDS AND REQUIREMENTS

S.F. 450

AN ACT relating to educational standards, permitting waiver of student participation in physical education under certain circumstances if the student is participating on an athletic team, and making technical changes.

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

Section 1. Section 256.7, subsection 3, unnumbered paragraph 2, Code 1989, is amended to read as follows:

By ~~January 1, 1989~~ June 30, 1990, 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. Section 256.7, subsection 6, Code 1989, is amended to read as follows:

6. Hear appeals of persons aggrieved by decisions of boards of directors of school corporations under chapter 290 and other appeals prescribed by law. The state board ~~shall~~ may review the record and shall review the decision of the director of the department of education or the administrative law judge designated by the director in appeals heard and decided by the director under chapter 290, and may affirm, modify, or vacate the decision, or may direct a rehearing before the director.

Sec. 3. Section 256.7, subsection 8, Code 1989, is amended to read as follows:

8. Develop plans for the approval of teacher preparation programs that incorporate the results of recently completed research and national studies on teaching for the twenty-first century

and develop plans for providing assistance to newly graduated teachers, including options for internships and reduced teaching loads. The plans shall be submitted to the general assembly not later than ~~October 1, 1988~~ June 30, 1990.

Sec. 4. Section 256.11, subsection 5, paragraph g, Code 1989, is amended to read as follows:

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 or be seeking to be excused in order to enroll in academic courses not otherwise available to the student.

PARAGRAPH DIVIDED. ~~The student must seek to be~~ Students in grades nine through eleven may be excused from the physical education requirement in order to enroll in academic courses not otherwise available to the student if the board of directors of the school district in which the school is located, or the authorities in charge of the school, if the school is a nonpublic school, determine that students from the school may be permitted to be excused from the physical education requirement. A student may be excused by the principal of the school in which the student is enrolled, in consultation with the student's counselor, for up to one semester, trimester, or the equivalent of a semester or trimester, per year if the parent or guardian of the student requests in writing that the student be excused from the physical education requirement. The student seeking to be excused from the physical education requirement must, at some time during the period for which the excuse is sought, be a participant in an organized and supervised athletic program which requires at least as much time of participation per week as one-eighth unit of physical education.

PARAGRAPH DIVIDED. 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.

Sec. 5. Section 256.11, subsection 7, Code 1989, is amended to read as follows:

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 department of education, and the state board shall consider the recommendations of the child coordinating council and the department in developing the rules.

Sec. 6. Section 256.11A, subsection 5, Code 1989, is amended to read as follows:

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, by January 1, 1990, 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. 7. Section 280.3, unnumbered paragraph 3, Code 1989, is amended to read as follows:

The board of directors of each public school district and the authorities in charge of each nonpublic school shall establish and maintain attendance centers based upon the needs of the

school age pupils enrolled in the school district or nonpublic school. ~~Kindergarten~~ Public school kindergarten programs shall and public and nonpublic school prekindergarten programs may be provided. In addition, the board of directors or governing authority may include in the educational program of any school such additional courses, subjects, or activities which it deems fit the needs of the pupils.

Sec. 8. Section 282.1, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, "resident" means a child who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

1. Is in the district for the purpose of making a home and not solely for school purposes.

2. Meets the definitional requirements of the term "homeless individual" under 42 U.S.C. § 11302(a) and (c).

3. Lives in a juvenile detention center, foster care facility, or residential facility in the district.

Sec. 9. Section 282.3, subsection 1, Code 1989, is amended to read as follows:

1. The board may exclude from school children under the age of six years when in its judgment such children are not sufficiently mature to be benefited by regular instruction, ~~or any incorrigible child~~ or any child who ~~in its judgment is so abnormal that regular instruction would be of no substantial benefit, or any child whose presence in school may be injurious to the health or morals of other pupils or to the welfare of such school~~ is found to be physically or mentally unable to attend school under section 299.5, or whose presence in school has been found to be injurious to the health of other pupils or is efficiently taught for the scholastic year at a state institution. However, the board shall provide special education programs and services under the provisions of chapters 273, 281, and 442 for all children requiring special education.

Sec. 10. Section 282.4, Code 1989, is amended to read as follows:

282.4 MAJORITY VOTE — SUSPENSION.

The board may, by a majority vote, expel any ~~scholar~~ pupil from school ~~for immorality, or~~ for a violation of the regulations or rules established by the board, or when the presence of the ~~scholar~~ pupil is detrimental to the best interests of the school; and it may confer upon any teacher, principal, or superintendent the power temporarily to dismiss a ~~scholar~~ pupil, notice of such dismissal being at once given in writing to the president of the board.

Sec. 11. Section 282.6, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, "resident" means a person who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

1. Is in the district for the purpose of making a home and not solely for school purposes.

2. Meets the definitional requirements of the term "homeless individual" under 42 U.S.C. § 11302(a) and (c).

3. Lives in a residential correctional facility in the district.

Sec. 12. Section 290.5, Code 1989, is amended to read as follows:

290.5 DECISION OF STATE BOARD.

The decision of the state board shall be final. The state board may adopt rules of procedure for hearing appeals which shall include the power to delegate the actual hearing of the appeal to the director of the department of education or the director's designee, and members of the director's staff designated by the director. The record of appeal so heard shall be ~~reviewed by~~ available to the state board and the decision recommended by the director of the department of education or the designated administrative law judge shall be approved by the state board in the manner provided in section 256.7, subsection 6.

Sec. 13. Section 321.375, unnumbered paragraph 2, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

Use of nonprescription controlled substances or alcoholic beverages during working hours, operating a school bus while under the influence of nonprescription controlled substances or alcoholic beverages, fraud in the procurement or renewal of a school bus driver's permit, the commission of or conviction for a public offense as defined by the Iowa criminal code, if the offense is relevant to and affects driving ability, or sexual involvement with a minor student with the intent to commit or the commission of acts and practices proscribed under sections 709.2 through 709.4, section 709.8, and sections 725.1 through 725.3 shall constitute grounds for the driver's immediate suspension from duties, pending a termination hearing by the board.

Sec. 14. 1987 Iowa Acts, chapter 207, section 3, is amended to read as follows:

SEC. 3. The state board of education shall study options for the coordination of school calendars and schedules for purposes of facilitating the use of educational telecommunications systems and services and shall report the results of its study, together with any recommendations to the general assembly not later than ~~January 15, 1989~~ January 1, 1990. The state board shall consult with areas of the state utilizing educational telecommunications systems and services in developing its recommendations.

Sec. 15. 1988 Iowa Acts, chapter 1266, section 5, is amended to read as follows:

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~~ June 30, 1990.

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~~ June 30, 1990.

Approved May 23, 1989

CHAPTER 211

LICENSE REVOCATION FOR OWI CONVICTION

H.F. 782

AN ACT relating to the revocation of a motor vehicle license or nonresident operating privilege as the result of a conviction for certain vehicular homicide offenses.

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

Section 1. Section 707.6A, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. Operating a motor vehicle while under the influence of alcohol or a drug or a combination of such substances or while having an alcohol concentration of .10 or more, in violation of section 321J.2. Upon a plea or verdict of guilty of a violation of this paragraph, the court shall order the state department of transportation to revoke the defendant's motor vehicle license

or nonresident operating privileges for a period of six years. The defendant shall surrender to the court any Iowa license or permit and the court shall forward it to the department with a copy of the revocation order.

Approved May 23, 1989

CHAPTER 212

JUDGE AND MAGISTRATE APPLICATIONS AND APPOINTMENTS

H.F. 791

AN ACT relating to the application process for judges and magistrates and the decertification of a magistrate prior to commencement of the magistrate's term and providing an effective date.

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

Section 1. Section 46.14, Code 1989, is amended to read as follows:

46.14 NOMINATION.

Each judicial nominating commission shall carefully consider the individuals available for judge, and within sixty days after receiving notice of a vacancy shall certify to the governor and the chief justice the proper number of nominees, in alphabetical order. Such nominees shall be chosen by the affirmative vote of a majority of the full statutory number of commissioners upon the basis of their qualifications and without regard to political affiliation. Nominees shall be members of the bar of Iowa, shall be residents of the state or district of the court to which they are nominated, and shall be of such age that they will be able to serve an initial and one regular term of office to which they are nominated before reaching the age of seventy-two years. Nominees for district judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the district judicial nominating commission. No person shall be eligible for nomination by a commission as judge during the term for which the person was elected or appointed to that commission. Absence of a commissioner or vacancy upon the commission shall not invalidate a nomination. The chairperson of the commission shall promptly certify the names of the nominees, in alphabetical order, to the governor and the chief justice.

Sec. 2. Section 602.6305, subsection 2, Code 1989, is amended to read as follows:

2. A person does not qualify for appointment to the office of district associate judge unless the person is at the time of application a resident of the county in which the vacancy exists, and unless the person is licensed to practice law in Iowa, and unless the person will be able, measured by the person's age at the time of appointment, to complete the initial term of office plus a four-year term of office prior to reaching age seventy-two. An applicant for district associate judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission.

Sec. 3. Section 602.6403, subsection 2, Code 1989, is amended to read as follows:

2. The magistrate appointing commission for each county shall prescribe the contents of an application, in addition to any application form provided by the supreme court, for an appointment pursuant to this section. The commission shall publicize notice of any vacancy to be filled in at least two publications in the official county newspaper. The commission shall accept applications for a minimum of fifteen days prior to making an appointment, and shall make available during that period of time any printed application forms the commission prescribes.

Sec. 4. Section 602.6403, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. Before the commencement of the term of a magistrate, the members of the magistrate appointing commission may reconsider the appointment. Written notification of the reasons for reconsideration and time and place for the meeting must be sent to the magistrate appointee and the clerk of the district court. The commission may reconvene and decertify the magistrate appointee for good cause. Notice of the decertification and a statement of the reasons justifying the decertification shall be promptly sent to the clerk of the district court, the chief judge of the judicial district, and the state court administrator.

Sec. 5. Section 602.6404, subsection 2, Code 1989, is amended to read as follows:

2. A person is not qualified for appointment as a magistrate unless the person files a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission. A person is not qualified for appointment as a magistrate unless the person can complete the entire term of office prior to reaching age seventy-two.

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

Approved May 23, 1989

CHAPTER 213

QUAD CITIES INTERSTATE METROPOLITAN AUTHORITY COMPACT

H.F. 721

AN ACT enacting the quad cities interstate metropolitan authority compact.

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

Section 1. NEW SECTION. 330B.1 QUAD CITIES INTERSTATE METROPOLITAN AUTHORITY COMPACT. The quad cities interstate metropolitan authority compact is entered into and enacted into law with the state of Illinois if the state of Illinois joins the compact, in the form substantially as follows:

Article 1 — SHORT TITLE

This compact may be cited as the "Quad Cities Interstate Metropolitan Authority Compact".

Article 2 — AUTHORIZATION

The states of Illinois and Iowa authorize the creation of the quad cities interstate authority to include the territories of Scott county in the state of Iowa and Rock Island county in the state of Illinois.

Article 3 — PURPOSES

The purposes of the authority are to provide facilities and to foster cooperative efforts, all for the development and public benefit of its territory. This compact shall be liberally interpreted to carry out these purposes.

Article 4 — CREATION

The authority is created when the secretary of state of Iowa certifies to the secretary of state of Illinois that a majority of the electors of Scott county voting on the proposition voted to approve creation of the authority and the secretary of state of Illinois certifies to the secretary of state of Iowa that a majority of the electors of Rock Island county voting on the proposition voted to approve creation of the authority. A referendum approving creation of the authority must be held before January 1, 1993.

Article 5 — BOARD MEMBERS

The authority shall be governed by a board of not more than sixteen members, one-half of whom are residents of Rock Island county, Illinois, and one-half of whom are residents of Scott county, Iowa. Iowa members shall be chosen in the manner and for the terms fixed by the law of Iowa. Illinois members shall be chosen in the manner and for the terms fixed by the law of Illinois.

Article 6 — BOARD OFFICERS

The board shall elect annually from its members a chairperson, a vice chairperson, a secretary, and other officers it determines necessary.

Article 7 — BOARD OPERATIONS

The board shall adopt bylaws governing its meetings, fiscal year, election of officers, and other matters of procedure and operation.

Article 8 — BOARD EXPENSES AND COMPENSATION

(a) Members shall be reimbursed for reasonable expenses incurred while carrying out official duties.

(b) Members shall be compensated as authorized by substantially identical laws of the states of Illinois and Iowa.

Article 9 — EMPLOYEES

(a) The board shall hire an executive director, a treasurer, and other employees it determines necessary and shall fix their qualifications, duties, compensation, and terms of employment.

(b) The executive director, treasurer, and other employees shall have no pension benefits or rights of collective bargaining other than those authorized by substantially identical laws of the states of Iowa and Illinois.

Article 10 — GENERAL POWERS

The authority has the following general powers:

(1) To sue and be sued.

(2) To own, operate, manage, or lease facilities within the territory of the authority. "Facility" means an airport, port, wharf, dock, harbor, bridge, tunnel, terminal, industrial park, waste disposal system, mass transit system, parking area, road, recreational area, conservation area, or other project beneficial to the territory of the authority as authorized by substantially identical laws of the states of Iowa and Illinois, together with related or incidental fixtures, equipment, improvements, and real or personal property.

(3) To fix and collect reasonable fees and charges for the use of its facilities.

(4) To own or lease interests in real or personal property.

(5) To accept and receive money, services, property, and other things of value.

(6) To disburse funds for its lawful activities.

(7) To enter into agreements with political subdivisions of the state of Illinois or Iowa or with the United States.

(8) To pledge or mortgage its property.

(9) To perform other functions necessary or incidental to its purposes and powers.

(10) To exercise other powers conferred by substantially identical laws of the states of Iowa and Illinois.

Article 11 — EMINENT DOMAIN

(a) The authority has the power to acquire real property by eminent domain.

(b) Property in the state of Iowa shall be acquired under the laws of the state of Iowa. Property in the state of Illinois shall be acquired under the laws of the state of Illinois.

Article 12 — INDEBTEDNESS

(a) The authority may incur indebtedness subject to debt limits imposed by substantially identical laws of the states of Illinois and Iowa.

(b) Indebtedness of the authority shall not be secured by the full faith and credit or the tax revenues of the state of Iowa or Illinois, or a political subdivision of the state of Iowa or Illinois other than the authority or as otherwise authorized by substantially identical laws of the states of Iowa and Illinois.

(c) Bonds shall be issued only under terms authorized by substantially identical laws of the states of Illinois and Iowa.

Article 13 — TAXES

(a) The authority shall have no independent power to tax.

(b) A political subdivision of the state of Iowa or Illinois shall not impose taxes to fund the authority or any of the authority's projects except as specifically authorized by substantially identical laws of the states of Illinois and Iowa.

Article 14 — REPORTS

The authority shall report annually to the governors and legislatures of the states of Iowa and Illinois concerning its facilities, activities, and finances and may make recommendations for state legislation.

Article 15 — PENALTIES

The states of Illinois and Iowa may provide by substantially identical laws for the enforcement of the ordinances of the authority and for penalties for the violation of those ordinances.

Article 16 — SUBSTANTIALLY IDENTICAL LAWS

Substantially identical laws of the states of Iowa and Illinois which are in effect before the authority is created shall apply unless the laws are contrary to or inconsistent with the provisions of this compact. A question of whether the laws of the states of Iowa and Illinois are substantially identical may be determined and enforced by a federal district court.

Article 17 — DISSOLUTION

The authority may be dissolved by independent action of a political subdivision of the state of Iowa or the state of Iowa as authorized by law of the state of Iowa or by independent action of a political subdivision of the state of Illinois or the state of Illinois as authorized by law of the state of Illinois.

Article 18 — SUBJECT TO LAWS AND CONSTITUTIONS

This compact, the enabling laws of the states of Iowa and Illinois, and the authority are subject to the laws and Constitution of the United States and the Constitutions of the states of Illinois and Iowa.

Article 19 — CONSENT OF CONGRESS

The attorneys general of the states of Iowa and Illinois shall jointly seek the consent of the Congress of the United States to enter into or implement this compact if either of them believes the consent of the Congress of the United States is necessary.

Article 20 — BINDING EFFECT

This compact and substantially identical enabling laws are binding on the states of Illinois and Iowa to the full extent allowed without the consent of Congress. If the consent of Congress is necessary, this compact and substantially identical enabling laws are binding on the states of Iowa and Illinois to the full extent when consent is obtained.

Article 21 — SIGNING

This compact shall be signed in duplicate by the speakers of the houses of representatives of the states of Illinois and Iowa. One signed copy shall be filed with the secretary of state of Iowa and the other with the secretary of state of Illinois.

Approved May 23, 1989

CHAPTER 214

OFFICIAL PUBLICATIONS

H.F. 728

AN ACT relating to official publications by amending rates for county publication of board proceedings, by reducing the specific information required in county care facility inventory publications, by providing notice and penalty for delinquent taxes, by revising the use of zoned editions of a newspaper, by establishing a minimum type size, by reducing publication fees when publication is not timely made, and by eliminating the requirement for publication of notice of textbook purchase.

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

Section 1. Section 253.3, Code 1989, is amended to read as follows:

253.3 ANNUAL PUBLISHED REPORT.

The board of supervisors, prior to September 1 of each year, shall publish in the official papers of the county as part of its proceedings, a financial statement of the receipts of the county care facility, or county farm, itemizing them and stating their source, which report shall also set forth the total expenditures and the value of the property on hand on July 1 of the year for which the report is made and a comparison with the inventory of the previous year. The inventory need not specifically account by item for individual items of personal property valued at less than one hundred dollars.

Sec. 2. Section 349.17, Code 1989, is amended to read as follows:

349.17 OFFICIAL PUBLICATION FEE.

The cost of official publications provided for in section 349.16 shall not exceed ~~three-fourths of~~ the fee provided in section 618.11 for the publication of legal notices. An official publication shall not be printed in type smaller than six point.

Sec. 3. Section 445.36, subsection 2, Code 1989, is amended to read as follows:

2. No demand of taxes shall be necessary, but it shall be the duty of every person subject to taxation to attend at the office of the treasurer, at some time between the first Monday in August and September 1 following, and pay the person's taxes in full, or one-half thereof before September 1 succeeding the levy, and the remaining half before March 1 following. However, if the first installment of a person's taxes are delinquent and not paid as of February 15, the treasurer shall mail a notice to the taxpayer of the delinquency and the due date for the second installment. Failure to receive a mailed notice is not a defense to the payment of the tax and any interest and penalty due.

Sec. 4. Section 445.39, Code 1989, is amended to read as follows:

445.39 INTEREST AS PENALTY.

If the first installment of taxes is not paid by the delinquent date specified in section 445.37, the installment shall become due and draw interest, as a penalty, of one and one-half percent per month until paid, from the delinquent date following the levy; and if the last half is not paid by April 1 following the levy, the same interest shall be charged from the date the last half became delinquent. However, after April 1 in a fiscal year when late certification of the tax list results in a penalty date later than October 1 for the first installment, penalties on delinquent first installments shall accrue as if certification were made on the previous June 30. The interest penalty imposed under this section shall be computed to the nearest whole dollar and the amount of interest shall not be less than one dollar.

Sec. 5. Section 446.9, subsections 1 and 2, Code 1989, are amended to read as follows:

1. A notice of the time and place of the annual tax sale shall be served upon the person in whose name the real estate subject to sale is taxed. The treasurer shall serve the notice by sending it by regular first class mail to the person's last known address not later than May 1 of each fiscal year. The notice shall contain a description of the real estate to be sold which is clear, concise, and sufficient to distinguish the real estate to be sold from all other parcels. It shall also contain the amount of delinquent taxes, both regular and special, for which the real estate is liable each year, the amount of the penalty, interest, and ~~ten dollars representing costs~~ the actual cost of publication in an official newspaper, all to be incorporated as a single sum. The notice shall contain a statement that, after the sale, if the real estate is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

2. Publication of the time and place of the annual tax sale shall be made once by the treasurer in an official newspaper in the county at least one week, but not more than three weeks, before the day of sale. The publication shall contain a description of the real estate to be sold that is clear, concise, and sufficient to distinguish the real estate to be sold from all other parcels. All items offered for sale pursuant to section 446.18 may be indicated by an "s" or by an asterisk. The publication shall also contain the name of the person in whose name the real estate to be sold is taxed, the amount of delinquent taxes, both regular and special, for which the real estate is liable for each year, the amount of the penalty, interest, and ~~ten dollars representing costs~~ the actual cost of publication in an official newspaper, all to be incorporated as a single sum. The publication shall contain a statement that, after the sale, if the real estate is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

Sec. 6. Section 618.16, Code 1989, is amended to read as follows:

618.16 ZONED EDITIONS OF SAME NEWSPAPER.

Publication requirements for governmental subdivisions of the state shall be deemed satisfied when publication is made in editions or zoned editions which are delivered to an area ~~comprising~~ within the jurisdiction of the subdivision making the publication even though publication is not made in other editions of the same newspaper ~~delivered to other areas of the state~~.

Sec. 7. NEW SECTION. 618.17 MINIMUM TYPE SIZE.

A publication required by law shall be printed in type no smaller than six point.

Sec. 8. NEW SECTION. 618.18 TIMELY PUBLICATION REQUIRED.

When a publication required by law is not published within one month of submission to the newspaper, the maximum compensation established by law shall be reduced by twenty-five percent.

Sec. 9. Section 301.7, Code 1989, is repealed.

Approved May 23, 1989

CHAPTER 215

COUNTY VACANCIES

H.F. 522

AN ACT relating to the filling of a vacancy on the county board of supervisors or in the elected county offices.

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

Section 1. Section 43.78, subsection 4, Code 1989, is amended to read as follows:

4. Political party candidates for a vacant seat in the United States house of representatives, the board of supervisors, the elected county offices, or the general assembly which is to be filled at a special election called pursuant to section 69.14 or 69.14A shall be nominated in the manner provided by subsection 1 of this section for filling a vacancy on the general election ballot for the same office. The name of any candidate so nominated shall be submitted in writing to the state commissioner, as required by section 43.88, at the earliest practicable time.

Sec. 2. Section 69.8, subsection 3, Code 1989, is amended to read as follows:

3. COUNTY OFFICES. In county offices, by the board of supervisors, unless an election is called as provided in section 69.14A.

Sec. 3. Section 69.8, subsection 4, Code 1989, is amended to read as follows:

4. BOARD OF SUPERVISORS. In the membership of the board of supervisors, by the treasurer, auditor, and recorder, or as provided in section 69.14A. ~~In the event that~~ If any of these offices have been abolished through consolidation, the county attorney shall serve on this committee.

Sec. 4. NEW SECTION. 69.14A FILLING VACANCY OF ELECTED COUNTY OFFICER.

1. When a vacancy exists on the board of supervisors, the committee of county officers designated to fill the vacancy shall publish notice as provided in section 331.305 indicating the method, appointment or special election, by which the committee intends to fill the vacancy. If appointment is selected by the committee, the appointment may be made before publication of the notice, but the appointment shall be made within forty days after the vacancy occurs. However, if within fourteen days after the date of the notice or within fourteen days after the appointment is made, whichever date is later, a petition requesting a special election to fill the vacancy is filed with the county auditor, the appointment is temporary and a special election shall be called as provided in subsection 3. The petition shall meet the requirements of section 331.306.

2. When a vacancy exists in an elected county office, the board of supervisors shall publish notice as provided in section 331.305 indicating the method, appointment or special election, by which the board intends to fill the vacancy. If appointment is selected by the board, the appointment may be made before publication of the notice, but the appointment shall be made within forty days after the vacancy occurs. However, if within fourteen days after the date of the notice or within fourteen days after the appointment is made, whichever date is later, a petition requesting a special election to fill the vacancy is filed with the county auditor, the appointment is temporary and a special election shall be called as provided in subsection 3. The petition shall meet the requirements of section 331.306.

3. The committee of county officers or board of supervisors as applicable may, on its own motion, or shall, upon receipt of a petition as provided in this section, call for a special election to fill the vacancy in lieu of appointment if section 69.13, subsection 2, does not apply. The committee or board shall order the special election at the earliest practicable date, but giving at least thirty days' notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

Sec. 5. Section 331.322, subsection 3, Code 1989, is amended to read as follows:

3. Fill vacancies in county offices in accordance with sections 69.8 to ~~69.13~~ 69.14A, and make appointments in accordance with section 69.16 unless a special election is called pursuant to section 69.14A.

Approved May 24, 1989

CHAPTER 216

PARI-MUTUEL WAGERING

S.F. 220

AN ACT relating to the winnings from and the taxes imposed on pari-mutuel wagering at racetracks in the state and providing applicability and effective dates.

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

Section 1. Section 99D.11, subsection 6, Code 1989, is amended to read as follows:

6. a. All wagering shall be conducted within the racetrack enclosure where the licensed race is held, except as provided in paragraph "b".

b. The commission may authorize the licensee to simultaneously telecast within the racetrack enclosure for purpose of pari-mutuel wagering a horse or dog race licensed by the racing authority of another state. It is the responsibility of each licensee to obtain the consent of appropriate racing officials in other states as required by the federal Interstate Horseracing Act of 1978, 15 U.S.C. § 3001-3007, to televise races for the purpose of conducting pari-mutuel wagering. A licensee may also obtain the permission of a person licensed by the commission to conduct horse or dog races in this state to televise races conducted by that person for the purpose of conducting pari-mutuel racing. However, arrangements made by a licensee to televise any race for the purpose of conducting pari-mutuel wagering are subject to the approval of the commission, and the commission shall limit a licensee to ten races a calendar year which races are chosen by the commission and which are the same for all licensees approved by the commission to televise races for the purpose of conducting pari-mutuel wagering. The commission shall not authorize the simultaneous telecast or televising of and a licensee shall not simultaneously telecast or televise any horse or dog race for the purpose of conducting pari-mutuel wagering unless the simultaneous telecast or televising is done at the racetrack of the licensee on a day and during the time, when there is a horse or dog racing meet being held at the racetrack. For purposes of the taxes imposed under this chapter, races televised by a licensee for purposes of pari-mutuel wagering shall be treated as if the races were held at the racetrack of the licensee.

Sec. 2. Section 99D.12, subsection 2, paragraph a, Code 1989, is amended to read as follows:

a. ~~Seventy-five~~ Seventy-three percent shall be retained by the licensee to supplement purses for races won by Iowa-whelped dogs as provided in section 99D.22.

Sec. 3. Section 99D.12, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Two percent shall be deposited by the commission into a special fund to be known as the dog racing promotion fund. The commission each year shall approve a nonprofit organization to use moneys in the fund for research, education, and marketing of dog racing in the state, including public relations, and other promotional techniques. The nonprofit organization shall not engage in political activity. It shall be a condition of the allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

Sec. 4. Section 99D.13, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. Winnings from each racetrack forfeited under subsection 1 shall escheat to the state and to the extent appropriated by the general assembly shall be used by the department of agriculture and land stewardship to administer sections 99D.22 and 99D.27. The remainder shall be paid over to the commission to pay the cost of drug testing at the tracks. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from harness racing meets, the remainder shall be used as provided in subsection 3. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from tracks licensed for dog or horse races, the commission, at least quarterly, shall remit one-third of the amount to the treasurer of the city in which the racetrack is located, one-third of the amount to the treasurer of the county in which the racetrack is located, and one-third of the amount to the racetrack from which it was forfeited. If the racetrack is not located in a city, then one-third shall be deposited as provided in chapter 556. The amount received by the racetrack under this subsection shall be used only for retiring the debt of the racetrack facilities and for capital improvements to the racetrack facilities.

Sec. 5. Section 99D.13, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. One hundred twenty thousand dollars of winnings from wagers placed at harness racing meets forfeited under subsection 1 in a calendar year that escheat to the state and are paid over to the commission are appropriated to the racing commission for the fiscal year beginning in that calendar year to be used as follows:

a. Eighty percent of the amount appropriated shall be allocated to qualified harness racing tracks, to be used by the tracks to supplement the purses for those harness races in which only Iowa-bred or owned horses may run. However, beginning with the allocation of the appropriation made for the fiscal year beginning July 1, 1992, the races for which the purses are to be supplemented under this paragraph shall be those in which only Iowa-bred two-year and three-year olds may run. In addition, the races must be held under the control or jurisdiction of the Iowa state fair board, established under section 173.1, or of a society, as defined under section 174.1.

b. Twenty percent of the amount appropriated shall be allocated to qualified harness racing tracks, to be used by the tracks for maintenance of and improvements to the tracks. Races held at the tracks must be under the control or jurisdiction of the Iowa state fair board, established under section 173.1, or of a society, as defined under section 174.1.

c. For purposes of this subsection, "qualified harness racing track" means a harness racing track that has either held at least one harness race meet between July 1, 1985, and July 1, 1989, or after July 1, 1989, has applied to and been approved by the racing commission for the allocation of funds under this subsection. The racing commission shall approve an application if the harness racing track has held at least one harness race meet during the year preceding the year for which the track seeks funds under this subsection.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for the purposes of this subsection.

Sec. 6. Section 99D.14, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Any property used in the operation of a racetrack which is not exempt from property tax on July 1 following the effective date of this Act or which becomes taxable property as a result of a court decision or change of ownership, or the construction of a new track that is not otherwise exempt shall be exempt from property taxation for three years beginning January 1 of the assessment year in which this Act becomes effective or beginning January 1 of the assessment year in which the property first becomes taxable as a result of a court decision or change in ownership, or the construction of a new track that is not otherwise exempt, whichever is applicable. During the last assessment year for which the property is exempt, the county board of supervisors shall present the question of the extension

for an additional ten years of the tax exemption at a regular state election or a special election. If a majority of those voting on the question favor the tax exemption of the property, the property shall be exempt for an additional ten years. The exemption may be extended for additional ten-year periods in the same manner as was done for the first ten-year period.

Sec. 7. Section 99D.15, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A tax of six percent is imposed on the gross sum wagered by the pari-mutuel method at each horse race meeting. The tax imposed by this ~~section~~ subsection shall be paid by the licensee to the treasurer of state within ten days after the close of each horse race meeting and shall be distributed as follows:

Sec. 8. Section 99D.15, subsection 2, Code 1989, is amended to read as follows:

2. A tax credit of up to five percent of the gross sum wagered per year shall be granted to licensees licensed for horse races and paid into a special fund for the purpose of retiring the annual debt on the cost of construction of the licensed facility. However, the tax credit is equal to six percent of the gross sum wagered in a year when the gross sum wagered is less than ninety million dollars. Any portion of the credit not used in a particular year shall be retained by the treasurer of state. A tax credit shall first be assessed against any share going to a city, then to the share going to a county, and then to the share going to the state.

Sec. 9. Section 99D.15, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. A tax is imposed on the gross sum wagered by the pari-mutuel method at each track licensed for dog races. The tax imposed by this subsection shall be paid by the licensee to the treasurer of state within ten days after the close of the track's racing season. The rate of tax on each track is as follows:

(1) Six percent, if the gross sum wagered in the racing season is fifty-five million dollars or more.

(2) Five percent, if the gross sum wagered in the racing season is thirty million dollars or more but less than fifty-five million dollars.

(3) Four percent, if the gross sum wagered in the racing season is less than thirty million dollars.

b. The tax revenue shall be distributed as follows:

(1) If the racetrack is located in a city, one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the city in which the racetrack is located and shall be deposited in the general fund of the city. One-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county. The remaining amount shall be deposited in the general fund of the state.

(2) If the racetrack is located in an unincorporated part of a county, one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county. The remaining amount shall be deposited in the general fund of the state.

c. If the rate of tax imposed under paragraph "a" is five percent or four percent, a track shall set aside for retiring the debt of the racetrack facilities or for capital improvement to the racetrack facilities the following amount:

(1) If the rate of tax paid by the track is five percent, one percent of the gross sum wagered in the racing season shall be set aside.

(2) If the rate of tax paid by the track is four percent, two percent of the gross sum wagered in the racing season shall be set aside.

Sec. 10. NEW SECTION. 99D.27 RACING DOG ADOPTION PROGRAM.

1. The department of agriculture and land stewardship shall oversee a program to adopt dogs eligible to race under this chapter. The department shall solicit applications from

nonprofit organizations to carry out the program. The department shall select one or more organizations from each track to implement the program and enter into a contract with the organization selected.

Funds appropriated for the program shall be used for the administrative costs of the department to administer and oversee the program and to compensate the contracted organization for operating the program. In making the selection, the department shall assess the ability of the organization to carry out the objectives of the program. The department shall adopt rules relating to the operation of the program and oversight of the contracted organization.

2. A contracted organization selected under subsection 1 shall, to the extent funding and space are available, identify dogs that are potential candidates for adoption. The contracting organization shall evaluate dogs referred to it under the program to ensure that all of the following conditions are met:

a. The dog is of a breed eligible for racing under this chapter.

b. The dog has a disposition compatible as a pet residing within a household.

c. The dog is free of disease or disability requiring extensive medical treatment.

d. The dog has either raced at one of the tracks licensed under this chapter or is owned by a resident of Iowa.

3. After determining that a dog is eligible to be placed for adoption under this program, the contracted organization shall attempt to place the dog in a home suitable for the dog. If a suitable home is located, the organization shall arrange for ownership of the dog to be transferred from the owner of the dog to the person who is adopting the dog. A dog shall not be transferred to a person for purposes related to racing, breeding, hunting, laboratory research, or scientific experimentation. The organization shall transfer information relating to the dog to the new owner. A dog eligible to race under this chapter shall not be given away, except through a contracted organization.

4. The contracting organization may destroy a dog if the dog becomes seriously diseased or disabled or the dog has not been transferred to a new owner within a period of time established by the department. The contracting organization shall destroy a dog only by use of euthanasia as defined in section 162.2. The department shall maintain a list of all dogs that have been destroyed.

5. Before transferring ownership of a dog to a new owner, the contracting organization shall do both of the following:

a. Ensure that the dog is sterilized according to accepted veterinary procedures.

b. Keep the dog in a sound and healthy condition, including providing the dog with necessary vaccinations.

6. The contracting organization may charge the adopting person the necessary expenses actually incurred in having the dog sterilized, vaccinated, or treated.

7. The department shall periodically inspect the operations and records of each contracting organization to ensure compliance with this section and to ensure a facility operated by or for the contracting organization under this program is complying with chapter 162 and rules adopted pursuant to that chapter. The department may suspend or revoke the contracting organization's participation in the program if the department finds the organization is not complying with the requirements of this section or rules adopted by the department.

8. The state, state personnel, the contracting organization, and its personnel are not liable for any claim resulting from the implementation of this program.

Sec. 11. For the fiscal year beginning July 1, 1989, and ending June 30, 1990, moneys deposited into the dog racing promotion fund pursuant to section 99D.12 shall be paid by the state racing commission to the Iowa greyhound association for purposes of research, education, and marketing of dog racing in the state, including public relations, and other promotional techniques.

Sec. 12. Section 9 of this Act applies to tracks licensed for dog races whose racing season ends on or after January 1, 1989.

Sec. 13. Licensees affected by the enactment of section 9 of this Act are entitled to a refund of the excess taxes paid under section 99D.15, if a claim for refund is filed with the department of revenue and finance by July 1, 1990.

Sec. 14. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 24, 1989

CHAPTER 217

RETIREMENT FACILITIES

S.F. 278

AN ACT relating to the disclosure of information by continuing care retirement communities and senior adult congregate living facilities, and providing penalties.

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

Section 1. NEW SECTION. 523D.1 DEFINITIONS.

As used in this chapter, unless the context clearly indicates otherwise:

1. "Senior adult congregate living facility" means any building or buildings, section of a building, or distinct part of a building, residence, private home, boarding home, home for the aged, or other place, other than facilities licensed and operated under chapter 135C, or community supervised living arrangements approved by the department of human services under section 225C.21, whether operated by a for-profit or a not-for-profit organization which undertakes through its ownership or management to provide housing and one or more supportive services for a time period exceeding twenty-four consecutive hours, to ten or more residents, the majority of whom are sixty years of age or older. A person who is furnishing the continuing care and who is related by consanguinity or affinity to the resident living in the facility shall not be included in the capacity calculation.

2. "Senior adult congregate living services" means the services provided to residents in a facility.

3. "Supportive services" includes, but is not limited to, services such as laundry; maintenance; emergency nursing care; activity services; security; dining options; transportation; beauty and barber; personal, including eating, bathing, dressing, and supervised medication administration; and health.

4. "Continuing care retirement community" means a senior adult congregate living facility which furnishes senior adult congregate living services together with nursing services to residents, regardless of whether or not the services are provided at one location, and pursuant to one or more agreements effective for the life of the resident or for a period of time greater than one year.

5. "Continuing care" means the furnishing to residents, the majority of whom are sixty years of age or older, other than a resident related by consanguinity or affinity to the person furnishing the care, of senior adult congregate living services together with nursing services regardless of whether or not the services are provided at one location and pursuant to one or more agreements effective for the life of the resident or for a period of time greater than one year.

6. "Entrance fee" means an initial or deferred transfer which exceeds the lesser amount of five thousand dollars or six times the living unit's monthly fee to a provider of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of a specified individual as a resident in a facility.

7. "Facility" means a senior adult congregate living facility or a continuing care retirement community.

8. "Living unit" means a room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one or more identified residents.

9. "Provider" means a person undertaking to provide care in a senior adult congregate living facility or continuing care facility.

10. "Resident" means an individual, sixty years of age or older, entitled to receive care in a senior adult congregate living facility or continuing care facility.

Sec. 2. NEW SECTION. 523D.2 FILING WITH DIVISION OF INSURANCE.

A person shall not, as a provider, enter into a contract to provide continuing care or senior adult congregate living services in a facility, or extend the term of an existing contract to provide continuing care or senior adult congregate living services in a facility, if the contract requires or permits the payment of an entrance fee to any person, and the facility is or will be located in this state, or the provider or a person acting on the provider's behalf solicits the contract within this state for a facility located in this state and the person to be provided with continuing care or senior adult congregate living services under the contract resides within this state at the time of the solicitation, unless the person has filed with the division of insurance of the department of commerce, a current disclosure statement which meets the requirements of section 523D.3. The disclosure statement shall be accompanied by a one hundred dollar filing fee as a condition of filing and compliance with this section.

Sec. 3. NEW SECTION. 523D.3 DISCLOSURE STATEMENT.

1. At the time of or prior to the execution of a contract to provide continuing care or senior adult congregate living services, or at the time of or prior to the transfer of any money or other property to a provider by or on behalf of a prospective resident, whichever occurs first, the provider shall deliver a disclosure statement to the person, and to the person's personal representative if one is appointed, with whom the contract is to be entered into, which shall contain all of the following information unless such information is in the contract, a copy of which must be attached to the statement:

a. The name and business address of the provider and a statement of whether the provider is a partnership, corporation, or other type of legal entity.

b. The names and business addresses of the officers, directors, trustees, managing or general partners, and any person having a ten percent or greater equity or beneficial interest in or of the provider and a description of such person's interest in or occupation with the provider.

c. With respect to each person covered by paragraph "b", and if the facility will be managed on a day-to-day basis by a person other than a person directly employed by the provider, a person named in response to paragraph "b", or the proposed manager:

(1) A description of the business experience of the person, if any, in the operation or management of similar facilities.

(2) The name and address of any professional service, firm, association, trust, partnership, or corporation in which the person has, or which has in the person, a ten percent or greater interest and which will or may provide goods, leases, or services to the facility of a value of five hundred dollars or more, within a year, including a description of the goods, leases, or services and their probable or anticipated cost to the facility or provider.

(3) A description of any matter in which the person has been convicted of a felony or pleaded nolo contendere to a felony charge or been held liable or enjoined in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property or similar felonies involving theft or dishonesty.

(4) A description of any matter in which the person is subject to a currently effective injunctive or restrictive order of a court of record, or within the past five years had any state or federal license or permit suspended or revoked as a result of an action brought by a governmental agency or the division of insurance, arising out of or relating to business activity or health care, including, without limitation, actions affecting a license to operate a foster care

facility, health care facility, retirement home, home for the aged, or facility licensed under this chapter or a similar law of another state.

d. A statement as to:

(1) Whether the provider is or ever has been affiliated with a for profit organization or with a religious, charitable, or other nonprofit organization.

(2) The nature of the affiliation, if any.

(3) The extent to which the affiliate organization will be responsible for the financial and contractual obligations of the provider.

(4) The provision of the federal Internal Revenue Code, if any, under which the provider or affiliate is exempt from the payment of federal income tax.

e. The location and description of the physical property or properties of the facility, existing or proposed, and, to the extent proposed, the estimated completion date or dates, whether or not construction has begun, and the contingencies subject to which construction may be deferred.

f. The services provided or proposed to be provided under contracts for continuing care at the facility, including the extent to which medical care is furnished. The disclosure statement shall clearly state which services are included in basic contracts for continuing care and which services are made available at or by the facility at extra charge.

g. A description of all fees required of residents, including the entrance fee and periodic charges, if any. The description shall include the manner by which the provider may adjust periodic charges or other recurring fees and the limitations on such adjustments, if any.

h. The provisions which have been made or will be made, if any, to provide reserve funding or security to enable the provider to fully perform its obligations under contracts to provide continuing care or senior adult congregate living services at the facility, including the establishment of escrow accounts, trusts, or reserve funds, together with the manner in which the funds will be invested and the names and experience of persons who will make the investment decisions.

i. Certified financial statements of the provider, for all parts of an operation covered by the contract, including the health center or nursing home portion of the continuing care retirement community, if those services are included in the contract, but the disclosure statement may exclude services or operations not provided to residents as senior adult congregate living services under their contract, including:

(1) A balance sheet as of the end of the two most recent fiscal years.

(2) Income statements of the provider for the two most recent fiscal years or the shorter period of time in which the provider has been in existence.

j. If operation of the facility has not yet commenced, a statement of the anticipated source and application of the funds used or to be used in the purchase or construction of the facility, including:

(1) An estimate of the cost of purchasing or constructing and equipping the facility, including related costs such as financing expense, legal expense, land costs, occupancy development costs, and all other similar costs which the provider expects to incur or become obligated for prior to the commencement of operations.

(2) A description of any mortgage loan or other long-term financing intended to be used for the financing of the facility, including the anticipated terms and costs of the financing.

(3) An estimate of the total entrance fees to be received from or on behalf of residents at or prior to commencement of operation of the facility.

(4) An estimate of the funds, if any, which are anticipated to be necessary to fund start-up losses and provide reserve funds to assure full performance of the obligations of the provider under contracts for the provision of continuing care or senior adult congregate living services.

(5) A projection of estimated income from fees and charges other than entrance fees, showing individual rates presently anticipated to be charged and including a description of the assumptions used for calculating the estimated occupancy rate of the facility and the effect

on the income of the facility of government subsidies for health care services, if any, to be provided pursuant to the contracts for continuing care or senior adult congregate living services.

(6) A projection of estimated operating expenses of the facility, including a description of the assumptions used in calculating the expenses and separate allowances, if any, for the replacement of equipment and furnishings and anticipated major structural repairs or additions.

(7) Identification of any assets pledged as collateral for any purpose.

(8) An estimate of annual payments of principal and interest required by any mortgage loan or other long-term financing.

k. Other material information, which may include an independent analysis of the actuarial soundness of the financial plan, concerning the facility or the provider as required by the division of insurance or as the provider wishes to include.

l. The cover page of the disclosure statement shall state, in a prominent location and type face, the date of the disclosure statement.

m. A copy of the standard form or forms of contract for continuing care or senior adult congregate living services used by the provider, attached as an exhibit to each disclosure statement.

2. The provider shall file with the division of insurance, annually within five months following the end of the provider's fiscal year, an annual disclosure statement which shall contain the information required by this chapter for the initial disclosure statement. The annual disclosure statement shall also be accompanied by a narrative describing:

a. Any material differences between the pro forma income statement filed pursuant to this chapter either as part of the most recent annual disclosure statement and the actual results of operations during the fiscal year, if the material differences substantially affect the financial safety or soundness of the community.

b. Any material differences between the pro forma balance sheet and the actual results of operations during the fiscal year.

The annual disclosure statement shall also contain a revised pro forma income statement for the next fiscal year.

3. From the date an annual disclosure statement is filed until the date the next succeeding annual disclosure statement is filed with the division of insurance and prior to the provider's acceptance of part or all of any application fee or part of the entrance fee or the execution of the continuing care or senior adult congregate living services contract by the resident, whichever occurs first, the provider shall deliver the current annual disclosure statement to the current or prospective residents with whom the continuing care or senior adult congregate living services contract is or may be entered into and to a resident's or prospective resident's personal representative if one is appointed.

4. In addition to filing the annual disclosure statement, the provider may amend its currently filed disclosure statement at any other time if, in the opinion of the provider, an amendment is necessary to prevent the disclosure statement and annual disclosure statement from containing any material misstatement of fact or omission to state a material fact required to be included in the statement. The amendment or amended disclosure statement shall be filed with the division of insurance before the statement is delivered to a resident or prospective resident and a personal representative of a resident or prospective resident and is subject to all the requirements, including those as to content and delivery, of this chapter.

Sec. 4. NEW SECTION. 523D.4 FALSE INFORMATION.

1. A provider shall not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement of any sort containing any assertion, representation, or statement which is untrue, deceptive, or misleading.

2. A provider shall not file with the division of insurance or make, publish, disseminate, circulate, or deliver to any person or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person or placed before the public, a financial statement which does not meet generally accepted accounting principles.

Sec. 5. NEW SECTION. 523D.5 ENTRANCE FEE ESCROW FOR NEW CONSTRUCTION.

The provider shall establish an interest-bearing escrow account with a state or federally regulated financial institution for a living unit which has not previously been occupied by a resident for which an entry fee arrangement is used. The escrow account agreement shall be entered into between the financial institution and the provider with the financial institution as the escrow agent and as a fiduciary for the resident or the prospective resident, the agreement shall state that its purpose is to protect the resident or the prospective resident, and the funds deposited in the account shall be kept and maintained in an account separate and apart from the provider's business accounts. These funds may be released only as follows:

1. If the entrance fee applies to a living unit which has not previously been occupied by a resident, the entrance fee shall be released to the provider only when the escrow agent reasonably determines that the following conditions have been satisfied:

a. The facility has a minimum of fifty percent of the units reserved for which the provider is charging an entrance fee.

b. The aggregate amount of the entrance fees received by or pledged to the provider, plus anticipated proceeds from any long-term financing commitment, plus funds from all other sources in the actual possession of the provider, equal not less than ninety percent of the aggregate cost of constructing or purchasing, equipping, and furnishing the facility.

2. Upon receipt by the escrow agent of a request by the provider for the release of these escrow funds, the escrow agent shall approve release of the funds within five working days unless the escrow agent finds that the requirements of subsection 1 have not been met and notifies the provider of the basis for this finding. The request for release of the escrow funds shall be accompanied by any documentation the fiduciary requires.

3. If the provider fails to meet the requirements for release of funds held in this escrow account within a time period the escrow agent considers reasonable, these funds shall be returned by the escrow agent to the persons who have made payment to the provider. The escrow agent shall notify the provider of the length of this time period when the provider requests release of the funds.

4. An entrance fee held in escrow shall be returned by the escrow agent to the person who made payment to the provider at any time upon receipt by the escrow agent of notice from the provider that this person is entitled to a refund of the entrance fee.

Sec. 6. NEW SECTION. 523D.6 PERSONAL REPRESENTATIVE – CANCELLATION.

1. A prospective resident or resident shall be provided a form to appoint a personal representative to receive copies of all notices, disclosures, or forms required by this chapter to be delivered to a prospective resident or resident. A personal representative appointed under this section shall not have legal authority to make any decision for the prospective resident or resident appointing the person to be a personal representative. The personal representative may advise the prospective resident or resident as to the materials provided. A personal representative shall not be affiliated or associated with a provider or any person identified in section 523D.3, subsection 1, paragraph "b" or "c" and shall not be a prospective resident or resident.

2. A person may cancel a contract for a period equal to the later ending period of the following:

a. Forty-five calendar days after the disclosure statement required by section 523D.3 was delivered to the person and to the person's personal representative if one is appointed.

b. Within three business days after the execution of a contract to provide continuing care or senior adult congregate living services, or at the time of the transfer of any money or other property to a provider by or on behalf of a prospective resident, whichever occurs first.

3. A provider shall furnish to each prospective resident and the prospective resident's personal representative, if one is appointed, at the time section 523D.3 requires delivery of a disclosure statement, a completed form in duplicate, captioned "Notice of Cancellation", which shall be attached to the disclosure statement and easily detachable, and which shall contain in ten point boldface type the following information and statements in the same language as that used in the contract:

Notice of Cancellation

a. Date contract was executed or money or property transferred to the provider, whichever occurs first, if known: .....

b. Date disclosure statement was delivered: .....

You may cancel this contract, without any penalty or obligation, within three business days from date in paragraph "a" above, or within forty-five calendar days of date in paragraph "b" above, whichever period ends upon a later date.

If you cancel this contract, any money or property transferred to the provider, any payments made by you will be returned within thirty calendar days following receipt by the provider of your cancellation notice, and any security interest arising out of the transaction will be canceled, except that the provider may retain the reasonable value of care and services actually provided to the resident prior to the resident vacating the provider's facility.

If you cancel this contract, and have already moved into the provider's facility, you must vacate the provider's facility within ten days after receipt by the provider of your cancellation notice.

To cancel this contract, mail by certified mail or hand deliver, a signed and dated copy of this cancellation notice or any other written notice clearly indicating your intent to cancel the contract, or send a telegram, to ....., (name of provider) at ..... (address of provider's place of business).

I hereby cancel this contract.

.....
(Date)

.....
(prospective resident's or resident's signature)

4. A purchaser's cancellation is effective upon mailing by certified mail, when transmitted by telegraph, or when actual notice is given to the provider, whichever is earlier.

Sec. 7. NEW SECTION. 523D.7 CIVIL LIABILITY.

1. A provider is liable to the person contracting for continuing care or senior adult congregate living services for damages and repayment of all fees paid to the provider, facility, or person violating this chapter, less the reasonable value of care and lodging provided to the resident by or on whose behalf the contract for continuing care or senior adult congregate living services was entered into prior to discovery of the violation, misstatement, or omission, or the time the violation, misstatement, or omission should reasonably have been discovered, together with interest at the legal rate for judgments and court costs and reasonable attorney fees, if the provider does any of the following:

a. Enters into a contract to provide continuing care or senior adult congregate living services at a facility without having first delivered a disclosure statement meeting the requirements of this chapter to the person contracting for continuing care or senior adult congregate living services and to the person's personal representative if one is appointed by the person.

b. Enters into a contract to provide continuing care or senior adult congregate living services at a facility with a person who has relied on a disclosure statement which contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

2. Liability under this section exists regardless of whether or not the provider or person liable had actual knowledge of the misstatement or omission.

3. A person shall not file or maintain an action under this section if the person, before filing the action, received an offer to refund, payable upon acceptance, all amounts paid the provider, facility, or person violating this chapter, together with interest from the date of payment, less the reasonable value of care and lodging provided prior to receipt of the offer, and the person failed to accept the offer within thirty days of its receipt. At the time a provider makes a written offer of refund, the provider shall file a copy with the division of insurance. The refund offer shall refer to the provisions of this section.

4. An action shall not be maintained to enforce a liability created under this chapter unless brought before the expiration of six years after the execution of the contract for continuing care or senior adult congregate living services which gave rise to the violation.

5. Except as expressly provided in this chapter, civil liability in favor of a private party shall not arise against a person, by implication, from or as a result of the violation of this chapter. This chapter does not limit a liability which may exist by virtue of any other statute or under common law if this chapter were not in effect.

Sec. 8. NEW SECTION. 523D.8 CRIMINAL PENALTIES.

1. A person who willfully and knowingly violates a provision of this chapter or a rule adopted or order entered pursuant to this chapter, upon conviction, is guilty of an aggravated misdemeanor.

2. This chapter does not limit the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

Sec. 9. NEW SECTION. 523D.9 INITIAL FILING.

For any facility offering continuing care or senior adult congregate living services contracts prior to the effective date of this Act, initial filings of disclosure statements shall take effect in and for the facility's fiscal year ending after January 1, 1990.

Sec. 10. NEW SECTION. 523D.10 RULES.

The division of insurance may adopt rules pursuant to chapter 17A as necessary and appropriate to implement this chapter, and may make further recommendations to the general assembly for the protection of residents and prospective residents of facilities required to file an annual disclosure statement under this chapter.

Approved May 24, 1989

CHAPTER 218

EMPLOYMENT BENEFITS

H.F. 448

AN ACT relating to certain employment benefit coverages for real estate agents under the workers' compensation law and for persons employed by the natural resource commission under the unemployment compensation law.

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

Section 1. Section 85.61, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Worker" or "employee" includes a real estate agent who does not provide the services of an independent contractor. For the purposes of this paragraph a real estate agent is an independent contractor if the real estate agent is licensed by the Iowa real estate commission as a salesperson and both of the following apply:

a. Seventy-five percent or more of the remuneration, whether or not paid in cash, for the services performed by the individual as a real estate salesperson is derived from one company and is directly related to sales or other output, including the performance of services, rather than to the number of hours worked.

b. The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to the services for state tax purposes.

Sec. 2. Section 111.85, subsection 8, Code 1989, is amended to read as follows:

8. The county recorder shall remit to the commission all fees from the sale of user permits within ten days from the end of the month. The commission shall remit the fees from sales of user permits to the treasurer of state who shall place the money in a state park, forest, and recreation area facilities improvement trust fund. Notwithstanding section 453.7, subsection 2, interest or earnings on investments or time deposits of the funds in the state park, forest and recreation area facilities improvement trust fund shall be credited to that fund. The money in that fund is appropriated to the commission solely for renovation, replacement, and improvement of facilities otherwise acquired in state parks, forests, and recreation areas. Notwithstanding ~~chapters 96 and~~ chapter 97B, persons employed by the commission with the money from the trust fund are not eligible for membership in the Iowa public employees' retirement system ~~or eligible to receive unemployment compensation benefits~~ by virtue of this employment.

Sec. 3. Section 2 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 24, 1989

CHAPTER 219

AGRICULTURAL PRODUCT ADVISORY COUNCIL

H.F. 549

AN ACT relating to the agricultural product advisory council.

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

Section 1. Section 15.203, Code 1989, is amended to read as follows:

15.203 AGRICULTURAL PRODUCTS ADVISORY COUNCIL — DUTIES.

1. The department shall establish, in consultation with the department of agriculture and land stewardship, an agricultural products advisory council for the purpose of advising the two departments in relation to the ~~sales,~~ promotion, marketing, and export of agricultural commodities, and value-added agricultural products processed in Iowa and for the purpose of assisting in the coordination of the respective agricultural marketing programs of the two departments. The council shall seek to promote the agricultural commodities and products of the state by providing advice in the development of and by monitoring the implementation of a program and plan which provide for the participation and cooperation of the two departments. The council shall consist of ~~one member from each of the following associations,~~ five members appointed by the secretary of agriculture: ~~Iowa pork producers association, Iowa beef cattle producers association, Iowa sheep and wool promotion board, Iowa egg council, Iowa dairy industry commission, Iowa turkey marketing council, Iowa soybean promotion board, Iowa corn promotion board, Iowa wood industry association, and state horticulture society and up to an additional ten members~~, and five members appointed by the director, who are experienced in marketing or exporting agricultural commodities or products, financing the export of agricultural commodities or products, ~~and~~ or adding value to and processing of agricultural products.

~~The agricultural products advisory council shall submit recommendations to the departments of economic development and agriculture and land stewardship, the governor, and the general assembly.~~

2. The department and the department of agriculture and land stewardship shall jointly develop a comprehensive five-year agricultural commodities and products promotion program for the state not later than January 15, 1990, which shall be submitted to the council for its

review, consideration, and approval, and shall develop a comprehensive agricultural commodities and products promotion plan by April 1, 1990, and update the program and plan annually. The program and any accompanying recommendations of the council and the departments shall be submitted to the governor and the general assembly. The program and plan shall include, but are not limited to, the following:

a. A review of the promotional or marketing programs of the department of agriculture and land stewardship, the implementation of the programs, and recommendations to improve the programs and their implementation.

b. A review of the promotional or marketing programs of the department of economic development, the implementation of the programs, and recommendations to improve the programs and their implementation.

c. A review of the promotional programs which the two departments can jointly administer and recommendations on the implementation of the programs.

d. A review of the current division of areas of agricultural products, including but not limited to processed or value-added products and agricultural commodities.

e. A review of the products and commodities promoted by the two departments individually or jointly and any recommendations for new programs for promotions of the products or commodities.

3. The agricultural products advisory council shall seek to maximize the resources of the programs of the two departments, eliminate the unnecessary duplication of efforts, and successfully promote the state's agricultural commodities and products.

4. The agricultural products advisory council shall evaluate the current role of the private sector in promoting and marketing agricultural commodities and products and make recommendations for the utilization of the private sector programs in the state agricultural products promotion plan.

5. The agricultural products advisory council may employ or contract with a consultant or specialist to assist in developing and implementing the program and plan of the departments and the council. In the event a promotion program and plan as set forth in subsection 2 are not adopted by the council by April 1, 1990, the council shall employ or contract with a consultant or specialist to assist in the development of a promotion program and plan.

Approved May 24, 1989

CHAPTER 220

WORKER RETRAINING PROGRAMS

H.F. 550

AN ACT relating to providing assistance to retrain workers in existing businesses and providing for an evaluation of retraining programs.

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

Section 1. NEW SECTION. 15.291 DEFINITIONS.

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

1. "Agreement" means a written contract between the department and a participating business which provides for the retraining of participating workers in a retraining program approved by the department.

2. "Applicant" means a business or group of businesses submitting an application for approval by the department.

3. "Area school" means a vocational school or a community college established under chapter 280A.

4. "Business" means a commercial enterprise engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate or intrastate commerce, but excludes retail, health, or professional services. "Business" does not include a commercial enterprise which closes or substantially reduces its operation in one area of this state and relocates substantially the same operation in another area of this state, but does include a commercial enterprise expanding its operations in another area of this state provided that existing operations of a similar nature are not closed or substantially reduced.

5. "Business production site" means a facility in which a business operates the means to manufacture, process, or assemble products or conduct research, or a center which provides services in intrastate or interstate commerce, excluding retail, health, or professional services.

6. "Department" means the Iowa department of economic development.

7. "Fund" means the Iowa employment retraining fund established under section 15.298.

8. "Job quality" means the value of an employment position to a business based on consideration of factors, including but not limited to the following:

a. The dollar value of annual wages and benefits that a worker beginning in the position earns.

b. Whether the employment position is a permanent full-time, permanent part-time, temporary full-time, or temporary part-time position. If the position is other than permanent full-time, consideration of the value of the position shall include the number of hours demanded from the position each year.

c. The number of times in the last three years that the position has been occupied.

d. The number and type of similar employment positions in the area in which the business would reasonably employ workers.

9. "Participating business" means one or more existing businesses which are parties to an agreement as provided in section 15.296.

10. "Participating worker" means a person who prior to being accepted into a retraining program is an employee of the participating business and who the department determines is substantially at risk of becoming displaced within the following ten years, due to the retooling of the business.

11. "Person" means a natural person.

12. "Retooling" means upgrading, modernizing, or expanding a business to increase the production or efficiency of business operations, including replacing equipment, introducing new manufacturing processes, or changing managerial procedures.

13. "Retraining" means the process designed to instruct participating workers in skills related to the retooled operation of the participating business and includes any of the following skills:

a. Basic academic skills, including fundamental skills of reading, computation of numbers, and written and verbal communication required to successfully function in the workplace.

b. Job specific skills, including skills required to perform tasks of a specific employment position or cluster of employment positions.

14. "Retraining agency" means an area school, or other public educational facility, private entity, or organization which provides retraining to workers.

15. "Retraining program" means a program for retraining participating workers, including a program established pursuant to section 15.297.

Sec. 2. NEW SECTION. 15.292 LEGISLATIVE FINDINGS.

The general assembly finds and declares the following:

1. The rapid retooling of Iowa businesses, including the dramatic introduction of new, highly technical manufacturing processes into Iowa industry, has contributed to increasing unemployment in the state by reducing the demand for unskilled and underskilled labor and making traditionally marketable job skills obsolete.

2. Corresponding to the increase in the number of workers displaced by the retooling of businesses, there is an increasing demand by those businesses for workers to be trained to perform new technical functions.

3. The mismatch between available labor and the needs of businesses harms the economic revitalization of the state by retarding the production and efficiency of retooling businesses, draining employer-taxed contributions to the unemployment compensation fund, diverting state public assistance resources to support displaced workers, and stifling a sense of self-worth and economic independence of affected persons.

4. The state finds it advantageous to establish an employment retraining fund administered to remedy structural imbalances in the job market and to assist employers and employees by fostering business expansion and job creation, minimizing unemployment costs to businesses, diversifying the state's economic base, supplying businesses with an available pool of workers trained to perform demand skills, providing Iowans permanent jobs, increasing the flexibility in the skills of workers, minimizing public assistance payments to displaced workers, and encouraging in affected persons a sense of self-worth and economic independence.

5. Expenditures from the Iowa employment retraining fund used to support retraining programs shall supplement financial assistance available through other state and federal programs. In addition, assistance under employment retraining programs shall not be used to replace, parallel, supplant, compete with, or duplicate assistance provided under other training programs sponsored by an employer, the state, or the federal government.

Sec. 3. NEW SECTION. 15.293 DUTIES AND POWERS OF THE IOWA DEPARTMENT OF ECONOMIC DEVELOPMENT.

The department shall:

1. Approve, deny, or defer applications for retraining assistance and enter into retraining agreements, as provided in this chapter.

2. Refer a business seeking assistance to the area school serving the merged area in which the business proposes to retrain workers.

3. Establish minimum standards for considering applications, based on the contents of the application and selection criteria as provided in section 15.295.

4. Collect, design, and evaluate model retraining programs to assist businesses in retraining workers, and award forgivable loans, loans, grants, or a combination of loans and grants under these programs to participating businesses. To ensure the accountability of the business, before providing a grant, the department shall consider the feasibility of providing a forgivable loan.

5. Provide for the collection of loans, including interest on the loans, from participating businesses. The department shall provide for the deposit of loan repayments into the fund.

6. Administer the fund and supervise all accounting and auditing procedures related to the fund in accordance with generally accepted accounting principles.

7. Monitor retraining programs, including the supervision of the accounting and auditing of retraining program funds, to assist participating businesses.

8. Cooperate with other state and federal entities involved in worker training programs, including the department of employment services and the department of education.

9. Assess the extended impact of this chapter, in conjunction with the department of employment services, department of human services, and department of education, upon economic development in the state, including effects of retraining programs upon the unemployment rate, public assistance payments, business closings, business expansions, and the migration of workers out of and into the state.

10. Report to the governor and legislative council before the beginning of each session of the general assembly the following items:

a. The status of programs administered under this chapter.

b. The extended impact of this chapter upon economic development in the state, as required in subsection 9.

11. Adopt administrative rules pursuant to chapter 17A to implement and administer this chapter.

Sec. 4. NEW SECTION. 15.294 RETRAINING APPLICATION.

1. A business may apply for retraining assistance under this chapter by completing an application under the supervision of the area school serving the merged area in which the business proposes to retrain workers. The area school shall provide the applicant with all assistance necessary in completing the application. The area school shall submit the completed application on behalf of the business. The application shall be on forms provided by the department. Applications shall be submitted pursuant to rules adopted by the department.

2. The application shall contain business information regarding the business. Information which the business believes contains trade secrets, would give an advantage to competitors, or meets other conditions for confidential treatment as provided in section 22.7, shall be kept confidential. Business information shall be described by rules adopted by the department and shall relate to state or federal programs under which the business has applied for training assistance, the impact of implementing the applicant's retraining proposal on competing businesses in the state, the employees of the business and their employment positions, the financial condition of the business, the retooling operations in place or planned to be in place, the local union or affiliate representing the employees of the business, the type of goods or services to be produced by retooling, and any other information determined to be relevant by the department.

3. The application shall contain a retraining proposal. The contents of the proposal shall be described by rules adopted by the department and shall relate to the participating business and applicable business production site, the retraining agency to service the business, the participating workers, the jobs resulting from retraining, the program under which the business is applying for retraining assistance, the cost of retraining, the coordination of the training program with other state or federal training programs in which the business is involved, the system to monitor the retraining program, and any other item required to be included by the department.

4. The application may contain or the department may require an evaluation of the retraining proposal by the area school serving the merged area in which the retrained workers are to be employed. An evaluation shall contain pertinent information about the business, including the following:

a. The results of an investigation of operations in the business.

b. An assessment of the viability of the business.

c. An assessment of the process for selecting the retraining entity.

d. An evaluation of the value of the retraining agency.

e. Recommendations of the value of the retraining proposal.

f. A ratio comparing the total amount planned to be invested by the business in the actual costs of retraining to the amount of dollars being requested for retraining.

g. Other information about the business relating to the selection criteria described in section 15.295.

Sec. 5. NEW SECTION. 15.295 APPROVAL OF APPLICATIONS.

1. The department, in reviewing an application, shall consider the contents of the application, including the business information and the retraining proposal.

2. The department shall approve, deny, or defer applications and award financial assistance based on selection criteria. The department shall score and rank the criteria according to the relative importance of the criteria. The importance assigned to each criterion shall be determined by the department. Approval, denial, or deferral of an application shall be based on, but not limited to, the following selection criteria:

a. The total amount of dollars which have been invested in the business for the previous three years to increase productivity or efficiency, including capital improvements in retooling.

b. The total amount of dollars planned to be invested in the business for the following three years to increase productivity or efficiency, including capital improvements in retooling.

c. A ratio comparing the total amount of dollars invested or to be invested pursuant to paragraphs "a" and "b" plus the amount of profit in dollars made by the business in the previous three years, to the amount of dollars proposed to assist the business in retraining.

d. A ratio comparing the total amount planned to be invested by the business in the actual costs of retraining to the amount of dollars being requested for retraining. This ratio shall indicate that the business's investment amount is at least equal to the amount requested. If not the application shall be denied.

e. The quality of jobs resulting from the retraining proposal.

f. The need of the proposed business for retraining assistance.

g. The number of businesses, contained in the training proposal, applying for combined assistance.

h. The endorsement of the labor union or affiliate which represents workers proposed to participate in retraining.

i. The degree to which the product made by the business' retooling operation is new, creates new market opportunities, or diversifies the state's economy.

j. The degree to which the business' retooling operation introduces new manufacturing processes into state industry.

k. The past performance of the proposed retraining agency in training persons, by considering the placement and retention of former trainees and employer satisfaction with former trainees.

l. The result of a cost-benefit analysis which measures the value of the proposed retraining based upon job-related calculations, including but not limited to, the number of participating workers in the proposal, the cost of retraining each worker, the dollar value of wages and benefits to be earned by each retrained worker, and the market demand for the proposed retraining.

m. The procedure to evaluate the proposed retraining program and collect data required to make the evaluation, based on a procedure which monitors the retraining program, including accounting and auditing systems adequate to ensure the accuracy and reliability of expenditures recorded by the business and related to the proposed retraining.

n. The feasibility of implementing the retraining proposal.

3. Each applicant shall be notified in writing, within the time period set by rules adopted by the department, of the department's final disposition of the application.

Sec. 6. NEW SECTION. 15.296 RETRAINING AGREEMENTS.

The department shall execute agreements based on applications submitted to the department. Agreements shall be executed on forms provided by the department. Parties to an agreement shall include the department and the participating businesses named in the application's proposal, and may include any other entity approved by the department and named in the application, including a retraining agency or a labor union or affiliate representing participating workers.

Sec. 7. NEW SECTION. 15.297 RETRAINING PROGRAMS.

1. The department shall establish retraining programs to provide retraining assistance to businesses. The assistance shall include financial assistance composed of grants, loans, forgivable loans, or a combination of grants and loans. However, financial assistance shall not include a grant or forgivable loan unless the result of retooling creates, at the business production site subject to the retooling, a net increase in the number of employment positions, a net increase in the quality of the employment positions held by participating workers, or a net increase in the wages paid to participating workers. The financial assistance awarded to a participating business must be based on the actual cost of retraining participating workers under the retraining program.

2. The department shall not provide more than fifty thousand dollars of financial assistance for a retraining proposal.

Sec. 8. NEW SECTION. 15.298 RETRAINING FUND.

An Iowa employment retraining fund is created in the office of the treasurer of state to be administered by the department. The fund is a revolving fund consisting of funds appropriated to it, interest earned on appropriated funds, and moneys collected from the repayment of loans, including the interest from loans or from other sources. The moneys in the fund are appropriated to the department for the purpose of retraining workers in a retooled business.

The department shall set aside at the beginning of each fiscal year for that fiscal year the moneys in the fund for each merged area to be used to provide the financial assistance for retraining proposals of businesses located in the merged area whose applications have been approved by the department. The financial assistance shall be provided by the department from the amount set aside for that merged area. If any portion of the moneys set aside for a merged area have not been used or committed by March 1 of the fiscal year, that portion is available for use by the department to provide financial assistance to businesses located in other merged areas. The department shall adopt by rule a formula for this set aside based upon the population and per capita income of the merged area. The formula should be similar to the formula for the allocation of funds to merged areas for purchase of equipment from the jobs now capitals account of the lottery fund set out in 281 Iowa administrative code, rule 21.36 in effect on March 1, 1989.

Sec. 9. The legislative fiscal bureau shall provide to the legislative council at the first meeting of the council after July 1, 1991, an evaluation of all retraining programs administered under this chapter. The council shall refer the report to the appropriate standing committees in the house of representatives and the senate for further study.

In performing the evaluation, the legislative fiscal bureau shall have access to all records maintained by the department and area schools relating to the administration of retraining programs under this chapter. However, the legislative fiscal bureau shall keep confidential information regarding businesses as provided in section 22.7. The evaluation shall be based on the goals of this chapter. In measuring the success of the programs in meeting these goals, the legislative fiscal bureau shall consider, but is not limited to, the following:

1. The number of loans, forgivable loans, or grants provided.
2. The number of loans defaulted.
3. The average size of the business receiving retraining assistance.
4. The effect of the programs upon wages of participating workers and nonparticipating workers.
5. The effect of retraining programs on the state's economy.

Approved May 24, 1989

CHAPTER 221

BEER BREWED FOR CONSUMPTION ON THE PREMISES

H.F. 127

AN ACT to allow class "C" liquor control license holders and class "B" beer permit holders to brew beer to be served on the premises and making the barrel tax on beer applicable.

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

Section 1. Section 123.124, Code 1989, 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~~ four classes, ~~and shall be~~ known as ~~either~~ class "A", special class "A", class "B", or class "C" permits. A class "A" permit ~~shall allow~~ allows the holder to manufacture and sell beer at wholesale. A holder of a special class "A" permit may only manufacture beer to be consumed on the licensed premises for which the person also holds a class "C" liquor control license or class "B" beer permit. A class "B" permit ~~shall allow~~ allows the holder to sell beer at retail for consumption on or off the premises. A class "C" permit ~~shall allow~~ allows the holder to sell beer at retail for consumption off the premises.

Sec. 2. Section 123.125, Code 1989, is amended to read as follows:

123.125 ISSUANCE OF PERMITS.

The administrator shall issue class "A", special class "A", class "B", and class "C" beer permits and may suspend or revoke ~~such~~ permits for cause as provided in this chapter.

Sec. 3. Section 123.127, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An applicant for a special class "A" permit shall comply with the requirements for a class "A" permit and shall also state on the application that the applicant holds or has applied for a class "C" liquor control license or class "B" beer permit.

Sec. 4. Section 123.130, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who holds a special class "A" permit for the same location at which the person holds a class "C" liquor control license or class "B" beer permit may manufacture and sell beer to be consumed on the premises.

Sec. 5. Section 123.134, subsection 1, Code 1989, is amended to read as follows:

1. The annual permit fee for a class "A" or special class "A" permit ~~shall be~~ is two hundred fifty dollars.

Sec. 6. Section 123.135, subsection 1, Code 1989, is amended to read as follows:

1. ~~Any~~ A manufacturer, brewer, bottler, importer, or vendor of beer or any agent thereof desiring to ship, or sell beer, or have beer brought into this state for resale by a class "A" permittee shall first make application for and ~~shall~~ be issued a brewer's certificate of compliance by the administrator for ~~such~~ that purpose. ~~Such~~ The certificate of compliance ~~shall expire~~ expires at the end of one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise revoked for cause. Each application for a certificate of compliance or renewal ~~thereof~~ of a certificate shall be accompanied by a fee of one hundred dollars payable to the division. Each holder of a certificate of compliance shall furnish ~~such~~ the information ~~and~~ in ~~such~~ the form ~~as~~ the administrator ~~may require~~ requires. ~~Any~~ A brewer whose plant is located in Iowa and who otherwise holds a class "A" beer permit to sell beer at wholesale ~~shall be~~ is exempt from the fee, but not ~~of~~ from the terms and conditions, ~~as herein provided~~ of the permit. The holder of a special class "A" permit is exempt from the requirements of this section.

Sec. 7. Section 123.136, unnumbered paragraph 1, Code 1989, is amended to read as follows:

In addition to the annual permit fee to be paid by all class "A" permittees under ~~the provisions of~~ this chapter there shall be levied and collected from ~~such~~ the permittees on all beer manufactured for sale or sold in this state at wholesale and on all beer imported into this state for sale at wholesale and sold in this state at wholesale, and from special class "A" permittees on all beer manufactured for consumption on the premises, a tax of five and eighty-nine hundredths dollars for every barrel containing thirty-one gallons, and at a like rate for any other quantity or for the fractional part of a barrel. However, no tax shall be levied or collected on beer shipped outside this state by a class "A" permittee or sold by one class "A" permittee to another class "A" permittee.

Sec. 8. Section 123.137, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~Every~~ A person holding a class "A" or special class "A" permit shall on or before the tenth day of each calendar month commencing on the tenth day of the calendar month following the month in which ~~such~~ the person is issued a permit, make a report under oath to the division upon forms to be furnished by the division for ~~such~~ that purpose showing the exact number of barrels of beer, or fractional parts ~~thereof~~ of barrels, sold by ~~such~~ the permit holder during the preceding calendar month. ~~Such~~ The report shall also state ~~such~~ information ~~as~~ the administrator ~~may require~~ requires, and ~~such~~ permit holders shall at the time of filing ~~said~~ a report pay to the division the amount of tax due at the rate fixed in section 123.136.

Sec. 9. Section 123.138, Code 1989, is amended to read as follows:

123.138 BOOKS OF ACCOUNT REQUIRED.

Each class "A" or special class "A" permittee shall keep proper books of account and records showing the amount of beer sold by the permittee, ~~which~~ and these 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 pursuant to section 123.30, subsection 1, during normal business hours of the permittee.

Sec. 10. Section 123.139, Code 1989, is amended to read as follows:

123.139 SEPARATE LOCATIONS – CLASS "A", SPECIAL CLASS "A".

~~Every~~ A class "A" or special class "A" permittee having more than one place of business ~~shall be~~ is required to have a separate permit for each separate place of business maintained by ~~such~~ the permittee ~~wherein such~~ where beer is stored, warehoused, or sold.

Sec. 11. Section 123.142, unnumbered paragraph 1, Code 1989, is amended to read as follows:

It ~~shall be~~ is unlawful for the holder of ~~any~~ a class "B" or class "C" permit issued under ~~the provisions of~~ this chapter to sell beer, except beer brewed on the premises covered by a special class "A" permit or beer purchased from a person holding a ~~subsisting~~ class "A" permit issued in accordance with ~~the provisions of~~ this chapter, and on which the tax provided in section 123.136 has been paid. However, ~~the provisions of~~ this section ~~shall~~ does not apply to the holders of special class "B" permits issued under section 123.133 for sales in cars engaged in interstate commerce nor to class "D" liquor control licensees as provided in this chapter.

Approved May 24, 1989

CHAPTER 222

SCHOOL BUS DRIVERS' INSTRUCTION

S.F. 295

AN ACT relating to school bus driver education requirements.

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

Section 1. Section 321.376, unnumbered paragraph 2, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

A person applying for a school bus driver's permit for the first time shall have enrolled in and successfully completed an approved course of instruction for school bus drivers, as programmed by the department of education, before a permit may be issued by the department. Certification of course completion shall be submitted to the department of education, prior to issuance of a permit, by an authorized program instructor on forms provided by the department of education.

A person applying for employment or employed as a school bus driver shall successfully complete a course of instruction for school bus drivers before or within the first six months of employment. If an employee fails to provide an employer with a certificate of completion of an approved school bus driver's course within the first six months of employment as a school bus driver, the driver's employer shall report the failure to the department and the employee's school bus driver's permit shall be revoked. The department shall send notice of the revocation of the employee's permit to both the employee and the employer. A person whose school

bus driver's permit has been revoked under this section shall not be issued a school bus driver's permit until certification of the completion of an approved school bus driver's course is received by the department.

Approved May 26, 1989

CHAPTER 223

AIDS-RELATED PROCEDURES

H.F. 641

AN ACT relating to human immunodeficiency virus-related testing and counseling, and eliminating a penalty.

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

Section 1. Section 141.6, subsection 3, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Devise a procedure, as a part of the partner notification program, to provide for the notification of an identifiable third party who is a sexual partner of or who shares intravenous equipment with a person who has tested positive for the human immunodeficiency virus, by the department or a physician, when all of the following situations exist:

(1) A physician for the infected person is of the good faith opinion that the nature of the continuing contact poses an imminent danger of human immunodeficiency virus infection transmission to the third party.

(2) When the physician believes in good faith that the infected person, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program.

Notwithstanding subsection 4, the department or a physician may reveal the identity of a person who has tested positive for the human immunodeficiency virus infection pursuant to this subsection only to the extent necessary to protect a third party from the direct threat of transmission. Notification of a person pursuant to this paragraph is subject to the disclosure provisions of section 141.23, subsection 3. This subsection shall not be interpreted to create a duty to warn third parties of the danger of exposure to human immunodeficiency virus through contact with a person who tests positive for the human immunodeficiency virus infection.

Prior to notification of a third party, the physician proposing to cause the notification to be made shall make reasonable efforts to inform, in writing, the person who has tested positive for the human immunodeficiency virus infection. The written information shall state that due to the nature of the person's continuing contact with a third party, the physician is forced to take action to provide notification to the third party. The physician, when reasonably possible, shall provide the following information to the person who has tested positive for the human immunodeficiency virus infection:

(a) The nature of the disclosure and the reason for the disclosure.

(b) The anticipated date of disclosure.

(c) The name of the party or parties to whom disclosure is to be made.

The department shall adopt rules pursuant to chapter 17A to implement this paragraph. The rules shall provide a detailed procedure by which the department or a physician may directly notify an endangered third party.

Sec. 2. Section 141.10, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Release may be made of test results concerning a patient pursuant to procedures established under section 141.6, subsection 3, paragraph "d".

Sec. 3. Section 141.10, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A physician or health care practitioner attending a person who tests positive for the human immunodeficiency virus infection has no duty to disclose to or to warn third parties of the dangers of exposure to human immunodeficiency virus infection through contact with that person and is immune from any liability, civil or criminal, for failure to disclose to or warn third parties of the condition of that person.

Sec. 4. Section 141.22, subsection 4, Code 1989, is amended to read as follows:

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 and of section 141.6, subsection 3, paragraph "d".

Sec. 5. Section 141.22, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. When submitted the department shall review and approve pamphlets containing the information required to be provided to a subject or the subject's legal guardian pursuant to subsection 1. The department shall also prepare a model pamphlet containing this information. This subsection does not require submission of all pamphlets containing the required information to the department for approval.

Sec. 6. NEW SECTION. 141.23A EMERGENCY RESPONDER TESTING PROGRAM.

If a person in the course of responding to an emergency renders aid to an injured person and becomes exposed to bodily fluids of the injured person, that emergency responder shall be entitled to HIV testing in accordance with the latest available medical technology to determine if infection with the human immunodeficiency virus has occurred. The costs of the test shall be paid for through the expenditure of funds appropriated to the department for AIDS-related activities.

Sec. 7. Section 141.24, subsection 1, Code 1989, is amended by striking the subsection.

Approved May 26, 1989

CHAPTER 224

RADON ABATEMENT

S.F. 522

AN ACT relating to radon testing and abatement, and making a penalty applicable.

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

Section 1. Section 136B.1, Code 1989, is amended to read as follows:

136B.1 RADON TESTING AND ABATEMENT 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~~ programs and adopt rules for the certification of persons who test for the presence of radon gas and radon progeny in buildings and for the credentialing of persons abating the level of radon in buildings.

3. Following the establishment of the certification ~~program~~ and credentialing programs by the department, a person who is not certified, as appropriate, shall not test for the presence of radon gas and radon progeny, and a person who is not credentialed, as required, shall not

perform abatement measures. This section does not apply to a person performing the testing or abatement on a building which the person owns, or to a person performing testing or abatement without compensation.

4. For the purposes of this section, radon abatement systems shall be classified as mechanical ventilation systems.

Sec. 2. Section 136B.2, subsection 2, Code 1989, is amended to read as follows:

2. A person certified or credentialed pursuant to section 136B.1 shall, within thirty days of the provision of any radon testing services or abatement measures or at the request of the department prior to testing or abatement, disclose to the department the address or location of the building, the name of the owner of the building where the services or measures were or will be provided, and the results of any tests or abatement measures performed.

Sec. 3. Section 136B.3, Code 1989, is amended to read as follows:

136B.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 or the adequacy of abatement measures performed by persons certified or credentialed under section 136B.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 or credentialed under section 136B.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 or credentialing.

Sec. 4. Section 136B.4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department shall establish a fee schedule to defray the costs of the certification ~~program~~ and credentialing programs established pursuant to section 136B.1 and the testing conducted and the written reports provided pursuant to section 136B.3.

Approved May 26, 1989

CHAPTER 225

LAW ENFORCEMENT-RELATED PROGRAMS, INCLUDING SUBSTANCE ABUSE, YOUTH, INCOME TAX, AND COMMUNICATION INTERCEPTION PROGRAMS

H.F. 780

AN ACT relating to substance abuse treatment and narcotics law enforcement, making certain appropriations, providing penalties, and providing an effective date.

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

Section 1. NEW SECTION. 80E.1 DRUG ENFORCEMENT AND ABUSE PREVENTION COORDINATOR.

1. A drug enforcement and abuse prevention coordinator 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 the office in the same manner as the original appointment was made. The coordinator shall be selected primarily for administrative ability. The coordinator shall not be selected on the basis of political affiliation and shall not engage in political activity while holding the office. The salary of the coordinator shall be fixed by the governor.

2. The coordinator shall:

a. Coordinate and monitor all statewide narcotics enforcement efforts, coordinate and monitor all state and federal substance abuse treatment grants and programs, coordinate and monitor all statewide substance abuse prevention and education programs in communities and schools, and engage in such other related activities as required by law. The coordinator shall work in coordinating the efforts of the department of corrections, the department of education, the Iowa department of public health, the department of public safety, and the department of human services. The coordinator shall assist in the development and implementation of local and community strategies to fight substance abuse, including local law enforcement, education, and treatment activities.

b. Submit an annual report to the governor and general assembly by November 1 of each year concerning the activities and programs of the coordinator and other departments related to drug enforcement, substance abuse treatment programs, and substance abuse prevention and education programs. The report shall include an assessment of needs with respect to programs related to substance* treatment and narcotics enforcement.

c. Submit an advisory budget recommendation to the governor and general assembly concerning enforcement programs, treatment programs, and education programs related to drugs within the various departments. The coordinator shall work with these departments in developing the departmental budget requests to be submitted to the legislative fiscal bureau and the general assembly.

Sec. 2. NEW SECTION. 80E.2 DRUG ABUSE PREVENTION AND EDUCATION ADVISORY COUNCIL ESTABLISHED – MEMBERSHIP – DUTIES.

1. An Iowa drug abuse prevention and education advisory council is established which shall consist of the following nine members:

a. The drug enforcement and abuse prevention coordinator, who shall serve as chairperson of the council.

b. The director of the department of corrections, or the director's designee.

c. The director of the department of education, or the director's designee.

d. The director of the Iowa department of public health, or the director's designee.

e. The commissioner of public safety, or the commissioner's designee.

f. The director of the department of human services, or the director's designee.

g. A prosecuting attorney.

h. A licensed substance abuse treatment specialist.

i. A law enforcement officer.

The prosecuting attorney, licensed substance abuse treatment specialist, and law enforcement officer shall be appointed by the governor, subject to senate confirmation, for four-year terms beginning and ending as provided in section 69.19. A vacancy on the council shall be filled for the unexpired term in the same manner as the original appointment was made.

2. The council shall make policy recommendations to the appropriate departments concerning the administration, development, and coordination of programs related to substance abuse education, prevention, and treatment.

3. The members of the council shall be reimbursed for actual and necessary travel and related expenses incurred in the discharge of official duties. Each member of the council may also be eligible to receive compensation as provided in section 7E.6.

4. The council shall meet at least quarterly throughout the year.

5. A majority of the members of the council constitutes a quorum, and a majority of the total membership of the council is necessary to act in any matter within the jurisdiction of the council.

Sec. 3. NEW SECTION. 80E.3 NARCOTICS ENFORCEMENT ADVISORY COUNCIL.

1. An Iowa narcotics enforcement advisory council is established which shall consist of the following eight members:

a. The drug enforcement and abuse prevention coordinator who shall serve as chairperson.

b. Two members representing the Iowa association of chiefs of police and peace officers.

*Substance abuse probably intended

c. Two members representing the Iowa state policemen's association.

d. Two members representing the Iowa state sheriffs' and deputies' association.

e. The commissioner of public safety, or the commissioner's designee.

Members under paragraphs "b", "c", and "d" shall be appointed by the governor, subject to senate confirmation, for four-year terms beginning and ending as provided in section 69.19. These members shall not be serving as an officer within their respective associations at the time of appointment or at any time while serving on the advisory council. Appointments shall be made on the basis of experience, knowledge, and ability in the field of narcotics enforcement. A vacancy on the council shall be filled for the unexpired term in the same manner as the original appointment was made. No more than four members shall belong to the same political party. The members of the council shall be reimbursed for actual and necessary travel and related expenses incurred in the discharge of official duties. Each member of the council may also be eligible to receive compensation as provided in section 7E.6.

2. The council shall adopt rules pursuant to chapter 17A.

3. The council shall recommend policy for the operation and conduct of the narcotics enforcement division of the department of public safety.

4. The council shall recommend policy changes and alternatives to the drug abuse prevention and education advisory council established in section 80E.3.

5. A majority of the members of the council constitutes a quorum, and a majority of the total membership of the council is necessary to act in any matter within the jurisdiction of the council.

Sec. 4. There is appropriated from the general fund of the state to the office of the governor for the fiscal year commencing July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salary, support, maintenance, and miscellaneous purposes of the drug enforcement and abuse prevention coordinator:

..... $ 50,000

Sec. 5. The governor's alliance on substance abuse, created pursuant to executive order number 32 and in accordance with the federal Anti-Drug Abuse Act of 1986, Pub. L. No. 99-570, is transferred from the Iowa department of public health to the drug enforcement and abuse prevention coordinator and shall be under the control and supervision of the coordinator. All state funds shall be transferred to the coordinator and the coordinator shall be responsible for the preparation of federal grant applications for specific grant programs under the federal Anti-Drug Abuse Act of 1986, and the implementation and monitoring of grant programs pursuant to regulations adopted pursuant to the federal Anti-Drug Abuse Act of 1986.

Sec. 6. 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, 1989, shall transfer to the Iowa narcotics enforcement advisory council the following amount, to be used for the purposes designated:

For the administration of a drug enforcement training program for law enforcement officers, as defined in section 80B.3, subsection 3, including, but not limited to, training for the detection of gang and juvenile activity and the apprehension of gang members and juvenile delinquents, subject to the limitation that the council shall not pay for more than fifty percent of the cost of training of any officer, including salary and other benefits, with the remaining fifty percent to be paid by the law enforcement officer's local jurisdiction:

..... $ 300,000

As a condition, limitation, and qualification of this appropriation, the law enforcement officers to be trained under this program shall be selected by the Iowa narcotics enforcement advisory council in closed session. The record of the closed session is exempt from chapter 22. When the council has reached a decision, it shall convene in open meeting and announce such decision. No more than four law enforcement officers participating in this training shall be employed by law enforcement agencies located in the same county. The training program shall be for

a period of one year and an officer participating in this program shall perform, after receiving initial instruction and training at the law enforcement academy, duties as directed by the department of public safety within the narcotics enforcement division relating to the department's responsibility for the enforcement of all laws and rules relating to any controlled substance or counterfeit substance as provided in sections 80.27 through 80.34.

Sec. 7. There is appropriated from the general fund of the state to the office of the attorney general for the office of the prosecuting attorneys training coordinator for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the development and administration of a drug enforcement and prosecution training program for prosecuting attorneys as defined in section 13A.1, subsection 4, and for not more than the following full-time equivalent positions:

.....	$	100,000
.....	FTEs	1.0

Sec. 8. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For the division of narcotics for the salaries and support of the following additional full-time equivalent positions:

.....	$	839,680
.....	FTEs	14.0

As a condition, limitation, and qualification of this appropriation, the division shall employ an additional ten full-time special agents and an additional four full-time support/clerical staff.

2. For the division of criminal investigation and bureau of identification for equipment and salaries and support for the following additional full-time equivalent positions:

.....	$	153,288
.....	FTEs	4.0

As a condition, limitation, and qualification of this appropriation, the division shall employ an additional four full-time lab technicians for the criminalistic laboratory.

3. For the division of criminal investigation and bureau of identification, for the purchase and use of deoxyribonucleic acid recording equipment for purposes of DNA profiling, and not more than the following full-time equivalent positions:

.....	$	59,024
.....	FTEs	2.0

Sec. 9. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For substance abuse treatment programs within the correctional institutions and the community-based correctional programs:

.....	$	940,000

As a condition, limitation, and qualification of this appropriation, $91,000 shall be used for the licensed substance abuse programs at the correctional facilities at Clarinda and Mt. Pleasant for the employment of an additional three full-time counselors; $424,000 shall be used to provide staffing and support for twenty-five additional beds at the correctional facility at Newton for an intensive thirty-day substance abuse treatment program for parole and work release violators who have identified substance abuse problems, and for employment of four additional correctional officers, one additional transport officer, four additional counselors, and a half-time nurse; $425,000 shall be used for the expansion of the treatment alternatives to street crime program currently existing in the first, fifth, and sixth judicial district departments of correctional services and for developing this program in the remaining judicial district departments of correctional services; and the department of corrections in consultation with the division of substance abuse in the Iowa department of public health shall conduct an assessment

and evaluation of an attitude, motivation, and education program for offenders or ex-offenders, and submit a report of the findings of the assessment and evaluation to the general assembly on or before March 1, 1990.

Sec. 10. Section 123.46, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Upon the expiration of two years following conviction for a violation of this section, a person may petition the court to exonerate the person of the conviction, and if the person has had no other criminal convictions, other than simple misdemeanor violations of chapter 321 during the two-year period, the court shall order the person exonerated of the offense and the record expunged. Upon entry of an order exonerating the person of the conviction, the record of the conviction shall be expunged by the clerk of the district court.

Sec. 11. Section 204.401, subsections 1 and 2, Code 1989, are amended by striking the subsections and inserting in lieu thereof the following:

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance, a counterfeit substance, or a simulated controlled substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance, a counterfeit substance, or a simulated controlled substance.

a. Violation of this subsection, with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "B" felony, and notwithstanding section 902.9, subsection 1, shall be punished by confinement for no more than fifty years and a fine of not more than one million dollars:

(1) More than one kilogram of a mixture or substance containing a detectable amount of heroin.

(2) More than five kilograms of a mixture or substance containing a detectable amount of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) through (c).

(3) More than fifty grams of a mixture or substance described in subparagraph 2 which contains cocaine base.

(4) More than one hundred grams of phencyclidine (PCP) or one kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) More than ten grams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD).

(6) More than one thousand kilograms of a mixture or substance containing a detectable amount of marijuana.

b. Violation of this subsection with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "B" felony, and in addition to the provisions of section 902.9, subsection 1, shall be punished by a fine of not less than five thousand dollars nor more than one hundred thousand dollars:

(1) More than one hundred grams but not more than one kilogram of a mixture or substance containing a detectable amount of heroin.

(2) More than five hundred grams but not more than five kilograms of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) through (c).

(3) More than five grams but not more than fifty grams of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) More than ten grams but not more than one hundred grams of phencyclidine (PCP) or more than one hundred grams but not more than one kilogram of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) Not more than ten grams of lysergic acid diethylamide (LSD).

(6) More than one hundred kilograms but not more than one thousand kilograms of marijuana.

c. Violation of this subsection with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "C" felony, and in addition to the provisions of section 902.9, subsection 3, shall be punished by a fine of not less than one thousand dollars nor more than fifty thousand dollars:

(1) One hundred grams or less of a mixture or substance containing a detectable amount of heroin.

(2) Five hundred grams or less of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) through (c).

(3) Five grams or less of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) Ten grams or less of phencyclidine (PCP) or one hundred grams or less of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) More than fifty kilograms but not more than one hundred kilograms of marijuana.

(6) Any other controlled substance, counterfeit substance, or simulated controlled substance classified in schedule I, II, or III.

d. Violations of this subsection, with respect to any other controlled substances, counterfeit substances, or simulated controlled substances classified in schedule IV or V is an aggravated misdemeanor. However, violations of this subsection involving less than fifty kilograms of marijuana, is a class "D" felony, and in addition to the provisions of section 902.9, subsection 4, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars.

e. A person in the immediate possession or control of a firearm while participating in a violation of this subsection shall be sentenced to two times the term otherwise imposed by law, and no such judgment, sentence, or part thereof shall be deferred or suspended.

f. A person in the immediate possession or control of an offensive weapon, as defined in section 724.1, while participating in a violation of this subsection, shall be sentenced to three times the term otherwise imposed by law, and no such judgment, sentence, or part thereof shall be deferred or suspended.

2. If the same person commits two or more acts which are in violation of subsection 1 and the acts occur in approximately the same location or time period so that the acts can be attributed to a single scheme, plan, or conspiracy, the acts may be considered a single violation and the weight of the controlled substances, counterfeit substances, or simulated controlled substances involved may be combined for purposes of charging the offender.

Sec. 12. Section 204.406, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

204.406 DISTRIBUTION TO PERSON UNDER AGE EIGHTEEN.

1. A person who is eighteen years of age or older who:

a. Unlawfully distributes a substance listed in schedule I or II, which is a narcotic or cocaine, to a person under eighteen years of age commits a class "B" felony and shall serve a minimum

term of confinement of five years. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes a controlled substance other than a narcotic or cocaine listed in schedule I, II, or III to a person under eighteen years of age who is at least three years younger than the violator commits a class "C" felony.

c. Unlawfully distributes a controlled substance listed in schedule IV or V to a person under eighteen years of age who is at least three years younger than the violator commits an aggravated misdemeanor.

2. A person who is eighteen years of age or older who:

a. Unlawfully distributes a counterfeit substance listed in schedule I or II which is a narcotic or cocaine, or a simulated controlled substance represented to be a narcotic or cocaine classified in schedule I or II, to a person under eighteen years of age commits a class "B" felony. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes a counterfeit substance other than a narcotic or cocaine listed in schedule I, II, or III, or a simulated controlled substance represented to be any substance listed in schedule I, II, or III, to a person under eighteen years of age who is at least three years younger than the violator commits a class "C" felony.

c. Unlawfully distributes a counterfeit substance listed in schedule IV or V, or a simulated controlled substance represented to be a substance listed in schedule IV or V, to a person under eighteen years of age who is at least three years younger than the violator commits an aggravated misdemeanor.

3. It is unlawful for a person to deliver a controlled substance to another person in order to act with, enter into a common scheme or design with, conspire with, or recruit the other person for the purpose of delivering a controlled substance to one or more persons under eighteen years of age. A person who violates this subsection with respect to a controlled substance classified in schedule I, II, III, IV, or V is guilty of a class "D" felony.

Sec. 13. Section 204.410, Code 1989, is amended to read as follows:

204.410 ACCOMMODATION OFFENSE.

In a prosecution for unlawful delivery or possession with intent to deliver marijuana, if the prosecution proves that the defendant violated the provisions of section 204.401, subsection 1, by proving that the defendant delivered or possessed with intent to deliver one ounce or less of marijuana, the defendant is guilty of an accommodation offense and rather than being sentenced as if convicted for a violation of section 204.401, subsection 1, paragraph ~~"b"~~ "d", shall be sentenced as if convicted of a violation of section 204.401, subsection 3. An accommodation offense may be proved as an included offense under a charge of delivering or possessing with the intent to deliver marijuana in violation of section 204.401, subsection 1. This section does not apply to hashish, hashish oil, or other derivatives of marijuana as defined in section 204.101, subsection 17.

Sec. 14. Section 204.413, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A person sentenced pursuant to section 204.401, subsection 1, paragraph "a", ~~or~~ "b", "c", "e", or "f", shall not be eligible for parole until the person has served a minimum period of confinement of one-third of the maximum indeterminate sentence prescribed by law.

Sec. 15. NEW SECTION. 256.40 FINDINGS.

It is the intent of the general assembly that greater collaboration and coordination is necessary among state agencies in addressing the many challenges faced by Iowa in assuring the full development of the state's youth into the productive work force necessary for the twenty-first century. Public policy attention must be placed upon the needs of at-risk adolescents and adolescents in at-risk communities. Iowa youth are at risk of a variety of personal and social problems including drug abuse and dependency, adult criminal activities, school dropout, juvenile

delinquency, adolescent suicide, and adolescent pregnancy, all of which can lead to adult unemployment and welfare dependency. Approaches to such adolescent problems should be dealt with in a comprehensive and coordinated fashion that involves the family, schools, community programs serving youth, and the private sector in providing positive youth alternatives. The state should play a significant role in aiding in such collaborative efforts within local communities.

Sec. 16. NEW SECTION. 256.41 YOUTH 2000 COORDINATING COUNCIL CREATED.

A youth 2000 coordinating council is created within the department of education. The council consists of the following persons:

1. The director of the department of education, or the director's designee.
2. The administrator of the division of job training and entrepreneurship assistance of the department of economic development, or the administrator's designee.
3. The administrator of the division of children, youth and families in the department of human rights, or the administrator's designee.
4. The administrator of the division of substance abuse of the Iowa department of public health, or the administrator's designee.
5. The administrator of the division of criminal and juvenile justice planning in the department of human rights, or the administrator's designee.
6. The administrator of the division of children and youth programs within the department of human services, or the administrator's designee.
7. The president of the Iowa association of school boards, or the president's designee.
8. The president of the Iowa state education association, or the president's designee.
9. The drug enforcement and abuse prevention coordinator shall serve as an ex officio and nonvoting member.

Sec. 17. NEW SECTION. 256.42 COUNCIL RESPONSIBILITIES.

The youth 2000 coordinating council shall do all of the following:

1. Identify ways in which state agencies can coordinate the delivery of state services for youth within local communities, including ways in which local schools can coordinate services with other youth services programs.
2. Identify ways in which state policy should be modified to provide for greater collaboration in addressing youth problems and provide greater efficiency in meeting youth needs.
3. Identify program models for use in local communities for after school and summer youth employment efforts involving public-private partnerships to serve as alternatives to school dropout and drug use by youth.
4. Assist the department of education in providing oversight and assistance to the school-based youth services education program established pursuant to 1989 Iowa Acts, House File 535.
5. Subject to the availability of funds for this purpose, award community planning grants for collaborative efforts to establish local drug prevention and youth development programs.
6. Provide assistance to local communities and the Iowa department of public health in using substance abuse prevention funds available through federal and foundation funding sources.
7. Seek outside funding support for statewide and regional workshops and conferences on collaborative efforts to address youth problems.
8. Serve as a clearinghouse on collaborative efforts to provide youth development opportunities for at-risk youth and youth in at-risk communities.
9. Report annually to the governor on public policy options available in Iowa to reduce the use of drugs by Iowa's youth and to address other important youth issues.

Sec. 18. Section 422.7, subsection 12, paragraphs a, b, and c, and unnumbered paragraph 2, Code 1989, are amended by striking the paragraphs.

Sec. 19. Section 422.7, subsection 12, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. a. A handicapped individual domiciled in this state at the time of the hiring who meets any of the following conditions:

(1) Has a physical or mental impairment which substantially limits one or more major life activities.

(2) Has a record of that impairment.

(3) Is regarded as having that impairment.

NEW PARAGRAPH. b. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

(1) Has been convicted of a felony in this or any other state or the District of Columbia.

(2) Is on parole pursuant to chapter 906.

(3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.

(4) Is in a work release program pursuant to chapter 246, division IX.

NEW PARAGRAPH. c. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 907A.1 applies.

NEW UNNUMBERED PARAGRAPH. The amount of the additional deduction is equal to sixty-five percent of the wages paid to individuals, but shall not exceed twenty thousand dollars per individual, named in paragraphs "a", "b", and "c" who were hired for the first time by that business during the annual accounting period for work done in the state. This additional deduction is allowed for the wages paid to those individuals successfully completing a probationary period during the twelve months following the date of first employment by the business and shall be deducted at the close of the annual accounting period.

Sec. 20. Section 422.35, subsection 6, unnumbered paragraph 1, and paragraphs a, b, and c, Code 1989, are amended by striking the paragraphs.

Sec. 21. Section 422.35, subsection 6, Code 1989, is amended by adding the following new paragraphs:

NEW UNNUMBERED PARAGRAPH. If the taxpayer is a small business corporation, subtract an amount equal to sixty-five percent of the wages paid to individuals, but shall not exceed twenty thousand dollars per individual, named in paragraphs "a", "b", and "c" who were hired for the first time by the taxpayer during the tax year for work done in this state:

NEW PARAGRAPH. a. A handicapped individual domiciled in this state at the time of the hiring who meets any of the following conditions:

(1) Has a physical or mental impairment which substantially limits one or more major life activities.

(2) Has a record of that impairment.

(3) Is regarded as having that impairment.

NEW PARAGRAPH. b. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

(1) Has been convicted of a felony in this or any other state or the District of Columbia.

(2) Is on parole pursuant to chapter 906.

(3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.

(4) Is in a work release program pursuant to chapter 246, division IX.

NEW PARAGRAPH. c. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 907A.1 applies.

Sec. 22. NEW SECTION. 808B.1 DEFINITIONS.

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

1. "Aggrieved person" means a person who was a party to an intercepted wire communication or oral communication or a person against whom the interception was directed.

2. "Contents", when used with respect to a wire communication or oral communication, includes any information concerning the identity of the parties to the communication or the existence, substance, purpose, or meaning of that communication.

3. "Court" means a district court in this state.

4. "Electronic, mechanical, or other device" means a device or apparatus which can be used to intercept a wire communication or oral communication other than either of the following:

a. A telephone or telegraph instrument, equipment, or facility, or any component of it which is either of the following:

(1) Furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of the subscriber's or user's business.

(2) Being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of the officer's duties.

b. A hearing aid or similar device being used to correct subnormal hearing to not better than normal hearing.

5. "Intercept" or "interception" means the aural acquisition of the contents of a wire communication or oral communication through the use of an electronic, mechanical, or other device.

6. "Investigative or law enforcement officer" means a peace officer of this state or one of its political subdivisions or of the United States who is empowered by law to conduct investigations of or to make arrests for criminal offenses, the attorney general, or a county attorney authorized by law to prosecute or participate in the prosecution of criminal offenses.

7. "Oral communication" means an oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception, under circumstances justifying that expectation.

8. "Special state agent" means a sworn peace officer member of the department of public safety.

9. "Wire communication" means a communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, furnished or operated by a person engaged as a common carrier in providing or operating the facilities for the transmission of communications.

Sec. 23. NEW SECTION. 808B.2 UNLAWFUL ACTS — PENALTY.

1. Except as otherwise specifically provided in this chapter, a person who does any of the following commits a class "D" felony:

a. Willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, a wire communication or oral communication.

b. Willfully uses, endeavors to use, or procures any other person to use or endeavor to use an electronic, mechanical, or other device to intercept any oral communication when either of the following applies:

(1) The device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication.

(2) The device transmits communications by radio, or interferes with the transmission of radio communications.

c. Willfully discloses, or endeavors to disclose, to any other person the contents of a wire communication or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire communication or oral communication in violation of this subsection.

d. Willfully uses, or endeavors to use, the contents of a wire communication or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire communication or oral communication in violation of this subsection.

2. a. It is not unlawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of a communications common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of employment while engaged in an activity which is a necessary incident to the

rendition of service or to the protection of the rights or property of the carrier of the communication. However, communications common carriers shall not use service observing or random monitoring except for mechanical or service quality control checks.

b. It is not unlawful under this chapter for a person acting under color of law to intercept a wire communication or oral communication, if the person is a party to the communication or one of the parties to the communication has given prior consent to the interception.

c. It is not unlawful under this chapter for a person not acting under color of law to intercept a wire communication or oral communication if the person is a party to the communication or if one of the parties to the communication has given prior consent to the interception, unless the communication is intercepted for the purpose of committing a criminal or tortious act in violation of the Constitution or laws of the United States or of any state or for the purpose of committing any other injurious act.

3. An operator of a switchboard, or an officer, employee, or agent of a communications common carrier, whose facilities are used in the transmission or interception of a wire or oral communication shall not disclose the existence of any transmission or interception or the device used to accomplish the transmission or interception with respect to a court order under this chapter, except as may otherwise be required by legal process or court order. Violation of this subsection is a class "D" felony.

Sec. 24. NEW SECTION. 808B.3 COURT ORDER FOR INTERCEPTION BY SPECIAL AGENTS.

The attorney general shall authorize and prepare any application for an order authorizing the interception of wire communications or oral communications. The attorney general may apply to any district court of this state, or request that the county attorney in the district where application is to be made deliver the application of the attorney general, for an order authorizing the interception of wire communications or oral communications, and the court may grant, subject to this chapter, an order authorizing the interception of wire communications or oral communications by special state agents having responsibility for the investigation of the offense as to which application is made, when the interception may provide or has provided evidence of the commission of felony offenses involving dealing in controlled substances, as defined in section 204.101, subsection 6.

Sec. 25. NEW SECTION. 808B.4 PERMISSIBLE DISCLOSURE AND USE.

1. A special state agent who, by any means authorized by this chapter, has obtained knowledge of the contents of a wire communication or oral communication, or has obtained evidence derived from a wire communication or oral communication, may disclose the contents to another investigative or law enforcement officer to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

2. An investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of a wire communication or oral communication or has obtained evidence derived from a wire communication or oral communication may use the contents to the extent the use is appropriate to the proper performance of the officer's official duties.

3. A person who has received, by any means authorized by this chapter, any information concerning a wire communication or oral communication, or evidence derived from a wire communication or oral communication intercepted in accordance with this chapter may disclose the contents of that communication or derivative evidence while giving testimony under oath or affirmation in a criminal proceeding in any court of the United States or of this state or in any federal or state grand jury proceeding.

4. An otherwise privileged wire communication or oral communication intercepted in accordance with, or in violation of, the provisions of this chapter does not lose its privileged character.

5. If a special state agent, while engaged in intercepting a wire communication or oral communication in the manner authorized, intercepts a communication relating to an offense other than those specified in the order of authorization, the contents of the communication, and the

evidence derived from the communication, may be disclosed or used as provided in subsections 1 and 2. The contents of and the evidence derived from the communication may be used under subsection 3 when authorized by a court if the court finds on subsequent petition that the contents were otherwise intercepted in accordance with this chapter. The petition shall be made as soon as practicable.

Sec. 26. NEW SECTION. 808B.5 APPLICATION AND ORDER.

1. An application for an order authorizing or approving the interception of a wire communication or oral communication shall be made in writing upon oath or affirmation to a court and shall state the applicant's authority to make the application. An application shall include the following information:

a. The identity of the special state agent requesting the application, the supervisory officer reviewing and approving the request, and the approval of the administrator of a division of the department of public safety under whose command the special state agent making the application is operating or the administrator's designee.

b. A full and complete statement of the facts and circumstances relied upon by the applicant to justify the belief that an order should be issued, including details as to the particular offense that has been, is being, or is about to be committed, a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, a particular description of the type of communications sought to be intercepted, and the identity of the person, if known, committing the offense and whose communications are to be intercepted.

c. A full and complete statement as to whether other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous.

d. A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will subsequently occur.

e. A full and complete statement of the facts concerning all previous applications known to the individuals authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire communications or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the court on those applications.

f. If the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain results.

2. The court may require the applicant to furnish additional testimony or documentary evidence in support of the application.

3. Upon application the court may enter an ex parte order, as requested or as modified, authorizing interception of wire communications or oral communications within the territorial jurisdiction of the court, if the court finds on the basis of the facts submitted by the applicant all of the following:

a. There is probable cause for belief that an individual is committing, has committed, or is about to commit a felony offense involving dealing in controlled substances, as defined in section 204.101, subsection 6.

b. There is probable cause for belief that particular communications concerning the offense will be obtained through the interception.

c. Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous.

d. There is probable cause for belief that the facilities from which, or the place where, the wire communications or oral communications are to be intercepted are being used, or are about

to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the person whose communications are to be intercepted.

4. Each order authorizing the interception of a wire communication or oral communication shall specify all of the following:

a. The identity of the person, if known, whose communications are to be intercepted.

b. The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted.

c. A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which the communication relates.

d. The identity of the agency authorized to intercept the communications, and of the person requesting the application.

e. The period of time during which interception is authorized, including a statement as to whether the interception shall automatically terminate when the described communication has been first obtained.

5. Each order authorizing the interception of a wire communication or oral communication shall, upon request of the applicant, direct that a communications common carrier, landlord, custodian, or other person shall furnish to the applicant all information, facilities, and technical assistance necessary to accomplish the interception inconspicuously and with a minimum of interference with the services that the carrier, landlord, custodian, or person is giving to the person whose communications are to be intercepted. Any communications common carrier, landlord, custodian, or other person furnishing facilities or technical assistance shall be compensated by the applicant at the prevailing rates.

6. An order entered under this section shall not authorize the interception of a wire communication or oral communication for a period longer than is necessary to achieve the objective of the authorized interception, or in any event longer than thirty days. The thirty-day period shall commence on the date specified in the order upon which the commencement of the interception is authorized or ten days after the order is entered, whichever is earlier. An extension of an order may be granted, but only upon application for an extension made in accordance with subsection 1 and the court making the findings required by subsection 3. The period of extension shall be no longer than the authorizing court deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. Every order and its extension shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this section and sections 808B.1 through 808B.4, 808B.6, and 808B.7, and shall terminate upon attainment of the authorized objective, or in any event in thirty days.

7. If an order authorizing interception is entered pursuant to this chapter, the order may require reports to be made to the court which issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. The reports shall be made at intervals as the court requires.

8. The contents of a wire communication or oral communication intercepted by a means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of a wire communication or oral communication under this subsection shall be done in a way which will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions of it, the recordings shall be made available to the court issuing the order and shall be sealed under the court's directions. Custody of the recordings shall be in accordance with the court order. Recordings shall be kept for five years and shall then be destroyed unless it is necessary to keep the recordings due to a continued legal process or court order, but the recordings shall not be kept for longer than ten years. Duplicate recordings may be made for disclosure or use pursuant to section 808B.4, subsections 1 and 2. The presence of a seal, or a satisfactory explanation for its absence, is a prerequisite for the disclosure or use of the contents of

a wire communication or oral communication or evidence derived from a communication under section 808B.4, subsection 3.

Applications made and orders granted under this chapter shall be sealed by the court. Custody of the applications and orders shall be in accordance with the directives of the court. The applications and orders shall be disclosed only upon a showing of good cause before a court and shall be kept for five years and shall then be destroyed unless it is necessary to keep the applications or orders due to a continued legal process or court order, but the applications and orders shall not be kept for longer than ten years.

A violation of this subsection may be punished as contempt of court.

9. Within a reasonable time, but not longer than ninety days, after the termination of the period of an order or its extensions, the court shall cause a notice to be served on all persons named in the order or the application which includes the following:

a. The names of other parties to intercepted communications if the court determines disclosure of the names to be in the interest of justice.

b. An inventory which shall include all of the following:

(1) The date of the application.

(2) The date of the entry of the court order and the period of authorized, approved, or disapproved interception, or the denial of the application.

(3) Whether, during the period, wire or oral communications were or were not intercepted.

The court, upon the filing of a motion by a person whose communications were intercepted, shall make available to the person or the person's attorney for inspection the intercepted communications, applications, and orders. On an ex parte showing of good cause to a court, the service of the inventory required by this subsection may be postponed.

10. The contents of an intercepted wire communication or oral communication or evidence derived from the wire communication or oral communication shall not be received in evidence or otherwise disclosed in a trial, hearing, or other proceeding in a federal or state court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized. This ten-day period may be waived by the court if it finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information. If the ten-day period is waived by the court, the court may grant a continuance, or enter such other order as it deems just under the circumstances.

11. An aggrieved person in a trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this state, may move to suppress the contents of an intercepted wire communication or oral communication, or evidence derived from the wire communication or oral communication, on the grounds that the communication was unlawfully intercepted, the order of authorization under which it was intercepted was insufficient on its face, or the interception was not made in conformity with the order of authorization. The motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire communication or oral communication, or evidence derived from the wire communication or oral communication, shall be treated as having been obtained in violation of this chapter.

12. An appeal by the attorney general from an order granting a motion to suppress or from the denial of an application for an order of approval shall be pursuant to section 814.5, subsection 2.

Sec. 27. NEW SECTION. 808B.6 REPORTS TO STATE COURT ADMINISTRATOR.

1. Within thirty days after the denial of an application or after the expiration of an order granting an application, or after an extension of an order, the court shall report to the state court administrator all of the following:

a. The fact that an order or extension was applied for.

b. The kind of order or extension applied for.

c. The fact that the order or extension was granted as applied for, was granted as modified, or that an application was denied.

d. The period of interceptions authorized by the order, and the number and duration of any extensions of the order.

e. The offense specified in the order or application, or extension of an order.

f. The identity of the prosecutor making the application and the court reviewing and approving the request.

g. The nature of the facilities from which or the place where communications were to be intercepted.

2. In January of each year, the attorney general and the county attorneys of this state shall report to the state court administrator and to the administrative offices of the United States district courts all of the following:

a. The fact that an order or extension was applied for.

b. The kind of order or extension applied for.

c. The fact that the order or extension was granted as applied for, was granted as modified, or that an application was denied.

d. The period of interceptions authorized by the order, and the number and duration of any extensions of the order.

e. The offense specified in the order or application, or extension of an order.

f. The nature of the facilities from which or the place where communications were to be intercepted.

g. A general description of the interceptions made under such order or extension, including:

(1) The approximate nature and frequency of incriminating communications intercepted.

(2) The approximate nature and frequency of other communications intercepted.

(3) The approximate number of persons whose communications were intercepted.

(4) The approximate nature, amount, and cost of personnel and other resources used in the interceptions.

h. The number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made.

i. The number of trials resulting from such interceptions.

j. The number of motions to suppress made with respect to such interceptions, and the number granted or denied.

k. The number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions.

l. The information required by paragraphs "b" through "f" with respect to orders or extensions obtained in a preceding calendar year and not yet reported.

m. Other information required by the rules of the administrative offices of the United States district courts.

3. In March of each year the state court administrator shall transmit to the general assembly a full and complete report concerning the number of applications for orders authorizing the interception of wire communications or oral communications and the number of applications, orders, and extensions granted or denied during the preceding calendar year. The report shall include a summary and analysis of the data required to be filed with the state court administrator by the attorney general, county attorneys, and the courts.

Sec. 28. NEW SECTION. 808B.7 CONTENTS OF INTERCEPTED WIRE OR ORAL COMMUNICATION AS EVIDENCE.

The contents or any part of the contents of an intercepted wire communication or oral communication and any evidence derived from the wire communication or oral communication shall not be received in evidence in a trial, hearing, or other proceeding in or before a court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a state, or political subdivision of a state if the disclosure of that information would be in violation of this chapter.

Sec. 29. NEW SECTION. 808B.8 CIVIL DAMAGES AUTHORIZED — CIVIL AND CRIMINAL IMMUNITY — INJUNCTIVE RELIEF.

1. A person whose wire communication or oral communication is intercepted, disclosed, or used in violation of this chapter shall:

a. Have a civil cause of action against any person who intercepts, discloses, or uses or procures any other person to intercept, disclose, or use such communications.

b. Be entitled to recover from any such person all of the following:

(1) Actual damages, but not less than liquidated damages computed at the rate of one hundred dollars a day for each day of violation, or one thousand dollars, whichever is higher.

(2) Punitive damages upon a finding of a willful, malicious, or reckless violation of this chapter.

(3) A reasonable attorney's fee and other litigation costs reasonably incurred.

2. A good faith reliance on a court order shall constitute a complete defense to any civil or criminal action brought under this chapter.

3. A person whose wire communication or oral communication is intercepted, disclosed, or used in violation of this chapter may seek an injunction, either temporary or permanent, against any person who violates this chapter.

Sec. 30. NEW SECTION. 808B.9 REPEAL.

This chapter is repealed effective July 1, 1994.

Sec. 31. The legislative council is requested to establish an interim study committee to study illegal drug activities in the state of Iowa and efforts to combat this growing problem. If established, the study committee shall study the appropriate aid to be provided to state and local law enforcement agencies for the apprehension of persons engaged in unlawful activities relating to drugs, the proper role for state government in coordinating these enforcement activities, the treatment of substance abusers, the relationship between the use of illegal drugs and the commission of criminal offenses not related to illegal drugs in Iowa, and other related matters. The study committee should report its findings and recommendations to the legislative council and the general assembly by January 15, 1990.

Sec. 32. Section 204.414, Code 1989, is repealed.

Sec. 33. Sections 18 through 21 of this Act apply retroactively to January 1, 1989, for tax years beginning on or after that date.

Sec. 34. Section 5 of this Act is effective July 1, 1990.

Approved May 26, 1989

CHAPTER 226

HARASSMENT

H.F. 672

AN ACT relating to harassment and providing penalties.

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

Section 1. Section 708.7, Code 1989, is amended to read as follows:

708.7 HARASSMENT.

1. A person commits harassment when, with intent to intimidate, annoy or alarm another person, the person does any of the following:

~~1~~ a. Communicates with another by telephone, telegraph, or writing without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

2 b. Places ~~any~~ a simulated explosive or simulated incendiary device in or near ~~any~~ a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by ~~such~~ another person.

3 c. Orders merchandise or services in the name of another, or to be delivered to another, without ~~such~~ the other person's knowledge or consent.

4 d. Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the ~~same~~ act did not occur.

~~Harassment is a simple misdemeanor.~~

2. A person commits harassment in the first degree when the person commits harassment involving a threat to commit a forcible felony, or commits harassment and has previously been convicted of harassment three or more times under this section or any similar statute during the preceding ten years.

Harassment in the first degree is an aggravated misdemeanor.

3. A person commits harassment in the second degree when the person commits harassment involving a threat to commit bodily injury, or commits harassment and has previously been convicted of harassment two times under this section or any similar statute during the preceding ten years.

Harassment in the second degree is a serious misdemeanor.

4. Any other act of harassment is harassment in the third degree. Harassment in the third degree is a simple misdemeanor.

Approved May 26, 1989

CHAPTER 227

INSURANCE AGENTS AND ADMINISTRATORS

S.F. 272

AN ACT relating to insurance by providing for notice and review of contracts between insurers and managing general agents and providing for regulation of third-party administrators.

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

DIVISION I

Section 1. NEW SECTION. 515.161 DEFINITIONS.

For purposes of this subchapter, unless the context requires otherwise:

"Managing general agent" means a person, acting as an independent contractor with respect to a domestic insurer, except a county mutual association that operates only within a given county and counties contiguous to that county, who performs an underwriting or claims function for the insurer, but does not include any of the following:

1. A licensed attorney retained for the defense of an insured, as required or allowed by the policy of insurance issued by the domestic insurer.

2. A licensed insurance agent who is extended settlement authority by an insurer as an incidental part of the agent's duties as an agent.

3. An independent claims adjuster who receives periodic assignments of claims from an insurer.

4. A person retained for the purpose of obtaining photographs, diagrams, or otherwise verifying information submitted on applications for insurance, and who does not perform any other claim or underwriting services for the insurer.

Sec. 2. NEW SECTION. 515.162 CONTRACTS WITH MANAGING GENERAL AGENTS.

A domestic insurer shall not enter into a contract with a managing general agent unless the domestic insurer notifies the commissioner in writing of its intention to enter into the

contract at least thirty days prior to entering into the contract or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the contracts within the time period. The commissioner shall not approve the contracts if the commissioner finds any of the following:

1. The service or management charges in the contract are based upon criteria unrelated either to the insurer's profits or to the reasonable, customary, and usual charges for such services to the company.

2. Management personnel or other employees of the insurance company are to be performing management functions and receiving any remuneration for those management functions through the contract in addition to the compensation received directly from the insurance company for their services.

3. The contract would transfer substantial control of the insurer or any of the powers vested in the board of directors, by statute, articles of incorporation, or bylaws, or substantially all of the basic functions of the insurer's management to the managing general agent.

4. The contract contains provisions which would be clearly detrimental to the best interest of policyholders, stockholders, or members of the company.

5. The officers and directors of the managing general agent firm are of known bad character or have been affiliated, directly or indirectly, through ownership, control, management, reinsurance transactions, or other insurance or business relations with any person known to have been involved in the improper manipulation of assets, accounts, or reinsurance.

If the commissioner disapproves of a contract, notice of the disapproval shall be given to the insurer, specifying the reasons in writing. The commissioner shall grant any party to the contract a hearing on the disapproval upon request pursuant to chapter 17A.

Sec. 3. NEW SECTION. 515.163 LIABILITY OF MANAGING GENERAL AGENTS.

Notwithstanding any obligation of a director or officer of an insolvent insurer to the liquidator of the insolvent insurer, a managing general agent of a domestic insurer against whom an order of liquidation has been entered is liable for fees paid to the managing general agent prior to the entry of the order of liquidation upon a finding that the rendering of services, or failure to render services contracted for, substantially caused or contributed to the insolvency of the domestic insurer, and was pursuant to a contract which had not been submitted to the commissioner, or which had been submitted to the commissioner and disapproved, or the services did not meet accepted standards for such services.

DIVISION II

Sec. 4. NEW SECTION. 515.166 DEFINITIONS.

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

1. "Administrator" means a person who collects charges or premiums from, or who adjusts or settles claims on, residents of this state in connection with life or health insurance coverage or annuities other than any of the following:

a. A union or association on behalf of its members.

b. An insurance company which is either licensed in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business.

c. An entity licensed under chapter 514 including its sales representatives licensed in this state when engaged in the performance of its duties as sales representatives.

d. A life or health agent or broker licensed in this state, whose activities are limited exclusively to the sale of insurance.

e. A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.

f. A trust, its trustees, agents, and employees acting under the trust, established in conformity with 29 U.S.C. § 186.

g. A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees, and employees acting under the trust.

h. A custodian, its agents, and employees acting pursuant to a custodian account which meets the requirements of section 401(f) of the Internal Revenue Code.

i. A bank, credit union, or other financial institution which is subject to supervision or examination by federal or state banking authorities.

j. A credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims.

k. A person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney-at-law, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

2. "Life or health insurance" includes, but is not limited to, the following:

a. Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.

b. An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.

c. An individual or group health maintenance organization contract regulated under chapter 514B.

d. An individual or group Medicare supplemental policy.

e. A long-term care policy.

f. An individual or group life insurance policy or annuity issued pursuant to chapter 508, 508A, or 509A.

Sec. 5. NEW SECTION. 515.167 WRITTEN AGREEMENT NECESSARY.

A person shall not act as an administrator without a written agreement between the administrator and the insurer, and the written agreement shall be retained as part of the official records of both the insurer and the administrator for the duration of the agreement plus five years. The written agreement shall contain provisions which include the requirements of sections 515.166 through 515.171, except insofar as those requirements do not apply to the functions performed by the administrator.

When a policy is issued to a trustee, a copy of the trust agreement and any amendments to the trust agreement shall be furnished to the insurer by the administrator and shall be retained as part of the official records of both the insurer and the administrator for the duration of the policy plus five years.

Sec. 6. NEW SECTION. 515.168 PAYMENT TO ADMINISTRATOR.

If an insurer uses the services of an administrator under the terms of a written contract as required in section 515.167, payment to the administrator of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by the insurer, and the payment of return premiums or claims by the insurer to the administrator shall not be deemed payment to the insured or claimant until the payments are received by the insured or claimant. This section does not limit any right of the insurer against the administrator resulting from the administrator's failure to make payments to the insurer, insureds, or claimants.

Sec. 7. NEW SECTION. 515.169 MAINTENANCE OF INFORMATION.

An administrator shall maintain at its principal administrative office for the duration of the written agreement referred to in section 515.167 plus five years, adequate books and records of all transactions between it, insurers, and insured persons. The administrator's books and records shall be maintained in accordance with prudent standards of insurance recordkeeping. The commissioner shall have access to such books and records for the purpose of examination, audit, and inspection. Trade secrets contained in an administrator's books and records, including but not limited to the identity and addresses of policyholders and certificate holders, shall be confidential, except the commissioner may use trade secret information in any proceeding instituted against the administrator. The insurer retains the right to continuing access

to the administrator's books and records sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and administrator on the proprietary rights of the parties in the administrator's books and records.

Sec. 8. NEW SECTION. 515.170 APPROVAL OF ADVERTISING.

An administrator may use only such advertising pertaining to the business underwritten by an insurer as has been approved by the insurer in advance of its use.

Sec. 9. NEW SECTION. 515.171 UNDERWRITING PROVISION.

The agreement shall provide for the underwriting or other standards pertaining to the business underwritten by the insurer.

Sec. 10. NEW SECTION. 515.172 PREMIUM COLLECTION.

1. All insurance charges or premiums collected by an administrator on behalf of or for an insurer, and return premiums received from the insurer, shall be held by the administrator in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled to them, or shall be deposited promptly in a fiduciary bank account established and maintained by the administrator. If charges or premiums so deposited have been collected on behalf of or for more than one insurer, the administrator shall cause the bank in which the fiduciary account is maintained to keep records clearly recording the deposits in and withdrawals from the account on behalf of or for each insurer. The administrator shall promptly obtain and keep copies of all such records and, upon request of an insurer, shall furnish the insurer with copies of the records pertaining to deposits and withdrawals on behalf of or for that insurer.

2. The administrator shall not pay a claim by withdrawal from the fiduciary account. Withdrawals from the fiduciary account shall be made, as provided in the written agreement between the administrator and the insurer, for any of the following:

a. Remittance to an insurer entitled thereto.

b. Deposit in an account maintained in the name of the insurer.

c. Transfer to and deposit in a claims-paying account, with claims to be paid as provided in section 515.173.

d. Payment to a group policyholder for remittance to the insurer entitled thereto.

e. Payment to the administrator of its commission, fees, or charges.

f. Remittance of return premiums to the persons entitled thereto.

Sec. 11. NEW SECTION. 515.173 PAYMENT OF CLAIMS.

A claim paid by the administrator from funds collected on behalf of the insurer shall be paid only on a draft of and as authorized by the insurer.

Sec. 12. NEW SECTION. 515.174 CLAIM ADJUSTMENT AND SETTLEMENT.

The compensation paid to an administrator shall not be contingent on claim experience on policies for which the administrator adjusts or settles claims. This section does not prevent the compensation of an administrator from being based on premiums or charges collected or number of claims paid or processed.

Sec. 13. NEW SECTION. 515.175 NOTIFICATION REQUIRED.

When the services of an administrator are used, the administrator shall provide a written notice, approved by the insurer, to insured individuals, advising them of the identity of and relationship among the administrator, the policyholder, and the insurer. When an administrator collects funds, it must identify and state separately in writing to the person paying to the administrator any charge or premium for insurance coverage the amount of any such charge or premium specified by the insurer for such insurance coverage.

Sec. 14. NEW SECTION. 515.176 CERTIFICATE OF REGISTRATION REQUIRED.

A person shall not act as or represent oneself to be an administrator in this state, other

than an adjuster licensed in this state for the kinds of business for which the person is acting as an administrator, unless the person holds a current certificate of registration as an administrator issued by the commissioner of insurance. A certificate of registration as an administrator is renewable every three years. Failure to hold a certificate subjects the administrator to the sanctions set out in section 507B.7. The certificate shall be issued by the commissioner to an administrator unless the commissioner, after due notice and hearing, determines that the administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation, or has had a previous application for an insurance license denied for cause within the preceding five years.

An application for registration shall be accompanied by a filing fee of one hundred dollars. After notice and hearing, the commissioner may impose any or all of the sanctions set out in section 507B.7, upon finding that either the administrator violated any of the requirements of section 515.134 and sections 515.161 through 515.176, or the administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation.

Sec. 15. NEW SECTION. 515.177 WAIVING OF REQUIREMENTS.

The commissioner may waive the requirements of section 515.176 for any person or class of persons. The factors taken into account in granting a waiver shall include, but are not limited to whether:

1. The person acting as an administrator is primarily in a business other than that of administrator.

2. The financial strength and history of the organization indicates stability in its continuity of doing business.

3. The regular duties being performed as an administrator are such that the covered persons are not likely to be injured by a waiver of such requirements.

Approved May 26, 1989

CHAPTER 228

TAXATION OF RETIREMENT MONEYS

S.F. 539

AN ACT relating to the taxation of certain pensions, annuities, and retirement allowances received for purposes of the state individual income tax and providing a retroactive applicability date.

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

Section 1. Section 97A.12, Code 1989, is amended to read as follows:

97A.12 EXEMPTION FROM ~~TAXATION AND~~ EXECUTION.

The right of any person to a pension, annuity, or retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, any other right accrued or accruing to any person under ~~the provisions of~~ this chapter, and the moneys in the various funds created under this chapter, are ~~hereby exempt from any tax of the state and shall~~ not ~~be~~ subject to execution, garnishment, attachment, or any other process whatsoever, and ~~shall be~~ are unassignable except as in this chapter specifically provided.

Sec. 2. Section 97B.39, Code 1989, is amended to read as follows:

97B.39 RIGHTS NOT TRANSFERABLE — ~~NOT TAXABLE~~.

The right of any person to any future payment under this chapter ~~shall~~ is not ~~be~~ transferable or assignable, at law or in equity, and ~~none of~~ the moneys paid or payable or rights existing under this chapter ~~shall be~~ are not subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. ~~These moneys shall also be exempt from taxation, either as income or as personal property.~~

Sec. 3. Section 411.13, Code 1989, is amended to read as follows:

411.13 EXEMPTION FROM ~~TAX AND~~ EXECUTION.

The right of any person to a pension, annuity, or retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, any other right accrued or accruing to any person under ~~the provisions of~~ this chapter, and the moneys in the various funds created under this chapter, are ~~hereby exempt from any tax of the state and shall~~ not ~~be~~ subject to execution, garnishment, attachment, or any other process whatsoever, and ~~shall be~~ are unassignable except as in this chapter specifically provided.

Sec. 4. Section 422.5, subsection 6, Code 1989, is amended by striking the subsection.

Sec. 5. Section 422.5, subsection 7, Code 1989, is amended to read as follows:

7. Upon determination of the latest cumulative inflation factor, the director shall multiply each dollar amount set forth in subsection 1, paragraphs "a" ~~and~~ through "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.

Sec. 6. Section 422.7, subsection 14, Code 1989, is amended by striking the subsection.

Sec. 7. Section 422.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 19. For a person who is disabled, is fifty-five 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, subtract, to the extent included, the total amount of pension, annuity, or retirement allowances received under the peace officers' retirement system under chapter 97A, the Iowa public employees' retirement system under chapter 97B, the Iowa police officers and firefighters retirement system under chapter 411, the judicial retirement system under chapter 602, article 9, and any federal retirement and disability system, as a result of being an officer or employee of the federal government, up to a maximum each tax year of two thousand five hundred dollars for a person who files a separate state income tax return and five thousand dollars 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.

Sec. 8. Section 602.9109, Code 1989, is amended to read as follows:

602.9109 PAYMENT OF ANNUITIES — ~~TAX EXEMPTION~~.

Annuities granted under the terms of this article ~~shall be~~ are due and payable in monthly installments on the last business day of each month following the month or other period for which the annuity ~~shall have~~ has accrued and shall continue during the life of the annuitant; and payment of all annuities, refunds, and allowances granted ~~hereunder~~ under this article shall be made by checks or warrants drawn and issued by the director of revenue and finance. Applications for annuities shall be in such form as the director of revenue and finance may prescribe.

~~Annuities granted under this article are exempt from taxation either as income or as personal property.~~

*Fifty-five probably intended

Sec. 9. The legislative council is requested to study, review, and report to the general assembly by January 15, 1990, on the state income taxation of pensions.

Sec. 10. This Act applies retroactively to January 1, 1989, for tax years beginning on or after that date.

Sec. 11. Section 7 of this Act is repealed effective January 1, 1990, for tax years beginning on or after that date.

Approved May 26, 1989

CHAPTER 229

CHILDREN IN NEED OF ASSISTANCE

H.F. 688

AN ACT relating to the protection of children, by providing for the grounds and procedures for child in need of assistance and termination of parental rights proceedings.

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

Section 1. Section 232.2, subsection 1, Code 1989, is amended to read as follows:

1. "Abandonment of a child" means the ~~permanent~~ relinquishment or surrender, without reference to any particular person, of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of abandonment must include both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over any particular period of time.

Sec. 2. Section 232.2, subsection 6, paragraph a, Code 1989, is amended to read as follows:

a. Whose parent, guardian or other custodian has abandoned or deserted the child.

Sec. 3. Section 232.2, subsection 6, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.

Sec. 4. Section 232.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Desertion" means the relinquishment or surrender for a period in excess of six months of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of desertion need not include the intention to desert, but is evidenced by the lack of attempted contact with the child or by only incidental contact with the child.

Sec. 5. Section 232.88, Code 1989, is amended to read as follows:

232.88 SUMMONS, NOTICE, SUBPOENAS AND SERVICES.

After a petition has been filed the court shall issue and serve summons, notice, subpoenas, and other process in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37.

Sec. 6. Section 232.104, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If ~~custody of~~ a child has been ~~transferred for placement pursuant to section 232.102~~ placed in foster care for a period of twelve months, or if the prior legal custodian of a child has abandoned efforts to regain custody of the child, the court shall, on its own motion, or upon application by any interested party, including the child's foster parent if the child has been placed

with the foster parent for at least twelve months, hold a hearing to consider the issue of the establishment of permanency for the child.

Sec. 7. Section 232.116, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. The court finds that there is clear and convincing evidence that the child has been abandoned or deserted.

Sec. 8. Section 232.116, subsection 1, paragraph c, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

c. The court finds that both of the following have occurred:

(1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

(2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

Sec. 9. Section 232.116, subsection 1, paragraphs d and e, Code 1989, are amended to read as follows:

d. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 and the placement has lasted for a period of at least six consecutive months.

~~(3) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102.~~

(4 3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so.

e. The court finds that all of the following have occurred:

(1) The child is four years of age or older.

(1 2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2 3) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

(3 4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Sec. 10. Section 232.116, subsection 1, paragraph f, subparagraph (3), Code 1989, is amended by striking the subparagraph.

Sec. 11. Section 232.116, subsection 1, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. The court finds that all of the following have occurred:

(1) The child is three years of age or younger.

(2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(3) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

NEW PARAGRAPH. h. The court finds that both of the following have occurred:

(1) The child meets the definition of child in need of assistance based on a finding of physical or sexual abuse or neglect as a result of the acts or omissions of one or both parents.

(2) There is clear and convincing evidence that the circumstances surrounding the abuse or neglect of the child, despite the receipt of services, constitutes imminent danger to the child.

NEW PARAGRAPH. i. The court finds that both of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has been imprisoned for a crime against the child, the child's sibling, or another child in the household, or the parent has been imprisoned and it is unlikely that the parent will be released from prison for a period of five or more years.

NEW PARAGRAPH. j. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has a chronic mental illness and has been repeatedly institutionalized for mental illness, and presents a danger to self or others as evidenced by prior acts.

(3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

NEW PARAGRAPH. k. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has a severe, chronic substance abuse problem, and presents a danger to self or others as evidenced by prior acts.

(3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

Sec. 12. Section 232.116, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For a child who has been placed in foster family care, any relevant testimony or written statement provided by the child's foster parents.

Sec. 13. Section 232.117, subsection 5, Code 1989, is amended to read as follows:

5. If the court orders the termination of parental rights and transfers guardianship and custody under subsection 3, the ~~department of human services or the agency responsible for the placement~~ guardian shall submit a case permanency plan to the court and shall make every effort to establish a stable placement for the child by adoption or other permanent placement. Within forty-five days of receipt of the termination order, and every forty-five days thereafter until the court determines such reports are no longer necessary, the guardian shall report to the court regarding efforts made to place the child for adoption or providing the rationale as to why adoption would not be in the child's best interest.

Approved May 26, 1989

CHAPTER 230

PROTECTION OF CHILDREN

H.F. 690

AN ACT relating to the protection of children, by modifying provisions relating to a child in need of assistance, child abuse, termination of parental rights, and providing for a procedure relating to courtroom testimony of children in this state and the deposition testimony of witnesses in a foreign jurisdiction.

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

Section 1. Section 232.2, subsection 6, paragraphs b, c, and h, Code 1989, are amended to read as follows:

b. Whose parent, guardian ~~or~~, other custodian, or other member of the household in which the child resides has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.

c. Who has suffered or is imminently likely to suffer harmful effects as a result of either of the following:

(1) ~~Conditions created by~~ Mental injury caused by the acts of the child's parent, guardian, or custodian; ~~or~~.

(2) The failure of the child's parent, guardian, ~~or~~ custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.

h. Who has committed a delinquent act as a result of pressure, guidance, or approval from a parent, guardian, ~~or~~ custodian, or other member of the household in which the child resides.

Sec. 2. Section 232.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 31A. "Mental injury" means a nonorganic injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, considering the child's cultural origin.

Sec. 3. Section 232.68, Code 1989, is amended by adding the following new subsection 3 and renumbering the subsequent subsections as necessary:

NEW SUBSECTION. 3. "Confidential access to a child" means access to a child, during an investigation of an alleged act of child abuse, who is alleged to be the victim of the child abuse. The access may be accomplished by interview, observation, or examination of the child. As used in this subsection:

a. "Interview" means the verbal exchange between the department investigator and the child for the purpose of developing information necessary to protect the child. A department investigator is not precluded from recording visible evidence of abuse.

b. "Observation" means direct physical viewing of a child under the age of four by the department investigator where the viewing is limited to the child's body other than the genitalia and pubes. "Observation" also means direct physical viewing of a child age four or older by the department investigator without touching the child or removing an article of the child's clothing, and doing so without the consent of the child's parent, custodian, or guardian. A department investigator is not precluded from recording evidence of abuse obtained as a result of a child's voluntary removal of an article of clothing without inducement by the investigator. However, if prior consent of the child's parent or guardian, or an ex parte court order, is obtained, "observation" may include viewing the child's unclothed body other than the genitalia and pubes.

c. "Examination" means direct physical viewing, touching, and medically necessary manipulation of any area of the child's body by a physician licensed under chapter 148 or 150A.

Sec. 4. Section 232.68, subsection 6, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Any person providing care for a child, but with whom the child does not reside, without reference to the duration of the care.

Sec. 5. Section 232.69, subsection 1, paragraphs a and b, Code 1989, are amended to read as follows:

a. Every health practitioner who in the scope of professional practice, examines, attends, or treats a child and who reasonably believes the child has been abused. Notwithstanding section 140.3, this provision applies to a health practitioner who receives information confirming that a child is infected with a sexually transmitted disease.

b. Every self-employed social worker, every social worker under the jurisdiction of the department of human services, any social worker employed by a public or private agency or institution, public or private health care facility as defined in section 135C.1, certified psychologist, certificated school employee, employee or operator of a licensed child care center or registered group day care home or registered family day care home, individual licensee under chapter 237, member of the staff of a mental health center, peace officer, dental hygienist, counselor, paramedic, or mental health professional, who, in the ~~course of employment~~ scope of professional practice or in providing child foster care, examines, attends, counsels or treats a child and reasonably believes a child has suffered abuse.

Sec. 6. Section 232.71, subsection 1, Code 1989, is amended to read as follows:

1. Whenever a report is determined to constitute a child abuse allegation, the department of human services shall promptly commence an appropriate investigation. The primary purpose of this investigation shall be the protection of the child named in the report. The department, within five working days of commencing the investigation, shall provide written notification of the investigation to the child's parents. However, if the department shows the court to the court's satisfaction that notification is likely to endanger the child or other persons, the court shall issue an emergency order restraining the notification.

Sec. 7. Section 232.71, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. An interview of the person alleged to have committed the child abuse, if the person's identity and location are known, to afford the person the opportunity to address the allegations of the child abuse report. The interview shall be conducted, or an opportunity for an interview shall be provided, prior to a determination of child abuse being made. The court may waive the requirement of the interview for good cause.

Sec. 8. Section 232.71, subsection 3, Code 1989, is amended to read as follows:

3. The investigation may, with the consent of the parent or guardian, include a visit to the home of the child ~~or with the consent of the administrator of a facility include a visit to the facility providing care to the child~~ named in the report and ~~examination~~ an interview or observation of the child may be conducted. If permission to enter the home ~~or facility and~~ to ~~examine~~ interview or observe the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the investigation to enter the home ~~or facility~~ and ~~examine~~ interview or observe the child. The department may utilize a multidisciplinary team in investigations of child abuse ~~involving employees or agents of a facility providing care for a child~~.

Sec. 9. Section 232.71, subsection 6, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

6. The investigation may include a visit to a facility providing care to the child named in the report or to any public or private school subject to the authority of the department of education where the child named in the report is located. The administrator of a facility, or a public or private school shall cooperate with the investigator by providing confidential access to the child named in the report for the purpose of interviewing the child, and shall allow the investigator confidential access to other children for the purpose of conducting interviews in order to obtain relevant information. The investigator may observe a child named in a report

in accordance with the provisions of section 232.68, subsection 3, paragraph "b". A witness shall be present during an observation of a child. Any child age ten years of age or older can terminate contact with the investigator by stating or indicating the child's wish to discontinue the contact. The immunity granted by section 232.73 applies to acts or omissions in good faith of such administrators and their facilities or school districts for cooperating in an investigation and allowing confidential access to a child. The department may utilize a multidisciplinary team to conduct investigations of child abuse involving employees or agents of a facility providing care for a child.

Sec. 10. Section 232.71, subsection 5, Code 1989, is amended to read as follows:

5. The department of human services may request information from any person believed to have knowledge of a child abuse case. The county attorney, any law enforcement or social services agency in the state, and any mandatory reporter, whether or not the reporter made the specific child abuse report, shall cooperate and assist in the investigation upon the request of the department of human services. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child.

Sec. 11. Section 232.71, subsection 7, Code 1989, is amended to read as follows:

7. The department, upon completion of its investigation, shall make a preliminary report of its investigation as required by subsection 2. A copy of this report shall be transmitted to juvenile court within ~~ninety-six hours~~ four regular working days after the department initially receives the abuse report unless the juvenile court grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the juvenile court grants an extension of time for good cause shown. The department shall notify a subject of the report of the result of the investigation, of the subject's right to correct the information pursuant to section 235A.19, and of the procedures to correct the information. The juvenile court shall notify the registry of any action it takes with respect to a suspected case of child abuse.

Sec. 12. Section 232.71, subsection 11, Code 1989, is amended to read as follows:

11. If, upon completion of the investigation, the department of human services determines that the best interests of the child require juvenile court action, the department shall take the appropriate action to initiate such action under this chapter. The county attorney shall assist the county department of human services ~~in the preparation of the necessary papers to initiate such action and shall appear and represent the department at all juvenile court proceedings~~ as provided under section 232.90, subsection 2.

Sec. 13. Section 232.71, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 17. In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 9. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse report.

Sec. 14. Section 232.78, subsection 1, unnumbered paragraph 1 and paragraph a, Code 1989, are amended to read as follows:

The juvenile court may enter an ex parte order directing a peace officer to ~~remove a child from the child's home or a child day care facility~~ take custody of a child before or after the filing of a petition under this chapter provided all of the following apply:

a. The ~~parent, guardian, legal custodian, or employee of the child day care facility~~ person responsible for the care of the child is absent, or though present, was asked and refused to consent to the removal of the child and was informed of an intent to apply for an order under this section, ~~or the parent, guardian, or legal custodian has a prior instance of flight to avoid a child abuse investigation~~ or there is reasonable cause to believe that a request for consent

would further endanger the child, or there is reasonable cause to believe that a request for consent will cause the parent, guardian, or legal custodian to take flight with the child.

Sec. 15. Section 232.79, subsection 1, unnumbered paragraph 1 and paragraph a, Code 1989, are amended to read as follows:

A peace officer may ~~remove a child from the child's home or a child day care facility~~ take a child into custody or a physician treating a child may keep the child in custody without a court order as required under section 232.78 and without the consent of a parent, guardian, or custodian provided that both of the following apply:

a. The child is in ~~such~~ a circumstance or condition that ~~the child's continued presence in the residence or the child day care facility or in the care or custody of the parent, guardian, or custodian~~ presents an imminent danger to the child's life or health.

Sec. 16. Section 232.90, Code 1989, is amended to read as follows:

232.90 DUTIES OF COUNTY ATTORNEY.

1. The county attorney shall represent the state in proceedings arising from a petition filed under this division and shall present evidence in support of the petition. The county attorney shall be present at proceedings initiated by petition under this division filed by an intake officer or the county attorney, or if a party to the proceedings contests the proceedings, or if the court determines there is a conflict of interest between the child and the child's parent, guardian, or custodian or if there are contested issues before the court.

2. The county attorney shall represent the department in proceedings arising under this division. However, if there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request to be represented by the attorney general in place of the county attorney.

Sec. 17. Section 232.92, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

232.92 EXCLUSION OF PUBLIC FROM HEARINGS.

Hearings held under this division are open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the 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. 18. Section 232.114, Code 1989, is amended to read as follows:

232.114 DUTIES OF COUNTY ATTORNEY.

1. Upon the filing of a petition the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition.

2. The county attorney shall represent the department in proceedings arising under this division. However, if there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request to be represented by the attorney general in place of the county attorney.

Sec. 19. Section 232.117, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Hearings held under this division are open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having a public hearing. Upon closing the hearing, the court may admit persons who have a direct interest in the case or in the work of the court.

Sec. 20. Section 235A.18, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph following paragraph c:

NEW UNNUMBERED PARAGRAPH. The juvenile or district court and county attorney shall expunge child abuse information upon notice from the registry.

Sec. 21. Section 235A.19, subsection 2, Code 1989, is amended to read as follows:

2. a. A person may file with the department within six months of the date of the notice of the results of an investigation required by section 232.71, subsection 7, a written statement to the effect that child abuse information referring to the person is in whole or in part erroneous, and may request a correction of that information or of the findings of the investigation report. The department shall provide the person with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information or the findings, unless the department corrects the information or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the information or findings.

b. The department shall not disclose any child abuse information until the conclusion of the proceeding to correct the information or findings, except as follows:

(1) As necessary for the proceeding itself.

(2) To the parties and attorneys involved in a judicial proceeding.

(3) For the regulation of child care or child placement.

(4) Pursuant to court order.

(5) To the subject of an investigation.

(6) For the care or treatment of a child named in a report as a victim of abuse.

Sec. 22. Section 622.84, Code 1989, is amended to read as follows:

622.84 SUBPOENAS — ENFORCING OBEDIENCE.

1. When, by the laws of this or any other state or country, testimony may be taken in the form of depositions to be used in any of the courts thereof, the person authorized to take ~~such~~ the depositions may issue subpoenas for witnesses, which must be served by the same officers and returned in the same manner as is required in district court, and obedience ~~thereto~~ to the subpoenas may be enforced in the same way and to the same extent, or the person may report the matter to the district court who may enforce obedience as though the action was pending in ~~said~~ the district court.

2. If a witness is located in any other state or country and refuses to voluntarily submit to the deposition, the court of jurisdiction in this state may, upon the application of any party, petition the court of competent jurisdiction in the foreign jurisdiction where the witness is located to issue subpoenas or make other appropriate orders to compel the witness' attendance at the deposition.

Sec. 23. Section 910A.14, subsection 1, unnumbered paragraph 2, Code 1989, is amended by striking the paragraph.

Sec. 24. Section 910A.14, subsection 2, Code 1989, is amended to read as follows:

2. The court may, upon its own motion or upon motion of a party, order that the testimony of a child, as defined in section 702.5, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 12(2)(b). In addition to requiring that such testimony be recorded by stenographic means, the court may on motion and hearing, and upon a finding that the child is unavailable as provided in Iowa rules of evidence 804(a), order the videotaping of the child's testimony for viewing in the courtroom by the court. The videotaping shall comply with the provisions of rule of criminal procedure 12(2)(b), and shall be admissible as evidence in the trial of the cause.

Approved May 26, 1989

CHAPTER 231

INSPECTIONS AND APPEALS DEPARTMENT DUTIES AND POWERS, INCLUDING RACING AND GAMING REGULATION

H.F. 490

AN ACT relating to the department of inspections and appeals, revising provisions governing the structure and allocation of duties within the department, changing the structure for racing and gaming regulation, providing changes in certain statutory requirements relating to bingo and other games and raffles, authorizing the enforcement of agreements or compacts entered into between the state and Indian tribes under the Indian Gaming Regulatory Act, authorizing warrantless searches of excursion gambling boats under certain conditions, revising the responsibilities of the department, and providing other properly related matters.

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

Section 1. Section 10A.101, subsection 3, Code 1989, is amended to read as follows:

3. ~~"Administrators"~~ "Administrator" means the chief administrative law judge, chief inspector, chief investigator, ~~and~~ chief auditor, or the person administering a division of the department.

Sec. 2. Section 10A.104, subsection 2, Code 1989, is amended to read as follows:

2. ~~Employ~~ Appoint the administrators of the divisions within the department and all ~~additional~~ other personnel deemed necessary for the administration of this chapter, except the state public defender, ~~and~~ assistant state public ~~defender, deemed necessary for the administration of this chapter in accordance with chapter 19A~~ defenders, administrator of the racing commission, members of the employment appeal board, and administrator of the state foster care review board. ~~The administrators of the divisions are not exempt from the merit system.~~ All persons appointed and employed in the department are covered by the provisions of chapter 19A, but persons not appointed by the director are exempt from the merit system provisions of chapter 19A.

Sec. 3. Section 10A.104, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Administer and enforce chapters 10A, 99B, 135B, 135C, 170, 170A, 170B, 170C, and 191A.

Sec. 4. Section 10A.104, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Enter into and implement agreements or compacts between the state of Iowa and Indian tribes located in the state which are entered into under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.). The agreements or compacts shall contain provisions intended to implement the policies and objectives of the Indian Gaming Regulatory Act.

Sec. 5. Section 10A.105, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

10A.105 CONFIDENTIALITY.

1. For the purposes of this section, "governmental entity" includes an administrative division within the department.

2. The confidentiality of all information in the department produced or collected during or as a result of a hearing, appeal, investigation, inspection, audit, or other function performed by the department on behalf of another governmental entity is governed by the law applicable to the records of that governmental entity. The department may provide information to a governmental entity for which it is conducting a hearing, appeal, inspection, audit, investigation, or other function.

3. The state shall maintain records and materials related to an agreement or compact entered into pursuant to the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.), as confidential records if confidentiality is required by the terms of the agreement or compact.

4. The lawful custodian of all records produced or collected during or as a result of any function performed by the department on behalf of another governmental entity is that governmental entity for the purpose of examination and copying pursuant to chapter 22.

5. If information in the possession of the department indicates that a criminal offense may have been committed, the information may be reported to the appropriate criminal justice or regulatory agency.

6. However, this section does not prohibit the department from releasing the minimal amount of information necessary in its judgment to conduct audits, inspections, investigations, appeals, and hearings, and does not prohibit the introduction of the information as evidence at any hearing conducted by the department.

7. The director, administrators, and their designees shall have access to all records deemed by the department to be pertinent to a hearing, appeal, audit, investigation, inspection, or other related function assigned under this chapter.

Sec. 6. Section 10A.106, subsection 5, Code 1989, is amended by striking the subsection.

Sec. 7. Section 10A.106, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The allocation of departmental duties to the divisions of the department in sections 10A.202, 10A.302, 10A.402, and 10A.502 does not prohibit the director from reallocating departmental duties within the department.

Sec. 8. Section 10A.202, subsection 1, paragraph g, Code 1989, is amended to read as follows:

g. Hearings and appeals relative to the ~~licensure or certification of hospitals, hospices, and health care facilities~~ administration of the department of inspections and appeals. Decisions of the division in this area are subject to review by the department of inspections and appeals.

Sec. 9. Section 10A.202, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. Hearings and appeals relative to the administration of the department of revenue and finance. Decisions of the division in this area are subject to review by the department of revenue and finance.

Sec. 10. Section 10A.302, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The administrator shall coordinate the division's conduct of various audits and other activities as otherwise provided for by law, except those conducted by the state auditor's office, including but not limited to the following:

Sec. 11. Section 10A.302, subsection 4, Code 1989, is amended by striking the subsection.

Sec. 12. Section 10A.302, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 5. Audits relating to the administration and disbursement of funds from games of skill, games of chance, and raffles.

NEW SUBSECTION. 6. Audit reviews of Iowa department of public health contractors.

NEW SUBSECTION. 7. Certification of targeted small businesses.

Sec. 13. Section 99B.1, subsections 6 and 7, Code 1989, are amended to read as follows:

6. "Net receipts" means gross receipts less amounts awarded as prizes and less state and local sales tax paid upon the gross receipts. Reasonable expenses, charges, fees, taxes other than the state and local sales tax, and deductions allowed by the ~~division~~ department shall not exceed thirty percent of net receipts.

7. "Net rent" means the total rental charge minus reasonable expenses, charges, fees, and deductions allowed by the ~~division~~ department.

Sec. 14. Section 99B.1, subsection 16, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

16. "Department" means the department of inspections and appeals.

Sec. 15. Section 99B.1, subsection 20, paragraphs a and c, Code 1989, are amended to read as follows:

a. The applicant's financial standing and good reputation are within the standards established by the ~~division~~ department by rule under chapter 17A so as to satisfy the ~~administrator~~ director of the ~~division~~ department that the applicant will comply with this chapter and the rules applicable to operations under it.

c. The applicant has not been convicted of a felony. However, if the applicant's conviction occurred more than five years before the date of the application for a license, and if the applicant's rights of citizenship have been restored by the governor, the ~~administrator~~ director of the ~~division~~ department may determine that the applicant is an eligible applicant.

Sec. 16. Section 99B.2, subsections 2, 4, and 5, Code 1989, are amended to read as follows:

2. A licensee other than one issued a license pursuant to section 99B.3, 99B.6 or 99B.9 shall maintain proper books of account and records showing in addition to any other information required by the ~~division~~ department, gross receipts and the amount of the gross receipts taxes collected or accrued with respect to gambling activities, all expenses, charges, fees and other deductions, and the cash amounts, or the cost to the licensee of goods or other noncash valuables, distributed to participants in the licensed activity. If the licensee is a qualified organization, the amounts dedicated and the date and name and address of each person to whom distributed also shall be kept in the books and records. The books of account and records shall be made available to the ~~division~~ department or a law enforcement agency for inspection at reasonable times, with or without notice. A failure to permit inspection is a serious misdemeanor.

4. A licensee required by subsection 2 to maintain records shall submit quarterly reports to the ~~division~~ department on forms furnished by the ~~division~~ department. These reports shall be due thirty days following the end of each calendar quarter. The reports shall contain a compilation of the information required to be recorded by subsection 2, and shall include all of the transactions occurring during the three-month period for which the report is submitted. Failure to submit the quarterly reports is grounds for revocation of the license. Willful failure to submit quarterly reports is a serious misdemeanor. However, the time for filing of reports may be extended for thirty days if the licensee makes written request to the ~~division~~ department for an extension which request shows good cause for granting the extension. A person who intentionally files a false or fraudulent report or application with the ~~division~~ department commits a fraudulent practice.

5. An organization receiving funds reported as being dedicated by a qualified organization shall maintain proper books of account and records showing both the receipt and the use of the funds. These records shall be made available to the ~~division~~ department or a law enforcement agency for inspection with or without notice at reasonable times. A failure to permit inspection is a serious misdemeanor.

Sec. 17. Section 99B.6, subsection 1, paragraph j, Code 1989, is amended to read as follows:

j. A representative of the ~~division~~ department or a law enforcement agency is immediately admitted, upon request, to the premises with or without advance notice.

Sec. 18. Section 99B.7, subsection 1, paragraph c, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Cash or merchandise prizes may be awarded in the game of bingo and, except as otherwise provided in this paragraph, shall not exceed one hundred dollars. Merchandise prizes may be awarded in the game of bingo, ~~however,~~ but the actual retail value of the prize, or if the prize consists of more than one item, unit or part, the aggregate retail value of all items, units or

parts, shall not exceed ~~one hundred dollars~~ the maximum provided by this paragraph. A jackpot bingo game may be conducted once during any twenty-four hour period in which the prize may begin at not more than three hundred dollars in cash or actual retail value of merchandise prizes and may be increased by not more than one hundred dollars after each ~~day's game~~ bingo occasion. However, the cost of play in a jackpot bingo game shall not be increased and the jackpot shall not amount to more than ~~seven~~ eight hundred ~~fifty~~ dollars in cash or actual retail value of merchandise prizes. A jackpot bingo game is not prohibited by paragraph "h". A bingo occasion shall not last for longer than four consecutive hours. A qualified organization shall not hold more than fourteen bingo occasions per month. Bingo occasions held under a limited license shall not be counted in determining whether a qualified organization has conducted more than fourteen bingo occasions per month, nor shall bingo occasions held under a limited license be limited to four consecutive hours. With the exception of a limited license bingo, no more than three bingo occasions per week shall be held within a structure or building and only one person licensed to conduct games under this section may hold bingo occasions within a structure or building.

Sec. 19. Section 99B.7, subsection 1, paragraphs d and m, Code 1989, are amended to read as follows:

d. Cash prizes shall not be awarded in games other than bingo and raffles. The ~~actual retail~~ value of ~~any merchandise prizes~~ a prize shall not exceed fifty dollars and merchandise prizes shall not be repurchased. If a prize consists of more than one item, unit, or part, the aggregate value of all items, units, or parts shall not exceed fifty dollars. However, one raffle may be conducted per calendar year at which ~~a prize~~ prizes having a combined value not greater than twenty thousand dollars may be awarded. If the prize is merchandise, its value shall be determined by purchase price paid by the organization or donor.

m. The person or organization conducting the game can show to the satisfaction of the ~~division~~ department that the person or organization is eligible for exemption from federal income taxation under either section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code, as defined in section 422.3. However, this paragraph does not apply to a political party as defined in section 43.2, to a nonparty political organization that has qualified to place a candidate as its nominee for statewide office pursuant to chapter 44, or to a ~~candidate~~ candidate's committee as defined in section 56.2.

Sec. 20. Section 99B.7, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. A person or the agent of a person submitting application to conduct games pursuant to this section as a qualified organization shall certify that the receipts of all games, less reasonable expenses, charges, fees, taxes, and deductions allowed by this chapter, either will be distributed as prizes to participants or will be dedicated and distributed to educational, civic, public, charitable, patriotic or religious uses in this state and that the amount dedicated and distributed will equal at least ~~seventy~~ seventy-five percent of the net receipts. "Educational, civic, public, charitable, patriotic, or religious uses" means uses benefiting a society for the prevention of cruelty to animals or animal rescue league, or uses benefiting an indefinite number of persons either by bringing them under the influence of education or religion or relieving them from disease, suffering, or constraint, or by erecting or maintaining public buildings or works, or otherwise lessening the burden of government, or uses benefiting any bona fide nationally chartered fraternal or military veterans' corporation or organization which operates in Iowa a clubroom, post, dining room, or dance hall, but does not include the erection, acquisition, improvement, maintenance, or repair of real, personal or mixed property unless it is used for one or more of the uses stated. "Public uses" specifically includes dedication of net receipts to political parties as defined in section 43.2. "Charitable uses" includes uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm when the loss is uncompensated by insurance, and uses benefiting a definite number of persons suffering from a seriously disabling disease or injury,

causing severe loss of income or incurring extraordinary medical expense when the loss is uncompensated by insurance.

Proceeds given to another charitable organization to satisfy the ~~seventy~~ seventy-five percent dedication requirement shall not be used by the donee to pay any expenses in connection with the conducting of bingo by the donor organization, or for any cause, deed, or activity that would not constitute a valid dedication under this section.

Sec. 21. Section 99B.7, subsection 3, paragraph c, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A qualified organization shall distribute amounts awarded as prizes on the day they are won. A qualified organization shall dedicate and distribute the balance of the net receipts received within a quarter and remaining after deduction of reasonable expenses, charges, fees, taxes, and deductions allowed by this chapter, before the quarterly report required for that quarter under section 99B.2, subsection 4, is due. The amount dedicated and distributed must equal at least seventy-five percent of the net receipts. A person desiring to hold the net receipts for a period longer than permitted under this paragraph shall apply to the ~~division~~ department for special permission and upon good cause shown the ~~division~~ department may grant the request.

Sec. 22. Section 99B.9, subsection 1, paragraph j, Code 1989, is amended to read as follows:

j. A representative of the ~~division~~ department or a law enforcement agency is immediately admitted, upon request, to the premises with or without advance notice.

Sec. 23. Section 99B.9A, Code 1989, is amended to read as follows:

99B.9A EXCEPTIONS FOR CERTAIN AREAS.

The ~~division~~ department may, at its discretion, allow a qualified organization under section 99B.7 to hold a game of bingo in a building where another qualified organization also holds a game of bingo or where the building is adjacent, but not intraconnected, with an establishment holding a liquor license and the building is located in a municipality of a recorded census of less than two thousand people and the municipality is not located adjacent to another municipality.

Sec. 24. Section 99B.10, subsection 1, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

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 or one or more free games or portions of games without payment of additional consideration by the participant.

Sec. 25. Section 99B.13, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The ~~division~~ department may adopt~~, amend and repeal~~ rules pursuant to chapter 17A to carry out the provisions of this chapter. Rules adopted by the ~~administrator of the division~~ department may include but are not limited to the following:

Sec. 26. Section 99B.14, Code 1989, is amended to read as follows:

99B.14 REVOCATION OF LICENSE.

The ~~division~~ department shall revoke a license issued pursuant to this chapter if the licensee or an agent of the licensee violates or permits a violation of a provision of this chapter, or a ~~divisional~~ departmental rule adopted pursuant to chapter 17A, or if a cause exists for which the director of the department ~~of inspections and appeals~~ would have been justified in refusing to issue a license, or upon the conviction of a person of a violation of this chapter or a rule adopted under this chapter which occurred on the licensed premises. However, the revocation of one type of gambling license does not require the revocation of a different type of gambling license held by the same licensee.

Revocation proceedings shall be held only after giving notice and an opportunity for hearing to the licensee. Notice shall be given at least ten days in advance of the date set for hearing. If the ~~division~~ department finds cause for revocation, the license shall be revoked for a period not to exceed two years.

Sec. 27. Section 99B.17, Code 1989, is amended to read as follows:

99B.17 GAMBLING ON CREDIT UNLAWFUL.

A person who tenders and a person who receives any promise, agreement, note, bill, bond, contract, mortgage or other security, or any negotiable instrument, as consideration for any wager or bet, whether or not lawfully conducted or engaged in pursuant to this chapter, commits a misdemeanor. ~~This section shall not prohibit the payment by check of~~ However, a participant in a bingo occasion or in a contest lawful under section 99B.11 may make payment by personal check for any entry or participation fee assessed by the sponsor of ~~a~~ the bingo occasion or contest ~~lawful under section 99B.11~~.

Sec. 28. Section 99B.19, Code 1989, is amended to read as follows:

99B.19 ATTORNEY GENERAL AND COUNTY ATTORNEY.

Upon request of the ~~racing and gaming division of the~~ department of inspections and appeals or the division of criminal investigation of the department of public safety, the attorney general shall institute in the name of the state the proper proceedings against a person charged by either department with violating this chapter, and a county attorney, at the request of the attorney general, shall appear and prosecute an action when brought in the county attorney's county.

Sec. 29. Section 99B.20, Code 1989, is amended to read as follows:

99B.20 DIVISION OF CRIMINAL INVESTIGATION.

The division of criminal investigation of the department of public safety may investigate to determine licensee compliance with the requirements of this chapter. Investigations may be conducted either on the criminal investigation division's own initiative or at the request of the ~~racing and gaming division of the~~ department of inspections and appeals. The criminal investigation division and the ~~racing and gaming division~~ department of inspections and appeals shall cooperate to the maximum extent possible on an investigation.

Sec. 30. Section 99D.5, subsection 1, Code 1989, is amended to read as follows:

1. A state racing commission is created within the department of ~~commerce~~ inspections and appeals consisting of five members who shall be appointed by the governor subject to confirmation by the senate, and who shall serve not to exceed a three-year term at the pleasure of the governor. The term of each member shall begin and end as provided in section 69.19.

Sec. 31. Section 99D.6, Code 1989, is amended to read as follows:

99D.6 CHAIRPERSON — ADMINISTRATOR — EMPLOYEES — DUTIES — BOND.

The commission shall elect in July of each year one of its members chairperson for the succeeding year. The commission shall appoint an administrator of the ~~racing and gaming division of the department of inspections and appeals~~ commission subject to confirmation by the senate. The administrator shall serve a four-year term. The term shall begin and end in the same manner as set forth in section 69.19. A vacancy shall be filled for the unexpired portion of the term in the same manner as a full-term appointment is made. The administrator may hire other assistants and employees as necessary to carry out the ~~division's~~ commission's duties. Some or all of the information required of applicants in section 99D.8A, subsections 1 and 2, may also be required of employees of the ~~division~~ commission if the commission deems it necessary. The administrator shall keep a record of the proceedings of the commission, and preserve the books, records, and documents entrusted to the administrator's care. The commission shall require the administrator to post a bond in a sum it may fix, conditioned upon the faithful performance of the administrator's duties. Subject to the approval of the governor, the commission shall fix the compensation of the administrator within the salary range ~~five~~ as set by the general assembly. The ~~division~~ commission shall have its headquarters in

the city of Des Moines, and shall meet in July of each year and at other times and places as it finds necessary for the discharge of its duties.

Sec. 32. Section 99D.7, subsection 8, Code 1989, is amended to read as follows:

8. To investigate alleged violations of this chapter or the commission rules, orders, or final decisions and to take appropriate disciplinary action against a licensee or a holder of an occupational license for the violation, or institute appropriate legal action for enforcement, or both. Decisions by the commission are final agency actions pursuant to chapter 17A.

Sec. 33. Section 99F.6, subsection 8, as enacted by 1989 Iowa Acts, Senate File 124, section 6, is amended by striking the subsection and inserting in lieu thereof the following:

8. a. The licensee or a holder of an occupational license shall consent to the search, without a warrant, by agents of the division of criminal investigation of the department of public safety or commission employees designated by the secretary of the commission, of the licensee's or holder's person, personal property, and effects, and premises which are located on the excursion gambling boat or adjacent facilities under control of the licensee, in order to inspect or investigate for violations of this chapter or rules adopted by the commission pursuant to this chapter. The department or commission may also obtain administrative search warrants under section 808.14.

b. However, this subsection shall not be construed to permit a warrantless inspection of living quarters or sleeping rooms on the riverboat if all of the following are true:

(1) The licensee has specifically identified those areas which are to be used as living quarters or sleeping rooms in writing to the commission.

(2) Gaming is not permitted in the living quarters or sleeping rooms, and devices, records, or other items relating to the licensee's gaming operations are not stored, kept, or maintained in the living quarters or sleeping rooms.

(3) Alcoholic beverages are not stored, kept, or maintained in the living quarters or sleeping rooms except those legally possessed by the individual occupying the quarters or room.

c. The commission shall adopt rules to enforce this subsection.

Sec. 34. Section 537A.4, unnumbered paragraph 2, Code 1989, 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. This section does not apply to the sale, purchase, or redemption of any ticket or similar gambling device legally purchased in Indian lands within this state.

Sec. 35. Section 10A.701, Code 1989, is repealed.

Approved May 26, 1989

CHAPTER 232

SALES TAX EXEMPTION FOR CONSUMER RENTAL PURCHASE PROPERTY

H.F. 770

AN ACT relating to the sales and use tax and providing an exemption from taxation for consumer rental purchases.

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

Section 1. Section 422.45, subsection 18, Code 1989, is amended to read as follows:

18. Gross receipts from the sale of tangible personal property, except vehicles subject to registration, to a person regularly engaged in the business of leasing if the period of the lease is for more than one year, ~~such tangible personal property~~ or in the consumer rental purchase business if the property is to be utilized in a transaction involving a consumer rental purchase agreement as defined in section 537.3604, subsection 8, and the leasing or consumer rental of ~~such~~ the property is subject to taxation under this division. ~~Tangible~~ If tangible personal property exempt under this subsection ~~if~~ is made use of for any purpose other than leasing, ~~or~~ renting, or consumer rental purchase, the person claiming the exemption under this subsection ~~shall be~~ is liable for the tax that would have been due except for this subsection. The tax shall be computed upon the original purchase price. The aggregate of the tax paid on the leasing ~~or rental~~, renting, or rental purchase of such tangible personal property, not to exceed the amount of the sales tax owed, shall be credited against ~~such~~ the tax. This sales tax ~~shall be~~ is in addition to any sales or use tax that may be imposed as a result of the disposal of such tangible personal property.

Sec. 2. Section 422.52, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The tax on gross receipts from the sale or rental of tangible personal property under a consumer rental purchase agreement as defined in section 537.3604, subsection 8, is payable in the tax period of receipt.

Approved May 26, 1989

CHAPTER 233

REIMBURSEMENT FOR RENT CONSTITUTING PROPERTY TAX PAID

H.F. 771

AN ACT relating to eligibility for reimbursement for rent constituting property tax paid and providing for a retroactive applicability date.

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

Section 1. Section 425.17, subsection 4, Code 1989, is amended to read as follows:

4. "Homestead" means the dwelling owned or rented and actually used as a home by the claimant during all or part of the base year, and so much of the land surrounding it including one or more contiguous lots or tracts of land, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built. It does not include personal property except that a mobile home may be a homestead. Any dwelling or a part of a multidwelling or multipurpose building which is exempt from taxation does not qualify as a homestead under this division. However, solely for purposes of claimants living in a property and receiving reimbursement for rent constituting property taxes paid immediately before the property becomes tax exempt, and continuing to live in it after it becomes tax exempt, the property shall continue to be classified as a homestead. A homestead must be located in this state. When a person is confined in a nursing home, extended-care facility, or hospital, the person shall be considered as occupying or living in the person's homestead if the person is the owner of the homestead and the person maintains the homestead and does not lease, rent, or otherwise receive profits from other persons for the use of the homestead.

Sec. 2. This Act applies retroactively to January 1, 1988.

Approved May 26, 1989

CHAPTER 234

LINKED INVESTMENT PROGRAMS

H.F. 140

AN ACT relating to the linked deposit program and creating a main street linked investments loan program and providing an effective date.

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

Section 1. Section 12.31, Code 1989, is amended to read as follows:

12.31 SHORT TITLE.

This division shall be known as the "~~Iowa Linked Deposit~~ Linked Investments for Tomorrow Act".

Sec. 2. Section 12.32, subsections 1 and 3, Code 1989, are amended to read as follows:

1. "Eligible lending institution" means a financial institution that is empowered to make commercial loans, is eligible pursuant to chapter 453 to be a depository of state funds, and agrees to participate in the linked ~~deposit~~ investments for tomorrow program.

3. "Linked ~~deposit~~ investment" means a certificate of deposit placed pursuant to this division by the treasurer of state with an eligible lending institution, at an interest rate ~~two~~ not more than three percent below current market rates on the condition that the institution agrees to lend the value of the deposit, according to the ~~deposit~~ investment agreement provided in section 12.37, to an eligible borrower at a rate not to exceed four percent above the rate paid on the certificate of deposit.

Sec. 3. Section 12.33, subsections 2 and 3, Code 1989, are amended to read as follows:

2. The linked ~~deposit~~ investments for tomorrow program provided for in this division is intended to provide statewide availability of lower cost funds for lending purposes that will stimulate existing or encourage new businesses in the area of producing, processing, or marketing horticultural or nontraditional crops.

3. It is the public policy of the state through the linked ~~deposit~~ investments for tomorrow program to create an availability of lower cost funds to inject needed capital into the business of producing, processing, or marketing horticultural crops or nontraditional crops.

Sec. 4. Section 12.34, Code 1989, is amended to read as follows:

12.34 LINKED ~~DEPOSITS~~ INVESTMENTS — LIMITATIONS.

1. The treasurer of state may invest up to ten percent of the balance of the state pooled money fund in certificates of deposit in eligible lending institutions pursuant to this division.

2. The treasurer shall adopt rules pursuant to chapter 17A to implement this division including, but not limited to, rules identifying horticultural crops and nontraditional crops for which the linked ~~deposits~~ investments may be loaned.

Sec. 5. Section 12.35, Code 1989, is amended to read as follows:

12.35 APPLICATION.

1. An eligible lending institution that desires to receive a linked ~~deposit~~ investment shall accept and review applications for loans from eligible borrowers. The lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible borrower. Loan applications shall be for the purchase or lease of land, machinery, equipment, seed, fertilizer, direct marketing facilities, or new or expanding processing facilities for horticultural crops or nontraditional crops. The maximum size of a loan is ~~one~~ two hundred thousand dollars per borrower for a production loan and ~~two~~ five hundred ~~fifty~~ thousand dollars for processing or marketing facilities.

2. The eligible financial institution shall forward to the state treasurer a linked ~~deposit~~ investment loan package in the form and manner as prescribed by the treasurer of state. The package shall include information required by the treasurer of state, including but not limited to the amount of the loan requested and the purpose of the loan. The institution shall certify

that the applicant is an eligible borrower and shall certify the present borrowing rate applicable to the specific eligible borrower.

Sec. 6. Section 12.36, Code 1989, is amended to read as follows:

12.36 ACTIONS BY TREASURER – AGREEMENT.

1. The treasurer of state shall accept or reject a linked ~~deposit~~ investment loan package or any portion of the package based on the type or terms of the loan involved.

2. Upon acceptance of the linked ~~deposit~~ investment loan package or any portion of the package, the state treasurer shall place certificates of deposit with the eligible lending institution at a rate ~~two~~ not more than three percent below the current market rate. When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked ~~deposit~~ investment loan package.

3. The eligible lending institution shall enter into ~~a deposit~~ an investment agreement with the treasurer of state, which shall include requirements necessary to carry out this division. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked ~~deposit~~ investment, and shall include provisions for the certificates of deposit to be placed for one-year maturities that may be renewed for ~~additional years~~ five additional one-year periods. Interest shall be paid at the times determined by the treasurer of state.

Sec. 7. Section 12.37, Code 1989, is amended to read as follows:

12.37 LOANS.

1. Upon the placement of a linked ~~deposit~~ investment with an eligible lending institution, the institution is required to lend the funds to the eligible borrower listed in the linked ~~deposit~~ investment loan package and in accordance with the ~~deposit~~ investment agreement. The loan shall be at a rate not more than four percent above the rate paid the treasurer by the financial institution. The eligible lending institution shall be required to submit a certification of compliance with this section in the form and manner as prescribed by the treasurer of state.

2. The treasurer of state shall take all steps necessary to implement the linked ~~deposit~~ investments for tomorrow program and monitor compliance of eligible lending institutions and eligible borrowers.

Sec. 8. Section 12.38, Code 1989, is amended to read as follows:

12.38 REPORTS.

By February 1 of each year, the treasurer of state shall report on the linked ~~deposit~~ investments for tomorrow program for the preceding calendar year to the governor, the speaker of the house of representatives, and the president of the senate. The speaker of the house shall transmit copies of this report to the chairs of the standing committees in the house which customarily consider legislation regarding agriculture and commerce, and the president of the senate shall transmit copies of this report to the chairs of the standing committees in the senate which customarily consider legislation regarding agriculture and commerce. The report shall set forth the linked ~~deposits~~ investments made by the treasurer of state under the program during the year and shall include information regarding the nature, terms, and amounts of the loans upon which the linked ~~deposits~~ investments were based and the eligible borrowers to which the loans were made.

Sec. 9. Section 12.43, Code 1989, is amended to read as follows:

12.43 TARGETED SMALL BUSINESS LINKED ~~DEPOSIT~~ INVESTMENTS PROGRAM CREATED – DEFINITIONS.

The treasurer of state shall adopt rules to implement a targeted small business linked ~~deposit~~ investments program to increase the availability of lower cost funds to inject needed capital into small businesses owned and operated by women or minorities, which is the public policy of the state. The rules shall be in accordance with the following:

1. "Targeted small business" means a business as defined in section 15.102, subsection 5.

2. A linked ~~deposit~~ investment shall only be approved in connection with a loan application for a targeted small business which has been certified pursuant to section 10A.104, subsection 8.

3. Loan applications for a targeted small business shall be for the purchase of land, machinery, equipment, or licenses, or patent, trademark, or copyright fees and expenses~~, but not inventory~~.

4. The maximum size of a targeted small business loan is ~~one~~ two hundred fifty thousand dollars per borrower ~~for intangible property and two hundred fifty thousand dollars per borrower for tangible personal or real property~~.

Sec. 10. NEW SECTION. 12.45 MAIN STREET LINKED INVESTMENTS LOAN PROGRAM.

The treasurer of state shall adopt rules to implement a main street linked investments loan program to increase the availability of lower cost funds to stimulate building restorations or rehabilitations of historic buildings within the central business district of a city which is a certified local government, or in the Iowa main street program or, if enacted by the Seventy-third General Assembly, in the rural main street program. The rules shall include the following conditions:

1. Linked investment loans shall be limited to projects for a building restoration or rehabilitation located in the central business district whose boundaries are the same as the main street or rural main street or central business district of a city which is a certified local government project area.

2. Eligible borrowers are limited to the property owner, contract purchaser of record, or long-term lessee.

3. Loan applications under this program shall be for the restoration or rehabilitation of facades of buildings which are eligible or nominated or listed on the national register of historic places. Public buildings are excluded.

4. A facade restoration or rehabilitation must follow United States secretary of interior's standards for rehabilitation and guidelines for rehabilitating historic buildings.

5. The maximum loan amount under the main street linked investments loan program is fifty thousand dollars per project.

6. No more than one-third of the amount authorized in section 12.34 may be used for purposes of this section.

Sec. 11. NEW SECTION. 12.46 APPLICATION PROCESS.

Applicants shall be certified as eligible for assistance prior to submitting applications to the treasurer of state for loans under the main street linked investment loan program. Administrative rules pursuant to chapter 17A shall be adopted jointly by the department of economic development and by the department of cultural affairs to require applicants to do the following:

1. Show evidence of preliminary design assistance from the Iowa main street program of the department of economic development or the state historic preservation office of the department of cultural affairs.

2. Show evidence of preliminary design review approval from the local design review committee.

3. Submit project plans and specifications prepared by an architect with historic preservation experience. The plans shall be submitted to a final design review board comprised of representatives of the state historic preservation office, the Iowa main street program, and one private sector architect selected jointly by the directors of the departments of economic development and cultural affairs. The treasurer of state or the treasurer of state's designee shall serve as an ad hoc member of the design review board. The design review board shall provide certification of eligible projects to the treasurer of state following the review.

Sec. 12. 1986 Iowa Acts, chapter 1096, section 12, is repealed.

Sec. 13. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 26, 1989

CHAPTER 235

LIBRARY DIVISION MONEYS

H.F. 293

AN ACT relating to gifts, contributions, bequests, endowments, and other moneys for purposes of the library division of the department of cultural affairs.

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

Section 1. Section 303.92, subsection 3, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. May accept gifts, contributions, bequests, endowments, or other moneys, including but not limited to the Westgate endowment fund, for any or all purposes of the department under this subchapter. Interest earned on moneys accepted under this paragraph shall be credited to the fund or funds to which the gifts, contributions, bequests, endowments, or other moneys have been deposited, and is available for any or all purposes of the department under this subchapter. The department shall report annually to the general assembly regarding the gifts, contributions, bequests, endowments, or other moneys accepted pursuant to this paragraph and the interest earned on them.

Approved May 26, 1989

CHAPTER 236

RESOURCE ENHANCEMENT AND PROTECTION

H.F. 769

AN ACT creating an Iowa resources enhancement and protection fund, providing for the allocation of fund revenue and making appropriations, authorizing a state-sponsored credit card, providing for properly related matters, subjecting violators to penalties, and providing an effective date.

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

DIVISION I
IOWA RESOURCES ENHANCEMENT AND PROTECTION

Section 1. Section 455A.1, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 5. "Fund" means the Iowa resources enhancement and protection fund created under section 455A.18.

NEW SUBSECTION. 6. "Soil conservation division" means the soil conservation division of the department of agriculture and land stewardship.

DIVISION II

Sec. 2. NEW SECTION. 455A.15 LEGISLATIVE FINDINGS.

The general assembly finds that:

1. The citizens of Iowa have built and sustained their society on Iowa's air, soils, waters, and rich diversity of life. The well-being and future of Iowa depend on these natural resources.

2. Many human activities have endangered Iowa's natural resources. The state of Iowa has lost ninety-nine and nine-tenths percent of its prairies, ninety-eight percent of its wetlands, eighty percent of its woodlands, fifty percent of its topsoils, and more than one hundred species of wildlife since settlement in the early 1800's. There has been a significant deterioration in the quality of Iowa's surface waters and groundwaters.

3. The long-term effects of Iowa's natural resource losses are not completely known or understood, but detrimental effects are already apparent. Prevention of further loss is therefore imperative.

4. The air, waters, soils, and biota of Iowa are interdependent and form a complex ecosystem. Iowans have the right to inherit this ecosystem in a sustainable condition, without severe or irreparable damage caused by human activities.

Sec. 3. NEW SECTION. 455A.16 STATE RESOURCE ENHANCEMENT POLICY.

It is the policy of the state of Iowa to protect its natural resource heritage of air, soils, waters, and wildlife for the benefit of present and future citizens with the establishment of a resource enhancement program. The program shall be a long-term integrated effort to wisely use and protect Iowa's natural resources through the acquisition and management of public lands; the upgrading of public park and preserve facilities; environmental education, monitoring, and research; and other environmentally sound means. The resource enhancement program shall strongly encourage Iowans to develop a conservation ethic, and to make necessary changes in our activities to develop and preserve a rich and diverse natural environment.

Sec. 4. NEW SECTION. 455A.17 IOWA CONGRESS ON RESOURCES ENHANCEMENT AND PROTECTION.

1. Biennially, during even-numbered years, the director shall schedule and make the necessary arrangements for an Iowa congress on resources enhancement and protection. The congress shall be held within the state capitol complex during the summer months.

2. Prior to each congress, the director shall make arrangements to hold an assembly in each council of governments area of persons having an interest in resources enhancement and protection. The department shall promote attendance of interested persons at each assembly. The director shall call each assembly and serve as temporary chairperson. The department shall provide those attending with information regarding resource enhancement and protection expenditures. The assemblies shall identify opportunities for regional resource enhancement and protection and review and recommend changes in resource enhancement and protection policies, programs, and funding. The persons meeting at each assembly shall elect five persons as delegates to the congress on resources enhancement and protection.

3. The delegates to the congress on resources enhancement and protection shall organize, discuss, and make recommendations to the governor, the general assembly, and the natural resource commission regarding issues concerning resources enhancement and protection. The director shall call the congress and serve as temporary chairperson. The delegates are entitled to a per diem of forty dollars for expenses of office while attending the congress.

4. The expenses of the department in making the arrangements for and the conducting of the council of governments area assemblies and the congress on resources enhancement and protection and the per diem for expenses of the delegates at the congress shall be paid from the funds appropriated for this purpose.

Sec. 5. NEW SECTION. 455A.18 IOWA RESOURCES ENHANCEMENT AND PROTECTION FUND – AUDITS.

1. An Iowa resources enhancement and protection fund is created in the office of the treasurer of state. The fund consists of all revenues and all other moneys lawfully credited or transferred to the fund. The director shall certify monthly the portions of the fund that are allocated to the various accounts as provided under section 455A.19. The director shall certify before the twentieth of each month the portions of the fund resulting from the previous month's receipts to be allocated to the various accounts.

2. The auditor of state or a certified public accountant firm appointed by the auditor of state shall conduct annual audits of all accounts and transactions of the fund.

3. Notwithstanding section 453.7, interest or earnings on investments or time deposits of the funds in the Iowa resources enhancement and protection fund or any of its accounts shall be credited to the fund.

Sec. 6. NEW SECTION. 455A.19 ALLOCATION OF FUND PROCEEDS.

1. Upon receipt of any revenue, the director shall deposit the moneys in the Iowa resources enhancement and protection fund created pursuant to section 455A.18. The first three hundred fifty thousand dollars of the funds received for deposit in the fund annually shall be allocated to the conservation education board for the purposes specified in section 256.33. One percent of the revenue receipts shall be deducted and transferred to the administration fund provided for in section 107.17. All of the remaining receipts shall be allocated to the following accounts:

a. Twenty-eight percent shall be allocated to the open spaces account. At least ten percent of the allocations to the account shall be made available to match private funds for open space projects on the cost-share basis of not less than twenty-five percent private funds pursuant to the rules adopted by the natural resources commission. Five percent of the funds allocated to the open spaces account shall be used to fund the protected waters program. This account shall be used by the department to implement the statewide open space acquisition, protection, and development programs. The department shall give priority to acquisition and control of open spaces of statewide significance. The department shall also use these funds for developments on state property. The total cost of an open spaces project funded under this paragraph shall not exceed two million dollars unless a public hearing is held on the project in the area of the state affected by the project. Political subdivisions of the state shall be reimbursed for property tax dollars lost to open space acquisitions based on the reimbursement formula provided for in section 111E.4. There is appropriated from the open spaces account to the department the amount in that account, or so much thereof as is necessary, to carry out the open spaces program as specified in this paragraph. An appropriation made under this paragraph shall continue in force for two fiscal years after the fiscal year in which the appropriation was made or until completion of the project. All unencumbered or unobligated funds remaining at the close of the fiscal year in which the project is completed or at the close of the final fiscal year, whichever date is earlier, shall revert to the open spaces account.

b. Twenty percent shall be allocated to the county conservation account.

(1) Thirty percent of the allocation to the county conservation account annually shall be allocated to each county equally.

(2) Thirty percent of the allocation to the county conservation account annually shall be allocated to each county on a per capita basis.

(3) Forty percent of the allocation to the county conservation account annually shall be held in an account in the state treasury for the natural resource commission to award to counties on a competitive grant basis by a project selection committee established in this subparagraph. Local matching funds are not required for grants awarded under this subparagraph. The project planning and review committee shall be composed of two staff members of the department and two county conservation board directors appointed by the director and a fifth member selected by a majority vote of the director's appointees. The natural resource commission, by rule, shall establish procedures for application, review, and selection of county projects submitted for funding. Upon recommendation of the project planning and review committee, the director shall award the grants.

(4) Funds allocated to the counties under subparagraphs (1), (2), and (3) may be used for land easements or acquisitions, capital improvements, stabilization and protection of resources, repair and upgrading of facilities, environmental education, and equipment. However, expenditures are not allowed for single or multipurpose athletic fields, baseball or softball diamonds, tennis courts, golf courses, and other group or organized sport facilities. Funds may be used for county projects located within the boundaries of a city.

(5) Funds allocated pursuant to subparagraphs (2) and (3) shall only be allocated to counties dedicating property tax revenue at least equal to twenty-two cents per thousand dollars of the assessed value of taxable property in the county to county conservation purposes. State funds received under this paragraph shall not reduce or replace county tax revenues appropriated for county conservation purposes. The county treasurer shall submit documentation annually of the dedication of property tax revenue for county conservation purposes. The annual

audit of the financial transactions and condition of a county shall certify compliance with requirements of this subparagraph. Funds not allocated to counties not qualifying for the allocations under subparagraph (2) as a result of this subparagraph shall be held in reserve for each county for two years. Counties qualifying within two years may receive the funds held in reserve. Funds not spent by a county within two years shall revert to the general pool of county funds for reallocation to other counties where needed.

(6) Each board of supervisors shall create a special resource enhancement account in the office of county treasurer and the county treasurer shall credit all resource enhancement funds received from the state in that account. Notwithstanding section 453.7, all interest earned on funds in the county resource enhancement account shall be credited to that account and used for the purposes authorized for that account.

(7) There is appropriated from the county conservation account to the department the amount in that account, or so much thereof as is necessary, to fund the provisions of this paragraph. An appropriation made under this paragraph shall continue in force for two fiscal years after the fiscal year in which the appropriation was made or until completion of the project for which the appropriation was made, whichever date is earlier. All unencumbered or unobligated funds remaining at the close of the fiscal year in which a project funded pursuant to subparagraph (3) is completed or at the close of the third fiscal year, whichever date is earlier, shall revert to the county conservation account.

(8) Any funds received by a county under this paragraph may be used to match other state or federal funds, and multicounty or multiagency projects may be funded under this paragraph.

c. Twenty percent shall be allocated to the soil and water enhancement account. The moneys shall be used to carry out soil and water enhancement programs including, but not limited to, reforestation, woodland protection and enhancement, wildlife habitat preservation and enhancement, protection of highly erodible soils, and clean water programs. The division of soil conservation, by rule, shall establish procedures for eligibility, application, review, and selection of projects and practices to implement the requirements of this paragraph. There is appropriated from the soil and water enhancement account to the soil conservation division the amount in that account, or so much thereof as is necessary, to carry out the programs as specified in this paragraph. Remaining funds of the soil and water conservation account shall be allocated to the accounts of the water protection fund authorized in section 467F.4. Annually, fifty percent of the soil and water enhancement account funds, not to exceed one million dollars, shall be allocated to the water quality protection projects account. The balance of the funds shall be allocated to the water protection practices account. An appropriation made under this paragraph shall continue in force for two fiscal years after the fiscal year in which the appropriation was made or until completion of the project for which the appropriation was made, whichever date is earlier. All unencumbered or unobligated funds remaining at the close of the fiscal year in which the project is completed or at the close of the third fiscal year, whichever date is earlier, shall revert to the soil and water enhancement account.

d. Fifteen percent shall be allocated to a cities' parks and open space account. The moneys allocated in this paragraph may be used to fund competitive grants to cities to acquire, establish, and maintain natural parks, preserves, and open spaces. The grants may include expenditures for multipurpose trails, restroom facilities, shelter houses, and picnic facilities, but expenditures for single or multipurpose athletic fields, baseball or softball diamonds, tennis courts, golf courses, and other group or organized sport facilities requiring specialized equipment are excluded. The grants may be used for city projects located outside of a city's boundaries. The natural resource commission, by rule, shall establish procedures for application, review, and selection of city projects on a competitive basis. The rules shall provide for three categories of cities based on population within which the cities shall compete for grants. There is appropriated from the cities' parks and open space account to the department the amount in that account, or so much thereof as is necessary, to carry out the competitive grant program as provided in this paragraph.

e. Nine percent shall be allocated to the state land management account. The department shall use the moneys allocated to this account for maintenance and expansion of state lands and related facilities under its jurisdiction. The authority to expand state lands and facilities under this paragraph is limited to expansion of the state lands and facilities already owned by the state. There is appropriated from the state land management account to the department the moneys in that account, or so much thereof as is necessary, to implement a maintenance and expansion program for state lands and related facilities under the jurisdiction of the department.

f. Five percent shall be allocated to the historical resource grant and loan fund established pursuant to section 303.16. The department of cultural affairs shall use the moneys allocated to this fund to implement historical resource development programs as provided under section 303.16.

g. Three percent shall be allocated to the living roadway trust fund established under section 314.21 for the development and implementation of integrated roadside vegetation plans.

2. The moneys appropriated under this section shall remain in the appropriate account of the Iowa resources enhancement and protection fund until such time as the agency, board, commission, or overseer of the fund to which moneys are appropriated has made a request to the treasurer for use of moneys appropriated to it and the amount needed for that use. Notwithstanding section 8.33, moneys remaining of the appropriations made for a fiscal year from any of the accounts within the Iowa resources enhancement and protection fund on June 30 of that fiscal year, shall not revert to any fund but shall remain in that account to be used for the purposes for which they were appropriated and the moneys remaining in that account shall not be considered in making the allotments for the next fiscal year.

Sec. 7. NEW SECTION. 455A.20 COUNTY RESOURCE ENHANCEMENT COMMITTEE.

1. A county resource enhancement committee is created in each county. The membership of the committee shall be as follows:

a. The chairpersons of the board of supervisors, county conservation board, commissioners of the soil and water district, and board of directors of each school district in the county. A chairperson may appoint a member of the chairperson's board or commission as the chairperson's designee on the committee. The chairperson or designee of a school district shall be a member of the county committee of the county in which a majority or the largest plurality of the district's students reside.

b. The mayor or the mayor's designee of each city in a county. The mayor's designee shall be a member of the city council. If a city is located in more than one county, the membership shall be on the county committee of the county in which the largest population of the city resides.

c. The chairperson or the chairperson's designee of each recognized farm organization having a county organization in the county. The designee shall be a member of the organization represented. The recognized farm organizations are the Iowa farm bureau federation, the Iowa farmers union, the Iowa grange, the national farmers organization, and the Iowa farm unity coalition.

d. The chairperson or the chairperson's designee of each of the following wildlife or conservation organizations having a recognized county organization:

(1) Iowa Audubon council.
(2) Iowa sportsmens federation.
(3) Ducks unlimited.
(4) Sierra club.
(5) Pheasants forever.
(6) The nature conservancy.
(7) Iowa association of naturalists.
(8) Izaak Walton league of America.

(9) Other recognized wildlife, conservation, environmental, recreation, or conservation education groups. The designee shall be a member of the county chapter or organization in the county.

e. If a question arises as to whether a recognized county organization exists under paragraph "c" or "d", the question shall be decided by a majority vote of the members selected under paragraphs "a" and "b" excluding the representative of the county conservation board.

2. The duties of the county resource enhancement committee are to coordinate the resource enhancement program, plans, and proposed projects developed by cities, county conservation board, and soil and water conservation district commissioners for funding under this division. The county committee shall review and comment upon all projects before they are submitted for funding under section 455A.19. Each county committee shall propose a five-year program plan which includes a one-year proposed expenditure plan and submit it to the department.

3. The initial meeting of the committee shall be called by the chairperson of the board of supervisors. The chairperson shall give written notice of the date, time, and location of the first meeting. The county committee shall meet at least annually to organize by selecting a chairperson, vice chairperson, and other officers as necessary. The committee shall adopt rules governing the conduct of its meetings, subject to chapter 21.

4. The board of supervisors shall provide a meeting room and the necessary secretarial and clerical assistance for the committee. The expenses shall be paid from the county general fund.

5. The members of the committee are not entitled to compensation or expenses related to their duties of office, except as may otherwise be provided by the boards, commissions, or organizations which the members represent.

Sec. 8. NEW SECTION. 12.46 STATE-SPONSORED CREDIT CARD.

1. For purposes of this section, unless the context otherwise requires:

a. "Financial institution" means a state bank as defined in section 524.103, subsection 19, a federally chartered state bank having its principal office within this state, a federally chartered credit union having its principal office within this state, a federally chartered savings and loan association having its principal office within the state, a credit union organized under chapter 533, an association incorporated or authorized to do business under chapter 534, or a trust company organized or incorporated under the laws of this state.

b. "Financial institution credit card" means a credit card that entitles the holder to make open-account purchases up to an approved amount and is issued through the agency of a financial institution.

c. "Sponsoring entity" means an entity that allows its name or logo to be used on a particular financial institution credit card in exchange for a fee from the credit card issuer.

2. The treasurer is authorized to participate in a financial institution credit card program for the benefit of the state. Within six months of the effective date of this Act, the treasurer shall contact each financial institution to determine if:

a. The financial institution or its Iowa holding company or Iowa affiliate currently administers a credit card program.

b. The credit card program provides a fee or commission on retail sales to the sponsoring entity for the issuance and use of the credit card.

c. The credit card program would accept the state as a sponsoring entity.

If the treasurer determines that the state may be a sponsoring entity for a financial institution credit card, the treasurer shall negotiate the most favorable rate for the state's fee by a credit card issuer. The state shall not offer a more favorable rate to any other credit card issuer. The rate must be expressed as a percentage of the gross sales from the use of the credit card. The proceeds of the fee shall be deposited in the Iowa resources enhancement and protection fund created under section 455A.18. The treasurer shall recommend a logo or design for the state-sponsored credit card indicating the use for which the revenues will be used.

In selecting a credit card issuer, the treasurer shall consider the issuer's record of investments in the state, shall take into consideration credit card features which will enhance the

promotion of the state-sponsored credit card including, but not limited to, favorable interest rates, annual fees, and other fees for using the card, and shall require that the card be available to any person who qualifies for a credit card. Upon entering into an agreement with the financial institution, the treasurer shall notify all state agencies then possessing a credit card to obtain the new state-sponsored credit card. The financial institution is authorized to solicit participation from state employees.

Sec. 9. NEW SECTION. 15.273 COOPERATIVE TOURISM PROGRAM.

The department shall assist the department of natural resources in promoting the state parks, state recreation areas, lakes, rivers, and streams under the jurisdiction of the natural resource commission for tourism purposes. The department of natural resources shall provide the department with brochures and other printed information concerning hunting and fishing opportunities, recreational opportunities in state parks and recreation areas, and other natural and historic information of interest to tourists.

The department shall disseminate the brochures and other information provided by the department of natural resources through the welcome centers, sports and vacation shows, direct information requests, and other programs implemented by the department to promote tourism and related forms of economic development in this state.

Sec. 10. NEW SECTION. 111A.12 IOWA'S COUNTY BEAUTIFICATION PROGRAM.

1. A county conservation board may establish an Iowa's county beautification program to encourage the prevention and cleanup of litter in public areas of the county. The county conservation director shall prepare and implement the program which is designed to employ persons from fourteen years of age to eighteen years of age in a six-week summer program. The program may include public informational activities, but shall be directed primarily toward encouraging and facilitating involvement in litter prevention and cleanup. The program shall also include weekly instruction on safety in the workplace while employed with an Iowa's county beautification program. Financial assistance for an Iowa's county beautification program may be received through the county conservation account pursuant to section 455A.19. County matching funds shall not be required for eligibility for funding an Iowa's county beautification program.

2. A county conservation board shall coordinate its Iowa's county beautification program with the county engineer or director of the county secondary road department and with the district highway engineer of the state department of transportation. The respective county and state highway authorities, within time and budgetary limitations, shall cooperate with the county conservation board in implementing the litter program in regard to the rights-of-way of primary and secondary roads when requested by the county conservation board.

Sec. 11. NEW SECTION. 256.33 CONSERVATION EDUCATION PROGRAM BOARD.

1. A conservation education program board is created in the department. The board shall have three members appointed as follows:

a. One member appointed by the director of the department of education.

b. One member appointed by the director of the department of natural resources.

c. One member appointed by the president of the Iowa association of county conservation boards.

2. The duties of the board are to revise and produce conservation education materials and to specify stipends to Iowa educators who participate in innovative conservation education programs approved by the board. The board shall allocate the funds provided for under section 455A.19, subsection 1, for the educational materials and stipends.

3. The department shall administer the funds allocated to the conservation education program as provided in this section.

Sec. 12. Section 303.16, subsection 7, Code 1989, is amended to read as follows:

7. The department may use ~~twenty-five thousand dollars~~ ten percent of the amount appropriated to the department, but in no event more than seventy-five thousand dollars for administration of the grant and loan program.

Sec. 13. Section 303.16, subsection 8, paragraph a, Code 1989, is amended to read as follows:

a. The department may establish a historical resource ~~revolving~~ grant and loan fund composed of any money appropriated by the general assembly for that purpose, funds allocated pursuant to section 455A.19, and of any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in that fund. Each loan made under this section shall be for a period not to exceed ten years, shall bear interest at a rate determined by the state historical board, and shall be repayable to the revolving loan fund in equal yearly installments due March 1 of each year the loan is in effect. The interest rate upon loans for which payment is delinquent shall accelerate immediately to the current legal usury limit. Applicants shall be eligible for no more than ~~twenty-five~~ one hundred thousand dollars in loans outstanding at any time under this program.

Sec. 14. Section 303.16, subsection 8, paragraph b, subparagraph (2), Code 1989, is amended to read as follows:

(2) Authorize payment from the ~~revolving~~ historical resource grant and loan 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 such loans.

Sec. 15. Section 422.69, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The director shall estimate the amount of state corporate income tax revenues collected as a result of the United States supreme court decision holding that the federal windfall profits tax is not a federal income tax and shall deposit a like amount in the Iowa resources enhancement and protection fund created under section 455A.18.

Sec. 16. Section 467F.4, unnumbered paragraph 1 and subsection 2, Code 1989, are amended to read as follows:

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 divided into two accounts, the water quality protection account and the water protection practices account. The first account shall be used to carry out water quality protection projects to protect the state's surface and groundwater from point and nonpoint sources of contamination. The second account shall be used to establish water protection practices with individual landowners including but not limited to woodland establishment and protection, establishment of native grasses and forbs, sinkhole management, ag drainage well management, streambank stabilization, grass waterway establishment, stream buffer strip establishment, and erosion control structure construction. Twenty-five percent of funds appropriated to the water protection practices account shall be used for woodland establishment and protection, and establishment of native grasses and forbs. Soil and water conservation district commissioners shall give priority to applications for practices that implement their soil and water resource conservation plan. The fund shall be a revolving ~~loan~~ fund from which moneys may be used for loans, grants, administrative costs, and cost-sharing.

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~~.

Sec. 17. Section 15 of this Act applies to state corporate income taxes collected on or after the effective date of this Act.

Sec. 18. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 27, 1989

CHAPTER 237

NONRESIDENT HUNTING LICENSES
H.F. 88

AN ACT providing for nonresident hunting licenses for deer and wild turkey.

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

Section 1. Section 110.1, subsection 2, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. Deer hunting license for nonresidents $100.00

NEW PARAGRAPH. f. Wild turkey hunting license for nonresidents, minimum fee ..... $ 50.00

Sec. 2. Section 110.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A nonresident hunting wild turkey is required to have only a nonresident wild turkey hunting license and a wildlife habitat stamp. The commission shall limit to five hundred licenses the number of nonresidents allowed to have wild turkey hunting licenses for the year 1989 and establish application procedures. For subsequent years, the number of nonresident wild turkey hunting licenses shall be determined as provided in section 109.38. The commission shall allocate the nonresident wild turkey hunting licenses issued among the zones based on the populations of wild turkey, but nonresident wild turkey hunting licenses shall not be issued for a zone that has an estimated wild turkey population of less than one hundred ten percent of the minimum population required for a biological balance to exist. The hunting zones for wild turkey shall be the same as for deer. A nonresident applying for a wild turkey hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 110.27 or its equivalent as determined by the department before the license is issued.

Sec. 3. Section 110.8, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A nonresident hunting deer is required to have only a nonresident deer license and a wildlife habitat stamp. The commission shall limit to one thousand licenses the number of nonresidents allowed to have deer hunting licenses for the year 1989 and establish application procedures. For subsequent years, the number of nonresident deer hunting licenses shall be determined as provided in section 109.38. The commission shall allocate the nonresident deer hunting licenses issued among the zones based on the populations of deer, but nonresident deer hunting licenses shall not be issued for a zone that has an estimated deer population of less than one hundred ten percent of the minimum population required for a biological balance to exist. A nonresident applying for a deer hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 110.27 or its equivalent as determined by the department before the license is issued.

Sec. 4. NEW SECTION. 109.40 RECIPROCITY FOR DEER AND WILD TURKEY HUNTING FEES.

A nonresident may purchase a nonresident deer or wild turkey hunting license to hunt in this state for the same fee as a resident of this state may purchase a nonresident deer or wild turkey hunting license to hunt in the state where the nonresident resides. However, the nonresident deer hunting and wild turkey hunting fees shall not be less than the fees specified

in section 110.1, subsection 2, paragraphs "e" and "f". The minimum nonresident wild turkey hunting and deer hunting fees apply to nonresidents of states which do not offer nonresident wild turkey hunting or nonresident deer hunting licenses to residents of this state.

Sec. 5. NEW SECTION. 110.25 USE OF NONRESIDENT DEER AND WILD TURKEY HUNTING LICENSE FEES.

The revenue received from the nonresident deer and wild turkey hunting license fees shall be used to employ and maintain additional full-time conservation officers. During the first fiscal year that nonresident deer and wild turkey licenses are sold, the department shall employ the number of new full-time conservation officers which can be employed from the revenue received. For each subsequent fiscal year if revenues are sufficient, the department shall employ an additional new full-time conservation officer until there is at least one full-time conservation officer assigned to each county. Any moneys remaining after the employment of the additional full-time conservation officers shall be used to pay overtime to the full-time conservation officers.

Approved May 27, 1989

CHAPTER 238

WILDLIFE HABITAT STAMP FEE

H.F. 124

AN ACT to increase the fee for the wildlife habitat stamp.

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

Section 1. Section 110.1, subsection 6, paragraph h, Code 1989, is amended to read as follows:

h. Special wildlife habitat stamp ..... ~~$3.00~~ 5.00

Approved May 27, 1989

CHAPTER 239

COUNTY PARKS

H.F. 166

AN ACT relating to the authority of county conservation boards, by authorizing the charging of certain county park fees and by prohibiting the exclusive use of county parks by one or more organizations.

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

Section 1. Section 111A.4, subsection 7, Code 1989, is amended to read as follows:

7. To charge and collect reasonable fees for the use of ~~such~~ the parks, facilities, privileges and conveniences as may be provided and for admission to amateur athletic contests, demonstrations and exhibits, and other noncommercial events. The board shall not allow the exclusive use of a park by one or more organizations.

Approved May 27, 1989

CHAPTER 240

PRACTICE PROFESSION AND COURSE OF INSTRUCTION REGULATION

S.F. 14

AN ACT relating to regulation, including the regulation of educational services and of practice professions, and making penalties applicable.

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

Section 1. Section 147.80, subsection 14, Code 1989, is amended to read as follows:

14. License to practice cosmetology issued upon the basis of an examination given by the board of cosmetology examiners, license to practice cosmetology under a reciprocal agreement, renewal of a license to practice cosmetology, temporary permit to practice as a cosmetology trainee, original license to conduct a school of cosmetology, renewal of license to conduct a school of cosmetology, original license to operate a beauty salon, renewal of a license to operate a beauty salon, original license and examination to practice electrolysis, renewal of a license to practice electrolysis, original license to practice manicuring, renewal of a license to practice manicuring, annual inspection of a school of cosmetology, annual inspection of a beauty salon, original cosmetology school instructor's license, renewal of cosmetology school instructor's license.

Sec. 2. Section 157.2, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 7. Persons licensed as manicurists pursuant to this chapter, when manicuring the nails of any person.

NEW SUBSECTION. 8. Employees of a licensed barbershop when manicuring fingernails, if permitted under section 158.14, subsection 2.

NEW SUBSECTION. 9. Persons licensed as electrologists pursuant to section 157.5, when practicing electrolysis as described in that section.

Sec. 3. Section 157.5, Code 1989, is amended to read as follows:

157.5 LICENSE TO PRACTICE ELECTROLYSIS.

~~An applicant for a license to practice cosmetology~~ A person may obtain a license from the department for authority to remove superfluous hair by the use of the electric needle or electronic process by presenting to the board a diploma, or similar evidence, from a licensed school of cosmetology, or from any school in another state which is recognized by the board, which teaches ~~a special course in~~ the practice of the use of the electric needle or electronic process indicating that the applicant has successfully completed ~~the special course, and by passing an examination prescribed by the board~~ at least two hundred fifty hours of training relating to electrolysis. The board shall not require that a person be licensed as a cosmetologist in order to obtain a license to practice electrolysis. The applicant shall pay a license fee as determined by the board under section 147.80.

The rules of the board shall include a provision whereby a license to practice electrolysis may be granted by reciprocity or endorsement to a person who is licensed in another state to practice electrolysis.

Sec. 4. NEW SECTION. 157.16 MANICURISTS.

The department shall issue a license to practice manicuring to any person who submits proof of successful completion of a course of at least forty hours of training relating to manicuring in a licensed school of cosmetology or licensed barber school. The board shall adopt rules defining the course of study for a manicurist and the practices which a licensed manicurist may perform.

The applicant shall pay a license fee as determined by the board under section 147.80.

The rules of the board shall include a provision whereby a license to practice manicuring may be granted by reciprocity or endorsement to a person who is licensed in another state to practice manicuring.

Sec. 5. Section 158.14, Code 1989, is amended to read as follows:

158.14 MANICURISTS.

1. A licensed barbershop may employ ~~a person who is not~~ a licensed ~~cosmetologist~~ manicurist to manicure the fingernails of any person.

2. An unlicensed person who was employed by a licensed barbershop to manicure fingernails prior to the effective date of this Act may continue such employment without meeting licensing requirements under chapter 157.

Sec. 6. Section 714.18, subsection 1, Code 1989, is amended to read as follows:

1. A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars or ten percent of the total annual tuition collected, whichever is less, conditioned for the faithful performance of all contracts and agreements with students made by such person, firm, association, or corporation, or their salespersons; ~~provided, however, that the~~. A person, firm, association, or corporation desiring to file a surety bond based on a percentage of annual tuition shall provide to the director of the department of education, in the form prescribed by the director, a notarized statement attesting to the total amount of tuition collected in the preceding twelve-month period. The director shall determine the sufficiency of the statement and the amount of the bond. Tuition information submitted pursuant to this subsection shall be kept confidential.

If the person, firm, association, or corporation has filed a performance bond with an agency of the United States government pursuant to federal law, the director of the department of education shall reduce the bond required by this subsection by an amount equal to the amount of the federal bond.

PARAGRAPH DIVIDED. The aggregate liability of the surety for all breaches of the conditions of the bond shall, ~~in no event,~~ not exceed the sum of ~~said~~ the bond. The surety on the bond ~~shall have the right to~~ may cancel ~~said~~ the bond upon giving thirty days' written notice to the director of the department of education and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of ~~said~~ the cancellation.

The director of the department of education may accept a letter of credit from a bank in lieu of the corporate surety bond required by this subsection.

Sec. 7. Section 714.19, subsection 9, Code 1989, is amended by striking the subsection.

Approved May 27, 1989

CHAPTER 241

HEALTH CARE FACILITIES

S.F. 31

AN ACT relating to the violation of a law or rule of a health care facility, providing a penalty, and providing for the repeal of a penalty.

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

Section 1. Section 135C.14, subsection 8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Facility policies and procedures regarding the treatment, care, and rights of residents. The rules shall apply the federal resident's ~~bill of~~ rights contained in ~~42 C.F.R. 442.311, as amended to January 1, 1981~~ the federal Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203, and the regulations adopted pursuant to the Act and contained in 42 C.F.R. § 483.10, 483.12, 483.13, and 483.15, as amended to February 2, 1989, to all health care facilities as defined in

this chapter and shall include procedures for implementing and enforcing the federal rules. The department shall also adopt rules relating to the following:

Sec. 2. Section 135C.14, subsection 8, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. For the recoupment of funds or property to residents when the resident's personal funds or property have been used without the resident's written consent or the written consent of the resident's guardian.

Sec. 3. Section 135C.37, Code 1989, is amended to read as follows:

135C.37 COMPLAINTS ALLEGING VIOLATIONS — CONFIDENTIALITY.

A person may request an inspection of a health care facility by filing with the department, care review committee of the facility, or the long-term care resident's advocate as defined in section 249D.4, subsection 15, a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to this chapter. A person alleging abuse or neglect of a resident with a developmental disability or with mental illness may also file a complaint with the protection and advocacy agency designated pursuant to section 135B.9 or section 135C.2. A copy of a complaint filed with the care review committee or the long-term care resident's advocate shall be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a statement of the nature of the complaint shall be delivered to the facility involved at the time of ~~or prior to~~ the inspection. The name of the person who files a complaint with the department, care review committee, or the long-term care resident's advocate shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

Sec. 4. Section 135C.38, subsection 1, Code 1989, is amended to read as follows:

1. Upon receipt of a complaint made in accordance with section 135C.37, the department or care review committee shall make a preliminary review of the complaint. Unless the department or committee concludes that the complaint is intended to harass a facility or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the health care facility which is the subject of the complaint. The complaint investigation shall include, at a minimum, an interview with the complainant and the victim of the alleged violation, if the victim is able to communicate, if the complainant or victim is identifiable, and if the complainant or victim is available. Additionally, witnesses who have knowledge of facts related to the complaint shall be interviewed, if identifiable and available. The names of witnesses may be obtained from the complainant or the victim. The files may be reviewed to ascertain the names of staff persons on duty at the time relevant to the complaint. The department shall apply a preponderance of the evidence standard in determining whether or not a complaint is substantiated. For the purposes of this subsection, "a preponderance of the evidence standard" means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations are more likely true than not true. "A preponderance of the evidence standard" does not require that the investigator personally witnessed the alleged violation. The department may refer to the care review committee of a facility any complaint received by the department regarding that facility, for initial evaluation and appropriate action by the committee. In any case, the complainant shall be promptly informed of the result of any action taken by the department or committee in the matter. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with developmental disabilities or mental illness. Upon conclusion of the investigation, the department shall notify the complainant of the results. The notification shall include a statement of the factual findings as determined by the investigator, the statutory or regulatory provisions alleged to have been violated, and a summary of the reasons for which the complaint was or was not substantiated. A person who is dissatisfied with any aspect of the department's

handling of the complaint may contact the long-term care resident's advocate, established pursuant to section 249D.42, or may contact the protection and advocacy agency designated pursuant to section 135C.2 if the complaint relates to a resident with a developmental disability or a mental illness.

Sec. 5. Section 135C.39, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who notifies, or causes to be notified, a health care facility, of the time and date on which a survey or on-site inspection is scheduled, is subject to a civil penalty of not less than one thousand dollars nor more than two thousand dollars.

Sec. 6. Section 249D.33, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 21. Submit a report to the department of elder affairs every six months, of the name of each health care facility in its area for which the care review committee has failed to submit the report required by rules adopted pursuant to section 249D.44.

Sec. 7. Section 5 of this Act is repealed at such time as a penalty is provided by the federal government for notification or causing the notification of a health care facility of the time and date on which a survey or on-site inspection is scheduled.

Approved May 27, 1989

CHAPTER 242

ENVIRONMENTAL TESTS AND WASTE MINIMIZATION

S.F. 470

AN ACT relating to waste minimization and disposal.

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

Section 1. NEW SECTION. 455B.116 RESULTS OF ENVIRONMENTAL TESTS – PUBLIC RECORDS.

The results of any test, which test is relative to the purview of the department, and which test is conducted or performed by an independent entity at the request of a government body, as defined in section 22.1, or an agent or attorney for a government body, are public records pursuant to chapter 22.

A government body shall not be required to provide such test results to any person under this section until the agency head and agency's governing body have received a copy of the test results. A government body shall not be required to provide such test results if the confidentiality of such information is protected pursuant to section 22.7. However, following receipt of test results by an agency head and the agency's governing body, the agency head or agency's governing body shall not take action regarding such test results unless the test results have been made public knowledge for a period of not less than seven days.

Sec. 2. Section 455B.481, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. In order to meet capacity assurance requirements of section 104k of the federal Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, and further the objectives of waste minimization, the department, in cooperation with the small business assistance center at the university of northern Iowa, shall work with generators of hazardous wastes in the state to develop and implement aggressive waste

minimization programs. The goal of these programs is to reduce the volume of hazardous waste generated in the state as a whole by twenty-five percent of the amount generated as of January 1, 1987, as reported in the biennial reports collected by the United States environmental protection agency. The twenty-five percent reduction goal shall be reached as expeditiously as possible and no later than July 1, 1994. In meeting the reduction goal, elements "a" through "d" of the hazardous waste management hierarchy shall be utilized. The department, in cooperation with the small business assistance center, shall reassess the twenty-five percent reduction goal in 1994. The department shall promote research and development, provide and promote educational and informational programs, promote and encourage voluntary technical assistance to hazardous waste generators, promote assistance by the small business assistance center, and promote other activities by the public and private sectors that support this goal. In the promotion of the goal, the following hazardous waste management hierarchy, in descending order of preference, is established by the department:

a. Source reduction for waste elimination.
b. On-site recycling.
c. Off-site recycling.
d. Waste treatment.
e. Incineration.
f. Land disposal.

NEW UNNUMBERED PARAGRAPH. Additionally, the department shall establish and distribute to generators a listing of hazardous waste materials which are currently being recycled. The department shall require that each hazardous waste generator in the state submit, with the biennial report submitted to the United States environmental protection agency, a report of hazardous waste materials currently designated as recyclable by the department which are not being recycled by the generator. The report shall include the reason why the generator is not recycling such products. A small generator which does not submit a biennial report to the United States environmental protection agency, shall provide the information required to be submitted under this paragraph on a form provided by the department, with the submittal of the small generator's hazardous waste permit fee.

NEW UNNUMBERED PARAGRAPH. The department shall consult with representatives of industries which generate hazardous waste and shall make recommendations to the general assembly by January 1, 1991, concerning the possible application of a front-end fee for substances which will result in the generation of hazardous waste, the role of state government in assisting the private sector in establishing permanent, on-site, internal audit functions, and other measures which state government may initiate to encourage and assist generators of hazardous waste in reducing the hazardous waste generated.

Sec. 3. Section 455B.484, subsection 9, Code 1989, is amended to read as follows:

9. Include in the annual report to the governor and the general assembly required by section 455A.4, subsection 1, paragraph "d", information outlining the activities of the authority in carrying out programs and responsibilities under this part, and identifying trends and developments in the management of waste. The report shall also include specific recommendations for attaining the goals for waste minimization and capacity assurance requirements.

Sec. 4. Section 455B.484, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Develop and implement programs, in cooperation with the small business assistance center at the university of northern Iowa, which result in widespread adoption of waste minimization programs by hazardous waste generators. The department shall conduct educational and informational programs. The small business assistance center shall provide direct waste minimization technical assistance to small quantity hazardous waste generators. These programs may include, but are not limited to, source reduction, recycling, fuel recovery, incineration, compaction, and other alternatives to land disposal. The preference for program development and implementation shall be for programs which result in the generation of less waste, followed by a preference for programs which reuse the waste generated in a beneficial manner.

Approved May 27, 1989

CHAPTER 243

SUBSTANCE ABUSE

H.F. 344

AN ACT relating to the substance abuse law.

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

Section 1. Section 125.7, subsection 3, Code 1989, is amended by striking the subsection.

Sec. 2. Section 125.13, subsection 2, paragraph a, Code 1989, is amended to read as follows:

a. ~~Hospitals~~ A hospital providing care or treatment to substance abusers ~~required to have a license~~ licensed under chapter 135B which is accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the American Osteopathic Association, or another recognized organization approved by the commission. All survey reports from the accrediting or licensing body must be sent to the department.

Sec. 3. Section 125.14, Code 1989, is amended to read as follows:

125.14 LICENSES — RENEWAL — FEES.

The commission shall meet to consider all cases involving issuance, denial, suspension, or revocation of a license. The department shall issue a license to an applicant who the commission determines meets the licensing requirements of this chapter. Licenses shall expire no later than two years from the date of issuance and shall be renewed upon timely application made in the same manner as for original issuance of a license unless notice of nonrenewal is given to the licensee at least thirty days prior to the expiration of the license. The department shall not charge a fee for licensing or renewal of programs contracting with the department for provision of treatment services. A fee may be charged to other licensees.

Sec. 4. Section 125.44, unnumbered paragraph 4, Code 1989, is amended by striking the unnumbered paragraph.

Sec. 5. Section 125.44, unnumbered paragraph 5, Code 1989, is amended to read as follows:

The substance abuser is legally liable to the facility for the total amount of the cost of providing care, maintenance, and treatment for the substance abuser while a voluntary or committed patient in a facility. ~~The substance abuser shall assign any claim for reimbursement under any contract of indemnity, by insurance or otherwise, providing for the abuser's care, maintenance, and treatment in the facility to the department.~~ This section does not prohibit any individual from paying any portion of the cost of treatment.

Sec. 6. Section 125.8, Code 1989, is repealed.

Approved May 27, 1989

CHAPTER 244

ALL-TERRAIN VEHICLES AND OTHER VEHICLE USE

H.F. 477

AN ACT relating to certain motor vehicles, by providing for the ownership, operation, and regulation of snowmobiles and all-terrain vehicles, imposing fees, the operation of certain motor vehicles, subjecting violators to penalties, and providing effective dates.

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

Section 1. Section 321G.1, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. "Snowmobile" means a motorized vehicle weighing less than one thousand pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis, or tread, and is designed for travel on snow or ice.

Sec. 2. Section 321G.1, subsections 4 through 8 and 15, Code 1989, are amended to read as follows:

4. "Owner" means a person, other than a lienholder, having the property right in or title to ~~a~~ an all-terrain vehicle or snowmobile. The term includes a person entitled to the use or possession of ~~a~~ an all-terrain vehicle or snowmobile subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

5. "Operate" means to ride in or on, other than as a passenger, use, or control the operation of ~~a~~ an all-terrain vehicle or snowmobile in any manner, whether or not the all-terrain vehicle or snowmobile is moving.

6. "Operator" means ~~every~~ a person who operates or is in actual physical control of ~~a~~ an all-terrain vehicle or snowmobile.

7. "Dealer" means ~~every~~ a person engaged in the business of buying, selling, or exchanging all-terrain vehicles or snowmobiles required to be registered under this chapter and who has an established place of business for that purpose in this state.

8. "Manufacturer" means ~~every~~ a person engaged in the business of constructing or assembling all-terrain vehicles or snowmobiles required to be registered under this chapter and who has an established place of business for that purpose in this state.

15. "Safety certificate" means ~~a~~ an all-terrain vehicle or snowmobile safety certificate issued by the commission to a qualified ~~applicants~~ applicant who ~~are~~ is twelve years of age or more.

Sec. 3. Section 321G.1, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 17. "All-terrain vehicle" means a motorized flotation-tire vehicle with not less than three low pressure tires, but not more than six low pressure tires, that is limited in engine displacement to less than eight hundred cubic centimeters and in total dry weight to less than seven hundred fifty pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

NEW SUBSECTION. 18. "Department" means the department of natural resources.

NEW SUBSECTION. 19. "Commission" means the natural resource commission of the department.

Sec. 4. Section 321G.2, Code 1989, is amended to read as follows:

321G.2 RULES.

The commission ~~is hereby vested with the power to~~ may adopt rules for the following purposes:

1. Registration of all-terrain vehicles and snowmobiles.

2. Use of all-terrain vehicles and snowmobiles ~~insofar~~ as far as game and fish resources or habitats are affected.

3. Use of all-terrain vehicles and snowmobiles on public lands under the jurisdiction of the commission.

4. Use of all-terrain vehicles and snowmobiles on any waters of the state under the jurisdiction of the commission, while ~~such~~ the waters are frozen.

5. ~~Establishment of a course of instruction for the safe use and operation of a snowmobile~~ Establish a program of grants, subgrants, and contracts to be administered by the department for the development and delivery of certified courses of instruction for the safe use and operation of all-terrain vehicles and snowmobiles by political subdivisions and incorporated private organizations.

6. Issuance of safety certificates.

7. Issuance of competition registrations and the participation of all-terrain vehicles and snowmobiles so registered in special events.

The director of transportation may adopt rules not inconsistent ~~herewith~~ with this chapter regulating the use of all-terrain vehicles and snowmobiles on streets and highways. Cities may designate streets under the jurisdiction of cities within their respective corporate limits which may be used for snowmobiling and the sport of driving all-terrain vehicles.

In ~~the promulgation of such~~ adopting the rules, consideration shall be given to the need to protect the environment and the public health, safety, and welfare; to protect private property, public parks, and other public lands; to protect wildlife and ~~the~~ wildlife habitat ~~thereof~~; and to promote uniformity of rules relating to the use, operation, and equipment of all-terrain vehicles and snowmobiles. ~~Such~~ The rules shall be in conformance with chapter 17A.

Sec. 5. Section 321G.3, Code 1989, is amended to read as follows:

321G.3 REGISTRATION AND NUMBERING REQUIRED ~~—COMPETITION REGISTRATION~~.

~~Every~~ Each all-terrain vehicle and snowmobile used on public ~~streets, highways,~~ land or ice of this state shall be currently registered and numbered. ~~No~~ A person shall not operate, maintain, or give permission for the operation or maintenance of ~~any such~~ an all-terrain vehicle or snowmobile on ~~such~~ public land or ice unless the all-terrain vehicle or snowmobile is numbered in accordance with this chapter, or in accordance with applicable federal laws, or in accordance with an approved numbering system of another state, and unless the identifying number set forth in the registration is displayed on each side of the forward half of ~~such~~ the snowmobile and on the rear fender of the all-terrain vehicle.

A registration number shall be assigned, without payment of fee, to all-terrain vehicles and snowmobiles owned by the state of Iowa or its political subdivisions upon application ~~therefor~~ for the number, and the assigned registration number shall be displayed on the all-terrain vehicle or snowmobile as required under section 321G.5.

~~Upon proper application and payment of the registration fee provided in section 321G.6, the commission shall issue a competition registration for a snowmobile. A competition registration authorizes the operation of the snowmobile only in special events in which the commission has authorized their operation. The fees collected for the competition registration shall be deposited in the special conservation fund.~~

Sec. 6. Section 321G.4, Code 1989, is amended to read as follows:

321G.4 REGISTRATION WITH COUNTY RECORDER — FEE.

The owner of each all-terrain vehicle or snowmobile required to be numbered shall register it every two years with the county recorder of the county in which the owner resides or, if the owner is a nonresident, the owner shall register it in the county in which ~~such~~ the all-terrain vehicle or snowmobile is principally used. The commission ~~shall have~~ has supervisory responsibility over the registration of ~~all~~ all-terrain vehicles and snowmobiles and shall provide each county recorder with registration forms and certificates and shall allocate identification numbers to each county.

The owner of the all-terrain vehicle or snowmobile shall file an application for registration with the appropriate county recorder on forms provided by the commission. The application shall be completed and signed by the owner of the all-terrain vehicle or snowmobile and shall

be accompanied by a fee of twenty dollars and a writing fee. ~~Proof of payment of Iowa sales or use tax must accompany all applications for registration.~~ An all-terrain vehicle or a snowmobile shall not be registered by the county recorder until the county recorder is presented with receipts, bills of sale, or other satisfactory evidence that the sales or use tax has been paid for the purchase of the all-terrain vehicle or snowmobile or that the owner is exempt from paying the tax. However, an owner of an all-terrain vehicle, except an all-terrain vehicle purchased new on or after the effective date of this Act, may apply for registration without proof of sales or use tax paid until one year after the effective date of this Act. Upon receipt of the application in approved form accompanied by the required fees, the county recorder shall enter it upon the records and shall issue to the applicant a pocket-size registration certificate. The certificate shall be executed in triplicate, one copy to be delivered to the owner, one copy to the commission, and one copy to be retained on file by the county recorder. The registration certificate shall bear the number awarded to the all-terrain vehicle or snowmobile and the name and address of the owner. The registration certificate shall be carried either in the all-terrain vehicle or snowmobile or on the person of the operator of the machine when in use. The operator of ~~a~~ an all-terrain vehicle or snowmobile shall exhibit the registration certificate to a peace officer upon request, to a person injured in an accident involving an all-terrain vehicle or snowmobile, or to the owner or operator of another all-terrain vehicle or snowmobile or the owner of personal or real property when the all-terrain vehicle or snowmobile is involved in a collision or accident of any nature with another all-terrain vehicle or snowmobile or the property of another person or to the property owner or tenant when the all-terrain vehicle or snowmobile is being operated on private property without permission from the property owner or tenant.

If ~~a~~ an all-terrain vehicle or snowmobile is placed in storage, the owner shall return the current registration certificate to the county recorder with an affidavit stating that the all-terrain vehicle or snowmobile is placed in storage and the effective date of storage. The county recorder shall notify the commission of each all-terrain vehicle or snowmobile placed in storage. When the owner of a stored all-terrain vehicle or snowmobile desires to renew the registration, the owner shall make application to the county recorder and pay the registration and writing fees without penalty. A refund of the registration fee shall not be allowed for a stored all-terrain vehicle or snowmobile.

Sec. 7. Section 321G.5, Code 1989, is amended to read as follows:

321G.5 DISPLAY OF IDENTIFICATION NUMBERS.

The owner shall cause the identification number to be attached to each side of the forward half of ~~the~~ a snowmobile and to the rear fender of an all-terrain vehicle in ~~such~~ the manner ~~as may be~~ prescribed by the rules ~~and regulations~~ of the commission ~~and~~. The identification number shall be maintained in legible condition at all times.

~~The owner of any snowmobile which is used as a watercraft and is required to be numbered as a watercraft may display the watercraft number on the forward half of the snowmobile in lieu of the snowmobile identification number, but the current snowmobile registration decal shall also be affixed aft of the current watercraft registration decal.~~

Sec. 8. Section 321G.6, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

Every all-terrain vehicle or snowmobile registration certificate and number issued expires at midnight December 31, and renewals expire every two years thereafter unless sooner terminated or discontinued in accordance with this chapter. After the first day of September each even-numbered year, an unregistered ~~snowmobiles~~ all-terrain vehicle or snowmobile and renewals may be registered for the subsequent biennium beginning January 1. ~~A~~ An all-terrain vehicle or snowmobile registered between January 1 and September 1 of even-numbered years shall be registered for a fee of ten dollars for the remainder of the registration period.

After the first day of September in even-numbered years an unregistered all-terrain vehicle or snowmobile may be registered for the remainder of the current registration period and for the subsequent registration period in one transaction. The fee shall be five dollars for the

remainder of the current period, in addition to the registration fee of twenty dollars for the subsequent biennium beginning January 1, and a writing fee. Registration certificates and numbers may be renewed upon application of the owner in the same manner as provided in securing the original registration. The all-terrain vehicle or snowmobile registration fee is in lieu of personal property tax for each year of the registration.

Sec. 9. Section 321G.6, unnumbered paragraph 3, Code 1989, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

An expired all-terrain vehicle or snowmobile registration may be renewed for the same fee as if the owner is securing the original registration plus a penalty of five dollars and a writing fee.

Sec. 10. Section 321G.6, Code 1989, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 3:

NEW UNNUMBERED PARAGRAPH. All all-terrain vehicles used on public land must be registered within six months following the effective date of this Act, unless otherwise exempt.

Sec. 11. Section 321G.6, unnumbered paragraphs 4 and 5, Code 1989, are amended to read as follows:

~~Whenever any~~ When a person, after registering ~~a~~ an all-terrain vehicle or snowmobile, moves from the address shown on the registration certificate, the person shall, within ten days, notify the county recorder in writing of ~~such fact~~ the move and the person's new address.

Upon the transfer of ownership of ~~a~~ an all-terrain vehicle or snowmobile, the owner shall complete the form on the back of a current registration certificate and shall deliver it to the purchaser or transferee at the time of delivering the all-terrain vehicle or snowmobile. The purchaser or transferee shall, within five days, file a new application form with the county recorder with a fee of one dollar and the writing fee, and a transfer of number shall be awarded in the same manner as provided in an original registration.

Sec. 12. Section 321G.7, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

321G.7 FEES REMITTED TO COMMISSION — APPROPRIATION.

Within ten days after the end of each month, each county recorder shall remit to the commission the all-terrain vehicle and snowmobile fees collected by the recorder during the previous month. Before January 10 of odd-numbered years, each recorder shall remit unused license forms from the previous biennium to the commission. Before January 10 of each year, each recorder shall summarize the transactions of the registration fees and penalties cllected during the previous year.

The department shall remit the fees to the treasurer of state, who shall place the money in a special conservation fund. The money is appropriated to the department for the all-terrain vehicle and snowmobile programs of the state. All-terrain vehicle fees shall be used only for all-terrain vehicle programs and snowmobile fees shall be used only for snowmobile programs. Joint programs shall be supported from both types of fees on a usage basis. The all-terrain vehicle and snowmobile programs shall include grants, subgrants, contracts, or cost-sharing of all-terrain vehicle and snowmobile programs with political subdivisions or incorporated private organizations or both in accordance with rules adopted by the commission. All all-terrain vehicle programs using cost-sharing, grants, subgrants, or contracts shall establish and implement a safety instruction program either singly or in cooperation with other all-terrain vehicle programs. At least fifty percent of the special fund shall be available for political subdivisions or incorporated private organizations or both. Moneys from the special fund not used by the political subdivisions or incorporated private organizations or both shall remain in the all-terrain vehicle or snowmobile accounts. The department may use funds from these accounts for the administration of the all-terrain vehicle and snowmobile programs.

Sec. 13. Section 321G.8, Code 1989, is amended to read as follows:

321G.8 EXEMPT VEHICLES.

~~No registration~~ Registration shall not be required for the following described all-terrain vehicles and snowmobiles:

1. ~~Snowmobiles~~ All-terrain vehicles and snowmobiles owned and used by the United States, another state, or a political subdivision ~~thereof~~ of another state.

2. ~~Snowmobiles~~ All-terrain vehicles and snowmobiles registered in a country other than the United States ~~temporarily~~ used within this state for not more than twenty consecutive days.

3. ~~Snowmobiles~~ All-terrain vehicles and snowmobiles covered by a valid license of another state and which have not been within this state for more than twenty consecutive days.

4. ~~Snowmobiles~~ All-terrain vehicles and snowmobiles not registered or licensed in another state or country being used in this state while engaged in a special event and not remaining in the state for a period of more than ten days.

5. All-terrain vehicles used in accordance with section 321.234A.

Sec. 14. Section 321G.9, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~No~~ A person shall not operate ~~a~~ an all-terrain vehicle or snowmobile upon roadways or highways, as defined in section 321.1, except as provided in section 321.234A and this chapter.

Sec. 15. Section 321G.9, subsection 1, Code 1989, is amended to read as follows:

1. ~~A~~ Except as provided in section 321.234A, an all-terrain vehicle or snowmobile shall not be operated at any time within the right of way of any interstate highway or freeway within this state.

Sec. 16. Section 321G.9, subsection 2, unnumbered paragraph 1 and paragraph b, Code 1989, are amended to read as follows:

~~A~~ An all-terrain vehicle or snowmobile may make a direct crossing of a street or highway provided:

b. The all-terrain vehicle or snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway; and

Sec. 17. Section 321G.9, subsection 3, unnumbered paragraph 1 and paragraph d, Code 1989, are amended to read as follows:

~~A registered~~ An all-terrain vehicle or snowmobile shall not be operated on public highways:

d. Abreast with one or more other all-terrain vehicles or snowmobiles on a city highway.

Sec. 18. Section 321G.9, subsection 4, unnumbered paragraph 1 and paragraph d, Code 1989, are amended to read as follows:

A registered all-terrain vehicle or snowmobile may be operated under the following conditions:

d. On the roadways of that portion of county highways designated by the county board of supervisors for such use during a specified period. The county board of supervisors shall evaluate the traffic conditions on all county highways and designate roadways on which all-terrain vehicles or snowmobiles may be operated for the specified period without unduly interfering with or constituting an undue hazard to conventional motor vehicle traffic. Signs warning of the operation of all-terrain vehicles or snowmobiles on the roadway shall be placed and maintained on the portions of highway thus designated during the period specified for ~~such~~ the operation.

Sec. 19. Section 321G.9, subsection 4, Code 1989, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. f. All-terrain vehicles shall not be operated on snowmobile trails except where designated by the controlling authority and the primary snowmobile trail sponsor.

NEW LETTERED PARAGRAPH. g. Snowmobiles shall not be operated on all-terrain vehicle trails except where designated by the controlling authority and the primary all-terrain vehicle trail sponsor.

Sec. 20. Section 321G.9, subsection 6, Code 1989, is amended to read as follows:

6. a. ~~A~~ An all-terrain vehicle or snowmobile shall not be operated on or across a public highway by a person under sixteen years of age who does not have in the person's possession a safety certificate issued to the person pursuant to this chapter.

b. ~~Any~~ A person twelve to fifteen years of age and possessing a valid safety certificate must be ~~accompanied by and~~ under the direct supervision of a ~~responsible person of at least eighteen years of age~~ parent, guardian, or another adult authorized by the parent or guardian, who is experienced in all-terrain vehicle or snowmobile operation, and who possesses a valid operator's or chauffeur's license, instruction permit, restricted license or temporary permit issued under chapter 321, or a safety certificate issued under this chapter.

Sec. 21. Section 321G.9, subsection 7, Code 1989, is amended to read as follows:

7. ~~A~~ An all-terrain vehicle or snowmobile shall not be operated within the right of way of ~~any~~ a primary highway between the hours of sunset and sunrise except on the right-hand side of ~~such~~ the right of way and in the same direction as the motor vehicular traffic on the nearest lane of traveled portion of ~~such~~ the right of way.

Sec. 22. Section 321G.10, Code 1989, is amended to read as follows:

321G.10 ACCIDENT REPORTS.

If ~~a~~ an all-terrain vehicle or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to two hundred dollars or more, either the operator or someone acting for the operator shall immediately notify the county sheriff or another law enforcement agency in the state. The operator shall file with the commission a report of the accident, within forty-eight hours, containing information as the commission may require.

Sec. 23. Section 321G.11, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

~~A~~ An all-terrain vehicle or snowmobile shall not be operated without suitable and effective muffling devices which limit engine noise to not more than eighty-six decibels as measured on the "A" scale at a distance of fifty feet; and a snowmobile, manufactured after July 1, 1973, which is sold, offered for sale, or used in this state, except in an authorized special event, shall have a muffler system that limits engine noise to not more than eighty-two decibels as measured on the "A" scale at a distance of fifty feet.

The commission may adopt rules with respect to the inspection of all-terrain vehicles and snowmobiles and ~~the~~ testing of ~~snowmobile~~ their mufflers.

Sec. 24. Section 321G.12, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

321G.12 HEAD LAMP — TAIL LAMP — BRAKES.

Every all-terrain vehicle operated during the hours of darkness shall display a lighted head lamp and tail lamp. Every snowmobile shall be equipped with at least one head lamp and one tail lamp. Every all-terrain vehicle and snowmobile shall be equipped with brakes which conform to standards prescribed by the director of transportation.

Sec. 25. Section 321G.13, unnumbered paragraph 1 and subsections 7, 8, 10, and 11, Code 1989, are amended to read as follows:

~~It shall be unlawful for any~~ A person ~~to~~ shall not drive or operate ~~any~~ an all-terrain vehicle or snowmobile:

7. In or on any park or fish and game areas except on designated all-terrain vehicle or snowmobile trails.

8. Upon an operating railroad right of way. ~~A~~ An all-terrain vehicle or snowmobile may be driven directly across a railroad right of way only at an established crossing and, notwithstanding any other provisions of law, may, ~~where~~ if necessary, use the improved portion of ~~such~~ the established crossing after yielding to all oncoming traffic. ~~The provisions of this~~ This subsection ~~shall~~ does not apply to ~~any~~ a law enforcement officer or railroad employee in the lawful discharge of the officer's or employee's duties.

10. On public land without a measurable snow cover except as provided in section 321.234A or in specific areas permitted by the commission, such as "all-terrain vehicle parks" which are designated and intended for use with or without snow.

11. ~~No~~ A person shall not operate or ride in ~~any~~ an all-terrain vehicle or snowmobile with ~~any~~ a firearm in the person's possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung or enclosed in a carrying case.

Sec. 26. Section 321G.13, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A person shall not operate an all-terrain vehicle while carrying a passenger.

Sec. 27. Section 321G.15, Code 1989, is amended to read as follows:

321G.15 OPERATION PENDING REGISTRATION.

The commission shall furnish snowmobile and all-terrain vehicle dealers with pasteboard cards bearing the words "registration applied for" and space for the date of purchase. ~~Any~~ An unregistered all-terrain vehicle or snowmobile sold by a dealer shall bear one of these cards which ~~shall~~ entitle the purchaser to operate it for ten days immediately following the purchase. The purchaser of a registered all-terrain vehicle or snowmobile ~~shall be entitled to~~ may operate it for ten days immediately following the purchase, without having completed a transfer of registration. ~~Any~~ A person who purchases ~~a~~ an all-terrain vehicle or snowmobile from a dealer shall, within five days of the purchase, apply for ~~a~~ an all-terrain vehicle or snowmobile registration or transfer of registration.

Sec. 28. Section 321G.16, Code 1989, is amended to read as follows:

321G.16 SPECIAL EVENTS.

The commission may authorize the holding of organized special events as defined in this chapter within this state. The commission shall adopt and may amend rules ~~and regulations~~ relating to the conduct of special events held under commission permits and designating the equipment and facilities necessary for safe operation of all-terrain vehicle and snowmobiles or for the safety of operators, participants, and observers in the special events. At least thirty days before the scheduled date of a special event in this state, an application shall be filed with the commission for authorization to conduct the special event. The application shall set forth the date, time, and location of the proposed special event and any other information ~~as~~ the commission ~~may require~~ requires. The special event shall not be conducted without written authorization of the commission. Copies of ~~such~~ the rules shall be furnished by the commission to any person making an application ~~therefor~~.

Sec. 29. Section 321G.17, Code 1989, is amended to read as follows:

321G.17 VIOLATION OF "STOP" SIGNAL.

~~It shall be unlawful for any~~ A person, after having received a visual or audible signal from ~~any~~ a peace officer to come to a stop, ~~to~~ shall not operate ~~a~~ an all-terrain vehicle or snowmobile in willful or wanton disregard of ~~such~~ the signal or interfere with or endanger the officer or any other person or vehicle, or increase speed or attempt to flee or elude the officer.

Sec. 30. Section 321G.18, Code 1989, is amended to read as follows:

321G.18 NEGLIGENCE.

The owner and operator of ~~any~~ an all-terrain vehicle or snowmobile ~~shall be~~ is liable for any injury or damage occasioned by the negligent operation of ~~such~~ the all-terrain vehicle or snowmobile.

Sec. 31. Section 321G.19, Code 1989, is amended to read as follows:

321G.19 RENTED SNOWMOBILES AND ALL-TERRAIN VEHICLES.

1. The owner of ~~any~~ a rented all-terrain vehicle or snowmobile shall keep a record of the name and address of each person renting the all-terrain vehicle or snowmobile, its identification number, the departure date and time, and the expected time of return. The records shall be preserved for six months.

2. The owner of ~~a~~ an all-terrain vehicle or snowmobile operated for hire shall not permit the use or operation of a rented all-terrain vehicle or snowmobile unless it ~~shall have~~ has been provided with all equipment required by this chapter or rules of the commission or the director of transportation, properly installed and in good working order.

Sec. 32. Section 321G.20, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person under twelve years of age shall not operate an all-terrain vehicle on public lands unless the person is taking a prescribed safety training course under the direct supervision of a certified all-terrain vehicle safety instructor and a parent or guardian.

Sec. 33. Section 321G.21, subsections 1, 3, 6, 8, 9, and 10, Code 1989, are amended to read as follows:

1. A manufacturer, distributor, or dealer owning any all-terrain vehicle or snowmobile required to be registered under this chapter may operate the all-terrain vehicle or snowmobile for purposes of transporting, testing, demonstrating, or selling it without the all-terrain vehicle or snowmobile being registered, except that a special identification number issued to the owner as provided in this chapter shall be displayed on the all-terrain vehicle or snowmobile. The special identification number ~~may~~ shall not be used on ~~any~~ an all-terrain vehicle or snowmobile offered for hire or for any work or service performed by a manufacturer, distributor, or dealer.

3. The commission, upon granting an application, shall issue to the applicant a special registration certificate containing the applicant's name and address, the general identification number assigned to the applicant, the word "manufacturer", "dealer", or "distributor", and ~~such~~ other information ~~as~~ the commission ~~may prescribe~~ prescribes. The manufacturer, distributor, or dealer shall have the assigned number printed upon or attached to a removable sign or signs which may be temporarily but firmly mounted or attached to the all-terrain vehicle or snowmobile being used. The display shall meet the requirements of this chapter and the rules of the commission.

6. Every manufacturer, distributor, or dealer shall keep a written record of the all-terrain vehicles and snowmobiles upon which special registration certificates are used, which record shall be open to inspection by any law enforcement officer or any officer or employee of the commission.

8. Dealers using special certificates under ~~the provisions of~~ this chapter shall, before January 10 of each year, furnish the commission with a list of all used all-terrain vehicles and snowmobiles held by them for sale or trade, and upon which the registration fee for the current year has not been paid, giving the previous registration number, name of previous owner at the time ~~such~~ the all-terrain vehicle or snowmobile was transferred to the dealer, and ~~such~~ other information ~~as~~ the commission ~~may require~~ requires.

9. ~~When~~ If the purchaser or transferee of ~~a~~ an all-terrain vehicle or snowmobile is a dealer who holds the same for resale and operates the all-terrain vehicle or snowmobile only for purposes incidental to a resale and displays ~~thereon~~ the special dealer's certificate, or does not operate ~~such~~ the all-terrain vehicle or snowmobile or permit it to be operated, ~~such~~ the transferee ~~shall~~ is not ~~be~~ required to obtain a new registration certificate but upon transferring title or interest to another person shall sign the reverse side of the registration certificate of ~~such~~ the all-terrain vehicle or snowmobile indicating the name and address of the new purchaser. The purchaser may take the registration certificate to the county recorder and file a new application form with a fee of one dollar for transfer and the writing fee. The recorder shall award a transfer of the registration number. If the registration has expired while in the dealer's possession, the purchaser may renew the registration for the same fee and writing fee as if the purchaser is securing the original registration.

10. ~~Whenever~~ When a dealer purchases or otherwise acquires ~~a~~ an all-terrain vehicle or snowmobile registered in this state, the dealer shall issue a signed receipt to the previous owner,

indicating the date of purchase or acquisition, the name and address of ~~such~~ the previous owner, and the registration number of the all-terrain vehicle or snowmobile purchased or acquired. The original receipt shall be delivered to the previous owner and one copy shall be mailed or delivered by the dealer to the county recorder of the county in which the all-terrain vehicle or snowmobile is registered, and one copy shall be delivered to the commission within forty-eight hours.

Sec. 34. Section 321G.22, Code 1989, is amended to read as follows:

321G.22 LIMITATION OF LIABILITY BY PUBLIC BODIES AND ADJOINING OWNERS.

The state, its political subdivisions, and the owners or tenants of property adjoining public lands or the right of way of a public highway and their agents and employees owe no duty of care to keep the public lands, ditches, or land contiguous to a highway or roadway under the control of the state or a political subdivision safe for entry or use by persons operating ~~a~~ an all-terrain vehicle or snowmobile, or to give any warning of a dangerous condition, use, structure, or activity on ~~such~~ the premises to persons entering for such purposes, except in the case of willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity. The state, its political subdivisions, and the owners or tenants of property adjoining public lands or the right of way of a public highway, and their agents and employees are not liable for actions taken to allow or facilitate the use of public lands, ditches, or land contiguous to a highway or roadway except in the case of a willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity. This section does not create a duty of care or ground of liability on behalf of the state, its political subdivisions, or the owners or tenants of property adjoining public lands or the right of way of a public highway and their agents and employees for injury to persons or property in the operation of all-terrain vehicles or snowmobiles in a ditch or on land contiguous to a highway or roadway under the control of the state or a political subdivision. The state, its political subdivisions, and the owners or tenants of property adjoining public lands or the right of way of a public highway and their agents and employees are not liable for the operation of ~~a~~ an all-terrain vehicle or snowmobile in violation of this chapter.

Sec. 35. Section 321G.23, subsections 1 and 4, Code 1989, are amended to read as follows:

1. The commission shall provide, by rules adopted pursuant to section 321G.2, for the establishment of ~~a course~~ certified courses of instruction to be conducted throughout the state for the safe use and operation of all-terrain vehicles and snowmobiles. The curriculum shall include instruction in the lawful and safe use, operation, and equipping of all-terrain vehicles and snowmobiles consistent with ~~the provisions of~~ this chapter and rules adopted by the commission and the director of transportation and ~~such~~ other matters ~~as~~ the commission deems pertinent for a qualified all-terrain vehicle or snowmobile operator.

4. The commission shall provide safety material relating to the operation of all-terrain vehicles and snowmobiles for the use of ~~private~~ nonpublic or public elementary and secondary schools in this state.

Sec. 36. Section 321G.24, subsections 1 and 5, Code 1989, are amended to read as follows:

1. ~~Effective July 1, 1977, no~~ A person ~~who is born after July 1, 1965~~ under eighteen years of age shall not operate ~~a~~ an all-terrain vehicle or snowmobile in this state without obtaining a valid safety certificate issued by the commission and having ~~such~~ the certificate in the person's possession, or unless the person is accompanied on the same ~~machine~~ snowmobile by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and possesses a valid operator's or chauffeur's license, instruction permit, restricted license or temporary permit issued under chapter 321 or a safety certificate issued under this chapter.

5. A valid all-terrain vehicle or snowmobile safety certificate or license issued to a nonresident by a governmental authority of another state shall be considered a valid certificate or license in this state if the permit or license requirements of ~~such~~ the governmental authority, excluding fees, are substantially the same as the requirements of this chapter as determined by the commission.

Sec. 37. Section 321G.25, Code 1989, is amended to read as follows:

321G.25 STOPPING AND INSPECTING — WARNINGS.

A peace officer may stop and inspect ~~a~~ an all-terrain vehicle or snowmobile operated, parked, or stored on public streets, highways, public lands, or frozen waters of the state to determine if the all-terrain vehicle or snowmobile is registered, numbered, or equipped as required by this chapter and commission rules. The officer shall not inspect an area that is not essential to determine compliance with the requirements. If the officer determines that the all-terrain vehicle or snowmobile is not in compliance, the officer may issue a warning memorandum to the operator and forward a copy to the commission. The warning memorandum shall indicate the items found not in compliance and shall direct the owner or operator of the all-terrain vehicle or snowmobile to have the all-terrain vehicle or snowmobile in compliance and return a copy of the warning memorandum with the proof of compliance to the commission within fourteen days. If the proof of compliance is not provided within fourteen days, the owner or operator is in violation of this chapter.

Sec. 38. Section 321G.26, Code 1989, is amended to read as follows:

321G.26 TERMINATION OF USE.

A person who receives a warning memorandum for ~~a~~ an all-terrain vehicle or snowmobile shall stop using the all-terrain vehicle or snowmobile as soon as possible and shall not operate it on public streets, highways, public lands, or frozen waters of the state until the all-terrain vehicle or snowmobile is in compliance.

Sec. 39. Section 321G.27, Code 1989, is amended to read as follows:

321G.27 WRITING FEES.

The county recorder shall collect a writing fee of one dollar for an all-terrain vehicle or snowmobile ~~registrations~~ registration. ~~When two or more transactions for one snowmobile take place during the registration process the transactions shall be considered as a single registration.~~

Sec. 40. Section 321G.28, Code 1989, is amended to read as follows:

321G.28 CONSISTENT LOCAL LAWS — SPECIAL LOCAL RULES.

1. ~~The provisions of this~~ This chapter and other applicable laws of this state shall govern the operation, equipment, numbering, and all other matters relating to ~~a~~ an all-terrain vehicle or snowmobile ~~whenever~~ when the all-terrain vehicle or snowmobile is operated or maintained in this state. However, ~~nothing in~~ this chapter ~~shall be construed to~~ does not prevent the adoption of an ordinance or local law relating to the operation of or equipment of all-terrain vehicles or snowmobiles. The ordinances or local laws ~~shall be~~ are operative only so long as they are not inconsistent with ~~the provisions of~~ this chapter or the rules ~~and regulations~~ adopted by the commission.

2. A subdivision of this state, after public notice by publication in a newspaper having a general circulation in the subdivision, may make formal application to the commission for special rules concerning the operation of all-terrain vehicles or snowmobiles within the territorial limits of the subdivision and shall provide the commission with the reasons the special rules are necessary.

3. The commission, upon application by local authorities and in conformity with this chapter, may make special rules concerning the operation of all-terrain vehicles or snowmobiles within the territorial limits of a subdivision of this state.

Sec. 41. NEW SECTION. 106.34A VEHICLES PROHIBITED IN STREAMBED.

1. Except as provided in subsection 2, a person shall not operate a motor vehicle in any of the following:

a. Any portion of a meandered stream.

b. Any portion of the bed of a nonmeandered stream which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water.

c. Any portion of a stream identified as a trout stream by the department.

2. This section does not prohibit the use of ford crossings of public or private roads or any other ford crossing when used for agricultural purposes, the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed, or the operation of motor vehicles on ice.

3. The department of natural resources shall adopt rules identifying the navigable streams and rivers in which a motor vehicle may be operated. The department may exempt participants of organized special events from this section where the organized special event is approved by a state or local authority.

4. As used in this section, "motor vehicle" means a motor vehicle as defined in section 321.1, subsection 2.

Sec. 42. This Act takes effect on January 1, 1990.

Approved May 27, 1989

CHAPTER 245

INFECTIOUS WASTE

H.F. 722

AN ACT relating to infectious waste management.

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

Section 1. NEW SECTION. 455B.490 REGULATION OF INFECTIOUS WASTE.

1. As used in this section, unless the context otherwise requires:

a. "Infectious" means containing pathogens with sufficient virulence and quantity so that exposure to an infectious agent by a susceptible host could result in an infectious disease when the infectious agent is improperly treated, stored, transplanted, or disposed.

b. "Infectious waste" means waste, which is infectious, including but not limited to contaminated sharps, cultures, and stocks of infectious agents, blood and blood products, pathological waste, and contaminated animal carcasses from hospitals or research laboratories.

c. "Contaminated sharps" means all discarded sharp items derived from patient care in medical, research, or industrial facilities including glass vials containing materials defined as infectious, hypodermic needles, scalpel blades, and pasteur pipettes.

d. "Cultures and stocks of infectious agents" means specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biological agents, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, or mix cultures.

e. "Human blood and blood products" means human serum, plasma, other blood components, bulk blood, or containerized blood in quantities greater than twenty milliliters.

f. "Pathological waste" means human tissues and body parts that are removed during surgery or autopsy.

g. "Contaminated animal carcasses" means waste including carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals.

2. The department shall institute an infectious waste management program in cooperation with the Iowa department of public health. The program shall include all of the following elements:

a. Recommendations to the commission for revision of the rules which refer to infectious waste as hazardous or toxic waste.

b. Initiation, in cooperation with associations of health care providers of an information and education effort regarding the current requirements for special waste authorizations prior to the disposal of infectious wastes in a landfill. The effort shall include an attempt to compile an inventory of the number of generators and the volumes generated. The inventory shall be completed and a report regarding the results of the inventory submitted to the general assembly by no later than January 15, 1991.

c. Upon completion of the compilation of the inventory, the department shall recommend, for adoption by the commission, standards for on-site and off-site treatment of infectious waste. In developing standards, the department shall consider factors affecting the feasibility of alternative methods of treatment and disposal, including but not limited to the volume of infectious waste generated, the availability of treatment facilities within geographic areas, and the costs of transporting infectious wastes to treatment facilities. The standards shall include monitoring requirements for treatment facilities, and training requirements for operators of facilities. The standards may include requirements for management plans dealing with the plans for management of infectious wastes in compliance with adopted standards. In cases in which an individual generator of infectious waste is served by a person treating or disposing of the infectious waste, the person treating or disposing of the waste may prepare the plan for all generators served.

d. The department shall undertake a public information program, in conjunction with the Iowa department of public health and health care providers, to promote public understanding of the scope and features of state and private efforts to manage infectious wastes.

Approved May 27, 1989

CHAPTER 246

ROADSIDE VEGETATION MANAGEMENT

H.F. 723

AN ACT relating to the implementation of a program for integrated roadside vegetation management and weed control, including the crediting of moneys to the living roadway trust fund, and providing an effective date.

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

Section 1. Section 312.2, subsection 9, Code 1989, 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~~ living roadway trust fund created under section 314.21 one hundred fifty thousand dollars from the road use tax ~~funds~~ fund. ~~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. 2. Section 312.2, subsection 12, Code 1989, is amended to read as follows:

12. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the ~~state department of transportation~~ living roadway trust fund created under section 314.21 one hundred thousand dollars from the road use tax ~~funds~~ fund. ~~The state department of transportation shall expend the funds for the planting or maintenance of trees~~

~~or shrubs in shelter belts for erosion control to reduce wind erosion interfering with the maintenance of highways in the state or the safe operation of vehicles on the highways.~~

Sec. 3. Section 314.13, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 3. "Committee" means the integrated roadside vegetation management technical advisory committee created in section 314.22.

NEW SUBSECTION. 4. "Coordinator" means the integrated roadside vegetation management coordinator.

Sec. 4. Section 314.20, Code 1989, is amended to read as follows:

314.20 UTILITY EASEMENTS ON HIGHWAY RIGHT-OF-WAY.

The department shall develop an accommodation plan for the longitudinal utility use of freeway 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~~ under section 314.21~~, and shall be used by the department for the planting and maintenance of alternative roadside vegetation on interstate highways~~.

Sec. 5. Section 314.21, Code 1989, is amended to read as follows:

314.21 LIVING ROADWAY TRUST FUND.

1. 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 and implementation of ~~alternative~~ integrated roadside vegetation ~~for living windbreaks, wildlife habitat, roadside erosion control, and aesthetic purposes~~ plans. ~~The~~ Except as provided in subsections 2 and 3, the moneys shall only be expended for areas on or adjacent to ~~streets~~ road, street, and ~~highways~~ highway right-of-ways. The state department of transportation ~~and~~ in consultation with the department of natural resources shall ~~jointly~~ establish standards relating to the type of projects available for assistance. ~~Of~~ For the fiscal period beginning July 1, 1988, and ending March 31, 1990, the moneys in the fund~~,~~ shall be expended as follows: fifty-six percent ~~shall be expended for~~ on state department of transportation projects~~. Thirty~~; thirty percent ~~shall be expended~~ on county projects; and fourteen percent ~~shall be expended for~~ on city projects.

PARAGRAPH DIVIDED. ~~Any~~ A 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. A city or county may, at its option, apply moneys allocated for use on city or county projects under this subsection toward qualifying projects on the primary system. The state department of transportation ~~and~~ in consultation with 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.~~ In ranking applications for funds, the department shall consider the proportion of political subdivision matching funds to be provided, if any, and the proportion of private contributions to be provided, if any. In considering the proportion of political subdivision matching funds provided, the department shall consider only those moneys which are in addition to those which the political subdivision has historically provided toward such projects. Funds allocated to the cities, the counties, and the department which are not programmed by the end of each fiscal year shall be available for redistribution to any eligible applicant regardless of the original allocation of funds. Such funds shall be awarded for eligible projects based upon their merit in meeting the program objectives established by the department under section 314.22. The

department shall submit a report of all projects funded in the previous fiscal year to the governor and to the general assembly on January 15 of each year.

PARAGRAPH DIVIDED. Beginning April 1, 1990, the moneys in the living roadway trust 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. However, after April 1, 1990, a city or county shall not be eligible to receive moneys from the living roadway trust fund unless the city or county has an integrated roadside vegetation management plan in place consistent with the objectives in section 314.22.

2. a. The department may authorize projects which provide grants or loans to local governments and organizations which are developing community entryway enhancement and other planting demonstration projects. Planning, public education, installation, and initial maintenance planning and development may be determined by the department to be eligible activities for funding under this paragraph. Projects approved under this paragraph require a local match or contribution toward the overall project cost.

b. The department may authorize projects which provide grants or loans to local governments for the purchase of specialized equipment and special staff training for the establishment of alternative forms of roadside vegetation. Projects approved under this paragraph require a local match or contribution toward the overall project cost.

c. The department, in order to create greater visual effect, shall investigate alternatives for concentrating plantings at strategic locations to gain a greater visual impact and appeal as well as stronger scenic value. Equal attention shall be given to providing safe and effective habitats for wildlife which can coexist with highways.

d. The department may authorize projects which provide grants or loans to local jurisdictions for increased protection through the use of easements, fee title acquisition, covenants, zoning ordinances, or other provisions for protection of vegetation and desirable environment adjacent to the right-of-way. Off-right-of-way projects shall emphasize vegetation protection or enhancement, scenic and wildlife values, erosion control and enhancement of vegetation management projects within the right-of-ways.

3. Notwithstanding subsections 1 and 2, prior to the distribution of the moneys in the living roadway trust fund under subsections 1 and 2, the department may authorize expenditures of moneys from the living roadway trust fund for projects that benefit all road jurisdictions by providing research, education, training, technical advice and services, demonstrations, seminars, and meetings. For the fiscal period beginning July 1, 1989, and ending June 30, 1991, the department shall allocate no less than fifty thousand dollars in each fiscal year to the university of northern Iowa to maintain the position of the state roadside specialist and to continue its integrated roadside vegetation management pilot program providing research, education, training, and technical assistance.

Sec. 6. NEW SECTION. 314.22 INTEGRATED ROADSIDE VEGETATION MANAGEMENT.

1. OBJECTIVES. It is declared to be in the general public welfare of Iowa and a highway purpose for the vegetation of Iowa's roadsides to be preserved, planted, and maintained to be safe, visually interesting, ecologically integrated, and useful for many purposes. The state department of transportation shall provide an integrated roadside vegetation management plan and program which shall be designed to accomplish all of the following:

a. Maintain a safe travel environment.

b. Serve a variety of public purposes including erosion control, wildlife habitat, climate control, scenic qualities, weed control, utility easements, recreation uses, and sustenance of water quality.

c. Be based on a systematic assessment of conditions existing in roadsides, preservation of valuable vegetation and habitats in the area, and the adoption of a comprehensive plan and strategies for cost-effective maintenance and vegetation planting.

d. Emphasize the establishment of adaptable and long-lived vegetation, often native species, matched to the unique environment found in and adjacent to the roadside.

e. Incorporate integrated management practices for the long-term control of damaging insect populations, weeds, and invader plant species.

f. Build upon a public education program allowing input from adjacent landowners and the general public.

g. Accelerate efforts toward increasing and expanding the effectiveness of plantings to reduce wind-induced and water-induced soil erosion and to increase deposition of snow in desired locations.

h. Incorporate integrated roadside vegetation management with other state agency planning and program activities including the recreation trails program, scenic highways, open space, and tourism development efforts. Agencies should annually report their progress in this area to the general assembly.

2. COUNTIES MAY ADOPT PLANS. A county may adopt an integrated roadside vegetation management plan consistent with the integrated roadside vegetation management plan adopted by the department under subsection 1.

3. INTEGRATED ROADSIDE VEGETATION MANAGEMENT TECHNICAL ADVISORY COMMITTEE.

a. The director of the department shall appoint members to an integrated roadside vegetation management technical advisory committee which is created to provide advice on the development and implementation of a statewide integrated roadside vegetation management plan and program and related projects. The department shall report annually in January to the general assembly regarding its activities and those of the committee. Activities of the committee may include, but are not limited to, providing advice and assistance in the following areas:

(1) Research efforts.

(2) Demonstration projects.

(3) Education and orientation efforts for property owners, public officials, and the general public.

(4) Activities of the integrated roadside vegetation management coordinator for integrated roadside vegetation management.

(5) Reviewing applications for funding assistance.

(6) Securing funding for research and demonstrations.

(7) Determining needs for revising the state weed law and other applicable Code sections.

(8) Liaison with the Iowa state association of counties, the league of Iowa municipalities, and other organizations for integrated roadside vegetation management purposes.

b. The director may appoint any number of persons to the committee but, at a minimum, the committee shall consist of all of the following:

(1) One member representing the utility industry.

(2) One member from the Iowa academy of sciences.

(3) One member representing county government.

(4) One member representing city government.

(5) Two members representing the private sector including community interest groups.

(6) One member representing soil conservation interests.

(7) One member representing the department of natural resources.

(8) One member representing county conservation boards.

Members of the committee shall serve without compensation, but may be reimbursed for allowable expenses from the living roadway trust fund created under section 314.21. No more than a simple majority of the members of the committee shall be of the same gender as provided in section 69.16A. The director of the department shall appoint the chair of the committee and shall establish a minimum schedule of meetings for the committee.

4. INTEGRATED ROADSIDE VEGETATION MANAGEMENT COORDINATOR. The integrated roadside vegetation management coordinator shall administer the department's integrated roadside vegetation management plan and program. The department may create the position of integrated roadside vegetation management coordinator within the department

or may contract for the services of the coordinator. The duties of the coordinator include, but are not limited to, the following:

a. Conducting education and awareness programs.

b. Providing technical advice to the department and the department of natural resources, counties, and cities.

c. Conducting demonstration projects.

d. Coordinating inventory and implementation activities.

e. Providing assistance to local community-based groups for undertaking community entryway projects.

f. Being a clearinghouse for information from Iowa projects as well as from other states.

g. Periodically distributing information related to integrated roadside vegetation management.

h. General coordination of research efforts.

i. Other duties assigned by the director of transportation.

5. EDUCATION PROGRAMS. The department shall develop educational programs and provide educational materials for the general public, landowners, governmental employees, and board members as part of its program for integrated roadside vegetation management. The educational program shall provide all of the following:

a. The development of public service announcements and television programs about the importance of roadside vegetation in Iowa.

b. The expansion of existing training sessions and educational curriculum materials for county weed commissioners, government contract sprayers, maintenance staff, and others to include coverage of integrated roadside management topics such as basic plant species identification, vegetation preservation, vegetation inventory techniques, vegetation management and planning procedures, planting techniques, maintenance, communication, and public relations. County and municipal engineers, public works staffs, planning and zoning representatives, parks and habitat managers, and others should be encouraged to participate.

c. The conducting of statewide and regional conferences and seminars about integrated roadside vegetation management, community entryways, scenic values of land adjoining roadsides, and other topics relating to roadside vegetation.

d. The preparation, display, and distribution of a variety of public relations material, in order to better inform and educate the traveling public on roadside vegetation management activities. The public relations material shall inform motorists of a variety of roadside vegetation issues including all of the following:

(1) Benefits of various types of roadside vegetation.

(2) Long-term results expected from planting and maintenance practices.

(3) Purposes for short-term disturbances in the roadside landscapes.

(4) Interesting aspects of the Iowa landscape and individual landscape regions.

(5) Other aspects relating to wildlife and soil erosion.

e. Preparation and distribution of educational material designed to inform adjoining property owners, farm operators, and others of the importance of roadside vegetation and their responsibilities of proper stewardship of that vegetation resource.

6. RESEARCH AND DEMONSTRATION PROJECTS. The department, as part of its plan to provide integrated roadside vegetation management, shall conduct research and feasibility studies including demonstration projects of different kinds at a variety of locations around the state. The research and feasibility studies may be conducted in, but are not limited to, any of the following areas:

a. Cost effectiveness or comparison of planting, establishing and maintaining alternative or warm-season, native grass and forb roadside vegetation and traditional cool-season nonnative vegetation.

b. Identification of the relationship that roadsides and roadside vegetation have to maintaining water quality, through drainage wells, sediment and pollutant collection and filtration, and other means.

c. Impacts of burning as an alternative vegetation management tool on all categories of roads.

d. Techniques for more quickly establishing erosion control and permanent vegetative cover on recently disturbed ground as well as interplanting native species in existing vegetative cover.

e. Effectiveness of techniques for reduced or selected use of herbicides to control weeds.

f. Identification of cross section and slope steepness design standards which provide for motorist safety as well as for improved establishment, maintenance, and replacement of different types of vegetation.

g. Identification of a uniform inventory and assessment technique which could be used by many counties in establishing integrated roadside management programs.

h. Equipment innovations for seeding and harvesting grasses in difficult terrain settings, roadway ditches, and fore-slopes and back-slopes.

i. Identification of the perceptions of motorists and landowners to various types of roadside vegetation and configuration of plantings.

j. Market or economic feasibility studies for native seed, forb, and woody plant production and propagation.

k. Impacts of vegetation modifications on increasing or decreasing wildlife populations in rural and urban areas.

l. Effects of vegetation on the number and location of wildlife road-kills in rural and urban areas.

m. Costs to the public for improper off-site resource management adjacent to roadsides.

n. Advantages, disadvantages, and techniques of establishing pedestrian access adjacent to highways and their impacts on vegetation management.

o. Identification of alternative techniques for snow catchment on farmland adjacent to roadsides.

7. GATEWAYS PROGRAM. The department shall develop a gateways program to provide meaningful visual impacts including major new plantings at the important highway entry points to the state and its communities. Substantial and distinctive plantings shall also be designed and installed at these points. Creative and artistic design solutions shall be sought for these improvements. Communications about these projects shall be provided to local groups in order to build community involvement, support, and understanding of their importance. Consideration shall be given to a requirement that gateways projects produce a local match or contribution toward the overall project cost.

8. VEGETATION INVENTORIES AND STRATEGIES.

a. The department shall coordinate and compile integrated roadside vegetation inventories, classification systems, plans, and implementation strategies for roadsides. Areas of increased program and project emphasis may include, but are not limited to, all of the following:

(1) Additional development and funding of state gateways projects.

(2) Accelerated replacement of dead and unhealthy plants with native and hardy trees and shrubs.

(3) Special interest plantings at selected highly visible locations along primary and interstate highways.

(4) Pilot and demonstration projects.

(5) Additional snow and erosion control plantings.

(6) Welcome center and rest area plantings with native and aesthetically interesting species to create mini-arboretums around the state.

b. The department shall coordinate and compile a reconnaissance of lands to develop an inventory of sites having the potential of being harvested for native grass, forb, and woody plant material seed and growing stock. Highway right-of-ways, parks and recreation areas, converted railroad right-of-ways, state board of regents' property, lands owned by counties, and other types of public property shall be surveyed and documented for seed source potential. Sites volunteered by private organizations may also be included in the inventory. Inventory information shall be made available to state agencies' staffs, county engineers, county conservation board directors, and others.

Sec. 7. Section 317.5, Code 1989, is amended to read as follows:

317.5 WEEDS IN ABANDONED CEMETERIES.

The commissioner shall ~~spray~~ control the weeds growing in abandoned cemeteries in the county as ~~often as~~ needed ~~to keep said weeds under control~~. Spraying for control of weeds shall be limited to those circumstances when it is not practical to mow or otherwise control the weeds.

Sec. 8. Section 317.11, Code 1989, is amended to read as follows:

317.11 WEEDS ON ROADS ~~OR HIGHWAYS~~ — HARVESTING OF GRASS.

The ~~board~~ county boards of supervisors ~~shall destroy noxious weeds growing in secondary roads,~~ and the state department of transportation shall ~~destroy~~ control noxious weeds growing ~~on primary roads~~ on the roads under their jurisdiction. Spraying for control of noxious weeds shall be limited to those circumstances when it is not practical to mow or otherwise control the noxious weeds.

PARAGRAPH DIVIDED. Nothing ~~herein~~ under this chapter shall prevent the landowner from harvesting, in proper season, the grass grown on the road along the landowner's land except for vegetation maintained for highway purposes as part of an integrated roadside vegetation management plan which is consistent with the objectives in section 314.22.

Sec. 9. Section 317.13, Code 1989, is amended to read as follows:

317.13 PROGRAM OF CONTROL.

The board of supervisors of each county may each year, upon recommendation of the county weed commissioner by resolution prescribe and order a program of weed ~~destruction~~ control for purposes of complying with all sections of this chapter. The county board of supervisors of each county may also by adopting an integrated roadside vegetation management plan prescribe and order a program of weed control for purposes of complying with all sections of this chapter. The program for weed control ordered or adopted by the county board of supervisors shall provide that spraying for control of weeds shall be limited to those circumstances when it is not practical to mow or otherwise control the weeds.

Sec. 10. Section 317.18, Code 1989, is amended to read as follows:

317.18 ORDER FOR DESTRUCTION ON ROADS.

The board of supervisors may order all noxious weeds, within the right-of-way of all county trunk and local county roads to be cut, burned or otherwise ~~destroyed~~ controlled to prevent seed production, either upon its own motion or upon receipt of written notice requesting the action from any residents of the township in which the roads are located, or any person regularly using the roads. The order shall be consistent with the county integrated roadside vegetation management plan, if the county has adopted such a plan, and the order shall define the roads along which noxious weeds are required to be cut, burned or otherwise ~~destroyed~~ controlled and shall require the weeds to be cut, burned or otherwise ~~destroyed~~ controlled within fifteen days after the publication of the order in the official newspapers of the county or as prescribed in the county's integrated roadside vegetation management plan. The order shall provide that spraying for control of noxious weeds shall be limited to those circumstances when it is not practical to mow or otherwise control the weeds.

Sec. 11. Section 317.19, Code 1989, is amended to read as follows:

317.19 ROAD CLEARING APPROPRIATION.

The board of supervisors may appropriate moneys to be used for the purposes of cutting, burning, or otherwise ~~destroying~~ controlling weeds or brush within the right-of-way of county trunk roads and local county roads in time to prevent reseeding or in a manner consistent with the county's roadside vegetation management plan, if the county has adopted such a plan. The moneys appropriated shall not be spent on spraying for control of weeds except in those circumstances when it is not practical to mow or otherwise control the weeds.

The board of supervisors may purchase or hire necessary equipment or contract with the adjoining landowner to carry out this section.

Sec. 12. The state department of transportation shall report to the governor and the general assembly by January 15, 1992, on the allocation of moneys of the living roadway trust fund under section 314.21, and shall include in its report any recommended changes in the allocation of the moneys in the living roadway trust fund.

Sec. 13. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved May 27, 1989

CHAPTER 247

VEHICLE PARKING AND HANDICAPPED PARKING

H.F. 745

AN ACT relating to the stopping, standing, and parking of vehicles including parking for handicapped persons and providing penalties and effective dates.

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

Section 1. Section 15.286, subsection 4, paragraph a, Code 1989, is amended to read as follows:

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~~ 321L.1, percent of private investment, percent leveraged by other programs, assessment of local housing situation, and ability to administer the program.

Sec. 2. Section 104A.7, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

~~Effective January 1, 1982, all~~ All public and private buildings and facilities, temporary and permanent, used by the general public, which are not residences and which provide ~~forty-eight~~ ten or more parking spaces, shall set aside ~~at least six-tenths of one percent of the parking spaces provided as~~ handicapped parking spaces as ~~defined in~~ required under section ~~601E.1~~ 321L.5, subsection 3.

~~Effective January 1, 1982, all~~ All public and private buildings and facilities, temporary and permanent, which are residences excluding condominiums as defined in chapter 499B and which provide ~~twelve~~ ten or more parking spaces, excluding extended health care facilities, shall set aside at least one handicapped parking space as defined in section ~~601E.1~~ 321L.1 for each individual dwelling unit in which a handicapped person resides.

Sec. 3. Section 321.23, subsection 4, Code 1989, is amended to read as follows:

4. 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. 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 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 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~~ handicapped identification device as provided in section ~~601E.6~~ 321L.2, if the ~~special~~ handicapped identification device is carried in the vehicle and shown to a peace officer on request.

Sec. 4. Section 321.34, subsection 7, Code 1989, 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~~ 321L.1, may, upon written application to the department, order ~~special~~ handicapped registration plates designed by the department bearing the international symbol of accessibility. The ~~special~~ handicapped registration plates shall only be issued if the application is accompanied with a statement from a physician licensed under chapter 148, 149, 150, or 150A, or a chiropractor licensed under chapter 151, written on the physician's or chiropractor's stationery, stating the nature of the applicant's handicap and such additional information as required by rules adopted by the department. If the application is approved by the department the ~~special~~ handicapped registration plates shall be issued to the applicant in exchange for the previous registration plates issued to the person. The fee for the ~~special~~ handicapped plates is five dollars which is in addition to the regular annual registration fee. The department shall validate the ~~special~~ handicapped plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee. However, the ~~special~~ handicapped plates shall not be renewed without the applicant furnishing evidence to the department that the owner of the motor vehicle is still a handicapped person as defined in section ~~601E.1~~ 321L.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~~ handicapped registration plates shall be surrendered in exchange for regular registration plates when the owner of the motor vehicle no longer qualifies as a handicapped person as defined in section ~~601E.1~~ 321L.1.

Sec. 5. Section 321.166, subsection 6, Code 1989, is amended to read as follows:

6. Registration plates issued a disabled veteran under the provisions of section 321.105, shall display the alphabetical characters "DV" which shall precede the registration plate number. The plates may also display a handicapped identification sticker if issued to the disabled veteran by the department under section ~~601E.6~~ 321L.2.

Sec. 6. Section 321.210, unnumbered paragraph 9, Code 1989, is amended to read as follows:

The department shall not consider or assess points for a parking violation in determining a license suspension under this section and a parking violation is not a moving traffic violation. For purposes of this section, a "parking violation" means a violation of a parking ordinance by local authorities, a violation of section ~~601E.6~~ 321L.4, section 321.366, subsection 6, or sections 321.354 through 321.361 except section 321.354, subsection 1.

Sec. 7. Section 321.358, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 15. In front of a curb cut or ramp which is located on public or private property in a manner which blocks access to the curb cut or ramp.

Sec. 8. Section 321.484, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The owner of a vehicle shall not be held responsible for a violation of a provision regulating the stopping, standing, or parking of a vehicle, whether the provision is contained in this chapter, or chapter ~~601E~~ 321L, or an ordinance or other regulation or rule, if the owner establishes that at the time of the violation the vehicle was in the custody of an identified person other than the owner pursuant to a lease as defined in chapter 321F. The furnishing to the clerk of the district court where the charge is pending of a copy of the certificate of responsibility prescribed by section 321F.6 that was in effect for the vehicle at the time of the alleged violation shall be prima facie evidence that the vehicle was in the custody of an identified person other than the owner within the meaning of this paragraph, and the charge against the owner

shall be dismissed. The clerk of the district court then shall cause a uniform citation and complaint to be issued against the lessee of the vehicle, and the citation shall be served upon the defendant by ordinary mail directed to the defendant at the address shown in the certificate of responsibility.

Sec. 9. NEW SECTION. 321L.1 DEFINITIONS.

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

1. "Handicapped person" means a person who, because of a disability or impairment, meets either of the following:

a. Is unable to reasonably walk in excess of two hundred feet unassisted.

b. Cannot walk without causing serious detriment or injury to the person's health.

2. "Department" means the state department of transportation.

3. "Director" means the director of transportation.

4. "Handicapped identification device" or "device" means an identification device bearing the international symbol of accessibility issued by the department, and includes a handicapped registration plate issued to a handicapped person under section 321.34, subsection 7, a handicapped identification sticker affixed to a registration plate issued to a disabled veteran under section 321.166, subsection 6, and a handicapped identification hanging device which is a placard for hanging from the rearview mirror when the motor vehicle is parked.

5. "Handicapped parking space" means a parking space designated for use by only motor vehicles displaying a handicapped identification device that meets the requirements of sections 321L.5 and 321L.6.

6. "Handicapped parking sign" means a sign which bears the international symbol of accessibility that meets the requirements under section 321L.6.

Sec. 10. NEW SECTION. 321L.2 HANDICAPPED IDENTIFICATION DEVICES — APPLICATION AND ISSUANCE.

1. A handicapped resident of the state desiring a handicapped identification device shall apply to the department upon an application form furnished by the department providing the applicant's name, address, date of birth, and social security number and shall also provide a statement from a physician licensed under chapter 148, 149, 150, or 150A, or a chiropractor licensed under chapter 151, written on the physician's or chiropractor's stationery, stating the nature of the applicant's handicap and such additional information as required by rules adopted by the department under section 321L.8. Handicapped registration plates must be ordered pursuant to section 321.34, subsection 7. A handicapped person may apply for either one temporary or one permanent handicapped identification hanging device. Persons who seek a permanent handicapped identification device shall be required to furnish evidence upon initial application that they are permanently 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, unless the department deems it necessary. Persons who seek only temporary handicapped identification stickers or hanging devices shall be required to furnish evidence upon initial application that they are temporarily handicapped and, in addition, furnish evidence at three-month intervals that they remain temporarily handicapped. Temporary handicapped identification stickers and hanging devices shall be of a distinctively different color from permanent handicapped identification stickers and hanging devices. A new handicapped identification device can be issued if the previously issued device is reported lost, stolen, or damaged. The device reported as being lost or stolen shall be invalidated by the department. A device which is damaged shall be returned to the department and exchanged for a new device in accordance with rules adopted by the department.

2. Any person providing false information with the intent to defraud on the application for a handicapped identification device or on the physician's or chiropractor's statement used in establishing proof under subsection 1 is subject to a civil penalty of one hundred dollars which may be imposed by the department, or subject to invalidation by the department of the device issued to the individual, or subject to both the civil penalty and invalidation.

3. Each handicapped identification device shall be acquired by the department and sold at a 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 handicapped person the department shall permanently affix to the device a unique number which may be used by the department to identify the individual to whom the device is issued. A temporary handicapped identification hanging device shall have the expiration date permanently affixed to the device. Expiration dates and identification numbers affixed to handicapped identification hanging devices shall be of sufficient size to be readable from outside the vehicle.

A handicapped person who has been issued registration plates as a seriously disabled veteran under section 321.105 may apply to the department for a handicapped identification sticker to be affixed to the plates. The handicapped identification stickers shall bear the international symbol of accessibility. The handicapped identification stickers shall be acquired by the department and sold at a cost not to exceed five dollars, to eligible handicapped persons upon application on forms prescribed by the department.

Sec. 11. NEW SECTION. 321L.3 HANDICAPPED IDENTIFICATION DEVICES – RETURN OF HANGING DEVICES.

Handicapped identification hanging devices shall be returned to the department upon the occurrence of any of the following:

1. The person to whom the device has been issued is deceased.
2. The person to whom the device has been issued has moved out of state.
3. A person has found or has in the person's possession a hanging device that was not issued to that person.
4. The temporary device has expired.
5. The device has been invalidated.
6. The device reported lost or stolen under section 321L.2, subsection 1, is later found or retrieved after a subsequent device has been issued.

A person who fails to return the handicapped identification hanging device as stipulated above and subsequently misuses the device by illegally parking in a handicapped parking space is guilty of a misdemeanor and a fine of one hundred dollars shall be imposed on the person.

Devices may be returned to the department as required by this section either directly to the department or through a driver license station or any law enforcement office.

Sec. 12. NEW SECTION. 321L.4 HANDICAPPED PARKING – DISPLAY AND USE OF DEVICE.

1. A handicapped identification device shall be displayed in a motor vehicle as a hanging device or on a motor vehicle as a plate or sticker as provided in section 321L.2 when being used by a handicapped person, either as an operator or passenger. Each hanging device 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.

2. The use of a handicapped parking space, located on either public or private property as provided in sections 321L.5 and 321L.6, by a motor vehicle not displaying a handicapped identification device; by a motor vehicle displaying such a device but not being used by a handicapped person, as an operator or passenger; or by a motor vehicle in violation of the rules adopted by the department under section 321L.8, constitutes improper use of a handicapped identification device which is a misdemeanor for which a fine shall be imposed upon the owner, operator, or lessee of the motor vehicle or the purchaser of the handicapped identification device. The fine for each violation shall be twenty-five dollars. Proof of conviction of two or more violations involving improper use of a handicapped identification device is grounds for revocation by the court or the department of the holder's privilege to possess or use the device.

Sec. 13. NEW SECTION. 321L.5 HANDICAPPED PARKING SPACES – LOCATION AND REQUIREMENTS.

1. Handicapped parking spaces and access loading zones for handicapped persons that serve a particular building shall be located on the shortest accessible route to the nearest accessible entrance to the building.

2. A handicapped parking space designated after July 1, 1981, shall be at least one hundred forty-four inches wide, or, if two or more spaces are adjacent to each other, each space shall

be at least one hundred twenty inches wide with at least a forty-eight inch walkway between each space. However, these dimension requirements do not apply to metered on-street parking spaces.

3. The state and any political subdivision of the state which provides off-street parking facilities shall provide handicapped parking spaces as stipulated in the table below. In addition, any nonresidential entity providing parking to the general public shall provide handicapped parking spaces as stipulated below:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF HANDICAPPED PARKING SPACES
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	*
1001 and over	**

* 2 PERCENT OF TOTAL

** 20 SPACES PLUS 1 FOR EACH 100 OVER 1000

Any other person may also set aside handicapped parking spaces on the person's property provided each handicapped parking space is clearly and prominently designated as a handicapped parking space.

4. Cities which provide on-street parking areas within a business district shall provide at least two handicapped parking spaces per lineal block within the business district.

5. A handicapped parking space located on a paved surface may be painted with a blue background upon which the international symbol of accessibility is painted in yellow nonskid paint. As used in this subsection, "paved surface" includes surfaces which are asphalt surfaced.

Sec. 14. NEW SECTION. 321L.6 HANDICAPPED PARKING SIGN.

A handicapped parking sign shall be displayed designating the handicapped parking space.

1. The handicapped parking sign shall have a blue background and bear the international symbol of accessibility in white. If an entity who owns or leases real property in a city is required to provide handicapped parking spaces, the city shall provide, upon request, the signs for the entity at cost. If an entity 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 entity at cost upon request.

2. The handicapped parking sign shall be 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.

3. The handicapped parking sign may include a sign stating the fine for improperly using the handicapped parking space provided under section 321L.4, subsection 2.

Sec. 15. NEW SECTION. 321L.7 PENALTY FOR FAILING TO PROVIDE HANDICAPPED PARKING SPACES AND SIGNS.

Failure to provide proper handicapped parking spaces as provided in section 321L.5 or to properly display handicapped parking signs as provided in section 321L.6 is a misdemeanor for which a fine of one hundred dollars shall be imposed for each violation.

Sec. 16. NEW SECTION. 321L.8 HANDICAPPED IDENTIFICATION DEVICES AND PARKING – RULES.

1. The department, pursuant to chapter 17A, shall adopt rules:

a. Establishing procedures for applying to the department for issuance of permanent or temporary handicapped identification devices under this chapter.

b. Governing the manner in which handicapped identification devices are to be displayed in or on motor vehicles.

c. Regarding enforcement of this chapter.

2. The department of public safety shall adopt rules pursuant to chapter 17A governing the manner in which handicapped parking spaces are provided.

Sec. 17. NEW SECTION. 321L.9 RECIPROCITY.

Handicapped identification devices issued lawfully by other states and foreign governmental bodies or their political subdivisions shall be valid handicapped identification devices for nonresidents traveling or visiting in this state.

Sec. 18. NEW SECTION. 321L.10 REISSUANCE OF HANGING DEVICES.

1. The department shall begin the issuance of new handicapped identification hanging devices as provided in this chapter beginning January 1, 1990.

2. After January 1, 1991, only new handicapped identification hanging devices issued by the department pursuant to this chapter shall be valid and other hanging devices issued prior to January 1, 1990, shall be invalid.

3. In addition to the requirements of the permanent and temporary hanging devices provided under sections 321L.2 and 321L.4, one side of the hanging device shall also have the following statement printed on it: "Unauthorized use of this device as indicated in Iowa Code chapter 321L may result in a fine, invalidation of the device, or revocation of the right to use the device." The hanging device shall also include the return address and telephone number of the department.

4. This section does not apply to the issuance of handicapped registration plates or handicapped identification stickers.

Sec. 19. Section 805.8, subsection 2, paragraph s, Code 1989, is amended by striking the paragraph.

Sec. 20. Chapter 601E, Code 1989, is repealed.

Sec. 21. Except for section 7 of this Act, this Act takes effect January 1, 1990. Section 6* of this Act takes effect July 1 following the enactment of this Act.

Approved May 27, 1989

CHAPTER 248

COUNTY VETERAN AFFAIRS COMMISSIONS

H.F. 146

AN ACT relating to the county commission of veteran affairs.

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

Section 1. Section 250.6, Code 1989, is amended to read as follows:

250.6 QUALIFICATION – ORGANIZATION.

~~They~~ The members of the commission shall qualify by taking the usual oath of office, and give bond in the sum of five hundred dollars each, conditioned for the faithful discharge of

*Section 7 probably intended

their duties with sureties to be approved by the county auditor. The commission shall organize by the selection of one of their ~~number~~ members as chairperson, and one as secretary. The commission, subject to the approval of the board of supervisors, shall have power to employ an executive director and other necessary administrative or clerical assistants when needed, the compensation of such employees to be fixed by the board of supervisors, but no member of the commission shall be so employed. The executive director must possess the same qualifications as provided in section 250.3 for commission members. However, this qualification requirement shall not apply to a person employed as an executive director prior to the effective date of this Act. The commission with the approval of the board of supervisors shall appoint one of the deputies of the county auditor to serve as administrative assistant to the commission, to serve without additional compensation, unless for good reasons shown, this arrangement is not feasible.

In counties where a commission has established an office, the office shall be open a minimum of four hours each work day. The hours that the office is open shall be posted in a prominent position outside the office. In lieu of an office being open a minimum of four hours each work day, the names, home addresses, telephone numbers, and duties of commission members shall be posted.

Approved May 28, 1989

CHAPTER 249

EXCLUSION FROM INCOME OF VIETNAM HERBICIDE DAMAGES

H.F. 578

AN ACT excluding from income for purposes of state and local government benefit or entitlement programs and the state individual income tax proceeds received for damages resulting from exposure to certain herbicides and providing a retroactive applicability date.

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

Section 1. NEW SECTION. 139A.11 VETERANS' LITIGATION AWARDS.

1. For purposes of this section, "Vietnam herbicide" means a herbicide, defoliant, or other causative agent containing dioxin, including, but not limited to, Agent Orange, used in the Vietnam conflict at any time between December 22, 1961, and May 7, 1975, inclusive.

2. a. Notwithstanding any other law of this state, proceeds received pursuant to a judgment in, or settlement of, a lawsuit against the manufacturer or distributor of a Vietnam herbicide for damages resulting from exposure to the herbicide shall not be considered as income or an asset for determining the eligibility for state or local government benefit or entitlement programs. The proceeds are not subject to recoupment for the receipt of governmental benefits or entitlements and liens, except liens for child support, are not enforceable against these sums for any reason.

b. This exclusion of litigation proceeds from benefit or entitlement program calculations are available only to disabled veterans or their beneficiaries, whether payment is received in a lump sum or payable in installments over a period of years.

Sec. 2. Section 422.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 19. Subtract, to the extent included, the proceeds received pursuant to a judgment in or settlement of a lawsuit against the manufacturer or distributor of a Vietnam herbicide for damages resulting from exposure to the herbicide. This subsection applies to proceeds received by a taxpayer who is a disabled veteran or who is a beneficiary of a disabled veteran.

For purposes of this subsection:

a. "Vietnam herbicide" means a herbicide, defoliant or other causative agent containing dioxin, including, but not limited to, Agent Orange, used in the Vietnam conflict beginning December 22, 1961, and ending May 7, 1975, inclusive.

b. "Agent Orange" means the herbicide composed of trichlorophenoxyacetic acid and dichlorophenoxyacetic acid and the contaminant dioxin (TCDD).

Sec. 3. Section 2 of this Act applies retroactively to January 1, 1989, for tax years beginning on or after that date.

Approved May 28, 1989

CHAPTER 250

INCOME TAX REFUND SETOFF

S.F. 153

AN ACT relating to the department of inspections and appeals by providing for income tax refund and rebate setoff procedures by the investigations division, and use tax.

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

Section 1. Section 217.34, Code 1989, is amended to read as follows:

217.34 ~~OFFICE OF INVESTIGATIONS~~ DEBT SET OFF.

The ~~office of~~ investigations division of the department of inspections and appeals and the department of human services shall provide assistance to set off against a person's or provider's income tax refund or rebate any debt which has accrued through written contract, subrogation, departmental recoupment procedures, or court judgment and which is in the form of a liquidated sum due and owing the department of human services. The department of inspections and appeals, with approval of the department of human services, shall adopt rules under chapter 17A necessary to assist the department of revenue and finance in the implementation of the setoff under section 421.17, subsection 21 in regard to money owed to the state for public assistance overpayments. The department of human services shall adopt rules under chapter 17A necessary to assist the department of revenue and finance in the implementation of the setoff under section 421.17, subsection 21, in regard to collections by the child support recovery unit and the foster care recovery unit.

Sec. 2. Section 421.17, subsection 21, Code 1989, is amended to read as follows:

21. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt, which is assigned to the department of human services, which the child support recovery unit is attempting to collect on behalf of an individual not eligible as a public assistance recipient, or which the foster care recovery unit of the department of human services is attempting to collect on behalf of a child receiving foster care provided by the department of human services, which has accrued through written contract, subrogation, or court judgment and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child or which is owed to the state for public assistance overpayments to recipients or to providers of services to recipients which the ~~office of~~ investigations division of the department of ~~human services~~ inspections and appeals is attempting to collect on behalf of the state. For purposes of this subsection, "public assistance" means aid to dependent children, medical assistance, food stamps, foster care, and state supplementary assistance. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department of revenue and finance shall be satisfied except that no portion of a refund or rebate shall be credited against tax liabilities which are not yet due.

b. Before setoff the child support recovery unit established pursuant to section 252B.2, the foster care recovery unit, and the ~~office of~~ investigations division of the department of inspections and appeals shall obtain and forward to the department of revenue and finance the full name and social security number of the debtor. The department of revenue and finance shall co-operate in the exchange of relevant information with the child support recovery unit as provided in section 252B.9, with the foster care recovery unit, and with the ~~office of~~ investigations division of the department of inspections and appeals. However, only relevant information required by the child support unit, by the foster care recovery unit, or by the ~~office of~~ investigations division of the department of inspections and appeals shall be provided by the department of revenue and finance. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The child support recovery unit, the foster care recovery unit, and the ~~office of~~ investigations division of the department of inspections and appeals shall, at least annually, submit to the department of revenue and finance for setoff the debts described in this subsection, which are at least fifty dollars, on a date to be specified by the department of human services and the department of inspections and appeals by rule.

d. Upon submission of a claim the department of revenue and finance shall notify the child support recovery unit, the foster care recovery unit, or the ~~office of~~ investigations division of the department of inspections and appeals as to whether the debtor is entitled to a refund or rebate and if so entitled shall notify the unit or ~~office~~ division of the amount of the refund or rebate and of the debtor's address on the income tax return.

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 division of the department of inspections and appeals 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~~ division's assertion of its rights, or the rights of the department of human services, 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 of human services 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~~ department of human services shall grant a hearing pursuant to ~~chapter~~ chapters 10A and 17A. An appeal taken from the decision of an administrative law judge and subsequent appeals shall be taken pursuant to chapter 17A.

f. Upon the request of a debtor or a debtor's spouse to the child support recovery unit, the foster care recovery unit, or the ~~office of~~ investigations division of the department of inspections and appeals, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the unit or ~~office~~ division shall notify the department of revenue and finance of the request to divide a joint income tax refund or rebate. The department of revenue and finance shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department of revenue and finance shall, after notice has been sent to the debtor by the child support recovery unit, the foster care recovery unit, or the ~~office of~~ investigations division of the department of inspections and appeals, set off the debt against the debtor's income tax refund or rebate. However, if a debtor has made all current child support

or foster care payments in accordance with a court order or an assessment of foster care liability for the twelve months preceding the proposed setoff and has regularly made delinquent child support or foster care payments during those twelve months, the child support or foster care recovery unit shall notify the department of revenue and finance not to set off the debt against the debtor's income tax refund or rebate. If a debtor has made all current repayment of public assistance in accordance with a court order or voluntary repayment agreement for the twelve months preceding the proposed setoff and has regularly made delinquent payments during those twelve months, the ~~office of~~ investigations division of the department of inspections and appeals shall notify the department of revenue and finance not to set off the debt against the debtor's income tax refund or rebate. The department of revenue and finance shall refund any balance of the income tax refund or rebate to the debtor. The department of revenue and finance shall periodically transfer the amount set off to the child support recovery unit, the foster care recovery unit, or the ~~office of~~ investigations division of the department of inspections and appeals. If the debtor gives timely written notice of intent to contest the claim the department of revenue and finance shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The child support recovery unit, the foster care recovery unit, or the ~~office of~~ investigations division of the department of inspections and appeals shall notify the debtor in writing upon completion of setoff.

Sec. 3. Section 421.17, subsection 26, Code 1989, is amended to read as follows:

26. To provide that in the case of multiple claims to payments filed under subsections 21, 23, 25, and 29 that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college aid commission under subsection 23, next priority shall be given to claims filed by the ~~office of~~ investigations division of the department of inspections and appeals under subsection 21, next priority shall be given to claims filed by a clerk of the district court under subsection 25, and last priority shall be given to claims filed by other state agencies under subsection 29. In the case of multiple claims under subsection 29, priority shall be determined in accordance with rules to be established by the director.

Approved May 29, 1989

CHAPTER 251

STATE AND LOCAL TAXES

S.F. 154

AN ACT relating to the state's cigarette and tobacco products tax; fuel tax; withholding tax; corporate and personal income tax; sales, services and use tax; franchise tax; hotel and motel tax; property tax exemptions; and inheritance and estate taxes; and providing a penalty.

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

Section 1. Section 98.22, subsection 1, Code 1989, is amended to read as follows:

1. If a person holding a permit issued by the department under this division, including a retailer permit for railway car, has willfully violated section 98.2, the department shall revoke the permit upon notice and hearing. If the person violates any other provision of this division, or a rule adopted under this division, or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or

penalty on the tax, administered by the department, the department may revoke the permit issued to the person, after giving the permit holder an opportunity to be heard upon ten days' written notice stating the reason for the contemplated revocation and the time and place at which the person may appear and be heard. ~~The hearing shall be held in the county of the permit holder's place of business, or in a county in or through which it transacts business.~~ The hearing before the department may be held at a site in the state as the department may direct. The notice shall be given by mailing a copy to the permit holder's place of business as it appears on the application for a permit. If, upon hearing, the department finds that the violation has occurred, the department may revoke the permit.

Sec. 2. Section 98.37, Code 1989, is amended to read as follows:

98.37 CERTAIN OFFENSES AND PENALTIES PROVIDED.

A person who violates a provision of this division is guilty of a ~~simple misdemeanor~~ fraudulent practice unless otherwise provided in this division.

Sec. 3. Section 98.44, subsection 3, Code 1989, is amended to read as follows:

3. A person without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers, may make application for a license as a distributor, be granted ~~such~~ a license by the director, and thereafter be subject to all the provisions of this division and entitled to act as a licensed distributor, ~~provided the person files proof with the person's application that the person has appointed the secretary of state for the service of process relating to any matter or issue arising under this division. A foreign corporation applying for a distributor's license need not qualify as such if it files the proof of appointment of the secretary of state for service of process as provided in this subdivision.~~

Sec. 4. Section 324.4, unnumbered paragraph 2, Code 1989, is amended to read as follows:

~~A license shall not be issued if the applicant is a foreign corporation, unless it is at the time properly qualified under the laws of this state to do business in this state.~~ The department may deny the issuance of a license to an applicant who is substantially delinquent in the payment of a tax due, or the interest or penalty on the tax, administered by the department. If the applicant is a partnership, a license may be denied if a partner owes any delinquent tax, ~~penalty or~~ interest, or penalty. If the applicant is a corporation, a license may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, interest, or penalty of the applicant corporation.

Sec. 5. Section 324.17, subsection 7, Code 1989, is amended to read as follows:

7. A refund shall not be paid with respect to motor fuel or special fuel purchased more than ~~three~~ four calendar months prior to the date the claim was filed with the department.

Sec. 6. Section 324.36, subsection 2, Code 1989, is amended to read as follows:

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. 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. Upon written application and at the discretion of the director, a special fuel dealer may be issued a special license to dispense fuel from a tankwagon into the fuel supply tank of a motor vehicle. The special license shall be issued for the dealer's place of business and all of the provisions of this division apply to the dispensing of fuel from tankwagons. A special fuel dealer is not required to obtain a special license to dispense fuel from a tankwagon into the fuel supply tank of an aircraft.

Sec. 7. Section 324.65, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The appropriate state agency shall not remit any part of a penalty for delinquent payment ~~where~~ if the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn. However, if it appears as a result of an investigation ~~or from a preponderance of the evidence adduced at a hearing~~ that there has been a deliberate attempt on the part of a licensee or other person to evade payment of fuel taxes there shall be added to the assessment against the offending person and collected a penalty of seventy-five percent of the tax due. ~~Any~~ A report required of licensees or persons operating under ~~divisions I, II and~~ division III, upon which no tax ~~may be~~ is due, is subject to a penalty of ten dollars if the report is not timely filed with the ~~appropriate state agency~~ state department of transportation.

Sec. 8. Section 324.67, Code 1989, is amended to read as follows:

324.67 LIMITATION ON COLLECTION PROCEEDINGS.

An action or other proceeding shall not be maintained to enforce collection of any amount of fuel tax, penalty, or interest over and above the amount shown to be due by reports filed by a licensee except upon an assessment by the department of revenue and finance as authorized in this chapter. ~~No~~ An assessment shall not be made covering ~~any~~ a period beyond three years prior to the date of assessment except that the period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return.

Sec. 9. Section 324.68, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If a licensee files a false report of the data or information required by this chapter, or fails, refuses, or neglects to file a report required by this chapter, or to pay the full amount of fuel tax as required by this chapter, or is substantially delinquent in paying a tax due, owing, and administered by the department of revenue and finance, and interest and penalty if appropriate, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the licensee corporation, or interest or penalty on the tax, administered by the department, then after ten days' written notice by mail directed to the last known address of the licensee setting a time and place at which the licensee may appear and show cause why the license should not be canceled, and if the licensee fails to appear or if upon the hearing it is shown ~~by a preponderance of the evidence~~ that the ~~failure~~ licensee failed to correctly report or pay ~~was with intent to evade~~ the tax, the appropriate state agency may cancel the license and shall notify the licensee of the cancellation by mail to the licensee's last known address.

Sec. 10. NEW SECTION. 421.10 APPEAL PERIOD — DENIAL OF TAXPAYER'S CLAIM.

The appeal period for revision of assessment of tax, interest, and penalties set out under section 98.29, 98.46, 324.64, 422.28, or 422.54 applies to appeals to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims for the tax covered by that section.

Sec. 11. Section 422.5, subsection 1, paragraph k, unnumbered paragraph 4, Code 1989, is amended to read as follows:

In the case of a resident, including a resident estate or trust, the state's apportioned share of the state alternative minimum tax is one hundred percent of the state alternative minimum tax computed in this subsection. In the case of a nonresident, including a nonresident estate or trust, or an individual, estate, or trust that is domiciled in the state for less than the entire tax year, the state's apportioned share of the state alternative minimum tax is the amount of tax computed under this subsection, reduced by the applicable credits in sections 422.10, ~~422.11, 422.11A, and~~ through 422.12 and this result multiplied by a fraction with a numerator of the sum of state net income allocated to Iowa as determined in section 422.8, subsection 2, plus tax preference items, adjustments, and losses under subparagraph (1) attributable to

Iowa and with a denominator of the sum of total net income computed under section 422.7 plus all tax preference items, adjustments, and losses under subparagraph (1). In computing this fraction, those items excludable under subparagraph (1) shall not be used in computing the tax preference items. Married taxpayers electing to file separate returns or separately on a combined return must allocate the minimum tax computed in this subsection in the proportion that each spouse's respective preference items, adjustments, and losses under subparagraph (1) bear to the combined preference items, adjustments, and losses under subparagraph (1) of both spouses.

Sec. 12. Section 422.6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The tax imposed by section 422.5 less the ~~credits~~ credit allowed under section 422.10, ~~section 422.11,~~ and the personal exemption credit allowed under section 422.12 apply to and are a charge against estates and trusts with respect to their taxable income, and the rates are the same as those applicable to individuals. The fiduciary shall make the return of income for the estate or trust for which the fiduciary acts, whether the income is taxable to the estate or trust or to the beneficiaries.

Sec. 13. Section 422.7, unnumbered paragraph 1, Code 1989, is amended to read as follows:

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

Sec. 14. Section 422.11A, Code 1989, is amended to read as follows:

422.11A NEW JOBS TAX CREDIT.

The taxes imposed under this division, less credits allowed under sections 422.10, ~~422.11~~ and 422.12, shall be reduced by a new jobs tax credit. An industry which has entered into an agreement under chapter 280B and which has increased its base employment level by at least ten percent within the time set in the agreement or, in the case of an industry without a base employment level, adds new jobs within the time set in the agreement is entitled to this new jobs tax credit for the tax year selected by the industry. In determining if the industry has increased its base employment level by ten percent or added new jobs, only those new jobs directly resulting from the project covered by the agreement and those directly related to those new jobs shall be counted. The amount of this credit is equal to the product of six percent of the taxable wages upon which an employer is required to contribute to the state unemployment compensation fund, as defined in section 96.19, subsection 20, times the number of new jobs existing in the tax year that directly result from the project covered by the agreement or new jobs that directly result from those new jobs. The tax year chosen by the industry shall either begin or end during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. An individual may claim the new jobs tax credit allowed a partnership, subchapter S corporation, or 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~~ the partnership, subchapter S corporation, or estate or trust. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten tax years or until depleted, whichever is the earlier. For purposes of this section, "agreement", "industry", "new job" and "project" mean the same as defined in section 280B.2 and "base employment level" means the number of full-time jobs an industry employs at the plant site which is covered by an agreement under chapter 280B on the date of that agreement.

Sec. 15. Section 422.13, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

1. ~~Every~~ A resident ~~and~~ or nonresident of this state shall make ~~and sign~~ a return, signed in accordance with forms and rules prescribed by the director, if any of the following are applicable:

Sec. 16. Section 422.14, subsection 1, Code 1989, is amended to read as follows:

1. ~~Every~~ A fiduciary subject to taxation under ~~the provisions of~~ this division, as provided in section 422.6, shall make ~~and sign~~ a return, signed in accordance with forms and rules prescribed by the director, for the individual, estate, or trust for whom or for which the fiduciary acts, if the taxable income thereof amounts to six hundred dollars or more. A nonresident fiduciary shall file a copy of the federal income tax return for the current tax year with the return required by this section.

Sec. 17. Section 422.16, subsection 11, paragraph a, Code 1989, is amended to read as follows:

a. ~~Every~~ A 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 fishermen, the exceptions provided in the Internal Revenue Code 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~~ the last day of the sixth month of the tax year, the last day of the ninth month of the tax year, and the last day of the first month after the tax year. However, at the election of the person or married couple, ~~any~~ an 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.

Sec. 18. Section 422.16, subsection 14, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the withholding agent fails to file the bond as requested by the director to secure collection of the tax, the withholding agent is subject to penalty for failure to file the bond. The penalty is equal to fifteen percent of the tax the withholding agent is required to withhold on an annual basis. However, the penalty shall not exceed five thousand dollars.

Sec. 19. Section 422.25, subsection 7, Code 1989, is amended to read as follows:

7. The periods of limitation provided by this section may be extended by the taxpayer by signing a waiver agreement to be provided by the department. ~~Such~~ The agreement shall stipulate the period of extension and the year or years to which ~~such~~ the extension applies. It shall ~~further~~ provide that a claim for refund may be filed by the taxpayer at any time during the period of extension. ~~In consideration of such agreement, interest due in excess of thirty-six months on either a tax deficiency or tax refund shall be waived.~~

Sec. 20. Section 422.33, subsection 1, Code 1989, is amended to read as follows:

1. A tax is ~~hereby~~ imposed annually upon each corporation organized under the laws of this state, and upon ~~every~~ each foreign corporation doing business in this state, or deriving income from sources within this state, ~~annually~~ in an amount computed by applying the following rates of taxation to the net income received by the corporation during the income year:

a. On the first twenty-five thousand dollars of taxable income, or any part thereof, the rate of six percent.

b. On taxable income between twenty-five thousand dollars and one hundred thousand dollars or any part thereof, the rate of eight percent.

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

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

"Income from sources within this state" means income from real or tangible property located or having a situs in this state.

Sec. 21. Section 422.33, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If the trade or business of the corporation is carried on entirely within the state, the tax shall be imposed on the entire net income, but if the trade or business is carried on partly within and partly without the state or if income is derived from sources partly within and partly without the state, the tax shall be imposed only on the portion of the net income reasonably attributable to the trade or business or sources within the state, with the net income attributable to the state to be determined as follows:

Sec. 22. Section 422.33, subsection 6, Code 1989, is amended by striking the subsection.

Sec. 23. Section 422.36, subsection 1, Code 1989, is amended to read as follows:

1. ~~Every~~ A corporation shall make a return and the ~~same~~ return shall be signed by the president or other duly authorized officer in accordance with forms and rules prescribed by the director. Before a corporation ~~shall be~~ is dissolved and its assets distributed it shall make a return for ~~any~~ settlement of the tax for ~~any~~ income earned in the income year up to its final date of dissolution.

Sec. 24. Section 422.51, subsection 3, Code 1989, is amended to read as follows:

3. Returns shall be signed by the retailer or the retailer's ~~duly~~ authorized agent~~,~~ and must be ~~duly~~ certified by the retailer to be correct in accordance with forms and rules prescribed by the director.

Sec. 25. Section 422.52, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If an amount of tax represented by a retailer to a consumer or user as constituting tax due is computed upon gross receipts that are not taxable or the amount represented is in excess of the actual taxable amount and the amount represented is actually paid by the consumer or user to the retailer, the excess amount of tax paid shall be returned to the consumer or user upon notification to the retailer by the department or by the consumer or user that an excess payment exists. If the retailer fails to make a return, the amount which the consumer or user has paid to the retailer shall be remitted by the retailer to the department.

Sec. 26. Section 422.85, Code 1989, is amended to read as follows:

422.85 ~~DECLARATION AND PAYMENT~~ IMPOSITION OF ESTIMATED TAX.

~~Every~~ A taxpayer subject to the tax imposed by sections 422.33 and 422.60 shall ~~file a declaration~~ make payments of estimated tax for the taxable year if the amount of tax payable, less credits, can reasonably be expected to be more than one thousand dollars for the taxable year. For purposes of this division, "estimated tax" means the amount which the taxpayer estimates to be the tax due and payable under division III or V of this chapter for the taxable year. ~~If during the first quarter of the taxable year it is determined that the taxpayer's tax liability for the taxable year will exceed one thousand dollars, the declaration of estimated tax shall be filed on or before the last day of the fourth month of the taxable year. If after the last day of the third month and before the first day of the sixth month of the taxable year it is determined that the taxpayer's tax liability for the taxable year will exceed one thousand dollars, the declaration of estimated tax shall be filed on or before the last day of the sixth month of the taxable year. If after the last day of the fifth month and before the first day of the ninth month of the taxable year it is determined that the taxpayer's tax liability for the taxable year will exceed one thousand dollars, the declaration of estimated tax shall be filed on or before the last day of the ninth month of the taxable year. If after the last day of the eighth month and before the first day of the twelfth month of the taxable year it is determined that the taxpayer's tax liability for the taxable year will exceed one thousand dollars, the declaration of estimated tax shall be filed on or before the last day of the taxable year.~~

Sec. 27. Section 422.86, Code 1989, is amended to read as follows:

422.86 PAYMENT OF ESTIMATED TAX.

A taxpayer required to ~~file a declaration of~~ pay estimated tax under section 422.85 shall pay the estimated tax in accordance with the following schedule:

1. If ~~the declaration of estimated tax is filed~~ it is first determined that the estimated tax will be greater than one thousand dollars on or before the last day of the fourth month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid ~~at the time of the filing of the declaration~~ not later than the last day of the fourth month of the taxable year. The second and third installments shall be paid not later than the last day of the sixth and ninth months of the taxable year, and the final installment shall be paid on or before the last day of the taxable year.

2. If ~~the declaration of estimated tax is timely filed~~ it is first determined that the estimated tax will be greater than one thousand dollars after the last day of the fourth month but not later than the last day of the sixth month of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid ~~at the time of the filing of the declaration~~ not later than the last day of the sixth month of the taxable year. The second installment shall be paid on or before the last day of the ninth month of the taxable year and the third installment shall be paid on or before the last day of the taxable year.

3. If ~~the declaration of estimated tax is timely filed~~ it is first determined that the estimated tax will be greater than one thousand dollars after the last day of the sixth month ~~and not after~~ but not later than the last day of the ninth month of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid ~~at the time of the filing of the declaration~~ not later than the last day of the ninth month and the second installment shall be paid on or before the last day of the taxable year.

4. If ~~the declaration of estimated tax is timely filed~~ it is first determined that the estimated tax will be greater than one thousand dollars after the last day of the ninth month of the taxable year, the estimated tax shall be paid in full ~~at the time of the filing of the declaration~~ on or before the last day of the taxable year.

~~5. If the declaration of estimated tax is not filed as required under section 422.85, all installments of estimated tax which would have been payable on or before such time shall be paid at the time the declaration of estimated tax is filed. The remaining installments of estimated tax, if any, shall be paid at the time and in the amounts in which they would have been payable if the declaration had been timely filed.~~

5. If ~~an amendment to a declaration is filed~~, after paying any installment of estimated tax, the taxpayer makes a new estimate, the remaining installments shall be ratably adjusted to reflect the increase or decrease in the estimated tax ~~by reason of such amendment~~.

Sec. 28. Section 422.91, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Any amount of estimated tax paid ~~on a declaration of estimated tax shall be~~ is a credit against the amount of tax due on a final, completed return, and any overpayment of five dollars or more shall be refunded to the taxpayer with interest, the interest to begin to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest, at the rate established under section 421.7, and the return ~~shall constitute~~ constitutes a claim for refund for this purpose. Amounts less than five dollars shall be refunded to the taxpayer only upon written application in accordance with section 422.73, ~~but~~ and only if the application is filed within twelve months after the due date for the return.

Sec. 29. Section 422.92, Code 1989, is amended to read as follows:

422.92 ADMINISTRATION.

A taxpayer having a taxable year of less than twelve months shall ~~file a declaration of~~ pay estimated tax under rules adopted by the director. ~~The director shall adopt rules relating to the filing of amended declarations and payments of estimated tax by taxpayers having a taxable year of less than twelve months. The director shall also adopt rules to permit a taxpayer to amend a declaration of estimated tax.~~

Sec. 30. Section 422A.1, unnumbered paragraph 7, Code 1989, is amended to read as follows:

The tax ~~herein~~ levied shall be in addition to any state sales tax imposed under section 422.43. ~~The provisions of sections~~ Sections 422.25, subsection 4, 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67, 422.68, 422.69, subsection 1, and 422.70 to 422.75, consistent with the provisions of this chapter, ~~shall~~ apply with respect to the taxes authorized under this chapter, in the same manner and with the same effect as if the hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding ~~the provisions of~~ this paragraph, the director shall provide for ~~only~~ quarterly filing of returns as prescribed in section 422.51 and for other than quarterly filing of returns as prescribed in section 422.51, subsection 2. ~~Further, the~~ The director may require all persons, as defined in section 422.42, who are engaged in the business of deriving gross receipts subject to tax under this chapter, to register with the department.

Sec. 31. Section 423.13, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~Each~~ A permit holder required or authorized, pursuant to section 423.9 or 423.10, to collect or pay the tax imposed, shall remit to the department the amount of tax, on or before the last day of the month following each calendar quarterly period. However, a retailer who collects or owes more than fifteen hundred dollars in use taxes in a month shall deposit with the department or in a depository authorized by law and designated by the director, the amount collected or owed, with a deposit form for the month as prescribed by the director. The deposit form is due on or before the twentieth day of the month following the month of collection, except a deposit is not required for the third month of the calendar quarter, and the total quarterly amount, less the amounts deposited for the first two months of the quarter, is due with the quarterly report on the last day of the month following the month of collection. At that time, the retailer shall file with the department a return for the preceding quarterly period in the form prescribed by the director showing the sales price of the tangible personal property sold by the retailer during the preceding quarterly period, the use of which is subject to the tax imposed by this chapter, and other information the director deems necessary for the proper administration of this chapter. The return shall be accompanied by a remittance of the tax for the period covered by the return. If necessary in order to ensure payment to the state of the tax, the director may in any or all cases require returns and payments to be made for other than quarterly periods. The director may, upon request and a proper showing of necessity, grant an extension of time not to exceed thirty days for making any return and payment. Returns shall be signed, in accordance with forms and rules prescribed by the director, by the retailer or the retailer's ~~duly~~ authorized agent, and shall be certified by the retailer or agent to be correct.

Sec. 32. Section 423.13, Code 1989, is amended by adding after unnumbered paragraph 1 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If it is reasonably expected, as determined by rules prescribed by the director, that a retailer's annual use tax liability will not exceed one hundred twenty dollars for a calendar year, the retailer may request and the director may grant permission to the retailer, in lieu of the quarterly filing and remitting requirements of the first paragraph of this section, to file the return required by and remit the use tax due under this section on a calendar year basis. The return and tax are due and payable no later than January 31 following each calendar year in which the retailer carries on business.

Sec. 33. Section 425.7, subsection 3, Code 1989, is amended to read as follows:

3. If the director of revenue and finance determines that ~~any~~ a claim for homestead credit has been allowed by ~~any~~ the 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~~ thirty-six 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.

PARAGRAPH DIVIDED. ~~In any case where~~ If 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 homestead credit fund including the penalty, if any, become a lien upon the property on which credit was originally granted, if still in the hands of the claimant, and not in the hands of a bona fide purchaser, and any amount so erroneously paid including the penalty, if any, shall be collected by the county treasurer in the same manner as other taxes and the collections shall be returned to the department of revenue and finance and credited to the homestead credit fund. The director of revenue and finance may institute legal proceedings against a homestead credit claimant for the collection of ~~all~~ payments made on disallowed credits and the penalty, if any. If a homestead credit is disallowed and the claimant failed to give written notice to the assessor as required by section 425.2 when the property ceased to be used as a homestead by the claimant, a civil penalty equal to fifty percent of the amount of the disallowed credit is assessed against the claimant.

Sec. 34. Section 426A.6, Code 1989, is amended to read as follows:

426A.6 SETTING ASIDE ALLOWANCE.

If the director of revenue and finance determines that ~~any~~ a claim for military service tax exemption has been allowed by ~~any~~ a 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~~ thirty-six 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 chapter 17A. ~~In any case, where~~ If 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~~ the credits allowed and paid from the 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~~ the 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 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. 35. Section 442.15, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The school district income surtax ~~shall be~~ is imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year or the first half of the succeeding calendar year, and ~~shall be~~ is imposed on all individuals residing in the school district on the last day of the applicable tax year. As used in this section, "state individual income tax" means the tax computed under section 422.5, less the deductions allowed in sections 422.10, ~~422.11~~ and 422.12.

Sec. 36. Section 450.22, Code 1989, is amended to read as follows:

450.22 ADMINISTRATION AVOIDED.

When the heirs or persons entitled to inherit the property of an estate subject to tax under this chapter, desire to avoid the appointment of a personal representative as provided in section 450.21, and in all instances where real estate is involved and there are no regular probate proceedings ~~are not had~~, they or one of them shall file under oath the inventories required by section 633.361 and the required reports, ~~and~~ perform all the duties required by this chapter of the personal representative, and file the inheritance tax return. However, this section

does not apply and a return is not required even though real estate is part of the assets subject to tax under this chapter, if all of the assets are held in joint tenancy with right of survivorship between husband and wife alone. ~~Proceedings~~ When this section applies, proceedings for the collection of the tax when a personal representative is not appointed, shall conform as nearly as ~~may be to the provisions of~~ possible to proceedings under this chapter in other cases.

Sec. 37. Section 451.5, Code 1989, is amended to read as follows:

451.5 DUTY OF PERSONAL REPRESENTATIVE.

~~It shall be the duty of the~~ The personal representative of ~~every~~ a decedent whose estate may be subject to the tax imposed by this chapter, ~~to~~ shall file in the office of the director of revenue and finance, ~~within twelve months~~ on or before the last day of the ninth month after the death of ~~such~~ the decedent, duplicate copies of the estate tax return provided for in the federal estate tax Act, and in like manner, duplicate copies of all supplemental or amended returns~~; and the value~~. The values of all items included in the gross estate, as shown by ~~such~~ those returns, or supplemental or amended returns, shall be ~~taken and~~ considered as the values of ~~such~~ those items for the purposes of this chapter~~; and in~~. In case of ~~any~~ revaluation or correction of valuation of ~~any such~~ any of those items, either by ~~such~~ supplemental or amended returns, or by the federal commissioner of internal revenue, or by ~~any~~ an appellate tribunal by which the ~~same may be~~ value is finally determined, ~~such~~ the corrected values shall be ~~taken and~~ considered as the values of ~~such~~ those items for the purposes of this chapter.

Sec. 38. Section 422.11, Code 1989, is repealed.

Sec. 39. Section 10 of this Act applies to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims issued after the effective date of this Act.

Sec. 40. Sections 13, 20 and 21 of this Act are retroactive to January 1, 1989, for tax years beginning on or after that date.

Sec. 41. Sections 17, 18, 26, 27, 28, and 29 of this Act are effective January 1, 1990, for tax years beginning on or after that date.

Sec. 42. Section 36 of this Act is retroactive to January 1, 1988, for estates of decedents dying on or after that date.

Sec. 43. Section 37 of this Act is effective July 1, 1989, for estates of decedents dying on or after that date.

Approved May 29, 1989

CHAPTER 252

ALCOHOLIC BEVERAGES REGULATION

H.F. 758

AN ACT permitting forfeiture of the penal bond when a class "E" liquor licensee violates the bootlegging law; permitting claims against penal bonds for failure or refusal to pay an alcoholic beverage control tax when due, establishing an administrative appeals process for disputed tax assessments, permitting the administrator to compromise disputed tax assessments, and permitting imposition of civil penalties on wholesalers for violations of law and administrative rules; and relating to coupons or rebates as incentives to purchase wine.

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

Section 1. Section 123.37, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The administrator may compromise and settle doubtful and disputed claims for taxes imposed under this chapter or for taxes of doubtful collectibility, notwithstanding section 19.9. The administrator may enter into informal settlements pursuant to section 17A.10 to compromise and settle doubtful and disputed claims for taxes imposed under this chapter. The administrator may make a claim under a licensee's or permittee's penal bond for taxes of doubtful collectibility. Whenever a compromise or settlement is made, the administrator shall make a complete record of the case showing the tax assessed, reports and audits, if any, the licensee's or permittee's grounds for dispute or contest, together with all evidence of the dispute or contest, and the amounts, conditions, and settlement or compromise of the dispute or contest.

NEW UNNUMBERED PARAGRAPH. A licensee or permittee who disputes the amount of tax imposed must pay all tax and penalty pertaining to the disputed tax liability prior to appealing the disputed tax liability to the administrator.

NEW UNNUMBERED PARAGRAPH. The administrator shall adopt rules establishing procedures for payment of disputed taxes imposed under this chapter. If it is determined that the tax is not due in whole or in part, the division shall promptly refund the part of the tax payment which is determined not to be due.

NEW UNNUMBERED PARAGRAPH. Any party aggrieved by a decision of the administrator under this section may appeal the decision to the division's hearing board.

Sec. 2. Section 123.50, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. In addition to any other penalties imposed under this chapter, the division shall assess a civil penalty up to the amount of five thousand dollars upon a class "E" liquor control licensee when the class "E" liquor license is revoked for a violation of section 123.59. Failure to pay the civil penalty as required under this subsection shall result in forfeiture of the bond to the division.

Sec. 3. Section 123.135, subsection 5, Code 1989, is amended to read as follows:

5. Notwithstanding any other penalties provided by this chapter, any holder of a certificate of compliance or any class "A" permit holder who ~~shall violate any of the provisions of~~ violates this ~~section shall be~~ chapter or the rules adopted pursuant to this chapter is subject to a civil fine not to exceed one thousand dollars or suspension of the holder's certificate or permit for a period not to exceed one year, or both such civil fine and suspension. Civil fines imposed under this section shall be collected and retained by the division.

Sec. 4. Section 123.180, subsection 6, Code 1989, is amended to read as follows:

6. Regardless of any other penalties provided by this chapter, any holder of a certificate of compliance relating to wine, or a class "A" ~~or retail wine~~ permittee ~~or retail liquor licensee,~~ who violates ~~any of the provisions of~~ this ~~section~~ chapter or the rules adopted pursuant to

this chapter is subject to a civil fine not to exceed one thousand dollars or subject to suspension of the certificate of compliance, ~~license,~~ or permit for a period not to exceed ~~thirty days~~ one year, or to both civil fine and suspension. Civil fines imposed under this section shall be collected and retained by the division.

Sec. 5. Section 123.181, subsection 3, Code 1989, is amended by striking the subsection.

Approved May 29, 1989

CHAPTER 253

MORTGAGE SATISFACTION ACKNOWLEDGMENT

H.F. 556

AN ACT relating to increasing the penalty and providing for attorney fees for failure to acknowledge satisfaction of a mortgage within thirty days.

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

Section 1. Section 655.2, Code 1989, is amended to read as follows:

655.2 PENALTY.

If the mortgagee, mortgagee's personal representative or assignee, or those legally acting for the mortgagee ~~fails~~ fail to do so within thirty days after being requested in writing after the mortgage has been satisfied in full, that person shall forfeit to the mortgagor or any grantee of the property who has paid the mortgage, the sum of ~~twenty-five~~ one hundred dollars plus reasonable attorney fees incurred by the mortgagor or grantee in securing the release of the mortgage.

A mortgagor or grantee who has sought relief under the provisions of section 535B.11 is not entitled to attorney fees under this section. A penalty shall not be assessed under this section if penalties have been assessed pursuant to section 535B.11.

Approved May 29, 1989

CHAPTER 254

OUT-OF-STATE CONTRACTOR'S BOND

H.F. 643

AN ACT relating to the filing of a bond by out-of-state contractors.

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

Section 1. Section 91C.7, Code 1989, is amended to read as follows:

91C.7 ~~STATE~~ CONTRACTS.

1. 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.

2. An out-of-state contractor, before commencing a contract in excess of five thousand dollars in value in Iowa, shall file a bond with the division of labor services of the department of employment services. The surety bond shall be executed by a surety company authorized to do business in this state, and the bond shall be continuous in nature until canceled by the

surety with not less than thirty days' written notice to the contractor and to the division of labor services of the department of employment services indicating the surety's desire to cancel the bond. The bond shall be in the sum of the greater of the following:

a. One thousand dollars.

b. Five percent of the contract price.

Release of the bond shall be conditioned upon the payment of all taxes, including contributions due under the unemployment compensation insurance system, penalties, interest, and related fees, which may accrue to the state of Iowa or its subdivisions on account of the execution and performance of the contract. If at any time during the term of the bond the department of revenue and finance determines that the amount of the bond is not sufficient to cover the tax liabilities accruing to the state of Iowa or its subdivisions, the department shall require the bond to be increased by an amount the department deems sufficient to cover the tax liabilities accrued and to accrue under the contract. The department shall adopt rules for the collection of the forfeiture. Notice shall be provided to the surety and to the contractor. Notice to the contractor shall be mailed to the contractor's last known address and to the contractor's registered agent for service of process, if any, within the state. The contractor or surety shall have the opportunity to apply to the director of revenue and finance for a hearing within thirty days after the giving of such notice. Upon the failure to timely request a hearing, the bond shall be forfeited. If, after the hearing upon timely request, the department of revenue and finance finds that the contractor has failed to pay the total of all taxes payable, the department shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond, whichever is less. For purposes of this section "taxes payable" means all tax, penalties, interest, and fees that the department of revenue and finance has previously determined to be due to the state or a subdivision of the state by assessment or in an appeal of an assessment, including contributions to the unemployment compensation insurance system.

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

Sec. 2. Section 91C.8, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If, upon investigation, the labor commissioner or the commissioner's authorized representative believes that a contractor has violated ~~either~~ any of the following, the commissioner shall with reasonable promptness issue a citation to the contractor:

Sec. 3. Section 91C.8, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The requirement that an out-of-state contractor file a bond with the division of labor services.

Sec. 4. Section 103A.24, Code 1989, is repealed.

Approved May 29, 1989

CHAPTER 255

FIRE DISTRICTS

H.F. 776

AN ACT relating to the operation and dissolution of a benefited fire district including a city, and authorizing the levy of a property tax.

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

Section 1. Section 357B.5, Code 1989, is amended to read as follows:

357B.5 DISSOLUTION OF DISTRICT.

1. Upon petition of a number of registered voters residing in a district at least equal to thirty-five percent of the property taxpayers in ~~such~~ the district, the board of supervisors may dissolve a benefited fire district and dispose of any remaining property, the proceeds of which shall first be applied against any outstanding obligation of the district. Any remaining balance shall be applied as a tax credit for the property owners of the district. The board of supervisors shall continue to levy an annual tax after the dissolution of a district, not to exceed forty and one-half cents per thousand dollars of assessed value of the taxable property of the district, until all outstanding obligations of the district are paid.

2. If a benefited fire district is dissolved that has been providing fire protection by contract, direct levy, or combination of both, to a city within the district for at least twenty years and the city's annual payments by contract or levy for the fire protection comprise seventy-five percent or more of the district's annual budget, the board of supervisors, in lieu of the disposal of property as provided in subsection 1, shall transfer to the city all of the district's real and personal property. The city shall assume all of the outstanding obligations of the district. If the district provides fire protection outside of the city's boundaries, the city shall continue to provide fire protection to this area until it is assigned to another fire protection district by the board of supervisors. If the city continues the fire protection outside its boundaries, the city shall certify to the board of supervisors the cost of providing this service, which shall be at the same rate as contained in the budget for property within the city, but not exceeding forty and one-half cents per thousand dollars of assessed value of all taxable property in the area. The board of supervisors shall levy the amount of tax certified as provided in section 357B.3. The tax shall be collected and allocated in the same manner as other property taxes and paid to the city.

Sec. 2. NEW SECTION. 357B.8 FIRE DISTRICT INCLUDING A CITY — BUDGET PAYMENT OR SEPARATE LEVY.

1. A city that was part of a benefited fire district prior to the city's incorporation may continue to receive fire protection from the district under a contract or direct levy by the district. The annual amount paid by the city to the benefited fire district shall be included in the city's annual budget and shall be a part of the city's general fund tax levy.

2. In lieu of subsection 1, a benefited fire district that includes a city within the boundaries of the fire district may certify an annual tax levy not exceeding forty and one-half cents per thousand dollars of assessed valuation of the taxable property within the city for the purpose of fire protection. The benefited fire district shall certify the tax levy as provided in this subsection only after agreement granted by resolution of the city council. The amount of the tax rate levied under this subsection shall reduce by an equal amount the maximum tax levy authorized for the general fund of that city under section 384.1. If the district levies directly against property within a city to provide fire protection for that city, the city shall not be responsible for providing fire protection as provided in section 364.16, and shall have no liability for the method, manner, or means in which the district provides the fire protection.

Approved May 29, 1989

CHAPTER 256

HOMESTEAD TAX CREDIT

H.F. 777

AN ACT relating to the length of occupancy of the homestead for purposes of the homestead credit and providing an effective date.

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

Section 1. Section 425.2, unnumbered paragraph 2, Code 1989, 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, and the owner of the property being claimed a homestead declares residency in Iowa for purposes of income taxation, and is occupied by the person or person's spouse for at least six months in each of those 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 or intends not to use it as a homestead for at least six months in a fiscal year 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 425.11, subsection 1, paragraph a, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The homestead must embrace the dwelling house which the owner, in good faith, is occupying as a home on July 1 of the year for which the credit is claimed and occupies as a home for at least six months during that year, except as herein provided.

Sec. 3. This Act takes effect January 1 following enactment for homestead credits allowed for fiscal years beginning on or after the effective date.

Approved May 29, 1989

CHAPTER 257

BANKING AND REGULATED LOANS

H.F. 234

AN ACT relating to entities and subject matter regulated by the department of commerce, division of banking, including banks, regulated loans, and industrial loan companies.

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

Section 1. Section 523A.2, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. All funds held in trust under section 523A.1 shall be deposited in a state or federally insured bank, savings and loan association, or credit union authorized to conduct business in this state, or trust department thereof, or in a trust company authorized to conduct business in this state,

within thirty days after the receipt of the funds and shall be held in a separate account or in one common trust fund under a trust agreement in the name of the depositor in trust for the designated beneficiary until released pursuant to section 523A.1.

Sec. 2. Section 524.103, subsection 5, Code 1989, is amended to read as follows:

5. "Bank" means ~~any person~~ a corporation engaged in the business of banking, authorized by law to receive deposits and ~~subject to supervision by banking authorities of the United States or of any state~~ whose deposits are insured by the federal deposit insurance corporation.

Sec. 3. Section 524.103, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 28. "Trust company" means a business organization which is authorized to engage in trust business pursuant to section 524.1005. A bank lawfully granted trust powers under the laws of this state or of the United States is not a trust company by reason of having authority to engage in trust business in addition to its general business.

Sec. 4. Section 524.107, subsection 2, Code 1989, is amended to read as follows:

2. ~~No~~ A person doing business in this state shall not use the words "bank" or "trust" or use any derivative, plural, or compound of the words "bank", "banking", "bankers", or "trust" in any manner which would tend to create the impression that ~~such~~ the person is authorized to engage in the business of banking or to act in a fiduciary capacity, except a state bank authorized to do so by ~~the provisions of~~ this chapter, ~~or~~ a national bank to the extent permitted by the laws of the United States, ~~or, insofar as the word "bank" is concerned, a private bank to the extent provided for and limited by sections 524.1701 and 524.1702,~~ a state association pursuant to section 534.507, or a federal association to the extent permitted by the laws of the United States, or, insofar as the word "trust" is concerned, an individual permissibly serving as a fiduciary in this state, pursuant to section 633.63, or, insofar as the words "trust" and "bank" are concerned, a nonresident corporate fiduciary permissibly serving as a fiduciary in this state pursuant to section 633.64.

Sec. 5. Section 524.217, subsections 1, 2, 4, 5, and 7, Code 1989, are amended to read as follows:

1. The superintendent shall have power to make or cause to be made an examination of every state bank and trust company whenever in the superintendent's judgment such examination is necessary or advisable, but in no event less frequently than once during each eighteen-month period. During the course of each examination of a state bank or trust company, inquiry shall be made as to its financial condition, the security afforded to those to whom it is obligated, the policies of its management, whether the requirements of law have been complied with in the administration of its affairs, and such other matters as the superintendent may prescribe. The superintendent shall also have power to make or cause to be made such limited examinations at such times and with such frequency as the superintendent may deem necessary and advisable to determine the condition of any state bank or trust company and whether any person has violated any of the provisions of this chapter.

2. The superintendent shall have power to make or cause to be made an examination of any corporation in which the state bank or trust company owns shares except corporations described in paragraphs "a" and "b" of subsection 3 of section 524.901. The superintendent shall also have power, upon application to and order of the district court of Polk county, to make or cause to be made an examination of any person having business transactions or a relationship with any state bank or trust company when such an examination is deemed necessary and advisable in order to determine whether the capital of the state bank or trust company is impaired or whether the safety of its deposits has been imperiled. The fee for any such examination shall be paid by the state bank or trust company.

4. The superintendent may furnish to the federal deposit insurance corporation and the federal reserve system, the office of the comptroller of the currency, federal home loan bank board, national credit union administration, and financial institution regulatory authorities of other states, or to any official or supervising examiner thereof, a copy of the report of any or all

examinations made of any state bank and of any affiliate of a state bank ~~when the state bank is a member of the federal reserve system or to the federal deposit insurance corporation when the deposits of the state bank are insured by the federal deposit insurance corporation~~.

5. A copy of the report of each examination of a state bank or trust company shall be transmitted by the superintendent to the board of directors of the state bank or trust company except to the extent that the report of any such examination may be confidential to the superintendent, and each member of the board of directors shall furnish to the superintendent, on forms to be supplied by the superintendent, a statement that the member has read the report of examination.

7. The report of examination of any affiliate or of any person examined as provided for in subsection 2 ~~of this section~~ shall not be transmitted by the superintendent to any such affiliate or person or to any state bank or trust company or to the board of directors of any state bank or trust company unless authorized or requested by such affiliate or person.

Sec. 6. Section 524.225, Code 1989, is amended to read as follows:

524.225 JUDICIAL REVIEW.

Judicial review of the actions of the superintendent may be sought in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A. However, contested case provisions of chapter 17A, the Iowa administrative procedure Act, do not apply to an action by the superintendent to take over the management of or to manage a state bank, as authorized by sections 524.224 and 524.226.

Sec. 7. Section 524.302, subsection 10, Code 1989, is amended to read as follows:

10. ~~Any~~ At the election of the incorporators or shareholders, a provision eliminating or 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 any breach of the director's duty of loyalty to the corporation or its shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for any transaction from which the director derives an improper personal benefit, or under ~~subsections 1 and 2 of~~ section 524.605, subsection 1 and 2. A provision shall not eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 8. Section 524.302, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. The specific month in which the annual meeting of shareholders shall be held.

Sec. 9. Section 524.814, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. To secure participations sold to the federal agricultural mortgage corporation.

Sec. 10. Section 524.901, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. Obligations issued by ~~any or all of the federal land banks,~~ any or all of the ~~federal intermediate~~ farm credit banks, any or all of the banks for co-operatives, and any or all of the federal home loan banks, organized under the laws of the United States.

Sec. 11. Section 524.901, subsection 1, paragraph f, Code 1989, is amended by striking the paragraph.

Sec. 12. Section 524.901, subsection 1, paragraph g, Code 1989, is amended by striking the paragraph.

Sec. 13. Section 524.901, subsection 3, paragraph c, Code 1989, is amended to read as follows:

c. When approved by the superintendent, shares and obligations of a corporation engaged solely in making loans for agricultural purposes eligible to discount or sell loans to a ~~federal intermediate~~ farm credit bank, commonly known as an agricultural credit corporation, in amounts not to exceed twenty percent of the capital and surplus of the state bank.

Sec. 14. Section 524.901, subsection 3, paragraph i, Code 1989, is amended to read as follows:

i. Shares or units of investment companies or investment trusts registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States obligations or Iowa general obligations described in subsection 1 or repurchase agreements fully collateralized by obligations described in subsection 1 if delivery of the collateral is taken either directly or through an authorized custodian, up to a maximum of twenty percent of capital and surplus of the state bank in any one company, ~~if the portfolio of such an investment company consists wholly of investments in which the state bank could invest directly without limitation pursuant to this section~~ or trust.

Sec. 15. Section 524.901, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A state bank may invest without limitation for its own account in futures, forward, and standby contracts to purchase and sell any of the instruments eligible for state banks' purchase and sale, subject to the prior approval of the superintendent and pursuant to applicable federal laws and regulations governing such contracts. Purchase and sale of such contracts shall be conducted in accordance with safe and sound banking practices and with levels of the activity being reasonably related to the state bank's business needs and capacity to fulfill its obligations under the contracts.

Sec. 16. Section 524.904, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. Obligations secured by real property pursuant to section 524.905 and installment obligations ~~made pursuant to section 524.906~~, except to the extent any such obligations are secured, guaranteed, insured or covered by unconditional commitments or agreements to purchase by the United States, veterans administration, federal housing administration, small business administration, farmers home administration, a federal reserve bank, or other department, bureau, board, commission, agency, or establishment of the United States, or any corporation owned directly or indirectly by the United States.

Sec. 17. Section 524.907, Code 1989, is amended to read as follows:

524.907 PARTICIPATIONS.

A state bank may purchase and may sell, subject to the provisions of sections 524.901, 524.904, and 524.905, ~~and 524.906~~, and to such regulations as the superintendent may prescribe, participations in one or more evidences of indebtedness and agreements for the payment of money, and pools of bonds, securities, evidences of indebtedness and agreements for the payment of money.

Sec. 18. Section 524.1005, Code 1989, is amended to read as follows:

524.1005 TRUST COMPANIES OPERATING ON JANUARY 1, 1970.

1. A trust company existing and operating on January 1, 1970 and which was authorized to act only as a trust company may continue to act only in a fiduciary capacity according to the terms of its articles of incorporation. The articles of incorporation of the trust company may be renewed in perpetuity. When applicable, this chapter applies to the operations of the trust company. Section 524.107, subsection 2, regarding the use of the word "trust" does not apply to a trust company subject to this section.

2. Notwithstanding subsection 1, a trust company shall have the power to do all of the following:

a. Acquire and hold, or lease as lessee, such personal property as is used, or is to be used, in its operations.

b. Subject to the prior approval of the superintendent, acquire and hold, or lease as lessee, only such real property as is used, or is to be used, wholly or substantially, in its operations or acquired for future use.

c. Subject to the prior approval of the superintendent, acquire and hold shares of a corporation engaged solely in holding and operating real property used wholly or substantially by the trust company in its operation or acquired for its future use.

d. Subject to the prior approval of the superintendent, acquire and hold shares of a corporation organized to perform, or performing, functions or activities that may be performed by a trust company, including activities of a fiduciary, agency, or custodial nature, in the manner authorized by federal or state law, as long as the corporation is not a bank and does not make loans and investments or accept deposits other than the following permitted deposits:

(1) Deposits that are generated from trust funds not currently invested and that are properly secured to the extent required by law.

(2) Deposits representing funds received for a special use in the capacity of managing agent or custodian for an owner of, or investor in, real property, securities, or other personal property; or for such owner or investor as agent or custodian of funds held for investment or as escrow agent; or for an issuer of, or broker or dealer in securities, in a capacity such as a paying agent, dividend disbursing agent, or securities clearing agent. However, such deposits shall not be employed by or for the account of the customer in the manner of a general purpose checking account or interest-bearing account.

(3) Making call loans to securities dealers or purchasing money market instruments such as certificates of deposit, commercial paper, government or municipal securities, and bankers acceptances. Such authorized loans and investments, however, shall not be used as a method of channeling funds to nontrust company affiliates of the trust company.

e. Subject to the prior approval of the superintendent, acquire and hold shares of a corporation organized to perform, or performing, the collection of charges and premiums from, or adjusting and settling claims on, residents of this state and any other state where authorized or qualified to conduct such activity, in connection with life or health insurance coverage or annuities.

Sec. 19. Section 524.1102, subsection 1, Code 1989, is amended to read as follows:

1. In the case of any one such affiliate, ten percent of the capital and surplus of ~~such~~ the state bank. However, a state bank may invest its funds in shares of a bank service corporation pursuant to subsection* 524.803, subsection 1, paragraph f, in an amount up to twenty percent of the capital and surplus of the state bank.

Sec. 20. Section 524.1102, unnumbered paragraph 4, Code 1989, is amended to read as follows:

The provisions of this section shall not apply to loans or extensions of credit fully secured by obligations of the United States, or the ~~federal intermediate~~ farm credit banks, ~~or the federal land banks,~~ or the federal home loan banks, or obligations fully guaranteed by the United States as to principal and interest. The provisions of this section shall likewise not apply to indebtedness of any affiliate for unpaid balances due a state bank on assets purchased from such bank.

Sec. 21. Section 524.1103, subsection 2, Code 1989, is amended to read as follows:

2. Engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation eligible to discount loans with a ~~federal intermediate~~ farm credit bank.

Sec. 22. Section 524.1103, subsection 3, Code 1989, is amended to read as follows:

3. Engaged solely in holding obligations of the United States, the ~~federal intermediate~~ farm credit banks, ~~the federal land banks,~~ the federal home loan banks, or obligations fully guaranteed by the United States as to principal and interest.

Sec. 23. Section 524.1201, Code 1989, is amended to read as follows:

524.1201 GENERAL PROVISIONS.

~~No~~ A bank shall not open or maintain a branch bank. A state bank may establish and operate bank offices subject to approval and regulation of the superintendent and to the restrictions upon location and number imposed by section 524.1202. A bank office may furnish all banking services ordinarily furnished to customers and depositors at the principal place of business of the state bank which operates the office, and a bank office manager or an officer of the bank shall be physically present at each bank office during a majority of its business hours. The central executive and official business and principal ~~record-keeping~~ recordkeeping functions of a state bank shall be exercised only at its principal place of business, except

*Section probably intended

that data processing services referred to in section 524.804 may be performed for the state bank at some other point. All transactions of a bank office shall be immediately transmitted to the principal place of business of the state bank which operates the office, and no current ~~record-keeping~~ recordkeeping functions shall be maintained at a bank office except to the extent the state bank which operates the office deems it desirable to keep there duplicates of the records kept at the principal place of business of the state bank. Notwithstanding any of the provisions of this section, original trust recordkeeping functions may be centrally located at an authorized bank office. Original loan documentation recordkeeping functions may be located at an authorized bank office, subject to the approval of the superintendent.

Sec. 24. Section 524.1202, subsection 3, Code 1989, is amended to read as follows:

3. Notwithstanding subsection 1, if the assets of a state or national bank in existence on January 1, ~~1985~~ 1989, are transferred to a different state or national bank in the state which is located in the same county or a county contiguous to or cornering upon the county in which the principal place of business of the acquired bank is located, the resulting or acquiring bank may convert to and operate as its bank office any one or more of the business locations occupied as the principal place of business or as a bank office of the bank whose assets are so acquired. The limitations on bank office locations contained in unnumbered paragraph 1 of this section, and the limitation on the number of bank offices within the municipality or urban complex of the resulting or acquiring bank contained in subsection 2 shall be applicable to any bank office otherwise authorized by this subsection. A bank office established under the authority of this subsection is subject to the approval of the superintendent, shall be operated in accordance with this chapter relating to the operation of bank offices, and may be augmented by an integral facility when approved under subsection 2, paragraph "d".

Sec. 25. Section 524.1419, Code 1989, is amended to read as follows:

524.1419 OFFICES OF A RESULTING STATE BANK.

If a merger, consolidation or conversion results in a state bank subject to the provisions of this chapter, the resulting state bank shall, after the effective date of the merger, consolidation or conversion, be subject to all the provisions of sections 524.1201, 524.1202 and 524.1203 relating to the bank offices ~~and parking lot offices~~.

Sec. 26. Section 535.12, subsections 1 and 4, Code 1989, are amended to read as follows:

1. An agricultural credit corporation, as defined in subsection 4 ~~of this section~~, may lend money pursuant to a written promissory note or other writing evidencing the loan obligation, at a rate of interest which is not more than four percentage points above the lending rate in effect at the ~~federal intermediate~~ farm credit bank of Omaha, Nebraska, for the month during which the writing evidencing the loan obligation is made, provided that the loan is for an agricultural production purpose as defined in subsection 5 ~~of this section~~ and further provided that the loan would, but for this section, be subject to the maximum rate of interest prescribed by section 535.2, subsection 3, paragraph "a".

4. As used in this section, "agricultural credit corporation" means a corporation which has been designated by the ~~federal intermediate~~ farm credit bank of Omaha, Nebraska, as an agricultural credit corporation eligible to sell or discount loans to that bank pursuant to ~~the provisions of~~ 12 ~~United States Code,~~ U.S.C. § 2074.

Sec. 27. Section 536.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Application for such license shall be in writing, under oath, and in the form prescribed by the superintendent, and shall contain the name and the address (both of the residence and place of business) of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality with street and number, if any, of the place where the business of making loans under the provisions of this chapter is to be conducted and such further relevant information as the superintendent may require. Such applicant at the time of making such application shall pay to the superintendent the sum of fifty dollars if the liquid assets of the applicant are not

in excess of twenty thousand dollars, and the sum of one hundred dollars if the liquid assets of the applicant are in excess of twenty thousand dollars, as a fee for investigating the application and the additional sum of ~~seventy-five~~ one hundred twenty-five dollars if the liquid assets of the applicant are not in excess of twenty thousand dollars, and ~~one hundred fifty~~ two hundred fifty dollars if the liquid assets of the applicant are in excess of twenty thousand dollars, as an annual license fee.

Sec. 28. Section 536.16, subsection 1, Code 1989, is amended to read as follows:

1. Section 536.2 to the extent it requires payment of an annual license fee in excess of ~~ten~~ two hundred fifty dollars and requires a person to prove the person has any dollar amount of liquid assets or the use of any dollar amount in the conduct of the person's business at the licensed place of business.

Sec. 29. Section 536A.7, Code 1989, is amended to read as follows:

536A.7 APPLICATION FOR LICENSE.

Applications for licenses to engage in the business of operating industrial loan companies shall be in writing on such forms as may be prescribed by the ~~auditor~~ superintendent. The application shall give the name of the corporation, the location where the business is to be conducted, the street address of the place of business, the names and addresses of the officers and directors of the corporation and such other relevant information as the superintendent shall require. At the time of making such application the applicant shall pay to the superintendent the sum of fifty dollars to cover the cost of the investigation of the applicant. The applicant shall also pay to the superintendent the sum of two hundred fifty dollars as an annual license fee for the period ending December 31 next following the application; provided that if the license is granted after June 30 in any year, the license fee for the remainder of that year shall be ~~twenty-five~~ one hundred twenty-five dollars and any license fee paid by the applicant in excess of that amount shall be refunded by the ~~auditor~~ superintendent.

Sec. 30. Section 536A.30, subsection 1, Code 1989, is amended to read as follows:

1. Section 536A.7, to the extent it requires payment of an annual license fee in excess of ~~ten~~ two hundred fifty dollars.

Sec. 31. Section 554.9203, subsection 4, Code 1989, is amended to read as follows:

4. A transaction, although subject to this Article, is also subject to chapters 322, 534, 535, 536, 536A ~~and section 524.906~~, and the Iowa consumer credit code, where applicable, and in the case of conflict between the provisions of this Article and those statutes, the provisions of those statutes control. Failure to comply with any applicable statute has only the effect which is specified therein.

Sec. 32. Section 633.63, subsection 2, Code 1989, is amended to read as follows:

2. Banks and trust companies organized under the laws of the United States or state banks, when approved by the superintendent of banking under section 524.1001, and trust companies authorized to engage in trust business pursuant to section 524.1005, are authorized to act in a fiduciary capacity in Iowa.

Sec. 33. Section 524.906, Code 1989, is repealed.

Approved May 29, 1989

CHAPTER 258

INTERNATIONAL TRADE AND TECHNOLOGY

H.F. 686

AN ACT establishing an international network on trade, establishing the Wallace technology transfer foundation of Iowa, authorizing the issuance of bonds, and providing effective dates.

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

Section 1. NEW SECTION. 18B.1 DEFINITIONS.

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

1. "Business" means a commercial enterprise engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate or intrastate commerce, or the production of agricultural products from farming as defined in section 175.2, but excludes retail, health, or professional services. "Business" includes a financial institution, including an insured bank as defined in section 524.103, a credit union is defined in section 533.1, and an association as defined in section 534.102.

2. "Executive director" means the executive director of the board as established in section 18B.8.

3. "Fund" means the international network on trade fund created in section 18B.11.

4. "INTERNET" means the International network on trade as established in section 18B.3.

Sec. 2. NEW SECTION. 18B.2 LEGISLATIVE FINDINGS.

The general assembly finds and declares that:

1. The economic viability of the state depends upon enhancing Iowa's participation in the emerging global economy.

2. Iowa's successful participation in international trade depends upon a commitment between public and private sectors and between public agencies to assist businesses in enhancing the export of Iowa products.

3. Successful participation in international trade depends upon public agencies reaching out to provide special assistance to small and medium sized businesses interested in beginning or increasing the export of Iowa products.

4. Successful participation in international trade depends upon fostering international business research and training to expand opportunities by Iowa businesses to increase trade in viable foreign markets.

5. Iowa businesses are in need of a simple nonbureaucratic mechanism which serves as a key for Iowa businesses to reach sources designed to assist businesses in accessing foreign markets or increasing foreign trade.

Sec. 3. NEW SECTION. 18B.3 ESTABLISHMENT OF INTERNET — MISSION. The international network on trade is established to conduct long-range research quantifying product and geographical opportunities for Iowa producers in the global marketplace, including determining actions necessary, by public or private sector groups, to successfully exploit those opportunities. Research shall be conducted in concert with private sector members of INTERNET, higher educational institutions, and existing export support resources, including but not limited to the department of economic development, the department of agriculture and land stewardship, and the United States department of commerce. INTERNET at all times shall avoid duplication of resource programs. INTERNET shall recommend a coordinated international trade policy designed to substantially increase Iowa's global trade benefits.

Sec. 4. NEW SECTION. 18B.4 AUTHORIZED CORPORATION. The international network on trade shall be incorporated under chapter 504A. INTERNET shall not be regarded as a state agency, except for purposes of chapter 17A. A member of the board of directors is not considered a state employee, except for purposes of chapter 25A. If the executive director is a natural person acting as a salaried employee of the board, the executive director is

a state employee except for purposes of the merit system provisions of chapter 19A and chapter 20. A natural person hired by the executive director who is a salaried employee of the board is a state employee. However, if a person, including a staff member of INTERNET, is an independent contractor or an employee of an independent contractor, the person is not a state employee except for purposes of chapter 25A.

Sec. 5. NEW SECTION. 18B.5 BOARD OF DIRECTORS.

1. INTERNET shall be governed by a board of directors consisting of the following:

a. The president of the university of Iowa, or the president's designee.

b. The president of Iowa state university of science and technology, or the president's designee.

c. The president of the university of northern Iowa, or the president's designee.

d. The director of the department of economic development, or the director's designee.

e. The chairperson of the agricultural products advisory council, who shall serve as an ex officio nonvoting member.

f. The secretary of agriculture or the secretary's designee.

g. Three designees of the Iowa association of independent colleges and universities. The association shall give preference to appointing designees representing schools which are members of INTERNET.

h. Three designees of the Iowa association of community college presidents. A designee shall not represent more than one community college.

i. Four designees who are elected from the business membership. The designees must be business persons actively engaged in international trade. At least two of the persons must have experience in exporting and at least one of the persons must have experience in international finance. No two members shall represent the same business.

j. Two designees who are elected from the business membership. The designees must represent associations operating not for profit to promote or facilitate international trade on a local or regional basis. No two designees shall be employees of the same association.

2. The voting members of the board shall serve staggered terms of four years except that of the first terms, seven voting members shall serve terms of two years. A person appointed to fill a vacancy for a director shall serve only for the unexpired portion of the term. A director is eligible for reappointment. A director may be removed from office by a two-thirds vote of the board for misfeasance, malfeasance, or willful neglect of duty or other just cause after notice and hearing, unless the notice and hearing is expressly waived by the director in writing.

3. In designating or electing persons to serve on the board, INTERNET members, to the extent practicable, shall designate or elect a board membership which is geographically and gender balanced.

4. Nine voting members constitute a quorum and the affirmative vote of a majority of the voting members is necessary for substantive action taken by the board. The majority shall not include a voting member who has a conflict of interest and a statement by a voting member that the voting has a conflict of interest is conclusive for this purpose. A vacancy in the board's membership does not impair the right of a quorum to exercise all rights and perform all duties of the board.

5. The directors actively engaged in international trade, the directors representing international trade associations, and the directors appointed by the Iowa association of independent colleges and universities are entitled to receive forty dollars per diem for each day spent in performance of duties as directors, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as directors.

6. The board shall elect a chairperson from among its directors.

7. Meetings of the board shall be held at the call of the chairperson or at the written request of four directors to the chairperson.

Sec. 6. NEW SECTION. 18B.6 GENERAL POWERS.

The board established pursuant to section 18.5 shall have all the general powers needed to carry out its mission and duties, including but not limited to the following powers:

1. To sue and be sued in its own name.

2. To adopt a corporate seal.

3. To adopt bylaws for its management consistent with the provisions of this chapter.

4. To make and execute agreements, contracts and other instruments, with any public or private entity, including but not limited to a federal or governmental agency, foreign nation, or another state in the union. All political subdivisions, other public agencies and state agencies may enter into contracts and otherwise cooperate with the board.

5. To procure insurance against any loss in connection with its operations and property interests.

6. To fix and collect fees and charges for its services.

7. To accept contributions, including but not limited to appropriations, gifts, grants, loans, services, or other aid or assistance from public or private entities. A record of all contributions, stating the type, amount, and donor, shall be clearly set forth in the board's annual report along with the record of other receipts.

Sec. 7. NEW SECTION. 18B.7 INTERNET MEMBERSHIP.

1. INTERNET shall include academic and business members.

a. The academic members shall include the following:

(1) The university of Iowa.

(2) Iowa state university of science and technology.

(3) The university of northern Iowa.

(4) Each area community college within a merged area as established in chapter 280A.

(5) A private college or university which agrees to participate as an INTERNET member and is a member of the Iowa association of independent colleges and universities.

b. The business members shall include any business actively involved in international trade, including export trade, export assistance, or international finance.

2. a. The academic members shall cooperate with the board in accomplishing the mission and duties of the board as provided in this chapter. Each member shall execute a membership agreement with the board. A member under the terms of the agreement shall provide an annual contribution as provided by the board. The contribution shall relate to supporting programs administered by the board, and may include financial or in-kind assistance such as office space, personnel time, materials and supplies, or a combination of financial or in-kind assistance. A minimum contribution is required to become an academic member.

b. The business members shall cooperate with the board in accomplishing the mission and duties of the board as provided in a membership agreement executed between the board and the members. A member under the terms of the agreement shall make an annual contribution as provided by the board. The contribution shall relate to supporting programs administered by the board and may include financial or in-kind assistance such as office space, personnel time, materials and supplies or a combination of financial or in-kind assistance. A minimum contribution is required to become a business member.

3. A member, other than the university of Iowa, Iowa state university of science and technology, the university of northern Iowa, or a community college, may withdraw from membership and all commitments entered into between the board and the member after one year following written notice by the member delivered to the executive director. The terms of the membership agreement executed between the board and the member shall terminate one year following written notice of the member's withdrawal, unless the board and the member otherwise agree in writing.

Sec. 8. NEW SECTION. 18B.8 EXECUTIVE DIRECTOR.

1. Under the general direction of the board, the executive director shall do all of the following:

a. Manage and operate the INTERNET, including hiring and directing INTERNET staff whether salaried employees of the board or independent contractors.

b. Establish subcommittees of business and academic specialists as needed. The specialists shall be consulted as program areas are developed and individual projects are selected for funding.

c. Keep the membership of INTERNET informed of items of importance relating to programs or projects of INTERNET, INTERNET finances, and actions by the board.

d. Negotiate membership agreements, including terms relating to the contribution of a member, according to section 18B.7.

e. Advise the board on matters relating to the mission of INTERNET, including programs and projects under consideration or implementation by the board and finances of INTERNET.

f. Recommend bylaws, and rules to be adopted by the board.

g. Control INTERNET finances, including appropriations, and contributions, and approve expenses from the fund in a manner consistent with rules and procedures of the treasurer of state.

h. Report to the board the condition of INTERNET including programs, projects, and INTERNET finances, at least once each three months. The executive director shall prepare for board approval an annual report provided in section 18B.10.

2. The executive director shall not, directly or indirectly exert influence to induce any other officer or employee of the state to adopt a political view, or to favor a political candidate for office.

3. The executive director shall serve as secretary to the board, and shall be custodian of all documents, including books and papers filed with the authority of the minutes of board meetings. The executive director shall make copies of documents and provide certificates under seal that the copies are true copies and that all persons dealing with INTERNET may rely upon the certificates.

Sec. 9. DUTIES.* 18B.9 BOARD DUTIES.

The board shall carry out the mission of INTERNET and shall have discretionary authority to perform the following duties:

1. To appoint and direct an executive director and employ INTERNET staff, including the executive director, as salaried employees of INTERNET or as independent contractors.

2. To approve the budget of INTERNET for each fiscal year.

3. To adopt goals and objectives of INTERNET, including recommendations to the general assembly and governor of a coordinated trade policy designed to substantially increase Iowa's global trade benefits.

4. To target for assistance businesses or products which indicate a high potential for expansion in foreign markets.

5. To provide special assistance to small and medium sized businesses interested in beginning or increasing the export of Iowa products.

6. To conduct special research projects, including product research in foreign markets.

7. To inventory and catalog international resources of information, including experts and programs, available to provide assistance to businesses interested in foreign trade.

8. To establish a clearinghouse of information to refer to appropriate resources businesses interested in accessing foreign markets or expanding foreign trade.

9. To establish criteria and award grants or loans based only on a competitive basis for programs relating to international training or research. In making financial awards, preference shall be given to members, as provided in section 18B.7.

10. To facilitate contact between businesses in search of assistance in entering or expanding foreign trade and persons able to assist the business.

11. To cooperate with Iowa universities and colleges, governmental agencies, and businesses where collaboration would add value to international trade programs or increase opportunities in foreign markets for increased trade.

12. To recruit business and colleges to become INTERNET members as provided in section 18B.7.

*New Section probably intended

13. In order to leverage state funds appropriated to INTERNET, to actively seek financial support from nonstate sources, including from the federal government, and from businesses. The board may require a match from nonstate sources for programs, seek generic business support for INTERNET, seek support from business in one or more industries for programs which may benefit those businesses, or charge fees for services provided under the authority of INTERNET. The board shall use INTERNET resources to the maximum extent possible in order to seek matching funds, gifts, grants or additional assets, including funding sources.

14. To conduct international research according to requests from INTERNET members.

15. To regularly disseminate to INTERNET members information and issues relating to international trade, including data and findings from market studies.

16. To monitor changing world economic and political conditions.

17. To report annually about INTERNET to the governor and the general assembly as provided in section 18B.10.

18. To oversee the progress of programs and projects administered by INTERNET and monitor the status of INTERNET assets, including finances.

19. To approve membership agreements, including terms relating to contributions of members as provided in section 18B.7.

20. To approve any contract or agreement committing INTERNET to the substantial expenditure of INTERNET assets.

21. To adopt bylaws for INTERNET, approve other procedures relating to the day-to-day administration of INTERNET, and adopt rules consistent with chapter 17A.

Sec. 10. NEW SECTION. 18B.10 ANNUAL REPORT.

1. The board shall approve and submit to the governor and to the secretary of the senate and to the chief clerk of the house of representatives, not later than January 15 of each year, a report setting forth information relating to INTERNET, including all of the following:

a. Matters relating to operations and accomplishments.

b. A summary of receipts and expenditures during the fiscal year, in accordance with the classifications it establishes for its operating accounts.

c. A summary of assets and liabilities at the end of the fiscal year and the status of special accounts.

d. A statement of proposed and projected activities.

e. Recommendations to the general assembly and governor, including recommendations related to a coordinated trade policy designed to substantially increase Iowa's global trade benefits.

2. The annual report shall identify performance goals of INTERNET, and indicate the extent of progress during the reporting period, in attaining the goals.

Sec. 11. NEW SECTION. 18B.11 INTERNATIONAL NETWORK ON TRADE FUND.

There is created within the state treasury, an international network on trade fund. The fund is composed of money appropriated by the general assembly for that purpose, and moneys available to and obtained or accepted by the board under this chapter, including money from the United States, other states in the union, foreign nations, state agencies, political subdivisions, and private sources, and moneys from fees charged under this chapter.

The fund shall be a revolving fund from which moneys may be used for purposes described in this chapter, including loans, grants, matching financing, and administrative costs. All interest earned on proceeds in the fund shall remain in the fund.

The auditor of state shall conduct regular audits of the fund and shall make a certified report relating to the condition of the fund to the treasurer of state and to the executive director.

The board and executive director shall administer the fund as in accordance with procedures of the treasurer of state. In administering the fund, the board may do all of the following:

1. Contract, sue and be sued, and adopt rules necessary to carry out the provisions of this section, but the board shall not in any manner, directly or indirectly pledge the credit of the state.

2. Authorize payment from the fund, from fees and from any income received by investment of money in the fund, for cost, 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.

Section 8.33 shall not apply to moneys in the fund.

Sec. 12. Section 15.108, subsection 1, paragraph d, Code 1989, is amended by striking the paragraph.

Sec. 13. NEW SECTION. 28.151 WALLACE TECHNOLOGY TRANSFER FOUNDATION OF IOWA ESTABLISHED — MISSION.

The general assembly finds and declares that the public good requires that Iowa successfully participate and compete in the emerging world economy. A Wallace technology transfer foundation of Iowa is established to formulate and implement plans and programs for the development of advanced sciences and technologies and to facilitate their commercial application within the state, including determining the needs of individual Iowa businesses and farms for scientific and technological innovations to improve products and processes, and encouraging the transfer of the technology from the laboratory to the factory and farm.

The mission of the foundation shall include but is not limited to the following:

1. A program to identify barriers which may hinder the development and exploitation of technology in the global economy.

2. Continued development of Iowa's capacity for scientific and technological innovation.

3. A cooperative, coordinated program of forecasting, assessment, development, and commercial transfer involving Iowa's capacity for scientific and technological innovation.

4. Formulation of a long-range strategic plan to guide state investment in applied research, development, and commercial transfer of selected scientific and technological innovation and in the development of Iowa science infrastructure.

5. A mechanism to organize funding from a variety of sources to support the development and commercial transfer of scientific and technological innovation.

6. An outreach program to actively seek and improve products and processes with Iowa's scientific and technological innovations.

7. Establishment of a seed capital fund which shall be administered by the board to provide seed capital for the commercialization of products, or the development of processes or materials through research at Iowa colleges and universities or by private industry.

The foundation consists of a board of directors, an advisory council, an executive director, and staff.

Sec. 14. NEW SECTION. 28.153 AUTHORIZED CORPORATION.

A Wallace technology transfer foundation of Iowa foundation shall be incorporated under chapter 504A. The foundation shall not be regarded as a state agency, except for purposes of chapter 17A. A member of the board of directors is not considered a state employee, except for purposes of chapter 25A. The executive director is a state employee except for purposes of the merit system provisions of chapter 19A and chapter 20. A natural person employed by the executive director is a state employee.

Sec. 15. NEW SECTION. 28.154 BOARD OF DIRECTORS.

1. The board of directors is established consisting of the following standing members and governor-appointed members:

a. The following standing members:

(1) One board member to represent each state university's consortium appointed by the president of each state university.

(2) A president of a merged area school, or the president's designee, appointed by the Iowa association of community college presidents.

(3) A president of an Iowa independent college or university, or the president's designee, appointed by the Iowa association of independent colleges and universities.

(4) The director of the department of economic development or the director's designee.

(5) The chairperson of the Iowa product development corporation.

(6) A shareholder member of the business development finance corporation elected by the business development finance corporation board.

(7) The secretary of agriculture or the secretary's designee.

(8) The governor's science advisor.

(9) Five persons appointed by the governor, subject to senate confirmation, three of whom shall be persons involved directly in research and development of technology-based industries or persons with experience in technology, and two of whom shall be directly involved in agriculture-related enterprises.

b. The following ex officio, nonvoting members:

Four board members, with one board member appointed by each of the following persons: the speaker of the house of representatives, the minority leader of the house of representatives, the majority leader of the senate, and the minority leader of the senate.

2. The board of directors shall be bipartisan and gender balanced in accordance with sections 69.16 and 69.16A.

3. The terms of the appointed members shall be for four years and shall be staggered as determined by the standing members. Any vacancy shall be filled by the appointing authority. Members are eligible for actual expense reimbursement while fulfilling duties of the foundation. The governor and the legislative council shall convene the initial meeting of the board. The board shall elect a chairperson from among its members.

Sec. 16. NEW SECTION. 28.155 GENERAL POWERS AND DUTIES.

The board of directors shall have all the general powers needed to carry out its mission and duties including but not limited to the following:

1. To prepare and adopt a strategic plan as defined in section 28.157.

2. To fund research projects as defined in section 28.158.

3. To sue and be sued in its own name.

4. To adopt a corporate seal.

5. To adopt bylaws for its management consistent with the provisions of this division.

6. To make and execute agreements, contracts and other instruments, with any public or private entity, including but not limited to a state, federal, or other governmental agency.

7. To accept contributions, including but not limited to appropriations, gifts, grants, loans, services, or other aid or assistance from public or private entities. A record of all contributions, stating the type, amount, and donor, shall be clearly set forth in the board's annual report along with a record of other receipts.

8. To establish policy in the general administration of the affairs of the foundation.

9. To employ an executive director and authorize the hiring of other employees as it deems necessary.

10. To seek to achieve through the powers of the board the findings of section 28.151.

11. To collaborate with the consortia as established in chapter 262B.

12. To provide as necessary, staff services for the advisory council.

13. To convene the advisory council annually to receive the board of director's recommendations.

14. To establish committees of business, agriculture, academic specialists, or others as deemed necessary.

15. Submit an annual report to the governor, the secretary of the senate, and the chief clerk of the house of representatives, not later than November 1 of each year.

16. To collaborate with the Iowa product development corporation to acquire new technology where appropriate.

Sec. 17. NEW SECTION. 28.156 EXECUTIVE DIRECTOR — DUTIES.

Under the general direction of the board of directors, the executive director shall have the following duties:

1. Manage and operate the foundation, including employing and directing foundation staff.

2. Advise the board on matters relating to the mission of the foundation, or finances and actions of the board.

3. Make an annual report to the board for its approval of the foundation's activities and fiscal condition, including:

a. Matters relating to operations and accomplishments.

b. A summary of receipts and expenditures, in accordance with the classifications the board establishes for its operating accounts.

c. A summary of assets and liabilities and the status of special accounts.

d. A statement of proposed and projected activities.

e. Recommendations to the general assembly.

f. An identification of performance goals of the foundation and the extent of progress during the reporting period in attaining the goals.

g. A written report by the auditor of state pursuant to chapter 11.

4. Monitor the activities and receive copies of the annual report made pursuant to section 262B.5 of the research consortia located at Iowa state university of science and technology, the university of Iowa, and the university of northern Iowa.

5. Collect pertinent information on research in process and funding requests where appropriate at Iowa state university of science and technology, the university of Iowa, and the university of northern Iowa for the purpose of encouraging technology transfer where appropriate.

Sec. 18. NEW SECTION. 28.157 STRATEGIC PLAN FOR SCIENCE AND TECHNOLOGY DEVELOPMENT.

1. The foundation shall prepare a strategic plan for development of advanced technologies in Iowa. The plan shall serve as the basis for general foundation activities.

2. The plan shall set forth the foundation's findings with regard to fields of scientific research which offer the greatest potential for commercial development within the state. The plan shall propose programs to enhance the effectiveness of Iowa university and college and private sector research facility participation in such fields of research and for improving the transfer of research technology to the private sector.

3. The plan shall include findings and recommendations for the coordination of activities of technology centers operated by regents' universities, the center for industrial research and service, the small business development centers, and programs of the department of economic development, all of which shall cooperate with the foundation in formulation of the plan.

4. The plan shall be formulated in cooperation with university-based research consortia at the three regents' universities, private colleges and universities, community colleges, and private business. The plan shall include findings with regard to research interest of private business and agriculture, on improving accessibility of private business to university technology resources, identification of barriers to effective technology transfer, and on fields of research having potential for commercial utilization by Iowa firms and farms. The plan shall include the availability and possible acquisition of advanced technology nationally and internationally for transfer to Iowa technological projects.

5. The plan shall be formulated to provide for the strengthening and expansion of existing industry and agriculture, the creation of new business where deemed necessary and feasible, and the attraction of technology-based businesses to the state.

6. The plan shall include directions for participation by the foundation, through direct investment or in partnership or joint venture with a commercial investor or other financial source, in providing funds for development of existing or new businesses in Iowa engaged in commercial exploitation of products or technologies related to the research interests of the foundation.

Sec. 19. NEW SECTION. 28.158 FUNDING OF ACTIVITIES.

1. The foundation may receive state appropriations and other resources for purposes including but not limited to the following:

a. To provide financial assistance to research projects which are consistent with the commercial development objectives of the strategic plan and which involve collaboration between an Iowa college, community college, or university and a private firm. The foundation shall provide a peer review process for projects and research funded by the foundation.

b. To undertake market studies and other analyses of commercial applications of existing or potential research and development efforts.

c. To provide applied technology outreach services and programs.

d. To review existing licenses and patents and bring potentially applicable information to the attention of the board and the Iowa-based industries for which the patent and license information might be applicable.

e. To review current research.

f. To regularly monitor the industrial and agricultural base of Iowa and, when possible, to encourage contact between research efforts and appropriate industries.

2. The foundation shall have authority over state funds appropriated to the foundation for research, development, and technology transfer projects. State funds awarded by the foundation shall be matched by nonstate sources. The foundation shall establish by administrative rule the requirements for the matching of state funds by nonstate sources. The rules shall include but are not limited to the following nonstate sources for meeting the matching requirements:

a. Laboratory space provided by the private sector collaborator.

b. Financial assistance.

c. Personnel and technical services.

d. Machinery or equipment.

3. The foundation shall seek financial support for its activities from private sources and from programs of the federal government for support of the research interests and other activities set forth in the strategic plan.

4. The foundation is to encourage aggressive pursuit of sponsored research by persons affiliated with Iowa colleges and universities and by private business, without regard to the relationship of such research to the foundation's program or to the strategic plan. The foundation shall not control research prerogatives of colleges or universities, their faculty, or private persons, or businesses. The foundation may, upon request, provide assistance to colleges and universities for acquisition of financial support for research activities from federal government and other sources.

5. The foundation shall coordinate with other state and federal entities the following activities:

a. The establishment of funding for the projects under subsection 1.

b. The review of current research policy direction.

c. The provision of technical outreach services to existing Iowa business, industry, and agriculture.

The foundation may sponsor applications of or formally recommend specific projects to any private, state, federal, or local program.

Sec. 20. NEW SECTION. 28.158A BONDS AND NOTES – AUTHORITY.

1. The foundation may issue its own negotiable bonds and notes in principal amounts as, in the opinion of the foundation, are necessary to provide sufficient funds for achievement of its corporate purposes. The foundation shall coordinate the issuance of notes and bonds with the treasurer of state as set forth in section 12.30. The foundation shall issue bonds and notes to the extent not inconsistent with the limitations and restrictions of issuing bonds and notes under sections 220.26, 220.27, and 220.28.

2. Bonds and notes issued by the foundation are payable solely and only out of the moneys, assets, or revenues of the foundation, and as provided in the agreement with bondholders or noteholders pledging any particular moneys, assets, or revenues. Bonds or notes are not an

obligation of this state or any political subdivision of this state other than the foundation within the meaning of any constitutional or statutory debt limitations, but are special obligations of the foundation payable solely and only from the sources provided in this section, and the foundation shall not pledge the credit or taxing power of this state or any political subdivision of this state other than the foundation, or make its debts payable out of any moneys except those of the foundation.

3. The foundation may create and establish one or more special funds, to be known as "bond reserve funds", and shall pay into each bond reserve fund any moneys appropriated and made available by the state for the purpose of the fund, any proceeds of sale of notes or bonds to the extent provided in the resolutions of the foundation authorizing their issuance, and any other moneys which may be available to the foundation for the purpose of the fund from any other sources. All moneys held in a bond reserve fund shall be used as required solely for the payment of the principal of bonds secured in whole or in part by the fund or of the sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds or the payments of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

4. The use of proceeds of the sale of bonds or notes shall be limited to the acquisition or lease-purchase of machinery and equipment relating to science and technology which is identified in the strategic plan prepared pursuant to section 28.157 and the use of proceeds shall be limited to not more than a total of one million dollars in any fiscal year unless authorized by a resolution of the general assembly and approved by the governor.

Sec. 21. NEW SECTION. 28.159 SCIENCE AND TECHNOLOGY ADVISORY COUNCIL.

1. There is established within the science and technology foundation an advisory council. The advisory council shall study and review the growth of technology in the world economy. The council shall annually review the foundation's strategic plan in conjunction with federal research policy and the federal research policy's effect on research in Iowa. The council shall advise the board on the most productive role for Iowa in the areas of science and technology with an emphasis on determining Iowa's strengths in technology.

2. The council shall consist of the following members:

a. Each member of the Iowa congressional delegation, or the member's designee.

b. Members appointed by the foundation upon consultation with the congressional delegation.

3. The council shall be bipartisan and gender balanced in accordance with sections 69.16 and 69.16A.

Sec. 22. Section 262B.4, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Provide applied technical referral services, if appropriate, including but not limited to the following duties:

(1) To determine and evaluate the research or applied technology needs of businesses and farms requesting assistance.

(2) To recommend technology transfer strategies to farms for more efficient production of agricultural commodities, or to businesses for developing and testing new products, adapting new technologies to manufacturing processes or methods, conducting marketing analyses of new products or processes, and identifying potential financing on new technology-based products or manufacturing processes.

(3) To refer businesses and farmers to universities, community colleges, small business development centers, other private businesses, and other research and technology transfer activities and programs which are beneficial to the development of new products and the application of technology.

Sec. 23. ORGANIZING BOARD OF INTERNET. The members of the board designated pursuant to section 18B.5, subsection 1, paragraphs "a" through "h", in conjunction with the members of the world trade institute study committee established pursuant to 1987 Acts, chapter 141, section 8, shall have all powers and duties necessary to organize the board, including

the adoption of articles of incorporation, bylaws, and rules. The organizing board shall be chaired by the chairperson of the world trade institute study committee. The organizing board shall be staffed by the department of economic development. The organizing board may contract for additional legal or other assistance as deemed necessary by the organizing board. The interdisciplinary working group on international business may cooperate by assisting the organizing board. The permanent board shall be organized not later than January 1, 1990. Procedures set forth in section 18B.5 shall be applicable to the organizing board. After January 1, 1990, the directors of the permanent board designated pursuant to section 18B.5,* paragraphs "a" through "h", shall have all the powers necessary to carry out the mission of INTERNET, until the directors representing business members pursuant to section 18B.5,* paragraphs "i" and "j" have been elected. The election shall be held as soon after January 1, 1990, as is reasonably practicable, but shall be held not later than June 30, 1990.

Sec. 24. WORLD TRADE INSTITUTE STUDY COMMITTEE.

1. All equipment purchased and materials produced under contracts between persons and the world trade institute study committee, established pursuant to 1987 Acts, chapter 141, section 8, shall be transferred to the custody of INTERNET.

2. The board of INTERNET shall consider the materials and recommendations produced by the world trade institute study committee. The board shall study methods to incorporate programs under study by the committee into permanent programs administered by the board.

Sec. 25. Sections 28.51 through 28.55, Code 1989, are repealed.

Sec. 26. Sections 12 and 25 of this Act are effective July 1, 1990.

Sec. 27. Sections 1 through 11, 23 and 24 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 29, 1989

CHAPTER 259

IRRIGATION EQUIPMENT SALES TAX EXEMPTION

S.F. 215

AN ACT relating to the sales and use tax and providing an exemption from tax for certain irrigation equipment.

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

Section 1. Section 422.45, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 41. The gross receipts from the sale or rental of irrigation equipment used in farming operations.

Approved May 30, 1989

*Subsection 1 probably intended

CHAPTER 260

MOBILE HOMES

S.F. 291

AN ACT relating to security interests in mobile homes by permitting the secured party to retain the mobile home title, and by permitting secured parties, including mortgagees, to apply for reconversion of a mobile home from real property to personal property.

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

Section 1. Section 135D.26, subsection 2, Code 1989, is amended to read as follows:

2. After complying with subsection 1, the owner shall notify the assessor who shall inspect the new premises for compliance. If a security interest is noted on the certificate of title, the assessor shall require an affidavit, as defined in section 622.85, from the mobile home owner, declaring that the owner has complied with subsection 1, paragraph "c", and ~~shall send notice of the proposed conversion to the secured party by regular mail not less than ten days before the conversion becomes effective. When the mobile home is properly converted, the assessor shall then collect the mobile home vehicle title and enter the property upon the tax rolls~~ setting forth the method of compliance.

a. If compliance with subsection 1, paragraph "c", has been accomplished by the secured party accepting the tender of a mortgage, the assessor shall collect the mobile home vehicle title and enter the property upon the tax rolls.

b. If compliance with subsection 1, paragraph "c", has been accomplished by the secured party consenting to the conversion without accepting a mortgage, the secured party shall retain the mobile home vehicle title and the assessor shall note the conversion on the assessor's records and enter the property upon the tax rolls.

Sec. 2. Section 135D.27, subsection 2, Code 1989, is amended to read as follows:

2. If the vehicular frame of the former mobile home can be modified to return it to the status of a mobile home, the owner or a secured party holding a mortgage or certificate of title pursuant to section 135D.26 who has obtained possession of the mobile home may apply to the county treasurer as provided in section 321.20 for a certificate of title for the mobile home. If a mortgage exists on the real estate, a security interest in the mobile home shall be given to ~~the~~ a secured party not applying for reconversion and noted on the certificate of title with the same priority or a higher priority than the secured party's mortgage interest. A reconversion shall not occur without the written consent of ~~the mortgagee~~ every secured party holding a mortgage or certificate of title.

If the secured party has elected to retain the mobile home vehicle title pursuant to section 135D.26, subsection 2, paragraph "b", an owner applying for reconversion shall present to the county treasurer written consent to the reconversion from all secured parties and an affirmation from the secured party holding the title that the title is in its possession and is intact. Upon receipt of the affirmation, the county treasurer shall notify the assessor of the reconversion, which notification constitutes compliance by the owner with subsection 3.

Sec. 3. Section 321.50, subsection 1, Code 1989, is amended to read as follows:

1. A security interest in a vehicle subject to registration under the laws of this state or a mobile home, except trailers whose empty weight is two thousand pounds or less, and except new or used vehicles held by a dealer or manufacturer as inventory for sale, is perfected by the delivery to the county treasurer of the county where the certificate of title was issued or, in the case of a new certificate, to the county treasurer where the certificate will be issued, of an application for certificate of title which lists the security interest, or an application for notation of security interest signed by the owner, or by one owner of a vehicle owned jointly by more than one person, or a certificate of title from another jurisdiction which shows the security interest, and a fee of five dollars for each security interest shown. If the owner or secured party is in possession of the certificate of title, it must also be delivered at this time

in order to perfect the security interest. If a vehicle is subject to a security interest when brought into this state, the validity of the security interest and the date of perfection is determined by section 554.9103. Delivery as provided in this subsection is an indication of a security interest on a certificate of title for purposes of chapter 554.

Approved May 30, 1989

CHAPTER 261

CITY CIVIL ACTION FOR DAMAGES

S.F. 366

AN ACT authorizing a city to seek a judgment against a property owner for improvements made to the property.

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

Section 1. Section 364.12, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In addition to any other remedy provided by law, a city may also seek reimbursement for costs incurred in performing any act authorized by this section by a civil action for damages against a property owner. However, a city shall not seek reimbursement for costs incurred in performing an act if the same act has not been performed by the city on adjoining city-owned property. For the purposes of this subsection, a county acquiring property for delinquent taxes shall not be considered a property owner.

Approved May 30, 1989

CHAPTER 262

PEER REVIEW COURT FOR YOUTHFUL OFFENDERS

H.F. 71

AN ACT establishing pilot projects for a peer review court as a diversion program for offenders ten through seventeen years of age.

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

Section 1. NEW SECTION. 602.6110 PEER REVIEW COURT — PILOT PROJECTS.

1. A peer review court is established as a pilot program to divert youthful offenders from the criminal or juvenile justice systems. The court shall consist of a qualified adult to act as judge with prosecutor, defense counsel, court attendant, clerk, and jury composed of persons ten through seventeen years of age.

2. The jurisdiction of the peer review court extends to those persons ten through seventeen years of age who have committed misdemeanor offenses or delinquent acts which would be misdemeanor offenses if committed by an adult and who have entered a plea of guilty, entered into an informal adjustment agreement, or agreed to the entry of a consent decree to those offenses in district or juvenile court. Those persons may then elect to appear before the peer review court to receive sentence. The peer review court shall not determine guilt or innocence. The peer review court shall only determine the sentence for the offense. The sentence

may consist of fines, restrictions for damages, attendance at treatment programs, or community service work or any combination of these. A person appearing before the peer review court may also be required to serve as a juror on the court as a part of the person's sentence.

3. Subject to the agreement of the chief judge of the judicial district, the supreme court shall designate two judicial districts in which to locate a peer review court pilot project. The chief judge of the district shall appoint a peer review court advisory board. The advisory board shall adopt rules for the peer review court advisory program, shall appoint persons to serve on the peer review court, and shall supervise the expenditure of funds appropriated to the program.

Approved May 31, 1989

CHAPTER 263

OBSCENITY LAW

H.F. 740

AN ACT relating to obscenity law, providing penalties, and making penalties applicable.

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

Section 1. Section 728.1, subsection 8, Code 1989, is amended to read as follows:

8. ~~"Prohibited~~ Unless otherwise provided, "prohibited sexual act" means any of the following:

a. A sex act as defined in section 702.17~~;~~.

b. An act of bestiality involving a ~~child;~~ minor.

c. Fondling or touching the pubes or genitals of a ~~child;~~ minor.

d. Fondling or touching the pubes or genitals of a person by a ~~child;~~ minor.

e. Sadomasochistic abuse of a ~~child~~ minor for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the abuse~~;~~.

f. Sadomasochistic abuse of a person by a ~~child~~ minor for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the abuse~~;~~ ~~or~~.

g. Nudity of a ~~child~~ minor for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the nude ~~child~~ minor.

Sec. 2. Section 728.4, Code 1989, is amended to read as follows:

728.4 RENTAL OR SALE OF HARD CORE PORNOGRAPHY.

A person who knowingly rents, sells, or offers for rental or sale material depicting ~~a sex act involving sadomasochistic abuse, excretory functions,~~ patently offensive representations of oral, anal, or vaginal intercourse, actual or simulated, involving humans, or depicting patently offensive representations of masturbation, excretory functions, or bestiality, or lewd exhibition of the genitals, which the average adult taking the material as a whole in applying statewide contemporary community standards would find appeals to the prurient interest ~~and is patently offensive~~; and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value, upon conviction is guilty of an aggravated misdemeanor. However, second and subsequent violations of this section by a person who has been previously convicted of violating this section are class "D" felonies. Charges under this section may only be brought by a county attorney or by the attorney general.

Sec. 3. Section 728.12, Code 1989, is amended to read as follows:

728.12 SEXUAL EXPLOITATION OF ~~CHILDREN~~ A MINOR.

1. A person commits a class "C" felony when the person employs, uses, persuades, induces, entices, coerces, knowingly permits, or otherwise causes a ~~child~~ minor to engage in a prohibited

sexual act or in the simulation of a prohibited sexual act if the person knows, has reason to know, or intends that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, or other print or visual medium. Notwithstanding section 902.9, the court may assess a fine of not more than fifty thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

2. A person commits a class "D" felony when the person knowingly promotes any material visually depicting a live performance of a ~~child~~ minor engaging in a prohibited sexual act or in the simulation of a prohibited sexual act. Notwithstanding section 902.9, the court may assess a fine of not more than twenty-five thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

3. A person who knowingly purchases ~~any~~ or possesses a negative, slide, book, magazine, or other print or visual medium depicting a ~~child~~ minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act commits a serious misdemeanor.

However, this section does not apply to law enforcement officers, court personnel, licensed physicians, licensed psychologists, or attorneys in the performance of their official duties.

Sec. 4. NEW SECTION. 728.14 COMMERCIAL FILM AND PHOTOGRAPHIC PRINT PROCESSOR REPORTS OF DEPICTIONS OF MINORS ENGAGED IN PROHIBITED SEXUAL ACTS.

1. A commercial film and photographic print processor who has knowledge of or observes, within the scope of the processor's professional capacity or employment, a film, photograph, video tape, negative, or slide which depicts a minor whom the processor knows or reasonably should know to be under the age of eighteen, engaged in a prohibited sexual act or in the simulation of a prohibited sexual act, shall report the depiction to the county attorney immediately or as soon as possible as required in this section. The processor shall not report to the county attorney depictions involving mere nudity of the minor, but shall report depictions involving a prohibited sexual act. This section shall not be construed to require a processor to review all films, photographs, video tapes, negatives, or slides delivered to the processor within the processor's professional capacity or employment.

For purposes of this section, "prohibited sexual act" means any of the following:

a. A sex act as defined in section 702.17.

b. An act of bestiality involving a minor.

c. Fondling or touching the pubes or genitals of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the act.

d. Fondling or touching the pubes or genitals of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the act.

e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the abuse.

f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the abuse.

2. A person who violates this section is guilty of a simple misdemeanor.

Sec. 5. NEW SECTION. 728.15 TELEPHONE DISSEMINATION OF OBSCENE MATERIAL TO MINORS.

1. A person shall not knowingly disseminate obscene material by the use of telephones or telephone facilities to a minor. A person who violates this subsection upon conviction is guilty of an aggravated misdemeanor. However, second and subsequent offenses of this subsection by a person who has been previously convicted of violating this subsection are class "D" felonies. As used in this subsection, a "person" excludes any information-access service provider that merely provides transmission capacity without control over the content of the transmission.

2. It shall be a defense in any prosecution for a violation of subsection 1 by a person who knowingly disseminates obscene material by the use of telephones or telephone facilities to a minor that the defendant has taken either of the following measures to restrict access to the obscene material:

a. Required the person receiving the obscene material to use an authorized access or identification code, as provided by the information provider, before transmission of the obscene material begins, where the defendant has previously issued the code by mailing it to the applicant after taking reasonable measures to ascertain that the applicant was eighteen years of age or older and has established a procedure to immediately cancel the code of any person after receiving notice, in writing or by telephone, that the code has been lost, stolen, or used by persons under the age of eighteen years or that the code is no longer desired.

b. Required payment by credit card before transmission of the obscene material.

3. Any list of applicants or recipients compiled or maintained by an information-access service provider for purposes of compliance with subsection 2 is confidential and shall not be sold or otherwise disseminated except upon order of the court.

Sec. 6. If any provision of this Act or the application thereof to any person is invalid, the invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Approved May 31, 1989

CHAPTER 264

AUDITS

H.F. 451

AN ACT relating to audits, amending provisions governing audits of governmental subdivisions and revising the powers and duties of the auditor of state with respect to such audits, providing for payment to the auditor of state for certain advisory and consultative services, providing for filing fees, providing properly related matters, and providing for the applicability of the Act.

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

Section 1. Section 11.6, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

11.6 EXAMINATION OF GOVERNMENTAL SUBDIVISIONS — CONSULTATIVE SERVICES — ASSOCIATION OF COUNTIES.

1. The financial condition and transactions of all cities and city offices, counties, county hospitals organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E having gross receipts in excess of one hundred thousand dollars in a fiscal year, merged areas, area education agencies, and all school offices in school districts, shall be examined at least once each year, except that cities having a population of seven hundred or more but less than two thousand shall be examined at least once every four years, and cities having a population of less than seven hundred may be examined as otherwise provided in this section. The examination shall cover the fiscal year next preceding the year in which the audit is conducted. The examination of school offices shall include an audit of activity funds.

Subject to the exceptions and requirements of subsection 2 and subsection 4, paragraph "c", examinations shall be made as determined by the governmental subdivision either by the auditor of state or by certified public accountants, certified in the state of Iowa, and they shall be paid from the proper public funds of the governmental subdivision.

2. a. A city, merged area school, school district, area education agency, entity organized under chapter 28E, county, county hospital, or memorial hospital desiring to contract with or employ certified public accountants shall utilize procedures which include a request for proposals.

b. The governing body of a city, merged area school, school district, area education agency, entity organized under chapter 28E, county, county hospital, or memorial hospital utilizing the auditor of state instead of a certified public accountant to perform an audit shall notify the auditor of state by June 1 of the year to be audited. If the governing body fails to notify the auditor of state of the decision to use the auditor of state, the auditor of state may perform the audit required in subsection 1 only if provisions are not made by the governing body to contract for the audit.

3. A township or city for which examinations are not required under subsection 1 may contract with or employ the auditor of state or certified public accountants for an examination of its financial transactions and condition of its funds. A financial examination is mandatory on application by one hundred or more taxpayers, or if there are fewer than five hundred taxpayers in the township or city, then by fifteen percent of the taxpayers. Payment for the examination shall be made from the proper public funds of the township or city.

4. In addition to the powers and duties under other provisions of the Code, the auditor of state may at any time cause to be made a complete or partial reaudit of the financial condition and transactions of any city, county, county hospital, memorial hospital, entity organized under chapter 28E, merged area, area education agency, school corporation, township, or other governmental subdivision, or an office of any of these, if one of the following conditions exists:

a. The auditor of state has probable cause to believe such action is necessary in the public interest because of a material deficiency in an audit of the governmental subdivision filed with the auditor of state or because of a substantial failure of the audit to comply with the standards and procedures established and published by the auditor of state.

b. The auditor of state receives from an elected official or employee of the governmental subdivision a written request for a complete or partial reaudit of the governmental subdivision.

c. The auditor of state receives a petition signed by at least fifty eligible electors of the governmental subdivision requesting a complete or partial reaudit of the governmental subdivision. If the governmental subdivision has not contracted with or employed a certified public accountant to perform an audit of the fiscal year in which the petition is received by the auditor of state, the auditor of state may perform an audit required by subsection 1 or 3.

The state audit shall be paid from the proper public funds available in the office of the auditor of state. In the event the audited governmental subdivision recovers damages from a person performing a previous audit due to negligent performance of that audit or breach of the audit contract, the auditor of state shall be entitled to reimbursement on an equitable basis for funds expended from any recovery made by the governmental subdivision.

5. The auditor of state may, within three years of filing, during normal business hours upon reasonable notice of at least twenty-four hours, review the audit work papers prepared by a certified public accountant in the performance of an audit or examination conducted pursuant to this section.

6. An audit required by this section shall be completed within nine months following the end of the fiscal year that is subject to the audit. At the request of the governmental subdivision, the auditor of state may extend the nine-month time limitation upon a finding that the extension is necessary and not contrary to the public interest and that the failure to meet the deadline was not intentional.

7. The auditor of state shall make guidelines available to the public setting forth accounting and auditing standards and procedures and audit and legal compliance programs to be applied in the examination of the governmental subdivisions of the state. The guidelines shall include a requirement that the certified public accountant immediately notify the auditor of state regarding any suspected embezzlement or theft. The auditor shall also provide standard reporting formats for use in reporting the results of an examination of a governmental subdivision.

8. The auditor of state shall provide advice and counsel to public entities and certified public accountants concerning audit and examination matters. The auditor of state shall establish a fee schedule based upon the prevailing rate for the service rendered which shall be approved by the executive council. The auditor of state shall obtain payment from a public entity or certified public accountant for advisory and consultation services rendered pursuant to this subsection. The auditor of state may waive any charge provided in this subsection and may determine to provide certain services without cost.

9. The Iowa state association of counties shall keep accounts as required by the auditor of state. These accounts shall be audited annually by either the auditor of state or a certified public accountant certified in the state of Iowa. The audit shall state all moneys expended for expenses incurred by and salaries paid to legislative representatives and lobbyists of the association.

10. The auditor of state shall establish and collect a filing fee for the filing of each report of examination conducted pursuant to subsections 1 through 3 in an amount approved by the executive council. The funds collected shall be maintained in a segregated account for use by the office of the auditor of state in performing audits conducted pursuant to subsection 4 and for work paper reviews conducted pursuant to subsection 5. Any funds collected by the auditor pursuant to subsection 4 shall be deposited in this account. Notwithstanding section 8.33, the funds in this account shall not revert at the end of any fiscal year.

11. Notwithstanding subsection 10, the filing fee collected for the filing of a report of examination shall not be collected if the audit was performed by the auditor of state.

Sec. 2. Section 11.9, Code 1989, is amended to read as follows:

11.9 COUNTY, MUNICIPAL AND SCHOOL AUDITORS' SALARIES AND EXPENSES.

~~County~~ Except as otherwise provided in section 11.6, subsection 4, for reaudits, county, municipal and school auditors and their assistants shall, in addition to salary, be reimbursed for their actual and necessary expenses. Salary payments shall include a prorated amount for vacation and sick leave. All payments shall be paid from funds in the state treasury upon certification of the auditor of state, and the general fund shall be reimbursed as provided in sections 11.20 and 11.21.

Sec. 3. Section 11.19, unnumbered paragraph 4, Code 1989, is amended to read as follows:

Failure to file ~~such~~ the report with the auditor of state within thirty days after receiving notification of not receiving the audit report shall bar ~~such~~ the accountant from making any ~~city, or school~~ governmental subdivision audits ~~thereafter~~ under ~~the provisions of~~ section ~~11.18~~ 11.6 for the following fiscal year.

Sec. 4. Section 123.58, Code 1989, is amended to read as follows:

123.58 AUDITING.

All provisions of sections 11.6, 11.7, 11.10, 11.11, 11.14, ~~11.18,~~ 11.21, and 11.23, relating to auditing of financial records of governmental subdivisions which are not inconsistent with this chapter are applicable to the division and its offices, warehouses, and depots.

Sec. 5. Section 125.55, Code 1989, is amended to read as follows:

125.55 AUDITS.

All licensed substance abuse programs are subject to annual audit either by the auditor of state or in lieu of the examination by ~~state accountants~~ the auditor of state the substance abuse program may contract with or employ certified public accountants to conduct the audit, in accordance with sections ~~11.18~~ 11.6 and 11.19. The audit format shall be as prescribed by the auditor of state. The certified public accountant shall submit a copy of the audit to the director. A licensed substance abuse program is also subject to special audits as the director requests. The licensed substance abuse program or the department shall pay all expenses incurred by the auditor of state in conducting an audit under this section.

Sec. 6. Section 230A.16, subsection 3, Code 1989, is amended to read as follows:

3. Arrange for the financial condition and transactions of the community mental health center to be audited once each year by the auditor of state. However, in lieu of an audit by state accountants, the local governing body of a community mental health center organized under this chapter may contract with or employ certified public accountants to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections ~~11.18~~ 11.6 and 11.19 and audit format prescribed by the auditor of state. Copies of each audit shall be furnished by the accountant to the administrator of the division of mental health, mental retardation, and developmental disabilities, and the board of supervisors supporting the audited community mental health center.

Sec. 7. Section 279.38, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Boards of directors of school corporations may pay, out of funds available to them, reasonable annual dues to the Iowa association of school boards. The financial condition and transactions of the Iowa association of school boards shall be audited in the same manner as school corporations as provided in section ~~11.18~~ 11.6. In addition, annually the Iowa association of school boards shall publish a listing of the school districts and the annual dues paid by each and shall publish an accounting of all moneys expended for expenses incurred by and salaries paid to legislative representatives and lobbyists of the association.

Sec. 8. Section 364.5, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The financial condition and the transactions of the league of Iowa municipalities shall be audited in the same manner as cities as provided in section ~~11.18~~ 11.6.

Sec. 9. Section 601K.98, Code 1989, is amended to read as follows:

601K.98 AUDIT.

Each community action agency shall be audited annually but shall ~~in no case~~ not be required to obtain a duplicate audit to meet the requirements of this section. In lieu of an audit by the auditor of state, the community action agency may contract with or employ a certified public accountant to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections ~~11.18~~ 11.6 and 11.19 and an audit format prescribed by the auditor of state. Copies of each audit shall be furnished to the division within three months following the annual audit.

Sec. 10. Section 11.18, Code 1989, is repealed.

Sec. 11. APPLICABILITY. This Act applies to audits of the fiscal year ending June 30, 1989, and subsequent fiscal years.

Approved May 31, 1989

CHAPTER 265

EDUCATIONAL PROGRAMS AND EXAMINERS BOARD

H.F. 794

AN ACT establishing an autonomous board to perform the duties of the present board of educational examiners and professional practices commission.

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

Section 1. Section 260.1, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.1 DEFINITIONS.

1. "Administrator" means a person who is licensed to coordinate, supervise, or direct an educational program or the activities of other practitioners.

2. "Board" means the board of educational examiners.

3. "Department" means the state department of education.

4. "License" means the authority that is given to allow a person to legally serve as a practitioner, a school, an institution, or a course of study to legally offer professional development programs, other than those programs offered by practitioner preparation schools, institutions, or courses of study.

5. "Practitioner" means an administrator, teacher, or other licensed professional who does not hold or receive a license from a professional licensing board other than the board of educational examiners and who provides educational assistance to students.

6. "Practitioner preparation program" means a program approved by the state board of education which prepares a person to obtain a license as a practitioner.

7. "Principal" means a licensed member of a school's instructional staff who serves as an instructional leader, coordinates the process and substance of educational and instructional programs, coordinates the budget of the school, provides formative evaluation for all practitioners and other persons in the school, recommends or has effective authority to appoint, assign, promote, or transfer personnel in a school building, implements the local school board's policy in a manner consistent with professional practice and ethics, and assists in the development and supervision of a school's student activities program.

8. "Professional development program" means a course or program which is offered by a person or agency for the purpose of providing continuing education for the renewal or upgrading of a practitioner's license.

9. "School" means a school under section 280.2, a merged area school, an area education agency, and a school operated by a state agency for special purposes.

10. "School service personnel" means those persons holding a practitioner's license who provide support services for a student enrolled in school or to practitioners employed in a school.

11. "Student" means a person who is enrolled in a course of study at a school or practitioner preparation program, or who is receiving direct or indirect assistance from a practitioner.

12. "Superintendent" means an administrator who promotes, demotes, transfers, assigns, or evaluates practitioners or other personnel, and carries out the policies of a governing board in a manner consistent with professional practice and ethics.

13. "Teacher" means a licensed member of a school's instructional staff who diagnoses, prescribes, evaluates, and directs student learning in a manner which is consistent with professional practice and school objectives, shares responsibility for the development of an instructional program and any coordinating activities, evaluates or assesses student progress before and after instruction, and who uses the student evaluation or assessment information to promote additional student learning.

Sec. 2. Section 260.2, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.2 BOARD OF EXAMINERS CREATED.

The board of educational examiners is created to exercise the exclusive authority to:

1. License practitioners, who do not hold or receive a license from another professional licensing board, and professional development programs, except for programs developed and offered by practitioner preparation institutions or area education agencies and approved by the state board of education. Licensing authority includes the authority to establish criteria for the licenses, including but not limited to, issuance and renewal requirements, creation of application and renewal forms, creation of licenses that authorize different instructional functions or specialties, development of a code of professional rights and responsibilities, practice, and ethics, and the authority to develop any other classifications, distinctions, and procedures which may be necessary to exercise licensing duties. A code of professional rights and responsibilities, practice, and ethics shall address but not be limited to the habitual failure of a practitioner to fulfill contractual obligations under section 279.13.

2. Establish, collect, and refund fees for a license.

3. Enter into reciprocity agreements with other equivalent state boards or a national certification board to provide for licensing of applicants from other states or nations.

4. Enforce rules adopted by the board through revocation or suspension of a license, or by other disciplinary action against a practitioner or professional development program licensed by the board of educational examiners.

5. Apply for and receive federal or other funds on behalf of the state for purposes related to its duties.

6. Evaluate and conduct studies of board standards.

7. Hire an executive director, legal counsel, and other personnel and control the personnel administration of persons employed by the board.

8. Hear appeals regarding application, renewal, suspension, or revocation of a license. Board action is final agency action for purposes of chapter 17A.

9. Establish standards for the determination of whether an applicant is qualified to perform the duties required for a given license.

10. Issue statements of professional recognition to school service personnel who are licensed by another professional licensing board.

11. Make recommendations to the state board of education concerning standards for the approval of professional development programs.

12. Establish, under chapter 17A, rules necessary to carry out board duties, and establish a budget request.

13. By January 1, 1991, adopt rules and establish classifications for temporary substitute teaching, for persons who hold a bachelor's degree from an accredited college or university, but who do not meet other requirements for licensure. Rules adopted shall provide that temporary substitute teaching licenses shall be valid for two years, or until the holder has completed an alternative training program, whichever occurs first. Temporary substitute teaching license holders, whose licenses expire because of completion of an alternative training program, shall be eligible for an appropriate standard license upon application and submission of proof of satisfactory completion of the alternative training program.

Sec. 3. Section 260.3, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.3 MEMBERSHIP.

The board of educational examiners consists of eleven members. Two must be members of the general public and the remaining nine must be licensed practitioners. One of the public members shall also be the director of the department of education, or the director's designee. The other public member shall be a person who does not hold a practitioner's license, but has a demonstrated interest in education. The nine practitioners shall be selected from the following areas and specialties of the teaching profession:

1. Elementary teachers.
2. Secondary teachers.
3. Special education or other similar teachers.
4. Counselors or other special purpose practitioners.
5. Merged area school faculty members.
6. Administrators.
7. School service personnel.

A majority of the licensed practitioner members shall be nonadministrative practitioners. Four of the members shall be administrators. Membership of the board shall comply with the requirements of sections 69.16 and 69.16A. A quorum of the board shall consist of six members. The director of the department of education shall serve as the chairperson of the board. Members, except for the director of the department of education, shall be appointed by the governor and the appointments are subject to confirmation by the senate.

Sec. 4. NEW SECTION. 260.4 TERMS OF OFFICE.

Members, except for the director of the department of education, shall be appointed to serve staggered terms of four years. A member shall not serve more than two consecutive terms, except for the director of the department of education, who shall serve until the director's term of office expires. A member of the board, except for the two public members, shall hold a valid practitioner's license during the member's term of office. A vacancy exists when any of the following occur:

1. A nonpublic member's license expires, is suspended, or is revoked.
2. A nonpublic member retires or terminates employment as a practitioner.
3. A member dies, resigns, is removed from office, or is otherwise physically unable to perform the duties of office.
4. A member's term of office expires.

Terms of office for regular appointments begin on July 1, and for vacancies on the date of appointment. Members may be removed for cause by a state court with competent jurisdiction after notice and opportunity for hearing. The board may remove a member for three consecutive absences or for cause.

Sec. 5. Section 260.5, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.5 COMPENSATION.

Members shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties and may be entitled to per diem compensation as authorized under section 7E.6. For duties performed during an ordinary school day by a member who is employed by a school corporation or state university, the member shall also receive regular compensation from the school or university. However, the member shall reimburse the school or university in the amount of the per diem compensation received.

Sec. 6. Section 260.6, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.6 QUALIFICATIONS FOR PRACTITIONERS.

The board shall determine whether an applicant is qualified to perform the duties for which a license is sought. Applicants shall be disqualified for any of the following reasons:

1. The applicant is less than twenty-one years of age. However, a student enrolled in a practitioner preparation program who meets board requirements for a temporary, limited-purpose license who is seeking to teach as part of a practicum or internship may be less than twenty-one years of age.
2. The applicant has been convicted of child abuse or sexual abuse of a child.
3. The applicant has been convicted of a felony.
4. The applicant's application is fraudulent.
5. The applicant's license or certification from another state is suspended or revoked.
6. The applicant fails to meet board standards for application for an initial or renewed license.

Qualifications or criteria for the granting or revocation of a license or the determination of an individual's professional standing shall not include membership or nonmembership in any teachers' organization.

Sec. 7. Section 260.7, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.7 VALIDITY OF LICENSE.

A license issued under board authority is valid for the period of time for which it is issued, unless the license is suspended or revoked. A license issued by the board is valid until June 30 of the year in which the license expires. No permanent licenses shall be issued. A person employed as a practitioner shall hold a valid license for the type of service for which the person is employed. This section does not limit the duties or powers of a school board to select or discharge practitioners or to terminate practitioners' contracts. A professional development

program, except for a program offered by a practitioner preparation institution or area education agency and approved by the state board of education, must possess a valid license for the types of programs offered.

The executive director of the board may grant or deny license applications, applications for renewal of a license, and suspension or revocation of a license. A denial of an application for a license, the denial of an application for renewal, or a suspension or revocation of a license may be appealed by the practitioner to the board.

The board may issue emergency renewal or temporary, limited-purpose licenses upon petition by a current or former practitioner. An emergency renewal or a temporary, limited-purpose license may be issued for a period not to exceed two years, if a petitioner demonstrates, to the satisfaction of the board, good cause for failure to comply with board requirements for a regular license and provides evidence that the petitioner will comply with board requirements within the period of the emergency or temporary license. Under exceptional circumstances, an emergency license may be renewed by the board for one additional year. A previously unlicensed person is not eligible for an emergency or temporary license, except that a student who is enrolled in a licensed practitioner preparation program may be issued a temporary, limited-purpose license, without payment of a fee, as part of a practicum or internship program.

Sec. 8. Section 260.8, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.8 LICENSE TO APPLICANTS FROM OTHER STATES OR COUNTRIES.

The board may issue a license to an applicant from another state or country if the applicant files evidence of the possession of the required or equivalent requirements with the board. The executive director of the board may, subject to board approval, enter into reciprocity agreements with another state or country for the licensing of practitioners on an equitable basis of mutual exchange, when the action is in conformity with law.

Practitioner preparation and professional development programs offered in this state by out-of-state institutions must be approved by the board in order to fulfill requirements for licensure or renewal of a license by an applicant.

Sec. 9. Section 260.9, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.9 CONTINUITY OF CERTIFICATES AND LICENSES.

A certificate which was issued by the board of educational examiners to a practitioner before the effective date of this Act, continues to be in force as long as the certificate complies with the rules and statutes in effect on the effective date of this Act. Requirements for the renewal of licenses, under this chapter, do not apply retroactively to renewal of certificates. However, this section does not limit the duties or powers of a school board to select or discharge practitioners or to terminate practitioners' contracts.

A practitioner who holds a certificate issued before the effective date of this Act shall, upon application and payment of a fee, be granted a license which will permit the practitioner to perform the same duties and functions as the practitioner was entitled to perform with the certificate held at the time of application. A practitioner shall be permitted to convert a permanent certificate to a term certificate, after the effective date of this Act, without payment of a fee.

A professional development program provided by a school district and approved by the state board of education before the effective date of this Act shall be permitted to continue until the term, for which the program was approved, expires.

Sec. 10. CONTINUITY OF RULES. Administrative rules adopted by the board of educational examiners or the professional teaching practices commission relating to licenses or professional practices in effect on April 15, 1989, remain in effect until modified or repealed by the board of educational examiners after the effective date of this Act.

Sec. 11. Section 260.10, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.10 FEES.

It is the intent of the general assembly that licensing fees established by the board of educational examiners be sufficient to finance the activities of the board under this chapter.

Licensing fees are payable to the treasurer of state and shall be deposited with the executive director of the board. The executive director shall deposit the fees with the treasurer of state and the fees shall be credited to the general fund of the state. The executive director shall keep an accurate and detailed account of fees received and paid to the treasurer of state.

Sec. 12. Section 260.11, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.11 EXPENDITURES AND REFUNDS.

Expenditures and refunds made by the board under this chapter shall be certified by the executive director of the board to the director of revenue and finance, and if found correct, the director of revenue and finance shall approve the expenditures and refunds and draw warrants upon the treasurer of state from the funds appropriated for that purpose.

Sec. 13. Section 260.12, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.12 HEARING PROCEDURES.

Hearings before the board shall be conducted in the same manner as contested cases under chapter 17A. The board may subpoena books, papers, records, and any other real evidence necessary for the board to decide whether it should institute a contested case hearing. At the hearing the board may administer oaths and issue subpoenas to compel the attendance of witnesses and the production of other evidence. Subpoenas may be issued by the board to a party to a hearing, if the party demonstrates that the evidence or witnesses' testimony is relevant and material to the hearing. Service of process and subpoenas for board hearings shall be conducted in accordance with the law applicable to the service of process and subpoenas in civil actions.

Witnesses subpoenaed to appear before the board shall be reimbursed for mileage and necessary expenses and shall receive per diem compensation by the board, unless the witness is an employee of the state or a political subdivision, in which case the witness shall receive reimbursement only for mileage and necessary expenses.

Sec. 14. Section 260.25, unnumbered paragraph 1, and subsections 1 and 5 through 9, Code 1989, are amended to read as follows:

Not later than January 1, ~~1990~~ 1991, the ~~board of educational examiners~~ state board of education shall adopt rules pursuant to chapter 17A to implement the following for approved ~~teacher education~~ practitioner preparation programs:

1. A requirement that each student admitted to an approved ~~teacher education~~ practitioner preparation 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~~ practitioner preparation program. The student teaching experience shall be a minimum of twelve weeks in duration during the student's final year of the ~~teacher education~~ practitioner preparation program.

5. A requirement that each approved ~~teacher education~~ practitioner preparation or professional development 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~~ practitioner preparation students receive instruction in the use of electronic technology for classroom and instructional purposes.

7. A requirement that approved ~~teacher education~~ practitioner preparation institutions annually solicit the views of the education community regarding the institution's ~~teacher education~~ practitioner preparation programs.

8. A requirement that an approved ~~teacher education~~ practitioner preparation institution submit evidence that the college or department of education is communicating with other colleges or departments in the institution so that ~~teacher education~~ practitioner preparation students may integrate teaching methodology with subject matter areas of specialization.

9. A requirement that an approved ~~teacher education~~ practitioner preparation 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. 15. Section 260.31, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The minimum requirements for the board to award a coaching ~~authorization~~ license to an applicant are:

Sec. 16. Section 260.31, subsection 2, Code 1989, is amended to read as follows:

2. The board of educational examiners shall adopt rules under chapter 17A for coaching ~~authorizations~~ licenses including, but not limited to, approval of courses, validity and expiration, fees, and suspension and revocation of ~~authorizations~~ licenses. The ~~director of the department~~ state board of education shall work with institutions of higher education, private colleges and universities, merged area schools, and area education agencies to ~~insure~~ ensure that the courses required under subsection 1 are offered throughout the state at convenient times and at a reasonable cost.

Sec. 17. Section 260.33, Code 1989, is amended to read as follows:

260.33 EVALUATOR ~~APPROVAL~~ LICENSE.

Effective July 1, 1990, in addition to ~~endorsements~~ licenses required under rules adopted pursuant to this chapter, an individual employed as an administrator, supervisor, school service person, or teacher by a school district, area education agency, or area school, who conducts evaluations of the performance of individuals holding ~~certificates~~ licenses under this chapter, shall possess an evaluator ~~approval~~ license.

By July 1, ~~1987~~ 1990, the board of educational examiners shall adopt rules establishing requirements for an evaluator ~~approval~~ license including but not limited to ~~approval of courses,~~ renewal requirements, fees, and suspension and revocation of evaluator ~~approvals~~ licenses. An approved program shall include provisions for determining that an applicant for evaluator ~~approval~~ license has satisfactorily completed the program. The ~~board of educational examiners~~ state board of education shall work with institutions of higher education under the state board of regents, private colleges and universities, merged area schools, and area education agencies to ~~insure~~ ensure that the courses required under subsection 1 are offered throughout the state at convenient times and at reasonable cost. The requirements shall include completion of a program approved by the ~~board of educational examiners~~ state board of education as follows:

1. For evaluation of teachers, the development of skills including but not limited to analysis of lesson plans, classroom observation, analysis of data, performance improvement strategies, and communication skills.

2. For evaluation of ~~certificated~~ licensed employees other than teachers, the development of skills including but not limited to communication skills, analysis of employee performance, analysis of data, and performance improvement strategies.

~~An evaluator approval~~ A license is valid for a period of five years from its issuance.

Sec. 18. Section 260.34, Code 1989, is amended to read as follows:

260.34 ELEMENTARY ~~ENDORSEMENTS~~ LICENSES.

The board of educational examiners in conjunction with the child development coordinating council, or other similar agency, shall develop appropriate ~~endorsements~~ licenses 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. 19. Section 256.7, subsection 3, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. Prescribe standards and procedures for the approval of practitioner preparation programs and professional development programs, offered by practitioner preparation institutions and area education agencies, in this state. Procedures provided for approval of programs shall include procedures for enforcement of the prescribed standards and shall not include a procedure for the waiving of any of the standards prescribed.

Sec. 20. Section 256.7, subsection 9, unnumbered paragraphs 1, 2, and 3, Code 1989, are amended to read as follows:

Adopt rules under chapter 17A for the use of telecommunications as an instructional tool for students enrolled in kindergarten through grade twelve and served by local school districts, accredited or approved nonpublic schools, area education agencies, merged area schools, institutions of higher education under the state board of regents, and independent colleges and universities in elementary and secondary school classes and courses. The rules shall include but need not be limited to rules relating to programs, educational policy, instructional practices, staff development, use of pilot projects, curriculum monitoring, and the accessibility of ~~certificated~~ licensed teachers.

When curriculum is provided by means of telecommunications, it shall be taught by ~~a certificated~~ an appropriately licensed teacher ~~who is properly endorsed or approved~~. The teacher shall either be present in the classroom, or be present at the location at which the curriculum delivered by means of telecommunications originates.

The rules shall provide that when the curriculum is taught by ~~a certificated and properly endorsed or approved~~ an appropriately licensed teacher at the location at which the telecommunications originates, the curriculum received shall be under the supervision of a ~~certificated~~ licensed teacher. For the purposes of this subsection, "supervision" means that the curriculum is monitored by a ~~certificated~~ licensed teacher and the ~~certificated~~ teacher is accessible to the students receiving the curriculum by means of telecommunications.

Sec. 21. Section 256.7, subsections 10 and 11, Code 1989, are amended to read as follows:

10. Rules adopted under this section shall provide that telecommunications shall not be used by school districts as the exclusive means to provide any course which is required by the minimum educational standards for ~~approval or~~ accreditation.

11. Develop evaluation procedures that will measure the effects of instruction by means of telecommunications on student achievement, socialization, intellectual growth, motivation, and other related factors deemed relevant by the state board, for the development of an educational data base. The state board shall consult with the state board of regents and the ~~teacher education~~ practitioner preparation departments at its institutions, other ~~approved teacher education~~ practitioner preparation departments located within private colleges and universities, educational research agencies or facilities, and other agencies deemed appropriate by the state board, in developing these procedures.

Sec. 22. Section 256.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Not later than January 1, 1991, adopt rules under chapter 17A for alternative training programs for persons who hold a temporary substitute teaching license issued under chapter 260. Rules adopted shall provide that alternative training programs be offered by approved practitioner preparation programs. Rules adopted shall also provide that

alternative training programs include an evaluation, conducted by an appropriately licensed practitioner who is not an employee of the school corporation participating in the alternative training program, of the performance of a person who holds a temporary substitute teaching license and is employed by a school corporation and that satisfactory completion of the evaluation be a condition precedent to obtaining a standard license under chapter 260.

Sec. 23. Section 256.11, subsections 1 and 2, Code 1989, are amended to read as follows:

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~~ license 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~~ licensed to teach in kindergarten. An accredited nonpublic school must meet the requirements of this subsection only if the nonpublic school offers a kindergarten program.

Sec. 24. Section 256.11, subsection 5, paragraph f, Code 1989, is amended to read as follows:

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~~ licensed 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.

Sec. 25. Section 256.11, subsection 9, paragraph b, Code 1989, is amended to read as follows:

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~~ licensing standards prescribed by the ~~department~~ board of educational examiners 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.

Sec. 26. Section 256.11, subsection 9A, Code 1989, is amended to read as follows:

9A. 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~~ licensing standards of the ~~department~~ board of educational examiners.

Sec. 27. Section 256.16, Code 1989, is amended to read as follows:

256.16 SPECIFIC CRITERIA FOR TEACHER PREPARATION AND CERTAIN EDUCATORS.

Pursuant to section 256.7, subsection 5, the state board shall adopt rules requiring all ~~approved teacher training institutions~~ higher education institutions providing practitioner preparation to include in the professional education program, preparation that contributes to education of the handicapped and the gifted and talented, which must be successfully completed before graduation from the ~~teacher training~~ practitioner preparation program.

A person initially applying for a ~~certificate, endorsement, or approval~~ license shall successfully complete a professional education program containing the subject matter specified in this section, before the initial action by the ~~department~~ board of educational examiners takes place.

Sec. 28. Section 256.17, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The state board shall review the standards contained in section 256.11, shall review current literature relating to effective schools and learning environments, and shall consult with representatives from the higher education institutions, the board of educational examiners, area education agencies, school board members, school administrators, teachers, parents, students, members of business, industry, and labor, other governmental agencies, associations interested in education, and representatives of communities of various sizes to develop standards for accredited schools and school districts that encompass, but are not limited to the following general areas:

Sec. 29. Section 256.17, subsection 5, Code 1989, is amended to read as follows:

5. A performance evaluation process for its ~~certificated staff~~ licensed practitioners using staff members who possess an evaluator ~~approval~~ license under ~~section 260.33~~ rules adopted by the board of educational examiners.

Sec. 30. Section 258.3A, subsection 3, Code 1989, is amended to read as follows:

3. Adopt rules prescribing standards for approval of schools, departments, and classes; area vocational-technical high schools and programs; and area vocational schools and programs; and ~~teacher training~~ practitioner preparation schools, departments, and classes, applying for federal and state moneys under this chapter.

Sec. 31. Section 258.4, subsections 5, 6, and 7, Code 1989, are amended to read as follows:

5. ~~Enforce~~ Make recommendations to the board of educational examiners relating to the enforcement of rules prescribing standards for teachers of subjects listed in subsection 2 in ~~approved~~ accredited schools, departments, and classes.

6. Co-operate in the maintenance of ~~teachers training~~ practitioner preparation schools, departments, and classes, supported and controlled by the public, for the training of teachers and supervisors of subjects listed in subsection 2.

7. Annually inspect, as a basis of approval, all schools, departments, and classes, area vocational-technical high schools and programs, area vocational schools and programs and all ~~teachers training~~ practitioner preparation schools, departments, and classes, applying for federal and state moneys under ~~the provisions of~~ this chapter.

Sec. 32. Section 258.5, Code 1989, is amended to read as follows:

258.5 FEDERAL AID — CONDITIONS.

~~Whenever~~ If a school corporation maintains an approved vocational school, department, or classes in accordance with the rules adopted by the state board, and rules and standards adopted by the board of educational examiners, and the state plan for vocational education, adopted by ~~that~~ the board for vocational education and approved by the United States department of education, the director of the department of education shall reimburse the school corporation at the end of the fiscal year for its expenditures for salaries and authorized travel of vocational teachers from federal and state funds. However, a school corporation shall not receive from federal and state funds a larger amount than one-half the sum which has been expended by the school corporation for that particular type of program. If federal and state funds are not sufficient to make the reimbursement to the extent provided in this section, the director shall prorate the respective amounts available to the corporations entitled to reimbursement.

The director may use federal funds to reimburse approved ~~teacher training~~ practitioner preparation schools, departments, or classes for the training of teachers of agriculture, home economics, trades and industrial education, distributive education, and for the training of guidance counselors.

Sec. 33. Section 258.6, Code 1989, is amended to read as follows:

258.6 DEFINITIONS.

"Approved school, department, or class" ~~shall mean~~ means a school, department, or class approved by ~~said~~ the board as entitled under ~~the provisions of~~ this chapter to federal and state moneys for the salaries and authorized travel of teachers of vocational subjects. "Approved ~~teachers training~~ practitioner preparation school, department, or class" ~~shall mean~~ means a school, department, or class approved by the board as entitled under ~~the provisions of~~ this chapter to federal moneys for the training of teachers of vocational subjects.

Sec. 34. Section 273.3, subsections 5 and 11, Code 1989, are amended to read as follows:

5. Be authorized, subject to rules ~~and regulations~~ of the state board of education, to provide directly or by contractual arrangement with public or private agencies for special education programs and services, media services, and educational programs and services requested by the local boards of education as provided in this chapter, including but not limited to contracts for the area education agency to provide programs or services to the local school districts and contracts for local school districts, other educational agencies, and public and private agencies to provide programs and services to the local school districts in the area education agency in lieu of the area education agency providing the services. Contracts may be made with public or private agencies located outside the state if the programs and services comply with the rules of the state board. Rules adopted by the state board of education shall be consistent with rules, adopted by the board of educational examiners, relating to licensing of practitioners.

11. Employ personnel to carry out the functions of the area education agency which shall include the employment of an administrator who shall possess a ~~certificate~~ license issued under ~~section 260.9~~ chapter 260. The administrator shall be employed pursuant to section 279.20 and sections 279.23, 279.24 and 279.25. The salary for an area education agency administrator shall be established by the board based upon the previous experience and education of the administrator. ~~The provisions of section~~ Section 279.13 ~~shall apply~~ applies to the area education agency board and to all teachers employed by the area education agency. ~~The provisions of sections~~ Sections 279.23, 279.24 and 279.25 ~~shall~~ apply to the area education board and to all administrators employed by the area education agency.

Sec. 35. Section 279.19B, Code 1989, is amended to read as follows:

279.19B COACHING ENDORSEMENT AND AUTHORIZATION.

The board of directors of a school district shall offer an extracurricular contract for varsity head coach of the interscholastic athletic activities of football, basketball, track not including cross-country, baseball, softball, volleyball, gymnastics, hockey, and wrestling only to an individual possessing a teaching ~~certificate~~ license with a coaching endorsement issued pursuant to chapter 260.

The board of directors of a school district may employ for head coach of other interscholastic athletic activities or for assistant coach of any interscholastic athletic activity, an individual who possesses a coaching authorization issued by the ~~department of education~~ board of educational examiners. An individual who has been issued a coaching authorization or who possesses a teaching ~~certificate~~ license with a coaching endorsement but is not issued a teaching contract under section 279.13 and who is employed by the board of directors of a school district serves at the pleasure of the board of directors and is not subject to sections 279.13 through 279.19, and 279.27. ~~Chapter 272A and subsection~~ Subsection 1 of section 279.19A ~~apply~~ applies to coaching authorizations.

Sec. 36. Section 282.3, subsection 2, unnumbered paragraph 2, Code 1989, is amended to read as follows:

~~No~~ A child under the age of six years on the fifteenth of September of the current school year shall not be admitted to ~~any~~ a public school unless the board of directors of the school ~~shall have~~ has adopted and put into effect courses of study for the school year immediately preceding the first grade, approved by the department of education, and ~~shall have~~ has employed a ~~teacher or teachers~~ practitioner or practitioners for this work with standards of training approved by the ~~department of education~~ board of educational examiners.

Sec. 37. Section 294.3, Code 1989, is amended to read as follows:

294.3 STATE AID AND TUITION.

~~No~~ A school shall not be deprived of its right to be approved for state aid or approved for tuition by reason of the employment of any ~~teacher~~ practitioner as authorized under section ~~294.2~~ 260.9.

Sec. 38. Section 294A.2, subsections 3, 4, and 5, Code 1989, are amended to read as follows:

3. "General training requirements" means requirements prescribed by a board of directors that provide for the acquisition of additional semester hours of graduate credit from an institution of higher education approved by the ~~board of educational examiners~~ state board of education or the completion of staff development activities ~~approved~~ licensed by the ~~department of education~~ board of educational examiners, except for programs developed by practitioner preparation institutions, for renewal of ~~certificates~~ licenses issued under chapter 260.

4. "Specialized training requirements" means requirements prescribed by a board of directors to meet specific needs of the school district identified by the board of directors that provide for the acquisition of clearly defined skills through formal or informal education that are beyond the requirements necessary for initial ~~certification~~ licensing under chapter 260.

5. "Teacher" means an individual holding a ~~teaching certificate~~ practitioner's license issued under chapter 260, ~~letter of authorization, or a statement of professional recognition~~ issued by the board of educational examiners, who is employed in a nonadministrative position by a school district or area education agency pursuant to a contract issued by a board of directors under section 279.13. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

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~~ a practitioner preparation program in which the teacher is enrolled in a graduate ~~teacher education~~ practitioner preparation program.

Sec. 39. Section 321.180, subsection 1, Code 1989, is amended to read as follows:

1. 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 be qualified to obtain an operator's license, shall, upon meeting the requirements of section 321.186 other than a driving demonstration, and upon paying the required fee, be issued a temporary instruction permit by the department. Subject to the limitations in this subsection, a temporary instruction permit entitles the permittee, while having 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. The permittee must be accompanied by a licensed operator or chauffeur who is at least eighteen years of age, who is an approved driver education instructor, or who is a prospective driver education instructor enrolled in and specifically designated by a ~~teacher education institution~~ practitioner preparation program with a safety education program approved by the ~~department~~ state board of education, and who is actually occupying a seat beside the driver. The temporary instruction permit issued to a person who is less than sixteen years of age 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, an approved driver education instructor, a prospective driver education instructor who is enrolled in and has been specifically designated by a ~~teacher education institution~~ practitioner preparation program with a safety education program approved by the ~~department~~ state board of education, or a person who is twenty-five years of age or more if written permission is granted by the parent or guardian, and who is actually occupying a seat beside the driver.

Sec. 40. Sections 232.69, 256.18, 256.19, 256.30, 261.51, 262.9, 275.56, 275.59, 279.12, 279.13, 279.19A, 279.49, 294A.9, 294A.10, 294A.15, 294A.24, 294A.25, and 808A.1, Code 1989, are amended by striking the words "certificated" and "noncertificated" and inserting in lieu thereof the word "licensed" or "unlicensed".

Sec. 41. Sections 261.45, 281.2, and 299.1, Code 1989, are amended by striking the word "certified" and inserting in lieu thereof the word "licensed".

Sec. 42. Sections 261.51, 261.52, and 279.19B, Code 1989, are amended by striking the words "certificate" and "certificates" and inserting in lieu thereof the word "license" or "licenses".

Sec. 43. REPEALS. Sections 256.31, 260.12, 260.14, 260.15, 260.19, 260.20, 260.21, 260.23, 260.27, 260.28, and 294.2, and chapter 272A, Code 1989, are repealed.

Sec. 44. USE OF FUNDS. Funds appropriated to the department of education for the purpose of operating advisory committees for certification shall be made available by the department for use by the board of educational examiners created under this Act. Staff, office equipment and materials, records, and other assets currently held by the department for the purpose of carrying out the state board of education's duties as the board of educational examiners shall also be made available for use by the board created under this Act. Professional and nonprofessional staff employed on the effective date of this Act whose duties involve certification of practitioners shall be reassigned as employees of the department of education under the direction of the board created under this Act. However, the number of full-time equivalent positions currently assigned to duties involving the certification of practitioners shall not be reduced below the level maintained by the department as of January 1, 1989, for the board's operation after the effective date of this Act.

Approved May 31, 1989

CHAPTER 266

LICENSES AND PERMITS FOR YOUTHFUL DRIVERS

S.F. 157

AN ACT relating to driving privileges of fourteen-year-old drivers, permitting attendance at approved driver education courses, requiring completion of driver education before issuance of a school license, changing time limits on use of a school license, and providing an effective date.

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

Section 1. Section 321.178, subsection 1, unnumbered paragraph 3, Code 1989, is amended to read as follows:

"Student," for purposes of this section, means ~~any~~ a person between the ages of ~~fifteen~~ fourteen years and twenty-one years who resides in the public school district and who satisfies the preliminary licensing requirements of the department.

Sec. 2. Section 321.194, unnumbered paragraphs 1, 2, and 3, Code 1989, are amended to read as follows:

Upon certification of a special need by the school board or the superintendent of the applicant's school, the department may issue a school license to a person between the ages of fourteen and eighteen years who has successfully completed an approved driver education course. However, the completion of a course is not required if the applicant demonstrates to the satisfaction of the department that completion of the course would impose a hardship upon the applicant. The department shall adopt rules under chapter 17A defining the term "hardship" and establish procedures for the demonstration and determination of when completion of the course would impose a hardship upon an applicant. The school license ~~shall entitle~~ entitles the holder, while having the license in immediate possession, to operate a motor vehicle

during the hours of 6 a.m. to 9 10:00 p.m. over the most direct and accessible route between the licensee's residence and schools of enrollment and between schools of enrollment for the purpose of attending duly scheduled courses of instruction and extracurricular activities at the schools or at any time when accompanied by a parent or guardian, member of the license holder's immediate family if the family member is at least twenty-one years of age, driver education instructor, or prospective driver education instructor who is a holder of a valid operator's or chauffeur's license, and who is actually occupying a seat beside the driver. The license shall expire on the licensee's eighteenth birthday or upon issuance of a restricted license under section 321.178, subsection 2, or operator's license. Parental consent given for the issuance of a school license under this section shall not be deemed to be consent given under section 321.184 for the issuance of any other permit or license applied for by the school license applicant.

Each application shall be accompanied by a statement from the school board or superintendent of the applicant's school. The statement shall be upon a form provided by the department. The school board or superintendent shall certify that a need exists for the license and that the board and superintendent are not responsible for actions of the applicant which pertain to the use of the school license. The department of education shall adopt rules pursuant to chapter 17A establishing criteria for issuing a statement of necessity. Upon receipt of a statement of necessity, the department shall issue a school license. The fact that the applicant resides at a distance less than one mile from the applicant's schools of enrollment is prima facie evidence of the nonexistence of necessity for the issuance of a license. A school license shall not be issued for purposes of attending a public school in a school district other than the district of residence, or a district which is contiguous to the district of residence, of the parent or guardian of the student, if the student is enrolled in the public school which is not the school district of residence because of open enrollment under section 282.18 or as a result of an election by the student's district of residence to enter into one or more sharing agreements pursuant to the procedures in chapter 282.

A license issued under this section is subject to suspension or revocation in like manner as any other license or permit issued under a law of this state. The department may also suspend a license upon receiving satisfactory evidence that the licensee has violated the restrictions of the license or has been involved in one or more accidents chargeable to the licensee. The department may suspend a license issued under this section and a permit issued under section 321.180 upon receiving a record of the licensee's conviction for one violation ~~and~~. The department shall revoke the license and any permit issued under section 321.180 upon receiving a record of conviction for two or more violations of a law of this state or a city ordinance regulating the operation of motor vehicles on highways other than parking violations as defined in section 321.210. After revoking a license or permit under this section the department shall not grant an application for a new license or permit until the expiration of one year or until the licensee's sixteenth birthday whichever is the longer period.

Sec. 3. Section 321A.17, subsection 5, Code 1989, is amended to read as follows:

5. An individual applying for a motor vehicle license following a period of suspension or revocation under section 321.210A, 321.216 or 321.513, or following a period of suspension under section 321.194, is not required to maintain proof of financial responsibility under this section.

Sec. 4. The education requirements for the issuance of school licenses provided in section 2 of this Act apply to school licenses issued on or after the effective date of this Act.

Sec. 5. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 31, 1989

CHAPTER 267

ALTERNATIVE MORTGAGE LOANS

S.F. 361

AN ACT relating to reverse annuity and graduated payment mortgages, by providing for their regulation by the administrators of the divisions of banking, savings and loan associations, and credit unions, of the department of commerce, and imposing certain standards and restrictions.

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

Section 1. NEW SECTION. 528.1 TITLE.

This chapter is entitled "Alternative and Reverse Annuity Mortgage Loan Act".

Sec. 2. NEW SECTION. 528.2 DEFINITIONS.

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

1. "Administrator" means the superintendent of banking, the superintendent of savings and loan associations, and the superintendent of credit unions within the department of commerce.

2. "Alternative mortgage loan" means a mortgage loan which is a reverse annuity mortgage loan or graduated payment mortgage loan.

3. "Financial institution" means financial institution as defined in section 535A.1.

4. "Graduated payment mortgage loan" means a mortgage loan in which principal and interest payments, if any, and the making of additional advances, if any, are scheduled to reflect the prospective increasing or decreasing income of the mortgagor.

5. "Mortgage loan" means a loan secured by a first mortgage on one, two, three, or four family, owner-occupied residential real property.

6. "Reverse annuity mortgage loan" means a mortgage loan in which either the loan proceeds are used to purchase an annuity with the annuity proceeds to be advanced to the mortgagors, or the loan proceeds are directly advanced to the mortgagors, in ten or more installments, either directly or indirectly, and which together with unpaid interest, if any, are to be repaid in accordance with section 528.7.

Sec. 3. NEW SECTION. 528.3 FINANCIAL INSTITUTIONS ALLOWED TO MAKE ALTERNATIVE MORTGAGES.

A financial institution may make alternative mortgage loans in accordance with this chapter. General provisions governing a financial institution's mortgage loans apply to alternative mortgage loans unless inconsistent with the provisions of this chapter. This chapter does not prohibit a financial institution from making any loan which is not an alternative mortgage loan, provided such loan otherwise complies with applicable laws.

Sec. 4. NEW SECTION. 528.4 PREPAYMENT PENALTY PROHIBITED.

A financial institution making an alternative mortgage loan may contract with the mortgagor for interest to be paid currently or to accrue, and if accrued, for accrued interest to be added to the mortgage debt on which interest may be charged and collected. Accrued interest which is added to the mortgage debt shall be secured by the mortgage to the same extent as the principal of the alternative mortgage loan. An instrument evidencing an alternative mortgage loan shall not contain a provision imposing a penalty for prepayment of the loan.

Sec. 5. NEW SECTION. 528.5 DISCLOSURE OF ALTERNATIVE MORTGAGE LOAN INFORMATION TO APPLICANTS.

1. A financial institution that offers or makes an alternative mortgage loan shall include in any disclosure of the rates or availability of mortgage loans, the rates and availability of reverse annuity mortgages or graduated payment mortgage loans, if and when such loans are offered. The administrator may prescribe by rule forms for the required disclosures.

2. A prospective mortgage loan applicant shall have the choice of applying for a mortgage loan or any type of alternative mortgage loan offered by the financial institution.

Sec. 6. NEW SECTION. 528.6 PROTOTYPE PLAN FOR ALTERNATIVE MORTGAGE LOANS – APPROVAL BY ADMINISTRATOR.

1. Before a financial institution makes an alternative mortgage loan, it shall submit to the administrator for that type of institution, for the administrator's approval, the prototype plan and subsequent amendments to the plan under which alternative mortgage loans are to be made. A plan submitted shall include a copy of the form of note and mortgage instrument that will be used for that type of alternative mortgage loan, a detailed description of how the plan will function, and other information as the administrator requires. The administrator shall specifically review the mortgage instrument submitted as part of the plan to ensure that any default provisions included in the deed pursuant to section 528.7, subsection 2, paragraph "c", are necessary to protect the interests of the mortgagee and are fair and equitable for the mortgagor. A reverse annuity mortgage shall provide that the mortgagor or mortgagors of the property shall retain a life estate in the property until the death of the mortgagor or all of the mortgagors, notwithstanding that the annuity may expire prior to the end of the life estate, depending upon the terms of the annuity.

2. The administrator may approve any plan and amendment to a plan that in the administrator's opinion serves the best interests of prospective mortgagors and mortgagees. The administrator's considerations shall include, without limitation, the flexibility of each plan to serve the differing needs of various persons who may apply for an alternative mortgage loan under the plan.

3. If the administrator approves the plan or amendment, the financial institution may make alternative mortgage loans in accordance with the approved plan and any approved amendments.

4. This section applies to all alternative mortgage loans made on or after January 1, 1990.

Sec. 7. NEW SECTION. 528.7 REDUCTION IN INSTALLMENT PAYMENTS – REPAYMENT OF MORTGAGE DEBT.

1. If the mortgagee or its assignee and the mortgagor agree, any installment payment of either the loan proceeds or an annuity purchased with the loan proceeds of a reverse annuity mortgage loan may be reduced by an amount used for partial repayment of the mortgage debt, except as provided in subsection 2 of this section.

a. Notwithstanding any such reduction, each mortgagor shall receive a cash payment in each installment for the term of the annuity or, if no annuity, for the term during which the mortgagee contracted with the mortgagor to advance the loan proceeds.

b. Except as provided in subsection 2, no repayments of any part of the mortgage debt shall be required from the mortgagor after termination of the period during which loan proceeds or any annuity purchased with the loan proceeds are advanced to the mortgagor.

2. If the mortgagee or its assignee and the mortgagor agree, and at the option of the mortgagee, advances under a reverse annuity mortgage loan may terminate and the entire unpaid balance of the loan plus accrued interest may become due and payable upon the occurrence of any of the following events:

a. The death of the last surviving mortgagor.

b. The sale or other transfer of the real estate securing the loan to a person other than any of the original mortgagors.

c. Any other occurrence which materially decreases the value of the property securing the loan or which will have the likely effect of causing the loan not to be repaid. Any such additional occurrence shall be clearly described in the note or mortgage instrument.

Sec. 8. NEW SECTION. 528.8 INTEREST ON GRADUATED PAYMENT MORTGAGE LOANS.

A graduated payment mortgage loan offered or made by a financial institution shall provide for interest at a specified rate or a series of specified rates.

Sec. 9. NEW SECTION. 528.9 RULES.

The administrator may adopt rules pursuant to chapter 17A, as the administrator deems necessary and convenient to carry out the provisions of this chapter.

Sec. 10. NEW SECTION. 220.140 RESIDENTIAL REVERSE ANNUITY MORTGAGE MODEL PROGRAM.

The authority shall develop a model reverse annuity mortgage conforming to the requirements of this chapter, and shall offer reverse annuity mortgages to qualified participants.

Sec. 11. The Iowa finance authority is authorized to issue bonds for the residential reverse annuity mortgage model program established in section 220.140, to be repaid from the proceeds of the program.

Approved May 31, 1989

CHAPTER 268

STATE INDIVIDUAL INCOME TAX

S.F. 537

AN ACT relating to the indexing of the standard deduction for income tax purposes, providing an earned income tax credit, relating to state individual income tax by giving capital gain deduction treatment to limited amounts of capital gain, and providing certain applicability dates.

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

Section 1. Section 422.4, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 18. a. "Annual standard deduction 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, 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 standard deduction 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 second quarter of the calendar year by the bureau of economic analysis of the United States department of commerce and shall add one-half of that percent change to one hundred percent. The annual standard deduction factor and the cumulative standard deduction factor shall each be expressed as a percentage rounded to the nearest one-tenth of one percent. The annual standard deduction factor shall not be less than one hundred percent.

b. "Cumulative standard deduction factor" means the product of the annual standard deduction factor for the 1989 calendar year and all annual standard deduction factors for subsequent calendar years as determined pursuant to this subsection. The cumulative standard deduction factor applies to all tax years beginning on or after January 1 of the calendar year for which the latest annual standard deduction factor has been determined.

c. The annual standard deduction factor for the 1989 calendar year is one hundred percent.

Sec. 2. Section 422.5, subsection 1, paragraph k, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The state alternative minimum taxable income of a taxpayer is equal to the taxpayer's state taxable income, as computed with the deductions in section 422.9, ~~except for the net capital gain deduction,~~ with the following adjustments:

Sec. 3. Section 422.5, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. In the case of income derived from the sale or exchange of livestock which qualifies under section 451(e) of the Internal Revenue Code because of drought, the

taxpayer may elect to include the income in the taxpayer's net income in the tax year following the year of the sale or exchange in accordance with rules prescribed by the director.

Sec. 4. Section 422.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 19. Subtract forty-five percent of the net capital gain from the following:

a. Net capital gain from the sale of real property used in a business, in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years, or from the sale of a business, as defined in section 422.42, in which the taxpayer was employed or in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years. The sale of a business means the sale of all or substantially all of the tangible personal property or service of the business.

b. Net capital gain from the sale of cattle or horses held by the taxpayer for breeding, draft, dairy, or sporting purposes for a period of twenty-four months or more from the date of acquisition; but only if the taxpayer received more than one-half of the taxpayer's gross income from farming or ranching operations during the tax year.

c. Net capital gain from the sale of breeding livestock, other than cattle or horses, if the livestock is held by the taxpayer for a period of twelve months or more from the date of acquisition; but only if the taxpayer received more than one-half of the taxpayer's gross income from farming or ranching operations during the tax year.

d. Net capital gain from the sale of timber as defined in section 631(a) of the Internal Revenue Code.

The net capital gain of paragraphs "a", "b", "c", and "d" together shall not exceed seventeen thousand five hundred dollars for the tax year. Married taxpayers who elect separate filing on a combined return for state tax purposes are treated as one taxpayer and the amount of net capital gain to be used to determine the total amount to be subtracted by them shall not exceed seventeen thousand five hundred dollars in the aggregate. Married taxpayers who file jointly or separately on a combined return shall prorate the seventeen thousand five hundred dollar limitation between them based on the ratio of each spouse's net capital gain to the total net capital gain of both spouses. In the case of married taxpayers filing separate returns, the amount of net capital gain to be used to determine the amount to be subtracted by each spouse shall not exceed eight thousand seven hundred fifty dollars.

Sec. 5. Section 422.9, subsection 6, Code 1989, is amended by striking the subsection.

Sec. 6. NEW SECTION. 422.12B EARNED INCOME TAX CREDIT.

1. The taxes imposed under this division, less credits allowed under sections 422.10 through 422.12, shall be reduced by an earned income credit equal to five percent of the federal earned income credit received by the taxpayer under section 32(b) of the Internal Revenue Code. Any credit in excess of the tax liability is nonrefundable.

2. Married taxpayers electing to file separate returns or filing separately on a combined return may avail themselves of the earned income credit by allocating the earned income credit to each spouse in the proportion that each spouse's respective earned income bears to the total combined earned income. Taxpayers affected by the allocation provisions of section 422.8 shall be permitted a deduction for the credit only in the amount fairly and equitably allocable to Iowa under rules prescribed by the director.

Sec. 7. Section 422.21, unnumbered paragraph 4, Code 1989, is amended to read as follows:

The director shall determine for the 1989 and each subsequent calendar year the annual and cumulative inflation factors for each calendar 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 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 director shall determine for the 1990 calendar year and each subsequent calendar year the annual and cumulative standard deduction factors to be applied to tax years beginning on or after January 1 of that calendar year. The director shall compute the new dollar amounts of the standard deductions specified in section 422.9, subsection 1, by the latest cumulative standard deduction factor and round off the result to the nearest ten dollars. The annual and cumulative standard deduction factors determined by the director are not rules as defined in section 17A.2, subsection 7.

Sec. 8. Section 422.21, unnumbered paragraph 6, Code 1989, is amended by striking the unnumbered paragraph.

Sec. 9. Sections 1, 6, and 7 of this Act apply to tax years beginning on or after January 1, 1990.

Sec. 10. Sections 2, 3, 4, 5, and 8 of this Act apply to tax years beginning on or after January 1, 1990.

Approved May 31, 1989

CHAPTER 269

RESIDENTIAL CARE FACILITY CLASSIFICATION

H.F. 692

AN ACT requiring the department of inspections and appeals to develop a special classification of residential care facilities.

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

Section 1. Section 135C.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department shall establish a special classification within the residential care facility category in order to foster the development of residential care facilities which serve persons with mental retardation, chronic mental illness, or a developmental disability, as defined under section 225C.26, and which contain five or fewer residents. A facility within the special classification established pursuant to this subsection is exempt from the requirements of section 135.63. The department shall adopt rules which are consistent with rules previously developed for the waiver demonstration project pursuant to 1986 Iowa Acts, chapter 1246, section 206, and which include all of the following provisions.

a. A facility provider under the special classification must comply with rules adopted by the department for the special classification. However, a facility provider which has been accredited by the accreditation council for services to persons with mental retardation and other development disabilities shall be deemed to be in compliance with the rules adopted by the department.

b. A facility must be located in an area zoned for single or multiple-family housing and must be constructed in compliance with applicable local housing codes and the rules adopted for the special classification by the state fire marshal in accordance with the concept of the least restrictive environment for the facility residents and the applicable sections of chapter twenty-one of the national fire protection association life safety code of 1988.

c. Facility provider plans for the facility's accessibility to residents must be in place.

d. A written plan must be in place which documents that a facility meets the needs of the facility's residents pursuant to individual program plans developed according to age appropriate and least restrictive program requirements.

e. A written plan must be in place which documents that a facility's residents have reasonable access to employment or employment-related training, education, generic community resources, and integrated opportunities to promote interaction with the community.

f. A committee of not more than nine members must be established to provide monitoring of the special classification and the rules and procedures adopted regarding the special classification. The recommendations of the committee are subject to the approval of the director. The committee shall include but is not limited to representatives designated by each of the following:

(1) The association for retarded citizens of Iowa.
(2) The Iowa association of rehabilitation and residential facilities.
(3) The governor's planning council for developmental disabilities.
(4) The mental health and mental retardation commission.
(5) The alliance for the mentally ill of Iowa.
(6) The Iowa state association of counties.
(7) The state fire marshal.

g. The facilities licensed under this subsection shall be eligible for funding utilized by other licensed residential care facilities for the mentally retarded, or licensed residential care facilities for the mentally ill, including but not limited to funding under or from the federal social services block grant, the state supplementary assistance program, state mental health and mental retardation services funds, and county funding provisions.

Approved May 31, 1989

CHAPTER 270

JOB TRAINING FUNDS

H.F. 706

AN ACT relating to the use of federal and state funding sources to finance job training through vocational education.

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

Section 1. Section 15.251, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

15.251 COORDINATION WITH VOCATIONAL EDUCATION.

1. Under the terms of section 123 of the Job Training Partnership Act of 1982, Pub. L. No. 97-300, the department and the department of education shall enter into a cooperative agreement as a condition to providing funds under that section.

2. The department may charge, within thirty days following the sale of certificates under chapter 280B, the board of directors of the merged area a fee of up to one percent of the gross sale amount of the certificates issued. The amount of this fee shall be deposited into the jobs now account within the Iowa plan fund for economic development created in section 99E.10 and may be used by the department to cover the costs of management of chapter 280B and to support other efforts by the merged area schools related to providing productivity and quality enhancement training. Funds deposited under this subsection into the jobs now account during a fiscal year which are not expended by the department in that fiscal year are available for use by the department under this subsection for subsequent fiscal years.

3. In order to finance the equipment purchases needed by the merged area schools to support the activities, the merged area schools may use a portion of their share of the equipment funds appropriated to them under section 99E.31, subsection 5, paragraph "c", or section 99E.32, subsection 5, paragraph "a".

Sec. 2. Section 15.252, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

15.252 RULES.

The department shall adopt rules pursuant to chapter 17A to implement this part.

Sec. 3. Sections 15.253 through 15.257, Code 1989, are repealed.

Approved May 31, 1989

CHAPTER 271

REAL PROPERTY TRANSFER TAX EXEMPTION

H.F. 765

AN ACT exempting certain deeds transferring real estate from declarations of value and the tax on transfers.

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

Section 1. Section 428A.1, unnumbered paragraph 2, Code 1989, is amended to read as follows:

When each deed, instrument, or writing by which any real property in this state is granted, assigned, transferred, or otherwise conveyed is presented for recording to the county recorder, a declaration of value signed by at least one of the sellers or one of the buyers or their agents shall be submitted to the county recorder. A declaration of value is not required for those instruments described in section 428A.2, subsections 2 to 5, 7 to 13, and 16 to ~~19~~ 20, or described in section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, or if a transfer is the result of acquisition of lands, whether by contract or condemnation, for public purposes through an exercise of the power of eminent domain. The declaration of value shall state the full consideration paid for the real property transferred. If agricultural land, as defined in section 172C.1, is purchased by a corporation, limited partnership, trust, alien or nonresident alien, the declaration of value shall include the name and address of the buyer, the name and address of the seller, a legal description of the agricultural land, and identify the buyer as a corporation, limited partnership, trust, alien, or nonresident alien. The county recorder shall not record the declaration of value, but shall enter on the declaration of value information the director of revenue and finance requires for the production of the sales/assessment ratio study and transmit all declarations of value to the city or county assessor in whose jurisdiction the property is located. The city or county assessor shall enter on the declaration of value the information the director of revenue and finance requires for the production of the sales/assessment ratio study and transmit one copy of each declaration of value to the director of revenue and finance, at times as directed by the director of revenue and finance. The assessor shall retain one copy of each declaration of value for three years from December 31 of the year in which the transfer of realty for which the declaration was filed took place. The director of revenue and finance shall, upon receipt of the information required to be filed under this chapter by the city or county assessor, send to the office of the secretary of state that part of the declaration of value which identifies a corporation, limited partnership, trust, alien, or nonresident alien as a purchaser of agricultural land as defined in section 172C.1.

Sec. 2. Section 428A.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 20. Deeds transferring distributions of assets to heirs at law or devisees under a will.

Approved May 31, 1989

CHAPTER 272

WASTE MANAGEMENT AND RECYCLING

H.F. 753

AN ACT relating to the establishment of a waste volume reduction and recycling network, prohibiting the disposal of certain products at sanitary landfills, promoting the use of certain recyclable products and certain recycling or reprocessing equipment, prohibiting the use of certain other products, requiring city or county solid waste management programs and plans, establishing fees and taxes, providing for appropriation and expenditure of the fee receipts and certain other moneys, providing penalties, providing an effective date, and providing for other properly related matters.

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

Section 1. NEW SECTION. 455D.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Commission" means the environmental protection commission.

2. "Department" means the department of natural resources created pursuant to section 455A.2.

3. "Deposit" means the amount paid by the consumer to the retailer at the time of initial purchase that is intended to encourage the return of materials or containers and which is returned in full to the consumer when the used material or container is redeemed.

4. "Director" means the director of the department.

5. "Rebate" means the portion of the amount paid by the consumer to the retailer at the time of initial purchase that is returned to the consumer when the used material or container is returned for disposal.

6. "Recycling" means any process by which waste, or materials which would otherwise become waste, are collected, separated, or processed and revised or returned to use in the form of raw materials or products. "Recycling" includes but is not limited to the composting of yard waste which has been previously separated from other waste, but does not include any form of energy recovery.

7. "Waste abatement fee" means the amount paid by the consumer to the retailer at the time of initial purchase of a product that is intended to support the cost of proper disposal.

8. "Waste reduction" means practices which reduce, avoid, or eliminate both the generation of solid waste and the use of toxic materials so as to reduce risks to health and the environment and to avoid, reduce, or eliminate the generation of wastes or environmental pollution at the source and not merely achieved by shifting a waste output or waste stream from one environmental medium to another environmental medium.

Sec. 2. NEW SECTION. 455D.2 FINDINGS.

The general assembly finds that:

1. Iowa's environment is precious and no person has the right to pollute Iowa's air, water, or soil. The environment is vulnerable and irreplaceable, and all Iowans have an ongoing responsibility to conserve, preserve, and enhance the state's natural resources to guarantee their continued existence and use by the present and future generations.

2. The land itself is the source of Iowa's livelihood not only for the purposes of an agricultural economy, but for the establishment of manufacturing plants, business offices, and residences. While zoning establishes restrictions on the use of land for social order, a similar system has not been established to maintain environmental order below the ground. Protection of the environment includes not only visible but invisible threats as well.

3. The rapidly rising volume of waste deposited by society threatens the capacity of existing and future landfills. The nature of waste disposal today means that unknown quantities of potentially toxic and hazardous materials are being buried and pose a constant threat to the groundwater supply. In addition, the nature of the waste and disposal methods utilized allow the waste to remain basically inert for decades, if not centuries, without decomposition.

4. Wastes filling Iowa's landfills may, at best, represent a potential resource. However, without proper management, wastes are hazards to the environment and life itself.

5. The reduction of solid waste at the source and the recycling of reusable waste materials will reduce the flow of waste to sanitary landfills and increase the supply of reusable materials for the use of the public.

Sec. 3. NEW SECTION. 455D.3 GOAL.

The goal of the state is to reduce the amount of materials in the waste stream, existing as of July 1, 1988, twenty-five percent by July 1, 1994, and fifty percent by July 1, 2000, through the practice of waste volume reduction at the source and through recycling. For the purposes of this section, "waste stream" means the disposal of solid waste as "solid waste" is defined in section 455B.301. In determination of the reduction level of the waste stream, it shall be considered that each person currently generates three and one-half pounds of waste per day, and that this amount shall be reduced by the percentages indicated in order to preserve the health and safety of all Iowans.

Sec. 4. NEW SECTION. 455D.4 WASTE VOLUME REDUCTION POLICIES.

1. It is the policy of this state to encourage the development of waste volume reduction programs and education at the local government level through incentives, technical assistance, grants, and other practical measures.

2. It is the policy of this state to support and encourage the development of new uses and markets for recycled goods, placing emphasis on the development, in Iowa, of businesses relating to waste reduction and recycling.

3. The provision of education concerning waste volume reduction at the elementary through high school levels and through community organizations will enhance the success of local programs requiring public involvement.

4. This state supports and encourages manufacturing methods which are environmentally sustainable, technologically safe, and ecologically sound. The state shall encourage manufacturing methods which enhance waste reduction by creating products with longer usage life, and by creating products which are adaptable to secondary uses, require less input material, and decrease resource consumption.

5. The people of this state recognize that a variety of benefits result from a comprehensive waste reduction policy including the following environmental, economic, governmental, and public benefits:

a. Not producing waste in the first instance is the most certain means for avoiding the widely recognized health and environmental damage associated with waste. Although waste reduction will never eliminate all wastes, to the extent that waste reduction is achieved it results in the most certain form of direct risk reduction.

b. Waste reduction may result in reduced pollution control costs for industry by stimulating and promoting beneficial technological and management reorganization within industry in place of pollution control strategies which channel capital into nonproductive pollution control expenditures.

c. The government is better able to administer programs which offer a variety of benefits to industry and which reduce the overall cost of government involvement than it is to administer programs which offer few benefits to industry and require increasingly extensive, complex, and costly governmental actions.

d. Public confidence in environmental policies of the government is important for the effectiveness of these policies. Waste reduction poses no adverse environmental and public health effects and does not, therefore, lead to increased public concern. Waste reduction also increases the public confidence that the government and industry are doing all that is possible to protect human health and the environment.

Sec. 5. NEW SECTION. 455D.5 STATEWIDE WASTE REDUCTION AND RECYCLING NETWORK — ESTABLISHED.

1. The department shall establish a statewide waste reduction and recycling network to promote the waste management policy contained in section 455B.481 and the waste management hierarchy contained in section 455B.301A. Programs established shall encourage waste

generators to reduce the volume of waste generated and to recycle or properly dispose of the waste that is generated. The network shall utilize existing recycling companies when possible. The programs may utilize financial and legal incentives, education, technical assistance, regulation, and other methods as appropriate to implement the programs. The programs may involve the development of public and private sector initiatives, the development of markets and other opportunities for waste reduction and recycling, and other related efforts.

2. The elements of the network shall include but are not limited to all of the following:

a. Promotion of efforts to increase the amount of recyclable materials used by the public.

b. Promotion of efforts to recover recyclable materials from the waste stream.

c. Promotion of local efforts to implement recycling collection centers located at disposal sites or other convenient local sites.

d. Promotion of local efforts of curbside collection of separated recyclable waste materials.

e. Provision of public education programs which promote public awareness of waste volume reduction and the use of recyclable materials.

f. Promotion of the creation of markets for recyclable materials.

g. Promotion of research, manufacturing processes, and product development, which provide for waste reduction through decreased material input, and resource consumption.

h. Promotion of the concentration of the efforts of the business and industry resource search service by the small business assistance center for the safe and economic management of solid waste and hazardous substances at the university of northern Iowa, to locate existing waste streams and materials from businesses and industries which generate small amounts of waste and to catalyze the reuse of these materials in the production of goods and services.

3. The department, in cooperation with businesses involved in the manufacturing and use of polystyrene packaging products or food service items, shall establish and implement a recycling demonstration project utilizing these items by July 1, 1991. The department shall submit a report of the results of the project to the general assembly by January 1, 1992.

Sec. 6. NEW SECTION. 455D.6 DUTIES OF THE DIRECTOR.

The director shall:

1. Unless otherwise specified in this chapter, recommend rules to the commission which are necessary to implement this chapter. Initial recommendations shall be made to the commission no later than July 1, 1991.

2. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for deposit in the waste reduction and recycling trust fund to be used for programs relating to the duties of the department under this chapter.

3. Administer and coordinate the waste volume reduction and recycling fund created under section 455D.15.

4. Enter into contracts and agreements, with the approval of the commission, for contracts in excess of twenty-five thousand dollars, with local units of government, other state agencies, governments of other states, governmental agencies of the United States, other public and private contractors, and other persons as may be necessary or beneficial in carrying out the department's duties under this chapter.

5. Submit a report to the general assembly on or before July 1, 1990, that characterizes the solid waste stream in Iowa and that contains a strategy for managing each major component of the waste stream. The strategy shall describe the actions necessary to assure that each segment of the waste stream is managed according to the highest appropriate priority of the waste management hierarchy.

6. Develop a strategy and recommend to the commission the adoption of rules necessary to implement a strategy for white goods and waste oil by January 1, 1990.

7. Provide financial assistance through expenditure of the waste volume reduction and recycling fund to public and private entities to promote and enable the development and implementation of markets and industries in Iowa that will support and complement the state's waste reduction and recycling programs.

8. Study the technology available for the reclamation and recycling of refrigerant, including the findings of nationwide industry surveys, and make recommendations concerning whether or not all persons providing refrigerator or air conditioner repair services should own or have access to refrigerant reclamation or recycling machinery.

9. Identify products made from recycled or recovered materials and provide a list of these products to the department of general services and to all other state agencies to assist in the development and review of procurement specifications. The director shall also develop, in cooperation with the director of the department of general services, a program to promote the procurement of listed products and seek information from state agencies using products containing recycled or recovered materials to evaluate their performance. The program shall also provide that the director seek information from suppliers regarding product performance and recovered material content of products offered for sale. Based on the above evaluation, and information regarding the recyclability of the components of products and their longevity, and, where applicable, the energy efficiency of such products, the department shall publish information on recommended products for procurement. This information shall be provided to all state agencies as well as city and county purchasing agencies.

Sec. 7. NEW SECTION. 455D.7 DUTIES OF THE COMMISSION.

The commission shall:

1. Unless otherwise specified in this chapter, adopt rules necessary to implement this chapter pursuant to chapter 17A. Initial rules shall be adopted no later than April 1, 1992.

2. Prohibit land disposal of specific components of the waste stream for which the department has developed and implemented a strategy for alternative disposal according to the waste management hierarchy.

3. Establish by rule standards for the acceptance of recyclable or rebatable products at redemption centers. The standards may address matters of public health and handling by the redemption center.

4. Recommend to the general assembly, annually, the imposition of waste abatement fees, rebates, and deposits.

Sec. 8. NEW SECTION. 455D.8 DEPOSITS, REBATES, AND WASTE ABATEMENT FEES.

The commission shall recommend to the general assembly, annually, deposits, rebates, and waste abatement fees on elements of the waste stream when necessary to encourage waste reduction, and the recycling and recovery of useful components of that waste stream element, or to encourage proper management and disposal of components that cannot be recycled or recovered. In making these recommendations, the commission shall not recommend the imposition of a deposit, rebate, or waste abatement fee on an element that is being properly managed through a market-driven or publicly supported recycling, recovery, or source separation program. The commission shall recommend to the general assembly that a deposit, rebate, or waste abatement fee is removed from an element of the waste stream when the commission determines that market forces will ensure that the element is recycled, recovered, or properly managed and disposed.

Sec. 9. NEW SECTION. 455D.9 LAND DISPOSAL OF YARD WASTE — PROHIBITED.

1. Beginning January 1, 1991, land disposal of yard waste as defined by the department is prohibited. However, yard waste which has been separated at its source from other solid waste may be accepted by a sanitary landfill for the purposes of soil conditioning or composting.

2. The department shall assist local communities in the development of collection systems for yard waste generated from residences and shall assist in the establishment of local composting facilities. By July 1, 1990, each city and county shall, by ordinance, require persons within the city or county to separate yard waste from other solid waste generated. Municipalities which provide a collection system for solid waste shall provide for a collection system for yard waste which is not composted.

3. The department shall develop rules which define yard waste and provide for the safe and proper method of composting.

4. State and local agencies responsible for the maintenance of public lands in the state shall give preference to the use of composted materials in all land maintenance activities.

5. This section does not prohibit the use of yard waste as land cover or as soil conditioning material.

6. This section prohibits the incineration of yard waste at a sanitary disposal project.

Sec. 10. NEW SECTION. 455D.10 LAND DISPOSAL OF LEAD ACID BATTERIES — PROHIBITED — COLLECTION FOR RECYCLING.

1. Beginning July 1, 1990, land disposal of lead acid batteries is prohibited.

2. A person offering for sale or selling lead acid batteries at retail in the state shall do all of the following:

a. Accept used lead acid batteries from customers who purchase new lead acid batteries, at the point of sale.

b. Post written notice that land disposal of lead acid batteries is prohibited and that state law requires the retailer to accept lead acid batteries for recycling when new lead acid batteries are purchased.

3. A person offering for sale or selling lead acid batteries at wholesale shall accept used lead acid batteries from retailers who purchase new lead acid batteries for resale to consumers, or from wholesale customers.

Sec. 11. NEW SECTION. 455D.11 WASTE TIRES — LAND DISPOSAL PROHIBITED — FEE REQUIRED.

1. As used in this section, unless the context otherwise requires:

a. "Permit" means a permit issued by the department to establish, construct, modify, own, or operate a tire stockpiling facility.

b. "Processing" means producing or manufacturing usable materials from waste tires.

c. "Processing site" means a site which is used for the processing of waste tires and which is owned or operated by a tire processor who has a permit for the site.

d. "Tire collector" means a person who owns or operates a site used for the storage, collection, or deposit of more than fifty waste tires.

e. "Tire processor" means a person engaged in the processing of waste tires.

f. "Waste tire" means a tire that is no longer suitable for its originally intended purpose due to wear, damage, or defect.

g. "Waste tire collection site" means a site which is used for the storage, collection, or deposit of waste tires.

*2. *Beginning January 1, 1990, at the time a vehicle is subject to registration pursuant to chapter 321 or 326, except for official vehicles, the owner shall pay an environmental assessment fee of one dollar. Payment of the environmental assessment fee shall be made in addition to any other fees, to the county treasurer. The county treasurer shall remit the environmental assessment fees to the treasurer of state and a monthly report to the department of revenue and finance. The state treasurer shall deposit the environmental assessment fees remitted in the road use tax fund. The director of the state department of transportation, through the distributed teleprocessing network, shall provide assistance to each county treasurer in the collection, receipt, accounting, and reporting of the environmental assessment fees.*

3. Notwithstanding section 423.24, there is transferred to the waste volume reduction and recycling fund from revenues collected under chapter 423, during each month beginning on or after January 1, 1990, from the use tax imposed on motor vehicles, trailers, and motor vehicle accessories and equipment under section 423.7, the amount deposited into the road use tax fund under subsection 2 during the same month. One-half of the funds deposited in the waste volume reduction and recycling fund during each quarter beginning January 1, 1990, shall be allocated to each county based on the amount of the registration fees collected pursuant to this subsection and reported to the department of revenue and finance by that county. The allocation shall be deposited in the county's general fund to be used for waste

*Item veto; see message at end of the Act

volume reduction and recycling projects which projects may be done in cooperation with the efforts of other local units of government. The use of the moneys by the county for these projects may demonstrate an intent to comply with the requirements of section 455B.306 which would enable the county to be eligible for grants from the waste volume reduction and recycling fund under section 455D.15. In order for the county to ensure that the department will be aware of these projects, the county shall file an annual report with the department delineating the uses for which the moneys retained from the environmental assessment fee were spent.

*4. The department of revenue and finance shall prescribe the type and form of records required for the reporting of fees and shall prescribe the manner and means of payment of the fees imposed.**

5. Land disposal of waste tires is prohibited beginning July 1, 1991, unless the tire has been processed in a manner established by the department. A sanitary landfill shall not refuse to accept a waste tire which has been properly processed.

6. The department shall conduct a study and make recommendations to the general assembly by January 1, 1991, concerning a waste tire abatement program which includes but is not limited to the following:

a. The number and geographic distribution of waste tires generated and existing in the state.

b. The development of markets for the recycling and processing of waste tires, in the midwestern states.

c. The methods to establish reliable sources of waste tires for users of waste tires.

d. The permitting of waste tire collection sites, waste tire processing facilities, and waste tire haulers.

e. The methods for the cleanup of existing stockpiles of waste tires.

7. Upon completion of the study pursuant to subsection 6, the department shall determine the number of stockpiling facilities which are necessary and shall develop rules for stockpiling facilities which include but are not limited to the following:

a. The prohibition of burning within one hundred yards of a tire stockpile.

b. The maximum height, width, and length of a tire stockpile.

c. Plans to control mosquitos and rodents.

d. A facility closure plan.

e. Specifications for fire lanes between stockpiles.

f. Limitations of the total number of tires allowed at a single stockpile site.

8. The department shall develop criteria for the issuance of permits and shall issue permits to qualified stockpiling facilities.

9. The department shall provide financial assistance to persons who establish recycling and processing sites for waste tires, subject to the rules established by the department for the establishment of such sites and subject to the conditions prescribed by the department for application for and awarding of such financial assistance.

10. Financial assistance shall not be awarded for incineration facilities.

Sec. 12. NEW SECTION. 455D.12 PLASTIC CONTAINER LABELING.

1. In this section unless the context otherwise requires:

a. "Label" means a molded imprint or raised symbol on or near the bottom of a plastic product.

b. "Plastic" means any material made of polymeric organic compounds and additives that can be shaped by flow.

c. "Plastic bottle" means a plastic container that has a neck that is smaller than the body of the container, accepts a screw-type, snap cap, or other closure, and has a capacity of sixteen fluid ounces or more, but less than five gallons.

d. "Rigid plastic container" means any formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin, and having a relatively inflexible infinite shape or form with a capacity of eight ounces or more, but less than five gallons.

2. Beginning July 1, 1992, a person shall not distribute, sell, or offer for sale in this state a plastic bottle or rigid plastic container unless the product is labeled with a code indicating the plastic resin used to produce the bottle or container. Rigid plastic bottles or rigid plastic containers with labels and basecups of a different material shall be coded by their basic

*Item veto; see message at end of the Act

material. The code shall consist of a number placed within a triangle of arrows and letters placed below the triangle of arrows. The triangle shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints, shall depict a clockwise path around the code number. The numbers and letters used shall be as follows:

a. 1. -PETE (polyethylene terephthalate)

b. 2. -HDPE (high density polyethylene)

c. 3. -V (vinyl)

d. 4. -LDPE (low density polyethylene)

e. 5. -PP (polypropylene)

f. 6. -PS (polystyrene)

g. 7. -OTHER (includes multi-layer)

3. The department shall maintain a list of the label codes provided in subsection 2 and shall provide a copy of that list to any person upon request.

4. A container manufacturer or distributor who violates this section is subject to a civil penalty of not more than five hundred dollars for each violation.

Sec. 13. NEW SECTION. 455D.13 LAND DISPOSAL OF WASTE OIL PROHIBITED — COLLECTION.

1. A sanitary landfill shall not accept waste oil for final disposal beginning July 1, 1990.

2. A person offering for sale or selling oil at retail in the state shall do the following:

a. Accept at the point of sale, waste oil from customers, or post notice of locations where a customer may dispose of waste oil.

b. Post written notice that it is unlawful to dispose of waste oil in a sanitary landfill.

Sec. 14. NEW SECTION. 455D.14 PRODUCTS MANUFACTURED WITH CHLOROFLUOROCARBONS PROHIBITED.

Beginning January 1, 1990, a person shall not sell, offer for sale, purchase, or use plastic foam packaging products or food service items manufactured with chlorofluorocarbons. Beginning January 1, 1998, a person shall not sell, offer for sale, purchase, or use plastic foam products, not previously prohibited, which are manufactured with fully halogenated chlorofluorocarbons. A person violating this section is guilty of a serious misdemeanor.

Sec. 15. NEW SECTION. 455D.15 WASTE VOLUME REDUCTION AND RECYCLING FUND.

1. A waste volume reduction and recycling fund is created within the state treasury. Moneys received by the authority from fees, including general revenue, federal funds, awards, wills, bequests, gifts, or other moneys designated shall be deposited in the state treasury to the credit of the fund. Notwithstanding section 8.33, any unexpended balance in the fund at the end of each fiscal year shall be retained in the fund. Any interest and earnings on investments from money in the fund shall be credited to the fund, section 453.7 notwithstanding.

2. The department shall award grants based upon the solid waste management hierarchy set forth in section 455B.301A, subsection 1. A grant shall not be awarded to a county, city, or central planning agency which has not complied with the requirements of a comprehensive solid waste management program and which has not complied with or demonstrated an intent to comply with the requirements of section 455B.306.

3. The fund shall be utilized for the following purposes:

a. The initial thirty-five thousand dollars collected for deposit in the fund shall be appropriated to the department for establishment of the pollution hotline program established pursuant to section 455B.116, and for the salary and support of not more than one full-time equivalent position.

b. To provide financial assistance to public and private entities to develop and implement waste reduction and minimization programs for Iowa industries.

c. To provide financial assistance to public and private entities and to develop and implement programs to create and enhance markets for recyclable and other waste products.

d. To develop and implement educational and technical assistance programs that support and encourage waste reduction and recycling efforts by Iowans.

e. To administer the provisions of chapter 455B, division IV, part 1.

f. The department may utilize up to ten percent of the fund to administer the provisions of chapter 455D.

g. To provide grants to local communities or private individuals for projects which establish recycling collection centers, establish local curbside collection of separated recyclable waste materials, promote public awareness regarding waste volume reduction and the use of recyclable materials, and create markets for recyclable materials. Grants shall not be awarded for incineration.

h. To provide technical assistance to local communities in establishing collection systems and composting facilities for yard waste.

i. To fund the study required pursuant to section 455D.11, subsection 6, and to provide loans and grants for waste tire recycling and reprocessing projects.

j. To carry out the functions of the department of natural resources concerning recycling.

k. To promote the recycling of chlorofluorocarbons used as refrigerant.

Sec. 16. NEW SECTION. 455D.16 PACKAGING PRODUCTS — RECYCLING — PROHIBITION OF POLYSTYRENE PRODUCTS.

The department, in cooperation with businesses involved in the manufacturing and use of packaging products or food service items, shall establish a recycling program to increase the recycling of packaging products or food service items by twenty-five percent by January 1, 1992, and by fifty percent by January 1, 1993. If the recycling goals are not reached, beginning January 1, 1994, a person shall not manufacture, offer for sale, sell, or use any polystyrene packing products or food service items in this state.

Sec. 17. NEW SECTION. 455D.17 PLASTIC BAG AND PACKAGE LABELING.

1. Effective July 1, 1992, a person shall not sell or offer for sale a disposable plastic bag or packaging material that does not comply with the labeling requirements of this section.

2. The commission shall adopt rules to establish the labeling requirements for disposable plastic bags and packaging materials. The labeling shall be designed to inform consumers and users of the products about the degradability of the bag or packaging material.

Sec. 18. NEW SECTION. 455D.18 NONDEGRADABLE GROCERY BAGS AND TRASH BAGS.

Effective July 1, 1992, a person shall not land dispose of nondegradable plastic grocery bags or trash bags in this state unless the department determines that degradable plastic bags pose an environmental hazard.

Sec. 19. Section 18.6, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 11. The director shall adopt rules which require that each bid received for the purchase of items purchased by the department includes a product content statement which provides the percentage of the content of the item which is reclaimed material.

NEW SUBSECTION. 12. The director shall require that as a condition of a contract for the purchase of items by the department, the person submitting the proposed contract for purchase of items shall receive information regarding the availability of an on-site, nonregulatory, review of waste management of the facility of the person submitting the proposed contract by the small business assistance center for the safe and economic management of solid waste and hazardous substances at the university of northern Iowa.

NEW SUBSECTION. 13. The director shall review and, where necessary, revise specifications used by state agencies to procure products including but not limited to lubricating oils,

retread tires, building insulation materials, and recovered materials from waste tires to ensure that the specifications allow the procurement of items containing recovered materials. Specifications shall be revised if they restrict the use of alternative materials, exclude recovered materials, or require performance standards which exclude items containing recovered materials unless the agency seeking the item can document that the use of recovered materials will hamper the intended use of the item.

Sec. 20. Section 18.18, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. a. As used in this subsection, unless the context otherwise requires:

(1) "Recycled paper" means a paper product with not less than forty percent of its total weight consisting of postconsumer material and recovered paper material. At least ten percent of the total weight of recycled paper shall be postconsumer materials.

(2) "Postconsumer material" means only those products generated by a business or consumer which have served their intended end uses, and which have been separated or diverted from solid waste for the purposes of collection, recycling, and disposition.

(3) "Recovered paper material" means paper waste generated after the completion of the papermaking process, such as postconsumer material, envelope cuttings, bindery trimmings, printing waste, cutting and other converting waste, butt rolls and mill wrappers, obsolete inventories, and rejected unused stock. "Recovered paper material" does not mean fibrous waste generated during the manufacturing process such as fibers recovered from waste water, or trimmings of paper machine rolls; or fibrous by-products of harvesting, extractive, or wood-cutting processes; or forest residue such as bark.

b. The department, in conjunction with recommendations made by the department of natural resources, shall purchase and use recycled printing and writing paper so that twenty-five percent by January 1, 1990, fifty percent by January 1, 1992, seventy-five percent by January 1, 1996, and ninety percent by January 1, 2000, of the volume of printing and writing paper purchased is recycled paper.

Sec. 21. NEW SECTION. 18.20 WASTEPAPER RECYCLING PROGRAM.

The department in accordance with recommendations made by the department of natural resources shall require all state agencies to establish an agency wastepaper recycling program by January 1, 1990. The director shall adopt rules which require a state agency to develop a program to ensure the recycling of the wastepaper generated by the agency. Each agency shall submit a report to the general assembly meeting in January 1990, which includes a description of the program plan and the agency's efforts to use recycled products. All state employees shall practice conservation of paper materials.

For the purposes of this section, "agency waste paper" means wastepaper or wastepaper products generated by the agency.

The rules adopted by the director shall provide for the continuation of existing state agency contracts which provide for alternative waste management not including incineration or land burial of agency waste paper.

Sec. 22. NEW SECTION. 18.21 CERTAIN POLYSTYRENE PRODUCTS — RECYCLING — PROHIBITION.

The department of general services shall comply with the recycling goal, recycling schedule, and ultimate termination, of the purchase and use of polystyrene products for the purpose of storing, packaging, or serving food for immediate consumption pursuant to section 455D.16.

Sec. 23. Section 262.9, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. In conjunction with the recommendations made by the department of natural resources, purchase and use recycled printing and writing paper, with the exception of specialized paper when no recyclable product is available, in accordance with the schedule established in section 18.18; establish a wastepaper recycling program by January 1, 1990, for

all institutions governed by the board in accordance with recommendations made by the department of natural resources and the requirements of section 18.20; comply with, and the institutions governed by the board shall also comply with the recycling goal, recycling schedule, and ultimate termination of purchase and use of polystyrene products for the purpose of storing, packaging, or serving food for immediate consumption pursuant to section 455D.16; and shall, in accordance with the requirements of section 18.6, require product content statements, the provision of information regarding on-site review of waste management in product bidding and contract procedures, and compliance with requirements regarding procurement specifications.

Sec. 24. Section 307.21, subsection 4, Code 1989, 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. The administrator shall also, in conjunction with recommendations made by the department of natural resources, purchase and use recycled printing and writing paper in accordance with the schedule established in section 18.18; shall establish a wastepaper recycling program by January 1, 1990, in accordance with recommendations made by the department of natural resources and the requirements of section 18.20; shall comply with the recycling goal, recycling schedule, and ultimate termination of purchase and use of polystyrene products for the purpose of storing, packaging, or serving food for immediate consumption pursuant to section 455D.16; and shall, in accordance with section 18.6, require product content statements, the provision of information regarding on-site review of waste management in product bidding and contract procedures, and compliance with requirements regarding procurement specifications.

**Sec. 25. Section 321.20, Code 1989, is amended by adding the following new subsection:*

NEW SUBSECTION. *6. The amount of the environmental assessment fee to be paid pursuant to section 455D.11.**

Sec. 26. Section 422.45, subsection 27, Code 1989, is amended to read as follows:

27. The gross receipts from the sale or rental, on or after July 1, 1987 or on or after July 1, 1985, in the case of an industry which has entered into an agreement under chapter 280B prior to the sale or lease, of industrial machinery, equipment and computers, including replacement parts which are depreciable for state and federal income tax purposes, if the following conditions are met:

a. The industrial machinery, equipment and computers shall be directly and primarily used in the manner described in section 428.20 in processing tangible personal property or in research and development of new products or processes of manufacturing, refining, purifying, combining of different materials or packing of meats to be used for the purpose of adding value to products, or in processing or storage of data or information by an insurance company, financial institution or commercial enterprise, or in the recycling or reprocessing of waste products. As used in this paragraph:

(1) "Insurance company" means an insurer organized or operating under chapters 508, 514, 515, 518, 519, 520 or authorized to do business in Iowa as an insurer and having fifty or more persons employed in this state excluding licensed insurance agents.

(2) "Financial institutions" means as defined in section 527.2, subsection 5.

(3) "Commercial enterprise" includes businesses and manufacturers conducted for profit and includes centers for data processing services to insurance companies, financial institutions, businesses and manufacturers but excludes professions and occupations and nonprofit organizations.

b. The industrial machinery, equipment and computers must be real property within the scope of section 427A.1, subsection 1, paragraphs "e" or "j", and must be subject to taxation as real property. This paragraph does not apply to machinery and equipment used in the recycling or reprocessing of waste products qualifying for an exemption under paragraph "a".

*Item veto; see message at end of the Act

However, the provisions of chapters 404 and 427B which result in the exemption from taxation of property for property tax purposes do not preclude the property from receiving this exemption if the property otherwise qualifies.

The gross receipts from the sale or rental of hand tools are not exempt. The gross receipts from the sale or rental of pollution control equipment qualifying under paragraph "a" shall be exempt.

The gross receipts from the sale or rental of industrial machinery, equipment, and computers, including pollution control equipment, within the scope of section 427A.1, subsection 1, paragraphs "h" and "i", shall not be exempt.

Sec. 27. NEW SECTION. 455B.116 POLLUTION HOTLINE PROGRAM.

The department shall establish a toll-free telephone number to allow citizens to report incidents resulting in pollution of the environment or damage to natural resources. The department shall receive and evaluate the reports and refer them to the appropriate state or local jurisdiction for initial investigation. The agency receiving a referral shall investigate the complaint, attempt to resolve the problem, and upon completion of the investigation, report to the department on the disposition of each complaint indicating how the problem was resolved.

The department shall use moneys appropriated to the waste volume reduction and recycling fund for the purpose of implementation of the program and shall use the moneys appropriated under section 455E.11 for the program to provide financial assistance to counties for investigation of complaints.

Sec. 28. Section 455B.302, Code 1989, is amended to read as follows:

455B.302 DUTY OF CITIES AND COUNTIES.

Every city and county of this state shall provide for the establishment and operation of a comprehensive solid waste reduction program consistent with the waste management hierarchy under section 455B.301A, and a sanitary disposal project for final disposal of solid waste by its residents ~~not later than July 1, 1975~~. ~~Sanitary~~ Comprehensive programs and sanitary disposal projects may be established either separately or through co-operative efforts for the joint use of the participating public agencies as provided by law.

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 implementation of waste management programs, 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. 29. Section 455B.304, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules for the certification of operators of solid waste incinerators. The criteria for certification shall include, but is not limited to, an operator's technical competency and operation and maintenance of solid waste incinerators.

Sec. 30. Section 455B.305, subsections 2 through 5, Code 1989, are amended to read as follows:

2. Beginning July 1, 1988, the director shall not issue a permit for the construction or operation of a new sanitary ~~landfill~~ disposal project unless the permit applicant, in conjunction with

all local governments using the sanitary disposal project, has filed a plan as required by section 455B.306. For those sections for which the department has not developed rules, the permit shall contain conditions and a schedule for meeting all applicable requirements of section 455B.306.

3. Beginning July 1, 1988, the director shall not renew or reissue a permit which had been initially issued prior to that date for a sanitary ~~landfill~~ disposal project, unless the permit applicant, in conjunction with all local governments using the sanitary disposal project, has filed a plan as required by section 455B.306. For those sections for which the department has not developed rules, the permit shall contain conditions and a schedule for meeting all applicable requirements of section 455B.306.

4. Beginning July 1, 1994, the director shall not renew or reissue a permit which had been initially issued or renewed prior to that date for a sanitary ~~landfill~~ disposal project, unless and until the permit applicant, in conjunction with all local governments using the sanitary disposal project, documents that steps are being taken to begin implementing the plan filed pursuant to section 455B.306. For those sections for which the department has not developed rules, the permit shall contain conditions and a schedule for meeting all applicable requirements of section 455B.306. However, a permit may be issued for the construction and operation of a new sanitary ~~landfill~~ disposal project in accordance with subsection 2.

5. Beginning July 1, 1997, the director shall not renew or reissue a permit which had been renewed or reissued prior to that date for a sanitary landfill, unless and until the permit applicant, in conjunction with all local governments using the landfill, documents that alternative methods of solid waste disposal other than use of a sanitary landfill have been implemented as set forth in the plan filed pursuant to section 455B.306. However, the director may issue a permit for the construction and operation of a new sanitary landfill in accordance with subsection 2 and a permit may be renewed or reissued for a sanitary landfill which had received an initial permit but the permit had not been previously renewed or reissued prior to July 1, 1997 in accordance with subsection 3.

After July 1, 1997, however, no new landfill permits shall be issued unless the applicant, in conjunction with all local governments which will use the landfill, certifies that the landfill is needed as a part of an alternative disposal method, or unless the applicant provides documentation which satisfies the director that alternatives have been studied and are not either technically or economically feasible. The decision of the director is subject to review by the commission at its next meeting.

Sec. 31. Section 455B.306, subsections 1 through 4, Code 1989, are amended to read as follows:

1. A city, county, and a private agency operating or planning to operate a sanitary disposal project shall file with the director a comprehensive plan detailing the method by which the city, county, or private agency will comply with this part 1. All cities and counties shall also file with the director a comprehensive plan detailing the method by which the city or county will comply with the requirements of section 455B.302 to establish and implement a comprehensive solid waste reduction program for its residents. For the purposes of this section, a public agency managing the waste stream for cities or counties pursuant to chapter 28E, shall file one comprehensive plan on behalf of its members, which constitutes full compliance by the public agency's members with the filing requirements of this section. The director shall review each comprehensive plan submitted and may reject, suggest modification, or approve the proposed plan. The director shall aid in the development of comprehensive plans for compliance with this part. The director shall make available to a city, county, and private agency appropriate forms for the submission of comprehensive plans and may hold hearings for the purpose of implementing this part. The director and governmental agencies with primary responsibility for the development and conservation of energy resources shall provide research and assistance, when cities and counties operating or planning to operate sanitary disposal projects request aid in planning and implementing resource recovery systems. A comprehensive plan filed by a private agency operating or planning to operate a sanitary disposal project

required pursuant to section 455B.302 shall be developed in cooperation and consultation with the city or county responsible to provide for the establishment and operation of a sanitary disposal project.

2. The plan required by subsection 1 for sanitary disposal projects shall be filed with the department at the time of initial application for the construction and operation of a sanitary disposal project and at a minimum shall be updated and refiled with the department at the time of each subsequent application for renewal or reissuance of a previously issued permit. The department may, consistent with rules of the commission, require filing or updating of a plan at other times.

3. A comprehensive plan filed pursuant to this section ~~in conjunction with an application for issuance, renewal, or reissuance of a permit for a sanitary disposal project~~ shall incorporate and reflect the waste management hierarchy of the state solid waste management policy and shall at a minimum address the following general topics ~~to the extent appropriate to the technology employed by the applicant at the sanitary disposal project~~:

a. The extent to whlich solid waste is or can be recycled.

b. The economic and technical feasibility of using other existing sanitary disposal project facilities in lieu of initiating or continuing the sanitary landfill ~~for which the permit is being sought~~ currently used.

c. The expected environmental impact of alternative solid waste disposal methods, including the use of sanitary landfills.

d. A specific plan and schedule for implementing technically and economically feasible solid waste disposal methods that will result in minimal environmental impact.

4. The comprehensive plan shall provide details of a local recycling program which shall contain a methodology for meeting the state volume reduction goal pursuant to section 455B.490A*, and a methodology for implementing a program of separation of wastes including but not limited to glass, plastic, paper, and metal.

4 5. In addition to the above requirements, the following specific areas must be addressed in detail in ~~the~~ a comprehensive plan filed in conjunction with the issuance, renewal, or reissuance of a permit for a sanitary disposal project:

Sec. 32. Section 455B.306, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. When a proposed plan is subject to review and approval by several state and local agencies, if the plan is substantially modified after approval by an agency, the plan shall be resubmitted as a new proposal to all other agencies to ensure that all agencies have approved the same plan.

Sec. 33. NEW SECTION. 455B.314 INCINERATION AT SANITARY DISPOSAL PROJECTS.

Beginning January 1, 1990, a sanitary disposal project that includes incineration as a part of its disposal process shall separate from the materials to be incinerated recyclable and reusable materials, materials which will result in uncontrolled toxic or hazardous air emissions when burned, and hazardous or toxic materials which are not rendered nonhazardous or nontoxic by incineration. The removed materials shall be recycled, reused, or treated and disposed in a manner approved by the department. Separation of waste includes magnetic separation.

Sec. 34. Section 455C.1, subsection 5, Code 1989, is amended to read as follows:

5. "Distributor" means any person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in such sales. ~~The alcoholic beverages division of the department of commerce is not a distributor for the purpose of this chapter.~~

Sec. 35. Section 455C.2, subsection 1, Code 1989, is amended to read as follows:

1. Except purchases of alcoholic liquor as defined in section 123.3, subsection 8, by holders of class "A", "B", and "C", ~~and "E"~~ liquor control licenses, a refund value of not less than five cents shall be paid by the consumer on each beverage container sold in this state by a dealer for consumption off the premises. Upon return of the empty beverage container upon which

*Section 455D.3 probably intended

a refund value has been paid to the dealer or person operating a redemption center and acceptance of the empty beverage container by the dealer or person operating a redemption center, the dealer or person operating a redemption center shall return the amount of the refund value to the consumer.

Sec. 36. Section 455C.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The alcoholic beverages division of the department of commerce shall enter into an agreement with a private entity to meet the division's obligations under subsection 2. The agreement shall include the acceptance and picking up of the division's empty beverage containers and payment of the refund value and reimbursement of the agreement does not result in a net cost to the state. The agreement shall provide that the refund paid by the dealers to the division shall be assigned and transferred to the private entity. Any surplus refund values retained by the dealer shall be remitted to the waste volume reduction and recycling fund.

Sec. 37. NEW SECTION. 455C.16 BEVERAGE CONTAINERS — DISPOSAL AT SANITARY LANDFILL PROHIBITED.

Beginning July 1, 1990, the final disposal of beverage containers by a dealer, distributor, or manufacturer, or person operating a redemption center, in a sanitary landfill, is prohibited.

Sec. 38. Section 455E.11, subsection 2, paragraph c, Code 1989, 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,~~ waste volume reduction and recycling fund to be used by the department to provide financial assistance to counties in investigation of complaints; 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.

Sec. 39. Section 601L.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. In conjunction with the recommendations made by the department of natural resources, purchase and use recycled printing and writing paper in accordance with the schedule established in section 18.18; establish a wastepaper recycling program, by January 1, 1990, in accordance with the recommendations made by the department of natural resources and requirements of section 18.20; comply with the recycling goal, recycling schedule, and ultimate termination of purchase and use of polystyrene products for the purpose of storing, packaging, or serving food for immediate consumption pursuant to section 455D.16; and, in accordance with section 18.6, require product content statements, the provision of information regarding on-site review of waste management in product bidding and contract procedures, and compliance with requirements regarding contract bidding.

Sec. 40. ALCOHOLIC BEVERAGE CONTROL – CONTAINER COLLECTION – RECOMMENDATIONS. The alcoholic beverages division of the department of commerce shall develop a plan for the collection of empty beverage containers which contained alcoholic liquor. The plan, including the fiscal impact of the implementation of the plan, shall be presented in a report to the general assembly by January 1, 1990.

Sec. 41. Section 455B.489, Code 1989, is repealed.

Sec. 42. Sections 34, 35, and 36 of this Act are effective July 1, 1990.

Sec. 43. STATE AGENCIES – CONFLICTING RULES. It is the intent of the general assembly that the department of natural resources make recommendations to state agencies regarding agency policies which conflict with the purposes of this Act. All state agencies shall review rules which govern the state agency, and, in accordance with recommendations made by the department of natural resources, and when possible, shall amend rules which conflict with the purposes of this Act.

Sec. 44. CODIFICATION. The Code editor shall codify sections 455D.1 through 455D.16,* as enacted in this Act, as a new chapter and entitle the chapter "Waste Volume Reduction and Recycling", unless the Code editor determines that another codification arrangement is preferable.

Approved May 31, 1989, except the items which I hereby disapprove and which are designated as section 11, subsections 2, 3, and 4 in their entirety; section 25 in its entirety; and section 11, subsection 10. 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*

*Section 455D.18 probably intended

Dear Madam Secretary:

I hereby transmit House File 753, an Act relating to the establishment of a waste volume reduction and recycling network, prohibiting the disposal of certain products at sanitary landfills, promoting the use of certain recyclable products and certain recycling or reprocessing equipment, prohibiting the use of certain other products, requiring city or county solid waste management programs and plans, establishing fees and taxes, providing for appropriation and expenditure of the fee receipts and certain other moneys, providing penalties, providing an effective date, and providing for other properly related matters.

House File 753 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 11, subsections 2, 3 and 4, in their entirety; and Section 25 in its entirety. This item in House File 753 imposes a $3 million per year tax on motor vehicles subject to registration in the state. Consistent with Chapter 423 of the Code of Iowa and Article VII, Section 8, the bill deposits those motor vehicle registration fees in the road use tax fund. However, this item in House File 753 then directs that the same fees be funneled into a waste volume reduction and recycling fund.

I cannot approve this substantial tax increase on Iowa motor vehicle operators. It is both unnecessary, inappropriate and very possibly an unconstitutional method of raising more state revenue.

First, without this tax increase, House File 753 will move Iowa to the forefront of the recycling and waste volume reduction efforts in the country. Solid waste handling is a critical problem throughout the country. Indeed, Iowa's problems are much less severe than those of this country's larger metropolitan areas where landfill space has largely been used up. Yet, Iowa cannot afford to face similar problems in the future and this bill ensures that we will not. It combines several of my priorities for the use of biodegradables, recycling and waste reduction with legislative priorities that will give our state national recognition for dealing with solid waste.

I am particularly pleased that this bill requires the use of degradable plastic bags in Iowa by 1992. We should set a similar goal for the exclusive use of degradable plastic foams by 1995.

However, House File 753 unnecessarily raises motor vehicle registration fees for a fund to be used by the state and local communities to fund solid waste projects. Iowa already has an existing $2.5 million landfill alternative fund, financed through landfill fees. This fund currently provides grants to local entities for waste handling or minimization purposes. Indeed, the Department of Natural Resources is currently planning to award a grant to a tire shredding operation that will have the capacity to shred more than one-half of the waste tires generated in Iowa each year. And the handling of waste tires is said to be one of the primary purposes for the proceeds of this increase in motor vehicle registration fees.

Moreover, I am convinced that if we need to put more funds into the waste reduction and recycling effort, we can do so without raising taxes. I have retained that fund in the bill for future funding consideration.

Finally, the Constitution of our state clearly requires that all motor vehicle registration fees be used for highway purposes. The laundering of these fees through the road use tax fund before they are dumped into this solid waste is not likely to be sufficient to meet constitutional muster.

I am unable to approve the item designated as Section 11, subsection 10, which states that financial assistance shall not be awarded for waste incineration facilities. Europe and Japan make considerable use of incineration in their waste reduction efforts. While the jury is still out on the practicality and cost-effectiveness of widespread use of waste incineration, we should not rule out this waste reduction option. With proper safeguards, an incineration facility that will produce energy may well be an appropriate method of waste disposal while reducing Iowa's dependence on imported energy.

For the above reasons, I hereby respectfully disapprove of these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 753 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 273

INSPECTIONS AND APPEALS DEPARTMENT ACTIVITIES IN RELATION TO THE TRANSPORTATION DEPARTMENT

H.F. 163

AN ACT relating to the duties of the department of inspections and appeals in the appeal and hearing processes of the state department of transportation.

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

Section 1. Section 321.211, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Upon suspending the license of ~~any~~ a person as authorized, the department shall immediately notify the licensee in writing and upon the licensee's request shall afford the licensee an opportunity for a hearing before the ~~director or the director's authorized agent~~ department of inspections and appeals as early as practical within ~~not to exceed~~ thirty days after receipt of the request. The hearing shall be held by telephone conference unless the licensee and the department of inspections and appeals agree to hold the hearing in the county in which the licensee resides ~~unless the department and the licensee agree that such hearing may be held~~ or in some other county. Upon ~~such~~ the hearing the ~~director or the director's authorized agent~~ department of inspections and appeals may administer oaths and ~~may~~ issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon ~~such~~ the hearing and issuance of a recommendation by the department of inspections and appeals, the state department of transportation shall either rescind its order of suspension or for good cause may extend the suspension of ~~such~~ the license or revoke ~~such~~ the license. This section does not preclude the director from attempting to effect an informal settlement under chapter 17A.

PARAGRAPH DIVIDED. There is appropriated each year from the road use tax fund to the department of transportation one hundred seven thousand dollars or ~~so~~ as much thereof as ~~may be~~ is necessary to be used to pay the cost of notice and personal delivery of service, ~~if~~ as necessary to meet the notice requirement of this section. The department shall ~~promulgate~~ adopt rules governing the payment of the cost of personal delivery of service. The reinstatement fees collected under section 321.191 shall be deposited in the road use tax fund in a manner provided in section 321.192, as reimbursement for the costs of notice under this section.

Sec. 2. Section 321E.19, Code 1989, is amended to read as follows:

321E.19 PERMIT SUSPENDED, CHANGED, OR REVOKED.

Upon complaint by local authorities or on the department's own initiative and after notice and hearing before one or more members of the permit issuing body in the case of local authorities or the department of inspections and appeals for permits issued by the state department of transportation, permit privileges under this chapter may be suspended, changed, or revoked in whole or in part by the issuing authority for willful failure to comply with ~~any provisions~~ a provision of this chapter, ~~or with any~~ a rule adopted under ~~authority of~~ this chapter, or ~~with any~~ a term, condition, or limitation of the permit.

Sec. 3. Section 322.9, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

The department may revoke or suspend the license of ~~any~~ a retail motor vehicle dealer if, after notice and hearing by the department of inspections and appeals, it finds that the licensee has been guilty of ~~any~~ an act which would ~~have been~~ be a ground for the denial of a license under section 322.6. ~~Witnesses shall receive the same compensation provided in section 622.69 and shall be compensated from funds appropriated to the department.~~

The department ~~is further authorized to~~ may revoke or suspend the license of ~~any~~ a retail motor vehicle dealer if, after notice and hearing by the department of inspections and appeals, it finds that ~~such~~ the licensee has been convicted or has forfeited bail on three charges of:

Sec. 4. Section 322.24, Code 1989, is amended to read as follows:

322.24 HEARING.

The ~~director of transportation shall have the power to~~ state department of transportation and the department of inspections and appeals may issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence ~~before the director~~ in any matter over which the ~~director~~ respective department has jurisdiction, control, or supervision pertaining to this chapter.

If ~~any~~ a person ~~shall refuse~~ refuses to obey ~~any such~~ a subpoena, ~~or~~ to give testimony, or to produce evidence as required ~~thereby~~, ~~any~~ a judge of the district court of the state of Iowa in and for Polk county may, upon application and proof of ~~such~~ the refusal, make an order awarding process of subpoena, or subpoena duces tecum, out of the ~~said~~ court, for the witness to appear before the ~~director and~~ respective department, to give testimony, and to produce evidence as required ~~thereby~~. Upon filing ~~such~~ the order in the office of the clerk of ~~said~~ the district court, the clerk shall issue process of subpoena~~,~~ as directed, under the seal of ~~said~~ the court, requiring the person to whom it is directed to appear at the time and place ~~therein~~ designated.

Sec. 5. Section 322A.6, unnumbered paragraph 2, Code 1989, is amended to read as follows:

An applicant seeking permission to enter into a franchise for additional representation of the same line-make in a community shall deposit with the department at the time the application is filed, an amount of money to be determined by the department of inspections and appeals to ~~secure the payment of~~ pay the costs ~~and expenses~~ of the hearing. ~~The applicant shall pay the costs of the hearing.~~

Sec. 6. Section 322A.17, Code 1989, is amended to read as follows:

322A.17 ~~JUDICIAL~~ REVIEW.

A decision of the department of inspections and appeals is subject to review by the state department of transportation, whose decision is final agency action for the purpose of judicial review.

Judicial review of actions of the state department of ~~inspections and appeals~~ transportation may be sought in the manner provided for in section 322.10.

Sec. 7. Section 322B.6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department may revoke, suspend, or ~~deny~~ refuse the license of a mobile home dealer, mobile home manufacturer, mobile home distributor, manufacturer's representative, or distributor's representative, as applicable, ~~in accordance with the provisions of chapter 17A~~ if the department finds that the mobile home dealer, manufacturer, distributor, or representative is guilty of any of the following acts or offenses:

Sec. 8. Section 322B.6, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In accordance with chapters 10A and 17A, each person whose license or application is revoked, suspended, or refused shall be provided an opportunity for a hearing before the department of inspections and appeals.

Sec. 9. Section 322C.6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~The~~ A license ~~of a person~~ issued under section 322C.4 or 322C.9 may be denied, revoked, or suspended, after opportunity for a hearing before the department of inspections and appeals in accordance with chapters 10A and 17A, if ~~the department finds~~ it is determined that the licensee or applicant has done any of the following:

Sec. 10. Section 325.11, Code 1989, is amended to read as follows:

325.11 RULES OF PROCEDURE.

The department shall adopt rules ~~governing~~ for the procedure to be followed in the filing of applications and ~~in~~ the department of inspections and appeals shall adopt rules for the conduct of hearings.

Sec. 11. Section 325.13, subsection 5, Code 1989, is amended to read as follows:

5. Upon receipt of ~~any protests~~ a protest complying with subsection 3, the department shall request the department of inspections and appeals to set the matter for hearing not less than ten days following the expiration of the time in which protests may be made ~~and~~. The department of inspections and appeals shall give notice to all persons who have filed protests of the time and place of the hearing.

Sec. 12. Section 325.17, Code 1989, is amended to read as follows:

325.17 ~~TESTIMONY RECEIVABLE~~ UNCONTESTED CASE PROCEDURE.

~~The~~ If no protest is filed, the department shall consider the application and any ~~objections filed thereto and may hear testimony to aid it~~ relevant evidence in determining the propriety of granting the application.

Sec. 13. Section 325.19, Code 1989, is amended to read as follows:

325.19 EXPENSE OF HEARING.

The applicant shall pay all the costs ~~and expenses~~ of the hearing ~~and necessary preliminary investigation in connection therewith~~ before the application ~~shall be~~ is granted. The department of inspections and appeals shall establish appropriate fees which shall be paid to the department ~~at the time the application is filed~~ of inspections and appeals.

Sec. 14. Section 325.21, Code 1989, is amended to read as follows:

325.21 ~~JUDICIAL~~ REVIEW.

A decision of the department of inspections and appeals is subject to review by the state department of transportation. Judicial review of the decisions and actions of the department of transportation may be sought in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A. ~~Such~~ The petitioners must file with the clerk of the district court a bond for costs in the sum of not less than five hundred dollars.

Sec. 15. Section 325.25, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A certificate of convenience and necessity shall not be sold, transferred, leased, or assigned, nor shall ~~any~~ a contract or agreement with reference to or affecting ~~any~~ a certificate be made without the written approval of the department. The department may request the department of inspections and appeals to hold a hearing ~~at its discretion and~~. The department of transportation shall approve the sale, transfer, lease, or assignment upon a finding by the department of inspections and appeals that there has been continuous service under the certificate for at least ninety days prior to the transfer, ~~and~~ that the transferee is fit, willing, and able to perform the operations authorized by the certificate, and that the transfer is consistent with the public interest. Pending determination of an application filed with the department for approval of a sale, transfer, lease, or assignment, the department may grant temporary approval of the proposed operation upon a finding of good cause.

Sec. 16. Section 327.16, Code 1989, is amended to read as follows:

327.16 REVOCATION OF PERMIT.

For just cause, after due hearing conducted by the department of inspections and appeals, the state department of transportation may at any time alter, amend, or revoke ~~any~~ a permit ~~issued~~. If the holder of the permit or the holder's agent persists in a violation of ~~any~~ a prescribed safety ~~regulation preseribed by the department~~ rule, the department may ~~recommend revocation of said~~ revoke the permit ~~and such violation shall be grounds for such revocation~~.

Sec. 17. Section 327A.4, Code 1989, is amended to read as follows:

327A.4 DISPOSAL OF CERTIFICATE.

~~Whenever any~~ If a person ~~shall file~~ files an application with the department ~~an application~~ for authority to sell, transfer, lease, or assign a certificate of convenience and necessity issued under ~~the provisions of~~ this chapter, the department shall request the department of inspections and appeals to fix a date for hearing ~~thereon and~~. The state department of transportation shall cause a notice addressed to the citizens of each county through or in which the

proposed service will be rendered to be published in ~~some~~ a newspaper of general circulation in each such county, once each week for two consecutive weeks~~, and~~. The department shall notify each liquid transport carrier holding a certificate, issued by the department, to transport over, in, or through the area described in the application, by mailing notice of the hearing to each such carrier at least ten days before the date fixed for hearing~~, and the provisions of chapter~~. Chapter 325~~, inclusive of~~ and this chapter ~~shall, insofar~~ as appropriate ~~be~~, are applicable to the ~~said~~ hearing.

Sec. 18. Section 327A.14, Code 1989, is amended to read as follows:

327A.14 PRIOR SERVICE – RIGHTS TRANSFERRED OR ASSIGNED.

~~Any~~ A liquid transport carrier actively and continuously engaged in business as such between the first day of December, 1956, and the fourteenth day of January, 1957, shall be issued a certificate of convenience and necessity covering all points in this state to all other points in this state, and all routes and areas in this state, ~~provided that~~ if the application ~~therefor shall be~~ is made within sixty days after May 17, 1957. ~~No rights~~ Rights so granted ~~may~~ shall not be sold, leased, transferred, or assigned to ~~any~~ a person engaged directly or indirectly in the transportation for hire of liquid products in bulk or freight in interstate commerce or in intrastate commerce, in this or any other state, or the District of Columbia, or to any person engaged in the leasing of equipment for such purposes, except ~~such~~ rights ~~as~~ which are actively being exercised at the time of sale, lease, transfer, or assignment; ~~provided,~~ however, rights so granted may be sold, leased, transferred, or assigned to ~~any~~ a person who has not engaged directly or indirectly in the transportation for hire of liquid products in bulk or freight in interstate or intrastate commerce prior to the date of ~~such~~ the transfer, or to ~~any~~ a person who has not prior to ~~such~~ that date engaged in the leasing of equipment for ~~such~~ that purpose, and ~~on hearing~~ it ~~shall~~ is not ~~be~~ necessary for the department ~~of inspections and appeals~~ to find that ~~such~~ the sale, lease, transfer, or assignment is necessary in the public interest. Before any rights may be sold, leased, transferred, or assigned, application ~~therefor~~ shall be filed with the department of transportation, which shall ~~fix~~ request the department of inspections and appeals to set a date for hearing ~~thereon~~ on the application, and ~~the provisions of~~ section 327A.4 ~~shall be~~ is applicable ~~thereto~~. Rights actively being exercised may be sold, leased, transferred, or assigned to ~~any~~ a person engaged in the transportation for hire of liquid products in bulk or freight under the conditions ~~hereinafter~~ set forth in this section:

1. ~~Whenever~~ When an application for a sale, lease, transfer, assignment, consolidation, merger, or acquisition of control is filed with the department, if ~~on~~ after a hearing by the department of inspections and appeals, the department of transportation finds that ~~(a)~~ the proposed purchaser, lessee, transferee, or assignee is fit, willing and able, ~~and (b)~~ that the proposed seller, lessor, transferor, or assignor has not abandoned, suspended, or discontinued operations, ~~and (c)~~ that the transaction proposed will be consistent with the public interest, and that the conditions of this section have been or will be fulfilled, the department of transportation may enter an order approving and authorizing ~~such~~ the sale, lease, transfer, assignment, consolidation, merger, or acquisition of control, upon ~~such~~ terms and conditions ~~as~~ it ~~shall find~~ finds to be just and reasonable and with ~~such~~ modifications as it may prescribe.

2. Except as otherwise provided in subsection 1, it ~~shall be~~ is unlawful for ~~any~~ a person to accomplish or effectuate, or to participate in accomplishing or effectuating, the control or management in a common interest of any two or more persons engaged in the transportation for hire of liquid products in bulk or freight or of one or more persons so engaged, however such result is attained, whether directly or indirectly, by use of common directors, officers, or stockholders, a holding or investment company or companies, a voting trust or trusts, or in any other manner ~~whatsoever~~.

3. The department ~~is hereby authorized~~ may, upon complaint~~,~~ or upon its own initiative without complaint, ~~but after notice, and hearing, to~~ investigate and determine whether ~~any~~ a person is violating ~~the provisions of~~ this section. If the department finds upon investigation that ~~any~~ a person is violating ~~the provisions of~~ this section, it shall, ~~by order~~ after a hearing conducted by the department of inspections and appeals, require ~~such~~ the person to take ~~such~~

action consistent with ~~the provisions of~~ this chapter ~~as may be necessary, in the opinion of the department,~~ to prevent continued violation of ~~such provisions~~ this section.

Sec. 19. Section 327C.8, Code 1989, is amended to read as follows:

327C.8 OBJECTIONS — HEARING.

~~Any~~ A person directly affected by the proposed discontinuance of ~~any~~ an agency, may file written objections with the department, stating the grounds for ~~such~~ the objections, within fifteen days from the time of the publication of the notice as provided in section 327C.7. Upon the filing of ~~such~~ objections the department shall request the department of inspections and appeals ~~shall fix the time and place for~~ to hold a hearing, which shall be held within sixty days from the filing of ~~such~~ the objections. Written notice of the time and place of ~~such~~ the hearing shall be mailed by the department of inspections and appeals to the railroad corporation and the person filing objections at least ten days prior to the date fixed for ~~such~~ the hearing.

Sec. 20. Section 327C.12, Code 1989, is amended to read as follows:

327C.12 AID FROM COURTS.

The department or the department of inspections and appeals may invoke the aid of any court of record in the state in requiring the attendance and testimony of witnesses and the production of books, papers, tariff schedules, agreements, and other documents. ~~Any court having jurisdiction of the inquiry shall, in case of the refusal of any~~ If a person refuses to obey a subpoena or other process, a court having jurisdiction of the inquiry shall issue an order requiring any of the officers, agents, or employees of ~~any~~ a carrier or other person to appear before ~~the~~ either department and produce all books and papers required by ~~such~~ the order and testify in relation to any matter under investigation.

Sec. 21. Section 327C.17, Code 1989, is amended to read as follows:

327C.17 WHEN ORDER EFFECTIVE — VIOLATION.

If ~~any~~ a railroad fails, ~~neglects,~~ or refuses to comply with ~~any~~ a rule or order made by the state department of transportation or the department of inspections and appeals within the time specified, ~~it shall~~ the railroad is, for each day of such failure, ~~be~~ subject to a schedule "two" penalty.

Sec. 22. Section 327C.19, Code 1989, is amended to read as follows:

327C.19 ~~JUDICIAL~~ REVIEW.

A decision of the department of inspections and appeals is subject to review by the state department of transportation.

Judicial review of the actions of the state department of transportation may be sought in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A.

Sec. 23. Section 327C.20, Code 1989, is amended to read as follows:

327C.20 REMITTING PENALTY.

If a common carrier fails in a judicial review proceeding to secure a vacation of the order objected to, it may apply to the court in which the review proceeding is finally adjudicated for an order remitting the penalty which has accrued during the review proceeding. Upon a satisfactory showing that the petition for judicial review was filed in good faith and not for the purpose of delay, and that there were reasonable grounds to believe that the order was unreasonable or unjust or that the power of the department of transportation or the department of inspections and appeals to make the ~~same~~ order was doubtful, ~~such~~ the court may remit the penalty that has accrued during the review proceeding.

Sec. 24. Section 327C.25, Code 1989, is amended to read as follows:

327C.25 COMPLAINTS.

~~Any~~ A person, ~~city or county~~ may file with the department a petition setting forth any particular in which ~~any~~ a common carrier has violated the law to which it is subject and the amount of damages sustained by reason ~~thereof~~ of the violation. The department shall furnish a copy

of the complaint to the carrier against which a complaint is filed~~, a copy thereof, and a reasonable time~~. The department shall ~~be fixed by~~ request the department of inspections and appeals ~~within~~ to schedule a hearing in which ~~such~~ the carrier shall answer the petition or satisfy the ~~demand therein made~~ demands of the complaint. If ~~such~~ the carrier fails to satisfy the complaint within the time fixed or there appears to be reasonable grounds for investigating the matters set forth in ~~said~~ the petition, the department of inspections and appeals shall hear and determine the questions involved and make ~~such~~ orders ~~as~~ it ~~shall find to be~~ finds proper. ~~When~~ If the department of transportation has reason to believe that ~~any~~ a carrier is violating any of the laws to which it is subject, ~~it~~ the department may institute an investigation and ~~cause~~ request the department of inspections and appeals to conduct a hearing ~~to be held before the department of inspections and appeals~~ in relation to ~~such~~ the matters ~~in all respects as fully~~ as if a petition had been filed.

Sec. 25. Section 327C.26, Code 1989, is amended to read as follows:

327C.26 INVESTIGATION — REPORT.

When a hearing has been held before the department of inspections and appeals after notice, it shall make a report in writing setting forth the findings of fact and its conclusions together with its recommendations ~~or orders~~ as to what reparation, if any, the offending carrier shall make to ~~any~~ a party who has suffered damage. ~~Such finding~~ The findings of fact ~~shall thereafter in all legal proceedings be prima facie~~ are prima facie evidence in all further legal proceedings of every fact found. All reports of hearings and investigations made by ~~the department of transportation and~~ the department of inspections and appeals shall be entered of record and a copy furnished to the carrier against which the complaint was filed, to the party complaining, and to any other person having a direct interest in the matter. A reasonable fee not to exceed the actual duplication costs may be charged for the copies.

Sec. 26. Section 327C.28, Code 1989, is amended to read as follows:

327C.28 VIOLATION OF ORDER — PETITION — NOTICE.

~~When any~~ If a person violates or fails to obey ~~any~~ a lawful order or requirement of the department of transportation or the department of inspections and appeals, the department of transportation or the department of inspections and appeals shall apply by petition in the name of the state~~,~~ against ~~such~~ the person, to the district court, alleging ~~such~~ the violation or failure to obey~~; the~~. The court shall hear and determine the matter set forth in the petition on reasonable notice to the person, to be fixed by the court and to be served in the same manner as an original ~~notices~~ notice for the commencement of action.

Sec. 27. Section 327C.29, Code 1989, is amended to read as follows:

327C.29 INTERESTED PARTY MAY BEGIN PROCEEDINGS.

~~Any~~ A person ~~or city or county~~ interested in ~~the matter of~~ enforcing ~~any~~ an order or requirement of the department of transportation or the department of inspections and appeals, may file a petition against ~~such person~~ the violator, alleging the failure to comply with ~~such~~ the order or requirement and ~~praying~~ asking for summary relief to the same extent and in the same manner as the department of transportation or the department of inspections and appeals may ~~do~~ under section 327C.28, and the proceedings after the filing of ~~such~~ the petition shall be the same as in section 327C.28.

Sec. 28. Section 327D.53, Code 1989, is amended to read as follows:

327D.53 DIVISION OF JOINT RATES.

Before the ~~promulgation~~ adoption of ~~such~~ the rates, the department shall notify the railroad corporations interested in the schedule of joint rates fixed, and give them a reasonable time to agree upon a division of the charges provided. If ~~such~~ the corporations fail to agree upon a division, and to notify the department ~~thereof~~ of their agreement, the department shall, after a hearing ~~of the corporations interested~~ conducted by the department of inspections and appeals, decide the ~~same~~ rates, taking into consideration the value of terminal facilities and all the circumstances of the haul, and the division so determined by it ~~shall~~ is, in all controversies or

actions between the railroad corporations interested, ~~be prima facie~~ prima facie evidence of a just and reasonable division ~~thereof~~.

Sec. 29. Section 327D.83, Code 1989, is amended to read as follows:

327D.83 POWER TO REVISE RATES.

~~Whenever there shall be~~ If a schedule is filed with the department ~~any schedule~~ stating a rate, the department may, either upon complaint or upon its own motion, ~~immediately, and, if it so orders, without answer or formal pleadings by the interested common carrier, enter upon~~ request the department of inspections and appeals to conduct a hearing concerning the propriety of ~~such~~ the rate.

Sec. 30. Section 327D.85, Code 1989, is amended to read as follows:

327D.85 DECISION.

~~On such~~ At the hearing the department of inspections and appeals shall ~~establish~~ propose the rates on the schedule, in whole or in part, or others in lieu thereof, which ~~it shall find to be~~ the department of inspections and appeals finds are just and reasonable rates. The action of the department of inspections and appeals is subject to review by the state department of transportation. The decision of the state department of transportation is the final agency action.

Sec. 31. Section 327D.89, Code 1989, is amended to read as follows:

327D.89 COMPLAINT OF VIOLATION.

When ~~any~~ a person, ~~city or county shall make complaint~~ complains to the department that the rate charged or published by ~~any~~ a railway corporation, or the maximum rate fixed by law, is unreasonably high or discriminating, the department may investigate the matter, and, ~~hold~~ request the department of inspections and appeals to conduct a hearing, ~~giving~~. The department of inspections and appeals shall give the parties notice of the time and place of the hearing.

Sec. 32. Section 327D.90, Code 1989, is amended to read as follows:

327D.90 HEARING — EVIDENCE.

At the time of the hearing the department of inspections and appeals shall receive any evidence and listen to any arguments presented by either party relevant to the matter under investigation, and the burden of proof ~~shall~~ is not ~~be~~ upon the person making the complaint. The complainant shall add to the showing made at ~~such~~ the hearing whatever information the complainant ~~may~~ then ~~have~~ has, or can obtain from any source, ~~including schedules of rates actually charged by any railway corporation for substantially the same kind of service, in this or any other state. The lowest rates published or charged by any railway corporation for substantially the same kind of service whether in this or another state, shall, at the instance of the person complaining, be accepted as prima facie evidence of a reasonable rate for the services under investigation; and if the railway corporation complained of is operating a line of railroad beyond the state, or has a traffic arrangement with any such railway corporation, the same shall be taken into consideration in determining what is a reasonable rate; if it be operating a line of railway beyond the state, the rate charged or established for substantially a similar or greater service by it in another state shall also be considered~~. The department of ~~transportation~~ inspections and appeals shall ~~establish~~ propose just and reasonable rates, which may be adopted in whole or in part or modified as the state department ~~shall determine~~ of transportation determines.

Sec. 33. Section 327D.128, Code 1989, is amended to read as follows:

327D.128 WEIGHING — DISAGREEMENT.

If a railroad corporation and the owner, consignor, or consignee of car lots of bulk commodities cannot reach agreement relative to the weighing of the commodities, appeal may be made to the state department of ~~inspections and appeals~~ transportation. The state department of transportation, after a hearing by the department of inspections and appeals, shall issue an order equitable to all parties including but not limited to allocation of costs and specification of the place and manner of weighing.

Sec. 34. Section 327G.12, Code 1989, is amended to read as follows:

327G.12 OVERHEAD, UNDERGROUND, OR MORE THAN ONE CROSSING.

~~Such~~ The owner of land may serve upon ~~such~~ the railroad corporation a request in writing for more than one ~~such~~ private crossing, or for an overhead or underground crossing, accompanied by a plat of the owner's land designating ~~thereon~~ the location and character of crossing desired. If the railroad corporation refuses or neglects to comply within thirty days of ~~such~~ a written request, the owner of the land may make written application to the department to ~~hear and~~ determine the owner's rights ~~in said respect~~. The department of inspections and appeals, after notice to the railroad corporation, shall hear ~~said~~ the application and all objections ~~thereto~~ to the application, and make ~~such~~ an order ~~as shall be~~ which is reasonable and just, and if it requires the railroad company to construct any crossing or roadway, fix the time for compliance with the order and apportion the costs as appropriate. ~~The matter of costs shall be in the discretion of the department of inspections and appeals.~~ The order of the department of inspections and appeals is subject to review by the state department of transportation. The decision of the state department of transportation is the final agency action.

Sec. 35. Section 327G.16, Code 1989, is amended to read as follows:

327G.16 DISAGREEMENT — APPLICATION — NOTICE.

If the persons specified in section 327G.15 cannot reach an agreement, either party may make written application to the ~~authority~~ department requesting resolution of the disagreement. The ~~authority~~ department shall ~~fix~~ request the department of inspections and appeals to set a date for hearing ~~and~~. The department of inspections and appeals shall give ~~the other party~~ ten days' written notice ~~by mail~~ of the hearing date. ~~The authority shall promulgate rules subject to department approval for processing applications which are filed with the authority prior to a written disagreement. The authority may set a hearing date after the disagreement has been filed.~~

Sec. 36. Section 327G.17, Code 1989, is amended to read as follows:

327G.17 HEARING — ORDER.

The department of inspections and appeals shall hear the evidence of each party to the controversy and shall make an order, which may include, pursuant to ~~the provisions of~~ chapters 471 and 472, authority to condemn, resolving the controversy ~~including what~~. The order shall include the portion of the expense ~~shall~~ to be paid by each party to ~~such~~ the controversy. In determining what portion of the expense shall be paid by each party the department of inspections and appeals may consider the ratio of the benefits accruing to the railroad or the governmental unit or both, ~~as it bears~~ to the general public use and benefit ~~and such benefits may in the case of construction be consistent with the standards adopted for similar purposes by the federal highway administration under the federal aid highway Act of 1973 as amended to July 1, 1976, [23 U.S.C. § 101 et seq.]~~.

The order of the department of inspections and appeals is subject to review by the state department of transportation. The decision of the state department of transportation is the final agency action.

Sec. 37. Section 327G.32, Code 1989, is amended to read as follows:

327G.32 BLOCKING HIGHWAY CROSSING.

A railroad corporation or its employees shall not operate ~~any~~ a train in such a manner as to prevent vehicular use of ~~any~~ a highway, street, or alley for a period of time in excess of ten minutes except in any of the following circumstances:

1. When necessary to comply with signals affecting the safety of the movement of trains.
2. When necessary to avoid striking ~~any~~ an object or person on the track.
3. When the train is disabled.
4. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.

~~Any~~ An officer or employee of a railroad corporation violating ~~any~~ a provision of this section ~~shall~~ is, upon conviction, ~~be~~ subject to the penalty provided in section 327G.14. An employee

~~shall~~ is not ~~be~~ guilty of ~~such~~ a violation if the employee's action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. ~~Such guilt shall~~ Guilt is then ~~be~~ with the railroad corporation.

~~This~~ Other portions of this section notwithstanding, a political subdivision may pass ~~a resolution or~~ an ordinance regulating the length of time a specific crossing may be blocked if the political subdivision demonstrates that ~~a resolution or~~ an ordinance is necessary for public safety or convenience. If ~~a resolution or~~ an ordinance is passed, the political subdivision shall, within thirty days of the effective date of the ~~resolution or~~ ordinance, notify the department and the railroad corporation using the crossing affected by the ~~resolution or~~ ordinance. The ~~resolution or~~ ordinance ~~shall~~ does not become effective unless the department and the railroad corporation are notified within thirty days. The ~~resolution or~~ ordinance ~~shall become~~ becomes effective thirty days after notification unless a person files an objection to the ~~resolution or~~ ordinance with the department. If an objection is filed the department shall notify the department of inspections and appeals which shall hold a hearing. ~~The~~ After a hearing by the department of inspections and appeals, the state department of transportation may disapprove the ~~resolution or~~ ordinance if public safety or convenience does not require ~~a resolution or~~ the ordinance. The decision of the state department of transportation is final agency action. The ~~resolution or~~ ordinance approved by the political subdivision is ~~prima facie~~ prima facie evidence that the ~~resolution or~~ ordinance is adopted to preserve public safety or convenience.

The department of inspections and appeals when considering rebuttal evidence shall weigh the benefits accruing to the political subdivision as ~~it bears to~~ they affect the general public use compared to the burden placed on the railroad operation. Public safety or convenience may include, but ~~shall~~ is not ~~be~~ limited to, high traffic density at a specific crossing of a main artery or interference with the flow of authorized emergency vehicles.

~~Political subdivisions shall notify the authority within sixty days of July 1, 1976, of each existing resolution or ordinance which does not conform with the provisions of this section. Political subdivisions not notifying the authority of an existing resolution or ordinance during the calendar year beginning January 1, 1976 shall have an additional sixty days after July 1, 1977 to notify the authority. Failure to do so shall render the resolution or ordinance void.~~

~~Such ordinances or resolutions may remain in effect until the department of inspections and appeals has acted upon each ordinance or resolution under the procedures specified in this section.~~

A resolution regulating the length of time a specific crossing may be blocked, which was adopted before the effective date of Senate File 500 of the Seventy-third General Assembly, is an ordinance for the purposes of this section.

Sec. 38. Section 327G.62, Code 1989, is amended to read as follows:

327G.62 CONTROVERSIES.

When a disagreement arises between a railroad corporation, its grantee, or its successor in interest, and the owner, lessee, or licensee of a building or other improvement, including trackage, used for receiving, storing, transporting, or manufacturing an article of commerce transported or to be transported, situated on a present or former railroad right-of-way or ~~any~~ on land owned or controlled by the railroad corporation, its grantee, or its successor in interest, as to the terms and conditions on which the article is to be continued or removed, the railway corporation, its grantee, or its successor in interest, or the owner, lessee, or licensee may make written application to the department ~~and the~~. The department shall notify the department of inspections and appeals which shall hear and determine the controversy and make an order ~~as~~ which is just and equitable between the parties, ~~which~~. That order ~~shall be enforced in the same manner as other orders of~~ is subject to review by the state department of transportation. The decision of the state department of transportation is final agency action.

Sec. 39. Section 327G.65, Code 1989, is amended to read as follows:

327G.65 COST OF CONSTRUCTION.

~~Such~~ The railroad corporation may require the person primarily to be served ~~thereby~~ to pay the legitimate cost and expense of acquiring, by condemnation or purchase, the necessary right of way for ~~such~~ the spur track and of constructing ~~the same~~ it, as ~~shall be~~ determined in separate items by the department. Except as provided in section 327G.66, the total cost ~~thereof~~ as ascertained by ~~said~~ the department shall be deposited with the railroad corporation before it ~~shall be~~ is required to incur ~~any~~ expense. If an agreement cannot be reached, the question shall be referred to the department which may, after a hearing conducted by the department of inspections and appeals, issue an order.

Sec. 40. Section 601J.5, subsection 3, paragraph d, Code 1989, is amended to read as follows:

d. The department of inspections and appeals shall establish an appeal process ~~under chapter~~ pursuant to chapters 10A and 17A which allows those agencies or organizations determined to not be in compliance with this chapter an opportunity for a timely hearing before the department of inspections and appeals. A decision by the department of inspections and appeals is subject to review by the state department of transportation. The state department of transportation's decision is the final agency action. Judicial review of the action of the department may be sought in accordance with chapter 17A.

Approved June 1, 1989

CHAPTER 274

TRAVEL AGENTS

H.F. 355

AN ACT relating to travel agents and agencies by providing for registration and regulation, and providing for fees and penalties.

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

Section 1. NEW SECTION. 120.1 DEFINITIONS.

1. "Applicant" means a person applying for registration under this chapter.
2. "Customer" means a person who is offered or who purchases travel services.
3. "Solicitation" means contact by a travel agency or travel agent of a customer for the purpose of selling or offering to sell travel services.
4. "Registrant" means a person registered pursuant to this chapter.
5. "Secretary" means the secretary of state.
6. "Travel agency" means a person who represents, directly or indirectly, that the person is offering or undertaking by any means or method, to provide travel services for a fee, commission, or other valuable consideration, direct or indirect.
7. "Travel agent" means a person employed by a travel agency whose principal duties include consulting with and advising persons concerning travel arrangements or accommodations.
8. "Travel services" means arranging or booking vacation or travel packages, travel reservations or accommodations, tickets for domestic or foreign travel by air, rail, ship, bus, or other medium of transportation, or hotel or other lodging accommodations. Travel services include travel related prizes or awards for which the customer must pay a fee or, in connection with the prize or award, expend moneys for the direct or indirect monetary benefit of the person making the award, in order for the customer to collect or enjoy the benefits of the prize or award.

Sec. 2. NEW SECTION. 120.2 REGISTRATION REQUIRED.

1. a. A travel agency doing business in this state shall register with the secretary of state as a travel agency if it or its travel agent conducts the solicitation of an Iowa resident.

b. A travel agency required to register under paragraph "a" shall not permit a travel agent employed by the travel agency to do business in this state unless the agency has filed the required registration statement.

2. A travel agent shall not knowingly do business in this state unless and until the travel agency employing the travel agent has registered with the secretary of state as a travel agency if the travel agency or any of the agency's travel agents conduct the solicitation of an Iowa resident.

3. This section does not require registration for, or prohibit, solicitation by mail or telecommunications of a person with whom the travel agency has a previous travel services provider-customer relationship, having previously arranged travel related services for that customer on at least one prior occasion.

4. "Doing business" in this state, for purposes of this chapter, means any of the following:

a. Offering to sell or selling travel services, if the offer is made or received within the state.

b. Offering to arrange, or arranging, travel services for a fee or commission, direct or indirect, if the offer is made or received in this state.

c. Offering to, or awarding travel services as a prize or award, if the offer or award is made in or received in this state.

5. An applicant shall complete the registration statement form provided by the secretary. The registration statement must be accompanied by the required bond or evidence of financial responsibility and the registration fee. The registration statement shall include all of the following:

a. The name and signature of an officer or partner of a business entity or the names and signatures of the principal owner and operator if the agency is a sole proprietorship.

b. The name, address, and telephone number of the applicant and the name of all travel agents employed by the applicant travel agency.

c. The name, address, and telephone number of any person who owns or controls, directly or indirectly, ten percent or more of the applicant.

d. If the applicant is a foreign corporation or business, the name and address of the corporation's agent in this state for service of process.

e. Any additional information required by rule adopted by the secretary pursuant to chapter 17A.

The application shall be accompanied by a written irrevocable consent to service of process. The consent must provide that actions in connection with doing business in this state may be commenced against the registrant in the proper jurisdiction in this state in which the cause of action may arise, or in which the plaintiff may reside, by service of process on the secretary as the registrant's agent and stipulating and agreeing that such service of process shall be taken and held in all courts to be as valid and binding as if service of process had been made upon the person according to the laws of this or any other state. The consent to service of process shall be in such form and supported by such additional information as the secretary may by rule require.

An annual registration fee as established by the secretary by rule is required at the time the registration statement is filed with the secretary, and on or before the anniversary date of the effective date of registration for each subsequent year. The registration fee shall be established at a rate deemed reasonably necessary by the secretary to support the administration of this chapter, but not to exceed fifteen dollars per year per agency. If a registrant fails to pay the annual registration fee, the registration lapses and becomes ineffective.

A registrant shall submit to the secretary corrections to the information supplied in the registration statement within a reasonable time after a change in circumstances, which circumstances would be required to be reported in an initial registration statement, except travel

agents names as required in subsection 5, paragraph "b". The names of travel agents shall be updated at the time of annual registration.

The secretary may revoke or suspend a registration for cause subject to the contested case provisions of chapter 17A.

Sec. 3. NEW SECTION. 120.3 EVIDENCE OF FINANCIAL SECURITY.

1. An application for a travel agency must be accompanied by a surety or cash performance bond in conformity with rules adopted by the secretary in the principal amount of ten thousand dollars, with an aggregate limit of ten thousand dollars. The bond shall be executed by a surety company authorized to do business in this state, and the bond shall be continuous in nature until canceled by the surety with not less than sixty days written notice to both the registrant and to the secretary. The notice shall indicate the surety's intent to cancel the bond on a date at least sixty days after the date of the notice.

2. The bond shall be payable to the state for the use and benefit of either:

a. A person who is injured by the fraud, misrepresentation, or financial failure of the travel agency or a travel agent employed by the travel agency.

b. The state on behalf of a person or persons under paragraph "a".

The bond shall be conditioned such that the registrant will pay any judgment recovered by a person in a court of this state in a suit for actual damages, including reasonable attorney's fees, or for rescission, resulting from a cause of action involving the sale or offer of sale of travel services. The bond shall be open to successive claims, but the aggregate amount of the claims paid shall not exceed the principal amount of the bond.

3. If a registrant has contracted with the airlines reporting corporation or the passenger network services corporation, or similar organizations approved by the secretary of state with equivalent bonding requirements for participation, in lieu of the bond required by subsection 1, the registrant may file with the secretary a certified copy of the official approval and appointment of the applicant from the airlines reporting corporation or the passenger network services corporation.

4. In lieu of any bond or guarantee required to be provided by this section, a registrant may do any of the following:

a. File with secretary proof of professional liability and errors and omissions insurance in an amount of at least one million dollars annually.

b. Deposit with the secretary cash, securities, or a statement from a federally insured financial institution guaranteeing the performance of the registrant up to a maximum of ten thousand dollars to be held or applied to the purposes to which the proceeds of the bond would otherwise be applied.

Sec. 4. NEW SECTION. 120.4 PENALTIES.

1. A person required to register as a travel agency, or an owner of ten percent or more of a travel agency, required to register by this chapter, which fails to register, fails to make required corrections to its registration statement, or fails to pay the required fee on or before thirty days after the fee becomes due, commits a serious misdemeanor.

2. If a person required to be registered or listed upon a registration statement by this chapter receives money, as a fee, commission, compensation, or profit in connection with doing business in this state in violation of section 120.2, the person, in addition to the criminal penalty in subsection 1, shall be liable for a civil penalty of not less than three times the sum so received, as may be determined by the court, which penalty may be recovered in a court of competent jurisdiction by an aggrieved person, or by the attorney general for the benefit of an aggrieved person or class of persons.

3. A violation of this chapter is also a violation of section 714.16.

Sec. 5. NEW SECTION. 120.5 EXEMPTIONS.

1. This chapter does not apply to:

a. A bona fide employee of a travel agency who is engaged solely in the business of the agency, and whose principal duties do not include consulting with and advising persons concerning travel arrangements or accommodations.

b. A direct common carrier of passengers or property regulated by an agency of the federal government or employees of a common carrier when engaged solely in the transportation business of the carrier as identified in the carrier's certificate.

2. A travel agency is subject to this chapter, notwithstanding that the customer's name was obtained from the customer as part of a promotion where the customer signed up to receive a sales presentation or to enter a drawing for a prize prior to the solicitation. These activities do not constitute a previous travel services provider-customer relationship.

Approved June 1, 1989

CHAPTER 275

INVOLUNTARY HOSPITALIZATION OF THE MENTALLY ILL

H.F. 579

AN ACT relating to involuntary hospitalization procedures applicable to the mentally ill.

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

Section 1. Section 229.1, subsection 2, Code 1989, is amended to read as follows:

2. "Seriously mentally impaired" or "serious mental impairment" describes the condition of a person who is afflicted with mental illness and because of that illness lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment, and who because of that illness meets any of the following criteria:

a. Is likely to physically injure the person's self or others if allowed to remain at liberty without treatment; ~~or~~.

b. Is likely to inflict serious emotional injury on members of the person's family or others who lack reasonable opportunity to avoid contact with the afflicted person if the afflicted person is allowed to remain at liberty without treatment.

c. Is unable to satisfy the person's needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer substantial physical injury, serious physical debilitation, or death within the reasonably foreseeable future.

Sec. 2. NEW SECTION. 229.1A LEGISLATIVE INTENT.

As mental illness is often a continuing condition which is subject to wide and unpredictable changes in condition and fluctuations in reoccurrence and remission, this chapter shall be liberally construed to give recognition to these medical facts.

Sec. 3. Section 229.11, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The clerk shall furnish copies of any orders to the respondent and to the applicant if the applicant files a written waiver signed by the respondent.

Sec. 4. Section 229.12, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The clerk shall furnish copies of any orders to the respondent and to the applicant if the applicant files a written waiver signed by the respondent.

Sec. 5. Section 229.16, Code 1989, is amended to read as follows:

229.16 DISCHARGE AND TERMINATION OF PROCEEDING.

When ~~in the opinion of the chief medical officer~~ the condition of a patient who is hospitalized under section 229.14, subsection 2, or is receiving treatment under section 229.14, subsection 3, or is in full-time care and custody under section 229.14, subsection 4, ~~of section 229.14~~ is such that in the opinion of the chief medical officer the patient no longer requires treatment

or care for serious mental impairment, the chief medical officer shall tentatively discharge the patient and immediately report that fact to the court which ordered the patient's hospitalization or care and custody. The court shall thereupon issue an order confirming the patient's discharge from the hospital or from care and custody, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by certified mail to the hospital, ~~and~~ the patient, and the applicant if the applicant has filed a written waiver signed by the patient.

Sec. 6. Section 229.23, subsection 1, Code 1989, is amended to read as follows:

1. Prompt evaluation, ~~emergency~~ necessary psychiatric services, and additional care and treatment as indicated by ~~sound medical practice~~ the patient's condition. A comprehensive, individualized treatment plan shall be timely developed following issuance of the court order requiring involuntary hospitalization. The plan shall be consistent with current standards appropriate to the facility to which the person has been committed and with currently accepted standards for psychiatric treatment of the patient's condition, including chemotherapy, psychotherapy, counseling and other modalities as may be appropriate.

Sec. 7. Section 229.25, subsection 3, unnumbered paragraph 3, Code 1989, is amended to read as follows:

When the chief medical officer deems it to be in the best interest of the patient and ~~the spouse~~ the patient's next of kin to do so, the chief medical officer may release appropriate information during a consultation which the hospital or facility shall arrange with the ~~spouse~~ next of kin of a voluntary or involuntary patient, if requested by ~~a spouse~~ the patient's next of kin.

Sec. 8. SUPREME COURT TASK FORCE.

The supreme court is requested to establish a task force on involuntary hospitalization to do the following:

1. Recommend methods for improving the consistent application of chapters 125, 229, and 232.
2. Recommend educational programs, topics, and materials and determine costs associated with providing voluntary education programs to judicial hospitalization referees, patient advocates, and to members of the bar and medical community who are involved in involuntary hospitalization.
3. Investigate the constitutionality of section 125.82, subsection 5, and section 125.83 and make appropriate recommendations.
4. Prepare a report describing and explaining prehearing screening and monitoring of medication programs which have been established in other states.

The task force shall report its findings and any recommendations to the supreme court and the legislative council by January 31, 1990. The legislative service bureau shall staff the task force.

Approved June 1, 1989

CHAPTER 276

LOCAL OPTION SALES AND SERVICES TAX

H.F. 271

AN ACT relating to the repeal of a local option sales and services tax and providing an effective date.

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

Section 1. Section 422B.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. In a county that has imposed a local option sales and services tax, the board of supervisors shall, notwithstanding any contrary provision of this chapter, repeal the local option sales and services tax in the unincorporated areas or in an incorporated city area in which the tax has been imposed upon adoption of its own motion for repeal in the unincorporated areas or upon receipt of a motion adopted by the governing body of that incorporated city area requesting repeal. The board of supervisors shall repeal the local option sales and services tax effective at the end of the calendar quarter during which it adopted the repeal motion or the motion for the repeal was received. For purposes of this subsection, incorporated city area includes an incorporated city which is contiguous to another incorporated city.

Sec. 2. Section 422B.8, unnumbered paragraph 1, Code 1989, 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, on the gross receipts from the sale of equipment by the state department of transportation, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E. 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.

Sec. 3. Section 422B.9, unnumbered paragraph 2, Code 1989, is amended to read as follows:

A local sales and services tax shall be repealed only on March 31, June 30, September 30, or December 31. However, a local sales and services tax shall not be repealed before the tax has been in effect for one year. At least forty days before the imposition or repeal of the tax, a county shall provide notice of the action by certified mail to the director of revenue and finance.

Sec. 4. A city with a population under six hundred located in a county with a population between ninety-five thousand and one hundred ten thousand, which has imposed a local option tax for more than one year and seeks to change the specific purpose for which the local option tax revenues are expended notwithstanding any other provisions of this chapter, shall by resolution change the specific purpose for which the local option tax revenues are expended. The resolution shall not be effective before the expiration of sixty days following the enactment of the resolution. Within thirty days of the enactment of the resolution, a referendum on the change of the specific purpose for which the local option tax revenues are expended may be requested by five percent of the citizens who voted in the last state general election.

Sec. 5. Section 3 of this Act applies to local sales and services taxes that are in effect on or after January 1, 1990.

Sec. 6. Section 4 is repealed January 1, 1990.

Sec. 7. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 1, 1989

CHAPTER 277

LOCAL OPTION TAX REMITTANCE

H.F. 751

AN ACT relating to the remittance of the local option tax to local governments.

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

Section 1. Section 422B.10, subsection 1, Code 1989, is amended to read as follows:

1. The ~~treasurer of state~~ director shall credit the local sales and services tax receipts and interest and penalties from a county to the county's account in the local sales and services tax fund. If the director ~~of revenue and finance~~ is unable to determine from which county any of the receipts were collected, those receipts shall be allocated amongst the possible counties based on allocation rules adopted by the director ~~of revenue and finance~~.

Sec. 2. Section 422B.10, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. The director of revenue and finance within fifteen days of the beginning of each fiscal year shall send to each city or county where the local option tax is imposed, an estimate of the amount of tax moneys each city or county will receive for the year and for each quarter of the year. At the end of each quarter, the director may revise the estimates for the year and remaining quarters.

b. The director of revenue and finance shall remit ninety percent of the estimate tax receipts for the city or county to the city or county after the end of each quarter no later than the following dates: November 10, February 10, May 10, and August 10.

c. The director of revenue and finance shall remit a final payment of the remainder of tax moneys due the city or county for the fiscal year before the due date for the payment of the first quarter of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the first payment of the new fiscal year shall be adjusted to reflect any overpayment.

Approved June 1, 1989

CHAPTER 278

FAMILY, CONSUMER, AND CAREER EDUCATION

S.F. 449

AN ACT relating to vocational education and requesting a study.

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

Section 1. Section 256.11, subsection 4, Code 1989, is amended to read as follows:

4. The following shall be taught in grades seven and eight: English-language arts~~,~~; social studies~~,~~; mathematics~~,~~; science~~,~~; health~~,~~; human growth and development, family, consumer, career, and technology education; physical education~~,~~; music~~,~~; and visual art. 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.

Sec. 2. Section 256.11, subsection 5, paragraph h, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

h. A minimum of three sequential units in at least four of the following six vocational service areas: agriculture, business or office occupations, health occupations, consumer and family sciences or home economics occupations, industrial technology or trade and industrial education, and marketing education. Instruction shall be competency-based, articulated with postsecondary programs of study, and include field, laboratory, or on-the-job training. Each sequential unit shall include instruction in a minimum set of competencies established by the department of education that relate to the following: new and emerging technologies; job-seeking, job-adaptability, and other employment, self-employment and entrepreneurial skills that reflect current industry standards and labor-market needs; and reinforcement of basic academic skills. The instructional programs shall also comply with the provisions of chapter 258 relating to vocational education.

The department of education shall permit school districts, in meeting the requirements of this section, to use vocational core courses in more than one vocational service area and to use multi-occupational courses to complete a sequence in more than one vocational service area.

Sec. 3. Section 258.4, subsection 7, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

7. Annually review at least twenty percent of the approved vocational programs as a basis for continuing approval to ensure that the programs are compatible with educational reform efforts, are capable of responding to technological change and innovation, and meet the educational needs of students and the employment community. The review shall include an assessment of the extent to which the competencies in the program are being mastered by the students enrolled, the costs are proportionate to educational benefits received, the vocational curriculum is articulated and integrated with other curricular offerings required of all students, the programs would permit students with vocational education backgrounds to pursue other educational interests in a postsecondary institutional setting, and the programs remove barriers for both traditional and nontraditional students to access educational and employment opportunities.

Sec. 4. Section 258.4, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 8. Establish a minimum set of competencies and core curriculum for approval of a vocational program sequence that addresses the following: new and emerging technologies; job-seeking, job-keeping, and other employment skills, including self-employment and entrepreneurial skills, that reflect current industry standards, leadership skills, entrepreneurial, and labor-market needs; and the strengthening of basic academic skills.

NEW SUBSECTION. 9. Establish a regional planning process to be implemented by regional planning boards, which utilizes the services of local school districts, merged area schools, and

other resources to assist local school districts in meeting vocational education standards while avoiding unnecessary duplication of services.

NEW SUBSECTION. 10. Enforce rules prescribing standards for approval of vocational education programs in schools, departments, and classes.

NEW SUBSECTION. 11. Notwithstanding the accreditation process contained in section 256.11, permit school districts, which provide a program which does not meet the standards for accreditation for vocational education, to cooperate with the regional planning boards and contract for an approved program under this chapter without losing accreditation. A school district which fails to cooperate with the regional planning boards and contract for an approved program shall, however, be subject to section 256.11.

Sec. 5. NEW SECTION. 258.16 REGIONAL VOCATIONAL EDUCATION PLANNING BOARDS ESTABLISHED — DUTIES.

1. Regional planning boards are established to assist school corporations in providing an effective, efficient, and economical means of delivering sequential vocational educational programs for students in grades seven through fourteen, which use both local school district services and merged area school services.

2. A regional planning board shall be established in each merged area, as determined by the state board for vocational education. Each regional planning board shall have as members persons who are representatives from the merged area school board of directors, the area education agency board of directors, the local councils on vocational education, the local school districts' boards of directors, and vocational education certificated instructional personnel.

3. The regional planning boards shall do all of the following:

a. Provide for the participation of merged area schools and the local school districts in the delivery of vocational education in the region, as well as for the participation of representatives of the business and industry community.

b. Determine the occupational needs of students based on labor-market, entrepreneurial, and self-employment opportunities and demand within the region, the state, the nation, and in other countries.

c. Provide for development of a five-year plan addressing the delivery of quality vocational education instructional programs pursuant to section 256.11, subsection 4, and subsection 5, paragraph "h", and section 280A.23, subsection 1. The plan shall be updated annually.

d. Implement the procedures and contract, at the request of the director of the board of vocational education, for the delivery of vocational education programs and services pursuant to section 256.11, subsection 4, and subsection 5, paragraph "h", and section 280A.23, subsection 1.

Sec. 6. Section 280A.23, subsection 1, Code 1989, is amended to read as follows:

1. Determine the curriculum to be offered in such school or college subject to approval of the state board and ensure that all vocational offerings are competency-based, provide any minimum competencies required by the department of education, comply with any applicable requirements in chapter 258, and are articulated with local school district vocational education programs. If an existing private educational or vocational institution within the merged area has facilities and curriculum of adequate size and quality which would duplicate the functions of the area school, the board of directors shall discuss with the institution the possibility of entering into contracts to have the existing institution offer facilities and curriculum to students of the merged area. The board of directors shall consider any proposals submitted by the private institution for providing such facilities and curriculum. The board of directors may enter into such contracts. In approving curriculum, the state board shall ascertain that all courses and programs submitted for approval are needed and that the curriculum being offered by an area school does not duplicate programs provided by existing public or private facilities in the area. In determining whether duplication would actually exist, the state board shall consider the needs of the area and consider whether the proposed programs are competitive

as to size, quality, tuition, purposes, and area coverage with existing public and private educational or vocational institutions within the merged area. If the board of directors of the merged area chooses not to enter into contracts with private institutions under this subsection, the board shall submit a list of reasons why contracts to avoid duplication were not entered into and an economic impact statement relating to the board's decision.

Sec. 7. Section 282.7, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. If the vocational program offered by a school district does not meet the state board of vocational education's standards for program approval, the district shall be granted one year to meet the standards for approval. If a district chooses to waive the one-year grace period, or the district fails to meet the approval standards after one year, the director of the board of vocational education shall delegate the authority to the regional planning board established pursuant to section 258.16 to direct the district to contract with another school district or a merged area school which has an approved program, for the provision of vocational education for students of the district. The district that has waived the one-year grace period or has failed to meet the approval standards shall pay to the district or merged area school that has an approved program an amount equal to the percent of the school day in which a pupil is receiving vocational education in the approved program times the district cost per pupil of the district of residence of the pupil. The regional planning board established pursuant to section 258.16 shall contract with an approved program for delivery of vocational education in the district which has failed to meet the approval standards or has waived the one-year grace period. Transportation to and from the approved program shall be provided by the school district that has waived the one-year grace period or has failed to meet approval standards. Reasonable effort shall be made to conduct the approved program at an attendance center in the district that has failed to meet the approval standards or has waived the one-year grace period.

Sec. 8. POSTSECONDARY HANDICAPPED EDUCATION STUDY. The department of education in conjunction with the board of educational examiners shall conduct a survey of courses and programs offered at the community college and vocational technical school level which are designated for handicapped students. The department shall review the criteria currently being used to designate a course or program as appropriate for the handicapped, as well as the curriculum offered, and the certification of instructional personnel, to determine if modifications of the current standards and certification requirements are needed to provide an appropriate education to the students served by the programs.

The department shall summarize the results of the study and any conclusions and recommendations in a report to be submitted to the general assembly by January 1, 1990.

Sec. 9. Sections 1 through 3 and sections 5 through 7 are effective July 1, 1992.

Approved June 1, 1989

CHAPTER 279

VICTIM ASSISTANCE AND PRESENTENCE PROCEDURE

H.F. 700

AN ACT relating to victims of certain criminal acts, by providing for the distribution of the presentence investigation report to counsel, registration of victims with the county attorney, filing of the victim impact statement, notification to victims by various departments, reorganizing crime victim assistance programs and services within the department of justice, and modifying the state crime victim reparation program.

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

Section 1. NEW SECTION. 13.25 VICTIM ASSISTANCE PROGRAM.

A victim assistance program is established in the department of justice, which shall do all of the following:

1. Administer grants received under the federal Victims of Crime Act pursuant to Pub. L. No. 98-473, title 2, chapter 14, 42 U.S.C. § 10601, as amended by the federal Children's Justice and Assistance Act, Pub. L. No. 99-401, 100 Stat. 903 (1986).

2. Administer the state crime victim reparation program as provided in chapter 912.

3. Administer the domestic abuse program provided in chapter 236.

4. Administer the family violence prevention and services grants pursuant to the federal Child Abuse Amendments of 1984, Pub. L. No. 98-457, 42 U.S.C. § 10401.

Sec. 2. Section 236.2, subsection 5, Code 1989, is amended to read as follows:

5. "Department" means the department of ~~human services~~ justice.

Sec. 3. Section 236.2, subsection 6, Code 1989, is amended by striking the subsection.

Sec. 4. Section 236.9, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The department of public safety may compile statistics and issue reports on domestic abuse in Iowa, provided individual identifying details of the domestic abuse are deleted. The statistics and reports may include nonidentifying information on the personal characteristics of perpetrators and victims. The department of public safety may request the cooperation of the department of ~~human services~~ justice in compiling the statistics and issuing the reports. The department of public safety may provide nonidentifying information on individual incidents of domestic abuse to persons conducting bona fide research, including but not limited to personnel of the department of ~~human services~~ justice.

Sec. 5. Section 236.15, Code 1989, is amended to read as follows:

236.15 APPLICATION FOR DESIGNATION AND FUNDING AS A PROVIDER OF SERVICES FOR VICTIMS OF DOMESTIC ABUSE.

Upon receipt of state or federal funding designated for victims of domestic abuse by the department, a public or private nonprofit organization may apply to the ~~director~~ department for designation and funding as a provider of emergency shelter services and support services to victims of domestic abuse. The application shall be submitted on a form prescribed by the department and shall include, but not be limited to, information regarding services to be provided, budget, and security measures.

Sec. 6. Section 236.16, Code 1989, is amended to read as follows:

236.16 DEPARTMENT POWERS AND DUTIES.

1. The ~~director~~ department shall:

a. Designate and award grants for existing and pilot programs pursuant to this chapter to provide emergency shelter services and support services to victims of domestic abuse.

b. Design and implement a uniform method of collecting data from domestic abuse organizations funded under this chapter.

2. The department shall consult and cooperate with all public and private agencies which may provide services to victims of domestic abuse, including but not limited to, legal services, social services, prospective employment opportunities, and unemployment benefits.

3. The ~~director~~ department may accept, use, and dispose of contributions of money, services, and property made available by an agency or department of the state or federal government, or a private agency or individual.

Sec. 7. Section 901.4, Code 1989, is amended to read as follows:

901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

The presentence investigation report is confidential and the court shall provide safeguards to ensure its confidentiality, including but not limited to sealing the report, which may be opened only by further court order. At least three days prior to the date set for sentencing, the court shall ~~make~~ serve all of the presentence investigation report ~~available for inspection to~~ upon the defendant's attorney, and ~~to~~ the attorney for the state, and the report shall remain confidential except upon court order. However, the court may conceal the identity of the person who provided confidential information. The report of a medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. The reports are part of the record but shall be sealed and opened only on order of the court. If the defendant is committed to the custody of the Iowa department of corrections and is not a class "A" felon, a copy of the presentence investigation report shall be forwarded to the director with the order of commitment by the clerk of the district court and to the board of parole at the time of commitment. The defendant or the defendant's attorney may file with the presentence investigation report, a denial or refutation of the allegations, or both, contained in the report. The denial or refutation shall be included in the report.

Sec. 8. Section 910A.1, subsection 3, Code 1989, is amended to read as follows:

3. "Registered" means having provided the ~~appropriate office, agency, or department~~ county attorney with the victim's written request for ~~notification~~ registration and current mailing address and telephone number.

Sec. 9. NEW SECTION. 910A.2 REGISTRATION.

The county attorney shall be the sole registrar of victims under this chapter. A victim may register by filing a written request-for-registration form with the county attorney. The county attorney shall notify the victims in writing and advise them of their registration and rights under this chapter. The county attorney shall provide the appropriate offices, agencies, and departments with a registered victim list for notification purposes.

Sec. 10. Section 910A.5A, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A victim may file a signed victim impact statement with the ~~presentence investigator~~ county attorney, and a filed impact statement shall be included in the presentence investigation report. If a presentence investigation report is not ordered by the court, a filed victim impact statement shall be provided to the court prior to sentencing.

Sec. 11. Section 910A.6, subsection 5, Code 1989, is amended by striking the subsection.

Sec. 12. Section 910A.7, Code 1989, is amended to read as follows:

910A.7 NOTIFICATION BY CLERK OF COURT.

The clerk of court shall notify a ~~victim~~ registered ~~with the office of the clerk of court~~ victim of all dispositional orders of the case in which the victim was involved and may advise the victim of any other orders regarding custody or confinement.

Sec. 13. NEW SECTION. 910A.7A NOTIFICATION BY CLERK OF THE SUPREME COURT.

The clerk of the supreme court shall notify a registered victim of all dispositional orders of a case currently on appeal in which the victim was involved.

Sec. 14. Section 910A.8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The local police department or county sheriff's department shall advise a victim of the right to register with the county attorney, and shall provide a request-for-registration form to each victim. The county sheriff or other person in charge of the local jail or detention facility shall notify a ~~victim~~ registered ~~with the jail or detention facility~~ victim of the following:

Sec. 15. Section 910A.9, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department of corrections shall notify a ~~victim~~ registered ~~with the department~~ victim, regarding an offender convicted of a violent crime and committed to the custody of the director of the department of corrections, of the following:

Sec. 16. Section 910A.9, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The date on which the offender is expected to be released from an institution or facility pursuant to a plan of parole or work release, or upon discharge of sentence.

Sec. 17. Section 910A.10, subsection 1, unnumbered paragraph 1 and paragraph a, Code 1989, are amended to read as follows:

The board of parole shall notify a ~~victim~~ registered ~~with the board~~ victim, regarding an offender who has committed a violent crime, as follows:

a. Not less than ~~five~~ twenty days prior to conducting a hearing at which the board will interview an offender, the board shall notify the victim of the interview and inform the victim that the victim may submit the victim's opinion concerning the release of the offender in writing prior to the hearing or may appear personally or by counsel at the hearing to express an opinion concerning the offender's release.

Sec. 18. Section 910A.10, subsection 2, Code 1989, is amended to read as follows:

2. Offenders who are being considered for release on parole may be informed of a victim's registration with the ~~board~~ county attorney and the substance of any opinion submitted by the victim regarding the release of the offender.

Sec. 19. Section 912.1, subsections 1 and 6, Code 1989, are amended to read as follows:

1. "Department" means the department of ~~public safety~~ justice.

6. "Reparation" means compensation awarded by the ~~commissioner~~ department as authorized by this chapter.

Sec. 20. Section 912.1, subsection 2, Code 1989, is amended by striking the subsection.

Sec. 21. NEW SECTION. 912.2A CRIME VICTIM ASSISTANCE BOARD.

1. A crime victim assistance board is established, and shall consist of the following members to be appointed pursuant to rules adopted by the department:

a. A county attorney or assistant county attorney.

b. A person engaged full time in law enforcement.

c. A public defender or an attorney practicing primarily in criminal defense.

d. A hospital medical staff person involved with emergency services.

e. A public member who has received victim services.

f. A victim service provider.

g. A person licensed pursuant to chapter 154B or 154C.

Board members shall be reimbursed for expenses actually and necessarily incurred in the discharge of their duties.

2. The board shall adopt rules pursuant to chapter 17A relating to program policies and procedures.

3. A victim aggrieved by the denial or disposition of the victim's claim may appeal to the district court within thirty days of receipt of the board's decision.

Sec. 22. Section 912.4, subsections 2, 4, and 5, Code 1989, are amended to read as follows:

2. A person is not eligible for reparation unless the crime was reported to the local police department or county sheriff department within ~~twenty-four~~ seventy-two hours of its occurrence. ~~However, if~~ If the crime cannot reasonably be reported within that time period, the crime shall have been reported within ~~twenty-four~~ seventy-two hours of the time a report can reasonably be made.

4. When immediate or short-term medical services or mental health services are provided to a victim under section 910A.16, the department of human services shall file the claim for reparation as provided in subsection 3 for the victim ~~and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply~~.

5. When immediate or short-term medical services to a victim are provided pursuant to section 910A.16 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for reparation, unless the department of human services is required to file the claim under this section, ~~and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply~~. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.

Sec. 23. Section 912.6, subsection 3, Code 1989, is amended to read as follows:

3. Reasonable charges incurred for victim counseling provided by a psychologist licensed under chapter 154B, a victim counselor as defined in section 236A.1, subsection 1, or an individual holding at least a master's degree in social work or counseling and guidance, not to exceed five hundred dollars.

Sec. 24. Section 912.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. In the event of a victim's death, reasonable charges incurred for counseling the victim's spouse, children, parents, siblings, or persons cohabiting with or related by blood or affinity to the victim if the counseling services are provided by a psychologist licensed under chapter 154B, a victim counselor as defined in section 236A.1, subsection 1, or an individual holding at least a master's degree in social work or counseling and guidance, and reasonable charges incurred by such persons for medical care counseling provided by a psychiatrist licensed under chapter 147 or 150A. The allowable charges under this subsection shall not exceed five hundred dollars per person or a total of two thousand dollars per victim death.

Sec. 25. Section 912.7, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. From or on behalf of, ~~the~~ a person who committed the crime or who is otherwise responsible for damages resulting from the crime.

Sec. 26. Section 912.7, subsection 2, paragraphs b and c, Code 1989, are amended by striking the paragraphs.

Sec. 27. Section 912.7, subsections 3 and 4, Code 1989, are amended by striking the subsections.

Sec. 28. Sections 236.17 and 236.18, Code 1989, are repealed.

Approved June 1, 1989

CHAPTER 280

PSEUDORABIES CONTROL

S.F. 474

AN ACT to establish a pseudorabies control program and providing for penalties and the repeal of a chapter.

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

Section 1. NEW SECTION. 166D.1 PURPOSE — RULES.

This chapter provides for measures to control the transmission and incidence, and for the eventual eradication, of pseudorabies among swine within this state. The department shall adopt rules to carry out the provisions of this chapter.

Sec. 2. NEW SECTION. 166D.2 DEFINITIONS.

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

1. "Pseudorabies eradication plan" means a written herd management program which is based on accepted statistical and epidemiological evaluation and designed to eradicate pseudorabies from the swine herds in a given area.

2. "Board of directors" means a county or multicounty pork producer organization designated by the Iowa pork producers association to represent an area proposed as a program area.

3. "Breeding swine" means swine over six months of age.

4. "Approved premise permit" means a permit issued by the department necessary for a person to own and operate an approved premises.

5. "Certificate of inspection" means a document approved by the United States department of agriculture or the department of agriculture and land stewardship, and issued by a licensed veterinarian prior to the interstate or intrastate movement of swine. The certificate of inspection must state all of the following:

a. The number, description, and identification of the swine to be moved.

b. Whether the swine to be moved are known to be infected with or exposed to pseudorabies.

c. The farm of origin.

d. The purpose for moving the swine.

e. The point of destination of the swine.

f. The consignor and each consignee of the swine.

g. Additional information as required by state or federal law.

6. "Differentiable test" means a laboratory procedure approved by the department to diagnose pseudorabies. The procedure must be capable of recognizing and distinguishing between vaccine-exposed and field-pseudorabies-virus-exposed swine.

7. "Test" means a serum neutralization (SN) test, virus isolation test, ELISA test, or other test approved by the department and performed by a laboratory approved by the department.

8. "Differentiable vaccine" means a vaccine which has a licensed companion differentiable test.

9. "Differentiable vaccinate" means a swine which has only been exposed to a differentiable vaccine.

10. "Direct movement" means movement of swine to a destination without unloading the swine in route, without contact with swine of lesser pseudorabies vaccinate status, and without contact with infected or exposed livestock.

11. "Exposed livestock" means livestock that have been in contact with livestock infected with pseudorabies, including all livestock in a known infected herd. However, livestock other than swine that have not been exposed to a clinical case of the disease for a period of ten consecutive days shall not be considered exposed livestock. Swine released from quarantine are no longer considered exposed.

12. "Exposed" means an animal that has not been kept separate and apart or isolated from livestock infected with pseudorabies, including all swine in a known infected herd.

13. "Farm of origin" means a location where the swine were born, or on which the swine have been located for at least ninety consecutive days immediately prior to movement.

14. "Feeder pig cooperator herd" means a swine herd not currently determined to be pseudorabies negative, that has not experienced clinical signs of pseudorabies in the last six months, that is capable of segregating offspring at weaning into separate and apart production facilities, and has implemented an approved pseudorabies eradication plan.

15. "Infected" means infected with pseudorabies as determined by an epidemiologist whose diagnosis is supported by test results.

16. "Noninfected herd" means a herd which is one of the following:

a. A qualified pseudorabies negative herd.

b. A pseudorabies monitored herd.

c. A pseudorabies controlled vaccinated herd.

d. A herd in which the animals have been individually tested negative within the past thirty days.

e. A herd which originates from an area with little or no incidence of pseudorabies as determined by the department based upon epidemiological studies and information relating to the area.

17. "Herd of unknown status" means all swine except swine which are part of a known infected herd, swine known to have been exposed to pseudorabies, or swine which are part of a noninfected herd.

18. "Isolation" means separation of swine within a physical barrier in a manner to prevent swine from gaining access to swine outside the barrier, including excrement or discharges from swine outside the barrier. Swine in isolation must not share a building with a ventilation system common to other swine. Swine in isolation must not be maintained within ten feet of other swine.

19. "Monitored herd" means a herd of swine, including a feeder swine herd, which has been determined within the past twelve months not to be infected, according to a statistical sampling.

20. "Known infected herd" means a herd in which swine have been determined by an epidemiologist to be infected.

21. "Licensed pseudorabies vaccine" means a pseudorabies virus vaccine produced under license from the United States secretary of agriculture under the federal Virus, Serum and Toxin Act of March 4, 1913, 21 U.S.C. § 151 et seq.

22. "Livestock" means swine, cattle, sheep, goats, and horses.

23. "Move" or "movement" means to ship, transport, or deliver by land, water, or air.

24. "Nonvaccinate" means a swine which has not been exposed to a pseudorabies vaccine.

25. "Epidemiologist" means a state or federal veterinarian designated to investigate and diagnose suspected pseudorabies in livestock. The epidemiologist must have had special training in the diagnosis and epidemiology of pseudorabies.

26. "Herd cleanup plan" means a plan to eliminate pseudorabies from a swine herd. The plan must be developed by an epidemiologist in consultation with the herd owner and the owner's veterinary practitioner. The plan must be approved and signed by the epidemiologist, the owner, and the practitioner. The plan must be approved and filed with the department.

27. "Approved premise" means a dry lot facility located in an area with confirmed cases of pseudorabies infection, which is authorized by the department to receive, hold, or feed infected swine, exposed animals, or swine of unknown status. The premises and all swine on the premises shall be considered under quarantine. However, swine may be moved to slaughter under a transportation certificate or may be moved to another pseudorabies approved premise under a certificate of inspection.

28. "Program area" means an area designated to be given priority for assignment of a program funded eradication activity.

29. "Area eradication activity" means activities related to testing herds for purposes of evaluation and control of swine within a program area to achieve pseudorabies eradication within the area.

30. "Pseudorabies" means the contagious, infectious, and communicable disease of livestock and other animals known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

31. "Quarantined herd" means a herd in which pseudorabies infected or exposed swine are bred, reared, or fed under the supervision and control of the department. Swine in a quarantined herd may be moved only to an approved premise for feeding or to a recognized slaughtering establishment for slaughter. Either movement may be completed through a concentration point in compliance with section 166D.12.

32. "Qualified negative herd" means a herd in which one hundred percent of the herd's breeding swine have reacted negatively to a test or differentiable test and which is retested as provided in this chapter.

33. "Reaction" means a result determined by an approved laboratory procedure designed to recognize pseudorabies virus infection or a nondifferentiable vaccinated animal.

34. "Slaughtering establishment" means a slaughtering establishment operated under the provision of the federal Meat Inspection Act, 21 U.S.C. § 601 et seq., or a slaughtering establishment which has been inspected by the state.

35. "Restricted movement" means swine which are quarantined until directly moved to slaughter.

36. "Separate and apart" means to hold swine so that neither the swine nor organic material originating from the swine has physical contact with other animals.

37. "Advisory committee" means the state psuedorabies advisory committee composed of swine producers and other representatives of the swine industry, appointed pursuant to section 166D.3.

38. "Statistical sampling" means a test based on at least a ninety percent probability of detecting at least a ten percent incidence of positive reaction within a herd.

39. "Infected herd" means a herd that is known to contain infected swine, a herd containing swine exhibiting clinical signs of pseudorabies, or a herd that is infected according to an epidemiologist.

40. "Concentration point" means a location or facility where swine are assembled for purposes of sale or resale for feeding, breeding, or slaughtering, and where contact may occur between groups of swine from various sources. "Concentration point" includes a public stockyard, auction market, street market, state or federal market, untested consignment sales location, buying station, or a livestock dealer's yard, truck, or facility.

41. "Inspection service" means the animal and plant health inspection service, United States department of agriculture.

42. "Herd" means a group of swine as established by departmental rule.

43. "Feeder swine" means a porcine animal fed for purposes of direct slaughter, including feeder pigs, cull sows, and boars. However, "feeder swine" does not include animals kept for purposes of breeding or reproduction.

44. "Feeder pig" means an immature swine fed for purposes of direct slaughter which is less than slaughter weight.

45. "Transportation certificate" means the same as provided in chapter 172B.

Sec. 3. NEW SECTION. 166D.3 STATE PSEUDORABIES ADVISORY COMMITTEE.

A state pseudorabies advisory committee is established. The committee shall consist of not more than seven members appointed by the Iowa pork producers association. At least four members must be actively engaged in swine production. The members shall serve staggered terms of two years, except that the initial board members shall serve unequal terms. A person appointed to fill a vacancy for a member shall serve only for the unexpired portion of the term. A member is eligible for reappointment for three successive terms. A majority of the board constitutes a quorum and an affirmative vote of the majority of members is necessary for substantive action taken by the board. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the board. The advisory committee shall:

1. Approve a proposed area as a program area as provided in section 166D.4.

2. Inform and educate interested persons in the state, including persons involved in producing, processing, or marketing swine, regarding eradication activities under this chapter.

3. Review eradication activities under this chapter including the pseudorabies eradication programs. The committee shall make recommendations to the department and the inspection service and may consult with state officials regarding any matter relating to pseudorabies control and eradication, including departmental rules, other state or federal regulations, program areas, the use of vaccine, testing procedures, the progress of pseudorabies eradication programs, and state and federal program standards. The committee in cooperation with the department shall report to the governor and general assembly not later than January 15 the progress of psuedorabies eradication, including recommendations.

4. Maintain communication with other states and with the national pork producers council, the livestock conservation institute, and the inspection service.

Sec. 4. NEW SECTION. 166D.4 ESTABLISHING PROGRAM AREAS.

The department may establish pseudorabies program areas within the state. A program area shall be a county. The department shall declare the following counties to be individual program areas: Cherokee, Buena Vista, Fayette, Grundy, Hardin, Marshall, O'Brien, Story, Tama, and Washington.

An area shall be designated a pseudorabies program area when all of the following conditions are met:

1. The pork producer board of directors within the area proposed as a program area approved by a two-thirds majority vote to designate the area as a program area.

2. Within thirty days from the board's vote designating the area as a program area, the department must conduct a public hearing and referendum within the proposed area according to rules adopted by the department. The department in cooperation with the advisory committee shall certify persons as pork producers eligible to vote in the referendum. The department shall take minutes of the hearing and collect written testimony. The department shall publish at least seven days' advance notice of the hearing and referendum in all newspapers of general circulation within the proposed area. The department shall also notify by first class mail, the county agricultural extension director within the proposed area, the Iowa pork producers association, and the members of the advisory committee. The notice must contain the time, place, and subject of the hearing and referendum. During the hearing, the department shall communicate to attending producers information relating to eradication program requirements by the state, other states and by the federal government, and requirements for designating the proposed area as a program area, including the result of the board's vote to designate the proposed area as a program area, and referendum requirements to designate the proposed area as a program area.

At least twenty-five producers in the proposed area must participate in the referendum to designate the proposed area as a program area. At least seventy-five percent of the attending producers must by secret ballot vote in favor of the referendum. Producers may vote by written proxy. The votes shall be counted at the hearing and the marked ballots shall be filed with the department.

The department shall distribute a sheet with the ballot for a voting producer to indicate interest in participating in an eradication program.

3. The advisory committee shall review the minutes of the hearing, and the results of the referendum. The committee must approve the designation of the proposed area as a designated area.

The department, within thirty days of approval by the committee, shall send written notice by ordinary first class mail to all known pork producers residing in the area. The area shall be designated a program area after ten days following mailing of the notice to the last known producer's address.

Sec. 5. NEW SECTION. 166D.5 ADMINISTRATION OF PROGRAM AREAS.

Once a program has been designated, an owner of an infected herd must, within thirty days, adopt a herd cleanup plan or a feeder pig cooperator herd cleanup plan, as provided in section

166D.8. An infected herd which is not subject to a cleanup plan or a feeder pig cooperator herd cleanup plan is a quarantined herd.

When the department determines that a majority of herds within a program area have been tested and the majority of herds reveal a noninfection rate of ninety percent or greater, the following shall apply:

1. A vaccine other than a differentiable vaccine shall not be used.

2. A concentration point within the program area may market all classes of swine. Swine taken to a concentration point must be held there until transfer. However, untested, known infected, or exposed swine shall be transferred from the concentration point within three days only to persons moving the swine outside the program area.

3. Six months after determination by the department that a majority of herds within the program area have been tested and the majority of herds reveal a noninfection rate of ninety percent or greater, the following shall apply:

a. Only noninfected herd swine may move into the program area.

b. Swine herds within the area must be a qualified negative herd, a monitored herd, or must be involved in a herd cleanup plan or feeder pig cooperator herd plan.

c. Swine moving within or into the program area must be reported to the department within ten days of movement and be identified by farm of origin. Swine moving into a program area may be inspected by the department within thirty days from the swine's arrival.

d. An approved premise inside the program area shall not be reapproved upon its annual renewal date.

4. At the commencement of the program and at intervals during the course of the program, the owner of a feeder pig cooperator herd may, according to rules adopted by the department, receive new swine from noninfected herds.

The cost, or any segment of the cost, of the program, testing, and vaccination may be paid for by federal or state funds or a combination of both. Federal or state funds shall not be paid to the owner of a vaccinated herd in a program area other than the owner of a herd using a differentiable vaccine. If federal or state funds are not available, producers may continue the program at their own expense under departmental supervision.

An additional program area shall not be established if funds sufficient for administration of the program within the area are not available. Program funds shall not be spent outside a program area, unless recommended by the advisory committee and approved by the department. However, this paragraph does not apply to expenditures of funds for statewide surveillance or for enforcement of this chapter.

Sec. 6. NEW SECTION. 166D.6 REPORTING OF TEST RESULTS.

All tests under this chapter must be taken by a test administered by a licensed veterinarian. Test samples are to be collected by or under the direction of the department and a licensed veterinarian. If the test is determined by a laboratory located outside the state of Iowa, the person whose animal has been tested shall be responsible for assuring that the result is reported to the department within fourteen days following completion of the test. Swine sampled shall be identified with a numbered metal ear tag. The department shall make the ear tags available. Ear notches or other numbered identification methods approved by the department may be used at the herd owner's expense.

Test results shall be reported on forms prescribed by the department signed by the veterinarian and transmitted to the department within fourteen days following completion of the tests. Copies shall be made available to the attending veterinarian. Upon receipt, the attending veterinarian shall provide copies to the herd owner.

Sec. 7. NEW SECTION. 166D.7 NONINFECTED HERDS.

In administering the pseudorabies eradication program, the department shall regulate noninfected herds as follows:

1. A qualified negative herd must be certified, recertified, and maintained as follows:

a. The herd shall be certified when all breeding swine have reacted negatively to a test. The herd must have been free from infection for thirty days prior to testing. At least ninety percent of swine in the herd must have been on the premises as a part of the herd for at least sixty days prior to testing, or swine in the herd must have been moved directly from another qualified negative herd. To remain certified, the herd must be retested and recertified as provided by the department. The herd shall be recertified when either of the following occurs:

(1) Each eighty to one hundred five days at least twenty-five percent of the herd's breeding swine react negatively to a test.

(2) Each month at least ten percent of the herd's breeding swine react negatively to a test.

b. Before being added to the herd new swine including swine returning to the herd after contact with nonherd swine, shall be isolated until the new swine react negatively to a test conducted thirty days or more after the swine has been placed in isolation. Swine from a herd of unknown status must react negatively to a test not more than thirty days prior to movement from the herd of unknown status and retested in isolation at least thirty days after movement onto the premises where the qualified negative herd is located.

c. Swine from another qualified negative herd may be added without isolation or testing.

d. The owner shall make a request to the department for approval or reapproval of a qualified negative herd when the required tests are completed. Upon satisfactory proof that all requirements have been met, the herd shall be recertified by the department.

2. A controlled vaccinated herd shall be recognized as a noninfected herd until July 1, 1991. A controlled vaccinated herd shall be initially certified, recertified, and maintained as follows:

a. The herd shall be certified when all breeding swine react negatively to a test and are vaccinated with a licensed pseudorabies vaccine within fifteen days after the test. At least ninety percent of the swine in the herd must have been on the premises as part of the herd for at least sixty days prior to testing, or swine in the controlled vaccinated herd must have been directly moved from a qualified negative herd.

b. To remain certified the herd must be retested and recertified as provided by the department each three months. The herd shall be recertified after the number of the herd's progeny over four months of age equal to at least twenty-five percent of the breeding herd react negatively to the test every eighty to one hundred five days.

c. Before being added to the herd new swine must react negatively within thirty days prior to movement, and be vaccinated with a licensed pseudorabies vaccine within fifteen days after the test. The new swine must be added to the herd within thirty days after the test.

3. A monitored herd shall be initially certified, recertified, and maintained as follows:

a. The herd shall be certified when a statistical sampling of the herd is determined to be noninfected.

b. To remain certified the herd must be retested and recertified as provided by the department. The herd must be recertified annually. The herd shall be recertified when a statistical sampling of the herd is determined to be noninfected within twelve months from initial certification or the most recent recertification.

c. A monitored herd may receive new swine into the herd from a noninfected herd.

Sec. 8. NEW SECTION. 166D.8 INFECTED HERDS.

An infected herd in a program area shall either adopt a herd cleanup plan, a feeder pig cooperator herd plan, or shall be quarantined.

1. A herd cleanup plan may include any or a combination of the following:

a. The segregation of progeny with restricted movement.

b. The test and removal of infected swine from the herd.

c. Depopulation.

2. A feeder pig cooperator herd plan may be adopted if all of the following conditions are satisfied:

a. There must have been no clinical signs of pseudorabies during the past six months.

b. The production operation must be capable of segregating offspring at weaning into facilities separate and apart from the remainder of the herd.

c. An approved pseudorabies eradication plan must be implemented. However, swine from a feeder pig cooperator herd may be moved within Iowa without individual tests as feeder pigs of unknown origin.

3. Infected herds in a program area which have not adopted an official herd cleanup plan or feeder pig cooperator herd plan shall be quarantined.

4. Costs of program testing and vaccination shall be paid as provided in section 166D.5.

An infected herd outside a program area shall either adopt a herd cleanup plan or a feeder pig cooperator herd plan with restricted movement. An infected herd not subject to such a plan within thirty days of becoming a known infected herd shall be quarantined. An infected herd which is not subject to a herd cleanup plan or a feeder pig cooperator herd plan is a quarantined herd.

Sec. 9. NEW SECTION. 166D.9 QUARANTINED HERDS.

1. Swine from a quarantined herd shall not be removed from the herd except as follows:

a. The swine may be moved directly to slaughter through a slaughtering establishment, slaughter market, public stockyard, packer buying station, or directly to a slaughter plant if the swine are accompanied by a transportation certificate.

b. Feeder pigs may be removed for further feeding to an approved premise when accompanied by a certificate of inspection. Feeder pigs may move through a concentration point no more than one time.

2. Swine from a quarantined herd shall not be moved to show at public exhibitions.

3. A herd shall be released from quarantine when no animal, including livestock, on the premises shows clinical symptoms of pseudorabies. In addition one of the following must occur:

a. The swine have been removed from the premises, the premises have been cleaned and disinfected under supervision of the department or the inspection service. The disinfectant shall be approved by the department or inspection service. The premises must have been maintained free of swine for thirty days. However, the epidemiologist for good cause may determine that premises be maintained free of swine for a period greater or less than thirty days.

b. Swine reacting positively to a test have been removed from the premises. Remaining swine, except suckling pigs, must be tested and react negatively to the test thirty days or more after removal of the herd's swine reacting positively to the test.

c. The swine reacting positively to a test have been removed from the premises. At least thirty days after removal of the positive swine breeding swine remaining plus a random sample equaling twenty-eight of grower-finishing swine more than two months of age must react negatively to the test. While the state is in stage III or IV of the national pseudorabies program pursuant to federal regulations, the grower-finisher swine must react negatively to a test at least thirty days after reacting negatively to the last test.

4. While the state is classified in either stage I or II of the national pseudorabies program pursuant to federal regulations, the following requirements must be satisfied:

a. All swine present on the date the quarantine was imposed have been removed.

b. There must have been no clinical signs of pseudorabies in the herd for at least six months.

c. The epidemiologist must conduct two successive statistical samplings at least ninety days apart which reveal no infection within the new breeding swine.

d. The epidemiologist must conduct two successive statistical samplings ninety days apart of the herd's progeny at least four months of age which reveal no infection.

Herds removed from quarantine under this subsection shall be tested by statistical sampling one year later.

5. A person shall not accept swine from a quarantined herd for the purpose of feeding without receiving an approved premises permit by the department. The approved premises permit shall allow the owner of the approved premises to receive feeder swine from a quarantined herd for purposes of feeding the swine at the approved premises. The approved premises permit shall require all of the following:

a. The permittee must provide to the department during normal business hours access to the approved premises and records required by this section. Records of swine transfers must

be kept for at least one year. The records shall include information about purchases and sales, the names of buyers and sellers, the dates of transactions, and the number of swine involved in each transaction.

b. Swine on the premises must be maintained in isolation.

c. Breeding swine must not be maintained on the premises. However, cull sows and boars may be maintained, if fed out to slaughter.

d. Feeder swine must be vaccinated for pseudorabies at the owner's expense on arrival at the approved premise. Vaccination records must be maintained by the owner of the approved premises for at least one year after vaccination.

e. Dead swine must be disposed of in accordance with chapter 167. The dead swine must be held so as to prevent animals, including wild animals and livestock, from reaching the dead swine.

f. Swine must be directly moved to slaughter, accompanied by a transportation certificate or to another approved premise with a certificate of inspection.

An approved premise shall not be permitted in the vicinity of a qualified negative herd.

An approved premise permit shall be renewed annually by the department. The approved premises permit shall be renewed if the district veterinarian finds that the approved premises is and has been in compliance with this chapter and federal law. The department may suspend or cancel the permit for noncompliance. When a permit is suspended, canceled, or not renewed, the premise remains under quarantine until released pursuant to the provisions of this section.

Sec. 10. NEW SECTION. 166D.10 MOVEMENT OF SWINE.

1. A person shall not sell, lease, exhibit, or loan swine within the state, except to slaughter, unless the swine is accompanied by a certificate of inspection provided by the owner transferring possession. However, a native Iowa feeder pig moved from farm to farm within the state is exempt from the certificate of inspection's identification requirements if the owner transferring possession and the person taking possession state on the certificate of inspection that the feeder swine will not be commingled with other swine for a period of thirty days.

Swine moved into or within Iowa for breeding purposes must originate from a herd not under quarantine which is one of the following:

a. A herd classified as a qualified negative herd.

b. A controlled vaccinated herd which complies with the provisions of section 166D.7, subsection 2.

c. Swine which have individually reacted negatively to testing within the past thirty days.

2. Imported feeder pigs shall originate from noninfected herds. An imported feeder pig shall be subject to restricted movement, unless the pig reacted negatively to a test within the past thirty days.

3. A feeder pig moved intrastate shall be moved according to the following:

a. A feeder pig in a noninfected herd shall not be subject to restricted movement.

b. A feeder pig in a herd of unknown pseudorabies status as provided shall be subject to restricted movement.

c. A feeder pig in a known infected herd shall be subject to restricted movement by certificate of inspection and only to an approved premise.

Sec. 11. NEW SECTION. 166D.11 DIFFERENTIABLE VACCINE REQUIRED.

Beginning on December 1, 1989, swine other than unvaccinated or differentiable vaccinated swine shall not be sold, marketed, or moved within this state, except to slaughter or to an approved premise by certificate of inspection.

Sec. 12. NEW SECTION. 166D.12 CONCENTRATION POINTS.

If swine are not isolated from swine subject to different movement restrictions, the swine shall be restricted to the same extent as the swine which are subject to the most movement restrictions. After movement of infected swine or swine of unknown origin through the

concentration point, the concentration point must be thoroughly cleaned and disinfected. The cleaned and disinfected concentration point must be inspected by a veterinarian.

1. Swine from noninfected herds may be moved through a concentration point, provided all of the following apply:

a. Breeding swine must be kept separate and apart from feeder pigs.

b. Breeding swine must be sold first.

c. Only swine from noninfected herds may be moved through a concentration point.

d. Slaughter swine shall not be moved through a concentration point.

e. A feeder pig moving through a concentration point in this manner may move through a concentration point after thirty days as a pig of unknown origin, unless the pig reacts negatively to a test.

2. A feeder pig from a noninfected herd and a feeder pig from a herd of unknown status may be moved through the same concentration point, provided all of the following apply:

a. The entire offering for a transaction, including a sale, must represent all swine as coming from herds of unknown status, regardless of the swine's farm of origin.

b. Slaughter or breeding swine must not be moved through the concentration point.

c. Swine shall not be moved through a concentration point unless subject to restricted movement.

3. Feeder pigs from herds of unknown status and slaughter swine may be moved through a concentration point if all of the following apply:

a. The feeder pigs must be kept separate and apart from the slaughter swine.

b. The feeder pigs must be moved through prior to the movement of any slaughter swine.

c. Breeding swine must not be moved through the concentration point.

d. The swine shall not be moved through unless quarantined to slaughter.

4. Swine from known infected herds may be moved through a concentration point provided all of the following apply:

a. Other species of livestock must not be held at the concentration point.

b. Only owners with approved premise permits are eligible to take possession of swine for movement to the approved premises.

c. The swine after movement through the concentration point must be quarantined to slaughter or moved to slaughter.

Sec. 13. NEW SECTION. 166D.13 EXHIBITION OF SWINE.

1. Swine from a quarantined herd shall not be displayed or shown at any exhibition.

2. Swine returning from an exhibition to its home herd or moved to a purchaser's herd following an exhibition or consignment sale must be isolated and retested negative for pseudorabies not less than thirty and not more than sixty days after reaching the swine's destination.

3. Animals infected shall not be shown or displayed at an exhibition.

4. Rules controlling exhibition movement requirements may be adopted by the department in addition to the requirements of this section.

Sec. 14. NEW SECTION. 166D.14 PSEUDORABIES IMMUNIZATION PRODUCTS.

A person shall not use, sell, or distribute or offer to sell or distribute a pseudorabies immunization product within the state unless the products are approved by the secretary. However, the secretary shall approve a pseudorabies immunization product for purposes of product research or testing by a biological laboratory, government authority, or manufacturer of biological products if the secretary concludes that the use will not be detrimental to the state pseudorabies disease program.

Only a licensed veterinarian may buy and dispense a department-approved immunization product. The veterinarian must report information relating to the use of the product to the department, including the name and address of the owner and the number of doses used. The report shall be signed by the owner or the owner's agent. The report shall be mailed to the department immediately after the use of the product.

A differentiable vaccinate to be classified as a noninfected animal must react negatively to field strains of pseudorabies virus as determined by a companion differentiable serologic test. The swine must be identified as differentiable vaccinated animals.

Sec. 15. NEW SECTION. 166D.15 TRACING PSEUDORABIES TO SOURCE OR DESTINATION HERDS.

1. The owner of a known infected herd shall furnish to the department all of the following information:

a. A list of sources of feeder pigs or breeding swine during the preceding twelve months.

b. A list of sales of feeder pigs or breeding swine during the preceding twelve months.

2. If pseudorabies is diagnosed in breeding swine or feeder pigs which have been purchased from or sold to another swine producer within ninety days from the sale, the department may require a statistical sample of the breeding herd of the seller or buyer and a statistical sample of the herd progeny over four months. If the owner of the herd refuses to allow the test, the herd shall be classified as a known infected herd.

3. Tests conducted pursuant to this section shall be completed at the owner's expense unless state funds are available for this purpose.

Sec. 16. NEW SECTION. 166D.16 ENFORCEMENT.

The provisions of this chapter including departmental rules adopted pursuant to this chapter shall be administered and enforced by the department. A person violating a provision of this chapter or any rule adopted pursuant to this chapter shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars.

In addition to any other remedies provided, the department may file a petition in the district court seeking an injunction restraining any person from violating provisions of this chapter including a rule adopted pursuant to this chapter.

Sec. 17. Chapter 166C, Code 1989, is repealed.

Approved June 1, 1989

CHAPTER 281

SOLID WASTE DISPOSAL PENALTY

S.F. 488

AN ACT relating to solid waste disposal and providing penalties.

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

Section 1. Section 455B.307, subsection 3, Code 1989, is amended to read as follows:

3. Any person who violates any provision of part 1 of this division or any rule or any order adopted or the conditions of any permit or order issued pursuant to part 1 of this division shall be subject to a civil penalty,. ~~The amount of the civil penalty shall be based upon the toxicity and severity of the solid waste as determined by rule, but~~ not to exceed five ~~hundred~~ thousand dollars for each day of such violation.

Approved June 1, 1989

CHAPTER 282

PAROLE BOARD AND PROCEDURES

S.F. 519

AN ACT relating to the administration of criminal justice, by providing for review of an offender's record, revocation of an offender's parole, restructuring the board of parole, and providing an effective date.

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

Section 1. Section 904A.1, Code 1989, is amended to read as follows:

904A.1 BOARD OF PAROLE

The board of parole is created to consist of five members~~, three members who shall devote their full time to the parole and work release system and two members who shall be part-time~~. Each member, except the chairperson, shall be compensated on a day-to-day basis. Each member shall serve a term of four years beginning ~~and ending as provided by section 69.19~~ July 1, except ~~appointments~~ for members appointed to fill vacancies who shall serve for the balance of the unexpired term. The terms shall be staggered. The chairperson of the board shall ~~be elected by the members of the board to a term of one year and may serve more than one term consecutively~~ be a full-time, salaried member of the board. A majority of the members of the board constitutes a quorum to transact business.

Sec. 2. Section 904A.3, Code 1989, is amended to read as follows:

904A.3 APPOINTMENT TO BOARD OF PAROLE.

The governor shall appoint the chairperson and other members of the board of parole, subject to confirmation by the senate. The chairperson shall serve at the pleasure of the governor. Vacancies shall be filled in the same manner as regular appointments are made.

Sec. 3. Section 904A.4, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

904A.4 DUTIES OF THE BOARD OF PAROLE.

1. The board of parole shall interview and consider inmates for parole and work release and a majority vote of the members is required to grant a parole or work release.

2. The board of parole shall interview inmates according to administrative rules adopted by the board.

3. The board of parole 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. The board shall review the current parole and work release programs and procedures used in this state on an annual basis.

4. The board of parole shall increase utilization of data processing and computerization to assist in the orderly conduct of the parole and work release system.

5. The board of parole shall conduct such studies of the parole and work release system as are requested by the governor and the general assembly.

6. The board of parole shall provide technical assistance and counseling related to the board's purposes to public and private entities.

7. The board of parole shall review and make recommendations to the governor regarding all applications for reprieves, pardons, commutation of sentences, remission of fines or forfeitures, or restoration of citizenship rights as required by chapter 248A.

8. The board of parole shall implement a risk assessment program which shall provide risk assessment analysis for the board.

Sec. 4. NEW SECTION. 904A.4A CHAIRPERSON OF THE BOARD OF PAROLE — DUTIES.

The chairperson of the board of parole shall do all of the following:

1. Act as the board's liaison with the governor regarding executive clemency, parole, and work release matters.

2. Direct, supervise, evaluate, and assign the day-to-day administration of the board of parole.
3. Supervise and monitor parole revocations and appeals.
4. Supervise final work release revocation case reviews.
5. Supervise the development of rules, policies, and procedures, subject to the approval of the board, in cooperation with the department of corrections, pertaining to the supervision of executive clemency, parole, and work release.
6. Supervise the development of long-range parole and work release planning.

Sec. 5. NEW SECTION. 904A.4B EXECUTIVE DIRECTOR OF THE BOARD OF PAROLE — DUTIES.

The chief administrative officer of the board of parole shall be the executive director. The executive director shall be appointed by the chairperson, subject to the approval of the board and shall serve at the pleasure of the board. The executive director shall do all of the following:
1. Advise the board on matters relating to parole, work release, and executive clemency, and advise the board on matters involving automation and word processing.
2. Carry out all directives of the board.
3. Hire and supervise all of the board's staff pursuant to the provisions of chapter 19A.
4. Act as the board's liaison with the general assembly.
5. Prepare a budget for the board, subject to the approval of the board, and prepare all other reports required by law.
6. Develop long-range parole and work release planning, in cooperation with the department of corrections.

Sec. 6. Section 904A.5, Code 1989, is amended to read as follows:

904A.5 ADMINISTRATION OF BOARD OF PAROLE.

The chairperson of the board of parole is responsible directly to the governor. The board of parole is attached to the department of corrections for routine administrative and support services only. ~~The board of parole shall appoint an executive secretary and employ a clerical staff sufficient to carry on the necessary duties of the board. The board shall also employ personnel to serve as liaisons between the board, inmates, and staff at the state's penal and correctional facilities and to perform other duties designated by the board. The board shall submit to the director of the department of management an estimate of the funds needed for salaries, maintenance, and supplies as provided in section 8.23.~~

Sec. 7. Section 904A.6, Code 1989, is amended to read as follows:

904A.6 SALARIES AND EXPENSES.

Each member, except the chairperson, of the board shall be paid ~~a salary~~ per diem as determined by the general assembly. The chairperson of the board shall be paid a salary as determined by the general assembly. Each member of the board, ~~the executive secretary,~~ and all employees are entitled to receive, in addition to their per diem or salary, their necessary maintenance and travel expenses while engaged in official business.

Sec. 8. Section 906.5, Code 1989, is amended to read as follows:

906.5 RECORD REVIEWED — RULES.

1. Within one year after the commitment of a person other than a class "A" felon, class "B" felon convicted of murder in the second degree and serving a sentence of more than twenty-five years, or a felon serving a mandatory minimum sentence, 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. However, if the registration of a victim prohibits conducting a timely interview as provided in this subsection, the interview may be conducted within a reasonable period of time after the one-year period or interval has expired in order to provide the victim notice as provided in section 910A.10, subsection 1, paragraph "a".

Not less than twenty days prior to conducting a hearing at which the board will interview the person, the board shall notify the department of corrections of the scheduling of the interview, and the department shall make the person available to the board at the person's institutional residence as scheduled in the notice. However, if health, safety, or security conditions require moving the person to another institution or facility prior to the scheduled interview, the department of corrections shall so notify the board.

2. At the time of an interview required under this section, 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.

3. 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. 9. Section 908.4, Code 1989, is amended to read as follows:

908.4 PAROLE REVOCATION HEARING.

The parole revocation hearing shall be conducted by ~~a~~ an administrative parole ~~revocation officer~~ judge 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 administrative parole ~~revocation officer~~ judge 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~~ judge 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 1989, is amended by striking the section and inserting in lieu thereof the following:

908.5 DISPOSITION.

If a violation of parole is established, the administrative parole judge may continue the parole with or without any modification of the conditions of parole. The administrative parole judge may revoke the parole and require the parolee to serve the sentence originally imposed, or may revoke the parole and reinstate the parolee's work release status. The order of the administrative parole judge shall contain findings of fact, conclusions of law, and a disposition of the matter.

Sec. 11. Section 908.6, Code 1989, is amended to read as follows:

908.6 APPEAL OR REVIEW.

The order of the administrative parole ~~revocation officer~~ judge 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 administrative parole ~~revocation officer's~~ judge'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 administrative parole ~~revocation officer~~ judge.

Sec. 12. Section 908.7, Code 1989, is amended to read as follows:

908.7 WAIVER OF PAROLE REVOCATION HEARING.

The alleged parole violator may waive the parole revocation hearing, in which event the administrative parole ~~revocation officer~~ judge shall proceed to determine the disposition of the matter. The administrative parole ~~revocation officer~~ judge shall dispose of the case as provided in section 908.4. The administrative parole ~~revocation officer~~ judge shall make a verbatim record of the proceedings. The waiver proceeding may be conducted electronically.

Sec. 13. Section 908.10, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

908.10 CONVICTION OF A FELONY WHILE ON PAROLE.

When a person is convicted and sentenced to incarceration in this state for a felony committed while on parole, or is convicted and sentenced to incarceration under the laws of any other state of the United States or a foreign government or country for an offense committed while on parole, and which if committed in this state would be a felony, the person's parole shall be deemed revoked as of the date of the commission of the new felony offense.

The parole officer shall inform the sentencing judge that the convicted defendant is a parole violator. The term for which the defendant shall be imprisoned as a parole violator shall be the same as that provided in cases of revocation of parole for violation of the conditions of parole. The new sentence of imprisonment for conviction of a felony shall be served consecutively with the term imposed for the parole violation, unless a concurrent term of imprisonment is ordered by the court.

The parolee shall be notified in writing that parole has been revoked on the basis of the new felony conviction, and a copy of the commitment order shall accompany the notification. The inmate's record shall be reviewed pursuant to the provisions of section 906.5, or as soon as practical after a final reversal of the new felony conviction.

An inmate may appeal the revocation of parole under this section according to the board of parole's rules relating to parole revocation appeals. Neither the administrative parole judge nor the board panel shall retry the facts underlying any conviction.

Sec. 14. TRANSITION — TERMS OF BOARD MEMBERS. The terms of all persons serving on the board of parole on June 30, 1989, expire on that date. Notwithstanding the four-year term specified in section 904A.1, appointments of the new members of the board of parole shall be as follows:

1. One member to serve from July 1, 1989, to June 30, 1990.
2. One member to serve from July 1, 1989, to June 30, 1991.
3. One member to serve from July 1, 1989, to June 30, 1992.
4. Two members to serve from July 1, 1989, to June 30, 1993.

Thereafter, all appointments shall be for four-year terms.

Sec. 15. Section 904A.7, Code 1989, is repealed.

Sec. 16. Section 14 of this Act takes effect June 30, 1989.

Approved June 1, 1989

CHAPTER 283

CHILDREN'S PROGRAMS AND RELATED PROCEDURES

S.F. 540

AN ACT relating to human services statutes providing for or regarding substance abuse commitment of juveniles, psychiatric medical institutions for children, the council on human services, mentally ill juveniles, child abuse, payment for a child's expenses, the schedule of basic needs under the aid to dependent children program, the costs of a child's care in a state juvenile institution, child support recovery, and certain administrative rules, properly related matters, providing for effective dates, and providing penalties.

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

Section 1. NEW SECTION. 125.75A INVOLUNTARY COMMITMENT OR TREATMENT OF MINORS — JURISDICTION.

The juvenile court has exclusive original jurisdiction in proceedings concerning a minor for whom an application for involuntary commitment or treatment is filed under section 125.75. In proceedings under this division concerning a minor's involuntary commitment or treatment, the terms "court", "judge", "referee", or "clerk" mean the juvenile court, judge, referee, or clerk.

Sec. 2. NEW SECTION. 135H.1 DEFINITIONS.

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

1. "Department" means the department of inspections and appeals.

2. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or an activity.

3. "Licensee" means the holder of a license issued to operate a psychiatric medical institution for children.

4. "Medical care plan" means a plan of care and services designed to eliminate the need for inpatient care by improving the condition of a child. Services must be based upon a diagnostic evaluation, which includes an examination of the medical, psychological, social, behavioral, and developmental aspects of the child's situation, reflecting the need for inpatient care.

5. "Nonsecure institution" means a physically unrestricting institution, place, building, or agency in which a child may be placed pursuant to a dispositional court order made in accordance with the provisions of chapter 232.

6. "Nursing care" means services which are provided under the direction of a physician or registered nurse.

7. "Physician" means a person licensed under chapter 148 or 150A.

8. "Psychiatric medical institution for children" or "psychiatric institution" means a nonsecure institution providing more than twenty-four hours of continuous care involving long-term psychiatric services to three or more children in residence for expected periods of fourteen or more days for diagnosis and evaluation or for expected periods of ninety days or more for treatment.

9. "Psychiatric services" means services provided under the direction of a physician which address mental, emotional, medical, or behavioral problems.

10. "Mental health professional" means an individual who has all of the following qualifications:

a. The individual holds at least a master's degree in a mental health field, including but not limited to, psychology, counseling and guidance, nursing, and social work, or the individual is a physician.

b. The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law.

c. The individual has at least two years of post-degree clinical experience, supervised by another mental health professional, in assessing mental health needs and problems and in providing appropriate mental health services.

11. "Rehabilitative services" means services to encourage and assist restoration of a resident's optimum mental and physical capabilities.

12. "Resident" means a person who is less than twenty-one years of age and has been admitted by a physician to a psychiatric medical institution for children.

13. "Supervision" means direct oversight and inspection of the act of accomplishing a function or activity.

Sec. 3. NEW SECTION. 135H.2 PURPOSE.

The purpose of this chapter is to provide for the development, establishment, and enforcement of basic standards for the operation, construction, and maintenance of a psychiatric medical institution for children which will ensure the safe and adequate diagnosis and evaluation and treatment of the residents.

Sec. 4. NEW SECTION. 135H.3 NATURE OF CARE.

A psychiatric medical institution for children shall utilize a team of professionals to direct an organized program of diagnostic services, psychiatric services, nursing care, and rehabilitative services to meet the needs of residents in accordance with a medical care plan developed for each resident. Social and rehabilitative services shall be provided under the direction of a qualified mental health professional.

Sec. 5. NEW SECTION. 135H.4 LICENSURE.

A person shall not establish, operate, or maintain a psychiatric medical institution for children unless the person obtains a license for the institution under this chapter and holds a license under section 237.3, subsection 2, paragraph "a", subparagraph (3).

Sec. 6. NEW SECTION. 135H.5 APPLICATION FOR LICENSE.

An application for a license under this chapter shall be submitted on a form requesting information required by the department, which may include affirmative evidence of the applicant's ability to comply with the rules for standards adopted pursuant to this chapter. An application for a license shall be accompanied by the required license fee which shall be credited to the general fund of the state. The initial and annual license fee is twenty-five dollars.

Sec. 7. NEW SECTION. 135H.6 INSPECTION BEFORE ISSUANCE.

The department shall issue a license to an applicant under this chapter if all the following conditions exist:

1. The department has ascertained that the applicant's medical facilities and staff are adequate to provide the care and services required of a psychiatric institution.

2. The proposed psychiatric institution is accredited to provide psychiatric services by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings.

3. The applicant complies with applicable state rules and standards for a psychiatric institution adopted by the department in accordance with federal requirements under 42 C.F.R. § 441.150-441.156.

4. The applicant has been awarded a certificate of need pursuant to chapter 135.

5. The department of human services has submitted written approval of the application based on the department of human services' determination of need. The department of human services shall identify the location and number of children in the state who require the services of a psychiatric medical institution for children. Approval of an application shall be based upon the location of the proposed psychiatric institution relative to the need for services identified by the department of human services and an analysis of the applicant's ability to provide services and support consistent with requirements under chapter 232, particularly regarding community-based treatment. The department of human services shall not give approval to an application which would cause the total number of beds licensed under this chapter to exceed three hundred sixty beds with not more than three hundred of the beds licensed under chapter 237 before January 1, 1989, and not more than sixty of the beds licensed under chapter 237 after January 1, 1989. If the proposed psychiatric institution is not freestanding from a

facility licensed under chapter 135B or 135C, approval under this subsection shall not be given unless the department of human services certifies that the proposed psychiatric institution is capable of providing a resident with a living environment similar to the living environment provided by a licensee which is freestanding from a facility licensed under chapter 135B or 135C. Unless a psychiatric institution was accredited to provide psychiatric services by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings prior to the effective date of this Act, the department of human services shall not approve an application for a license under this chapter until the federal health care financing administration has approved a state Title XIX plan amendment to include coverage of services in a psychiatric medical institution for children.

6. The proposed psychiatric institution is under the direction of an agency which has operated a facility licensed under section 237.3, subsection 2, paragraph "a", subparagraph (3), for three years.

Sec. 8. NEW SECTION. 135H.7 PERSONNEL.

1. A person shall not be allowed to provide services in a psychiatric institution if the person has a disease which is transmissible to other persons through required contact in the workplace, which presents a significant risk of infecting other persons, which presents a substantial possibility of harming other persons, or for which no reasonable accommodation can eliminate the risk of infecting other persons.

2. A person who has been convicted of a criminal act involving a child under a law of any state or who has a record of founded child abuse shall not be licensed, be employed by a licensee, or reside in a licensed home unless the department of human services determines that the crime or founded abuse does not merit prohibition of licensure or employment. In its determination, the department of human services 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 abuses committed by the person involved.

Sec. 9. NEW SECTION. 135H.8 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

The department may deny an application or suspend or revoke a license if the department finds that an applicant or licensee has failed or is unable to comply with this chapter or the rules establishing minimum standards pursuant to this chapter or if any of the following conditions apply:

1. It is shown that a resident is a victim of cruelty or neglect due to the acts or omissions of the licensee.

2. The licensee has permitted, aided, or abetted in the commission of an illegal act in the psychiatric institution.

3. An applicant or licensee acted to obtain or to retain a license by fraudulent means, misrepresentation, or submitting false information.

4. The licensee has willfully failed or neglected to maintain a continuing in-service education and training program for persons employed by the psychiatric institution.

5. The application involves a person who has failed to operate a psychiatric institution in compliance with the provisions of this chapter.

Sec. 10. NEW SECTION. 135H.9 NOTICE AND HEARINGS.

The procedure governing notice and hearing to deny an application or suspend or revoke a license shall be in accordance with rules adopted by the department pursuant to chapter 17A. A full and complete record shall be kept of the proceedings and of any testimony. The record need not be transcribed unless judicial review is sought. A copy or copies of a transcript may be obtained by an interested party upon payment of the cost of preparing the transcript or copies.

Sec. 11. NEW SECTION. 135H.10 RULES.

1. The department of inspections and appeals, in consultation with the department of human services and affected professional groups, shall adopt and enforce rules setting out the standards for a psychiatric medical institution for children and the rights of the residents admitted to a psychiatric institution. The department of inspections and appeals and the department of human services shall coordinate the adoption of rules and the enforcement of the rules in order to prevent duplication of effort by the departments and of requirements of the licensee.

2. This chapter shall not be construed as prohibiting the use of funds appropriated for foster care to provide payment to a psychiatric medical institution for children for the financial participation required of a child whose foster care placement is in a psychiatric medical institution for children. In accordance with established policies and procedures for foster care, the department of human services shall act to recover any such payment for financial participation, apply to be named payee for the child's unearned income, and recommend parental liability for the costs of a court-ordered foster care placement in a psychiatric medical institution.

Sec. 12. NEW SECTION. 135H.11 COMPLAINTS ALLEGING VIOLATIONS — CONFIDENTIALITY.

A person may request an inspection of a psychiatric medical institution for children by filing with the department a complaint of an alleged violation of an applicable requirement of this chapter or a rule adopted pursuant to this chapter. The complaint shall state in a reasonably specific manner the basis of the complaint. A statement of the nature of the complaint shall be delivered to the psychiatric institution involved at the time of or prior to the inspection. The name of the person who files a complaint with the department shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

Sec. 13. NEW SECTION. 135H.12 INSPECTIONS UPON COMPLAINTS.

1. Upon receipt of a complaint made in accordance with section 135H.11, the department shall make a preliminary review of the complaint. Unless the department concludes that the complaint is intended to harass a psychiatric institution or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the psychiatric institution which is the subject of the complaint. The department of inspections and appeals may refer to the department of human services any complaint received by the department if the complaint applies to rules adopted by the department of human services. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with developmental disabilities or mental illness. In any case, the complainant shall be promptly informed of the result of any action taken by the department in the matter.

2. An inspection made pursuant to a complaint filed under section 135H.11 need not be limited to the matter or matters referred to in the complaint; however, the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection. Upon arrival at the psychiatric institution to be inspected, the inspector shall show identification to the person in charge of the psychiatric institution and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department, the complainant or the complainant's representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the inspector determines that the privacy of a resident of the psychiatric institution to be inspected would be violated. The dignity of the resident shall be given first priority by the inspector and others.

Sec. 14. NEW SECTION. 135H.13 INFORMATION CONFIDENTIAL.

1. The department's final findings and the survey findings of the joint commission on the accreditation of health care organizations regarding licensure or program accreditation shall

be made available to the public in a readily available form and place. Other information relating to the psychiatric institution is confidential and shall not be made available to the public except in proceedings involving licensure, a civil suit involving a resident, or an administrative action involving a resident.

2. The name of a person who files a complaint with the department shall remain confidential and is not subject to discovery, subpoena, or any other means of legal compulsion for release to a person other than an employee of the department or an agent involved in the investigation of the complaint.

3. Information regarding a resident who has received or is receiving care shall not be disclosed directly or indirectly except as authorized under section 217.30, 232.69, or 237.21.

Sec. 15. NEW SECTION. 135H.14 JUDICIAL REVIEW.

Judicial review of the action of the department may be sought pursuant to the Iowa Administrative Procedure Act, chapter 17A. Notwithstanding the Iowa Administrative Procedure Act, a petition for judicial review of the department's actions under this chapter may be filed in the district court of the county in which the related psychiatric medical institution for children is located or is proposed to be located. The status of the petitioner or the licensee shall be preserved pending final disposition of the judicial review.

Sec. 16. NEW SECTION. 135H.15 PENALTIES.

A person who establishes, operates, or manages a psychiatric medical institution for children without obtaining a license under this chapter commits a serious misdemeanor. Each day of continuing violation following conviction shall be considered a separate offense.

Sec. 17. NEW SECTION. 135H.16 INJUNCTION.

Notwithstanding the existence or pursuit of another remedy, the department may maintain an action for injunction or other process to restrain or prevent the establishment, operation, or management of a psychiatric medical institution for children without a license.

Sec. 18. Section 217.3, subsection 4, Code 1989, is amended to read as follows:

4. Approve the budget of the department of human services prior to submission to the governor. Within two weeks of the date the budget is approved, the council shall publicize and hold a public hearing to provide explanations and hear questions, opinions, and suggestions regarding the budget. Invitations to the hearing shall be extended to the governor, the governor-elect, the director of the department of management, and other persons deemed by the council as integral to the budget process.

Sec. 19. Section 217.11, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The director of the department of education or the director's designee.

Sec. 20. Section 225C.20, Code 1989, is amended to read as follows:

225C.20 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~~ may change the provider of individual case management services at any time. If the current or proposed contract is with the department, the coordinating board shall provide written notification of a proposed change to the department on or before August 15 and written notification of an approved change on or before October 15 in the fiscal year which precedes the fiscal year in which the change will take effect.

Sec. 21. NEW SECTION. 226.9A CUSTODY OF JUVENILE PATIENTS.

Effective January 1, 1991, a juvenile who is committed to a state mental health institute shall not be placed in a secure ward with adults.

Sec. 22. Section 232.71, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 17. In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 9. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse report.

Sec. 23. Section 232.141, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

232.141 EXPENSES.

1. Except as otherwise provided by law, the court shall inquire into the ability of the child or the child's parent to pay expenses incurred pursuant to subsection 2 and subsection 4 and, after giving the parent a reasonable opportunity to be heard, the court may order the parent to pay all or part of the costs of the child's care, examination, treatment, legal expenses, or other expenses. An order entered under this section does not obligate a parent paying child support under a custody decree, except that part of the monthly support payment may be used to satisfy the obligations imposed by the order entered pursuant to this section. If a parent fails to pay as ordered, without good reason, the court may proceed against the parent for contempt and may inform the county attorney who shall proceed against the parent to collect the unpaid amount. Any payment ordered by the court shall be a judgment against each of the child's parents and a lien as provided in section 624.23. If all or part of the amount that the parents are ordered to pay is subsequently paid by the county or state, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of the county's payments and in favor of the state to the extent of the state's payments.

2. Upon certification of the court, all of the following expenses are a charge upon the county in which the proceedings are held, to the extent provided in subsection 3:

a. The fees and mileage of witnesses and the expenses of officers serving notices and subpoenas.

b. Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem.

3. Costs incurred under subsection 2 shall be paid as follows:

a. A county shall be required to pay for the fiscal year beginning July 1, 1989, an amount equal to the county's base cost for witness and mileage fees and attorney fees established pursuant to section 232.141, subsection 8, paragraph "d", Code 1989, for the fiscal year beginning July 1, 1988, plus an amount equal to the percentage rate of change in the consumer price index as tabulated by the federal bureau of labor statistics for the current year times the county's base cost.

b. A county's base cost for a fiscal year plus the percentage rate of change amount as computed in paragraph "a" is the county's base cost for the succeeding fiscal year. The amount to be paid in the succeeding year by the county shall be computed as provided in paragraph "a".

c. Costs incurred under subsection 2 which are not paid by the county under paragraphs "a" and "b" shall be reimbursed by the state. A county shall apply for reimbursement to the judicial department which shall prescribe rules and forms to implement this subsection.

4. Upon certification of the court, all of the following expenses are a charge upon the state to the extent provided in subsection 5:

a. The expenses of transporting a child to or from a place designated by the court for the purpose of care or treatment.

b. Expenses for mental or physical examinations of a child if ordered by the court.

c. The expenses of care or treatment ordered by the court.

5. If no other provision of law requires the county to reimburse costs incurred pursuant to subsection 4, the department shall reimburse the costs as follows:

a. The department shall prescribe by administrative rule all services eligible for reimbursement pursuant to subsection 4 and shall establish an allowable rate of reimbursement for each service.

b. The department shall receive billings for services provided and, after determining allowable costs, shall reimburse providers at a rate which is not greater than allowed by administrative rule. Reimbursement paid to a provider by the department shall be considered reimbursement in full unless a county voluntarily agrees to pay any difference between the reimbursement amount and the actual cost. When there are specific program regulations prohibiting supplementation those regulations shall be applied to providers requesting supplemental payments from a county. Billings for services not listed in administrative rule shall not be paid. However, if the court orders a service not currently listed in administrative rule, the department shall review the order and, if reimbursement for the service of the department is not in conflict with other law or administrative rule, and meets the criteria of subsection 4, the department shall reimburse the provider.

6. If a child is given physical or mental examinations or treatment relating to a child abuse investigation with the consent of the child's parent, guardian, or legal custodian and no other provision of law otherwise requires payment for the costs of the examination and treatment, the costs shall be paid by the state. Reimbursement for costs of services described in this subsection is subject to subsection 5.

7. A county charged with the costs and expenses under subsections 2 and 3 may recover the costs and expenses from the county where the child has legal settlement by filing verified claims which are payable as are other claims against the county. A detailed statement of the facts upon which a claim is based shall accompany the claim. Any dispute involving the legal settlement of a child for which the court has ordered payment under this section shall be settled pursuant to sections 252.22 and 252.23.

Sec. 24. Section 232.89, subsection 3, Code 1989, is amended to read as follows:

3. The court shall determine, after giving the parent, guardian, or custodian an opportunity to be heard, whether ~~such~~ the person has the ability to pay in whole or in part for counsel appointed for the child. If the court determines that ~~such~~ the person possesses sufficient financial ability, the court shall then consult with the department of human services, the juvenile probation office, or other authorized agency or individual regarding the likelihood of impairment of the relationship between the child and the child's parent, guardian or custodian as a result of ordering the parent, guardian, or custodian to pay for the child's counsel. If impairment is deemed unlikely, the court shall order that person to pay ~~such sums as~~ an amount the court finds appropriate in the manner and to whom the court directs. If the person ~~so ordered~~ fails to comply with the order without good reason, the court shall enter judgment against the person. If impairment is deemed likely or if the court determines that the parent, guardian, or custodian cannot pay any part of the expenses of counsel appointed to represent the child, counsel shall be reimbursed pursuant to section 232.141, subsection ~~1~~ 2, paragraph "b".

Sec. 25. Section 235A.15, subsection 2, paragraph c, Code 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) To an administrator of a psychiatric medical institution for children licensed under chapter 135H.

Sec. 26. Section 237.3, subsection 2, paragraph a, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Types of facilities which include but are not limited to all of the following:

(1) A community residential facility.

(2) A community residential facility for mentally retarded children.

(3) A comprehensive residential facility for children.

(4) A comprehensive residential facility for mentally retarded children.

(5) A foster family home.
(6) A group living foster care facility.

Sec. 27. Section 237.8, subsection 1, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

1. A person shall not be allowed to provide services in a facility if the person has a disease which is transmissible to other persons through required contact in the workplace, which presents a significant risk of infecting other persons, which presents a substantial possibility of harming other persons, or for which no reasonable accommodation can eliminate the risk of infecting other persons.

Sec. 28. Section 237A.15, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Adopt rules relating to the purchase of child day care services which authorize payment for up to four days per month for days an individual child is not in attendance at the child day care facility.

Sec. 29. NEW SECTION. 242.17 COST OF CARE.

If a child receives unearned income, the department shall reserve a portion of the unearned income for the use of the child as a personal allowance and apply the remaining portion to the cost of the child's custody, care, and maintenance provided pursuant to this chapter.

Sec. 30. NEW SECTION. 244.16 COST OF CARE.

If a child receives unearned income, the department shall reserve a portion of the unearned income for the use of the child as a personal allowance and apply the remaining portion equally to the state and county liability for the cost of the child's support and maintenance provided pursuant to this chapter.

Sec. 31. Section 252B.9, Code 1989, is amended to read as follows:

252B.9 AVAILABILITY OF RECORDS.

The director may request from state, county and local agencies, information and assistance deemed necessary to carry out the provisions of this chapter. State, county and local agencies, officers and employees shall co-operate with the unit in locating absent parents of children on whose behalf public assistance is being provided and shall on request supply the department with available information relative to the location, income and property holdings of the absent parent, notwithstanding any provisions of law making such information confidential.

Information recorded by the department pursuant to this section shall be available only to the unit, attorneys prosecuting a case in which the unit may participate according to sections 252B.5 and 252B.6, courts having jurisdiction in support or abandonment proceedings, ~~and~~ agencies in other states charged with support collection and paternity determination responsibilities, and a resident parent, legal guardian, attorney, or agent of a child who is not receiving assistance under Title IV-A of the federal Social Security Act as determined by the rules of the department and the provisions of Title IV of the United States Social Security Act.

Sec. 32. Section 692.2, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. A psychiatric medical institution for children licensed under chapter 135H for the purposes of section 237.8, subsection 2 and section 600.8, subsections 1 and 2.

Sec. 33. 1988 Iowa Acts, chapter 1249, section 21, is amended to read as follows:

SEC. 21. Beginning July 1, 1988, the department of inspections and appeals shall issue provisional licenses to specialized psychiatric ~~hospitals~~ medical institutions for children ~~and adolescents~~ for those ~~facilities~~ institutions which are providing ~~residential~~ nonsecure inpatient psychiatric services to children and adolescents, which are accredited by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings, which are in compliance with all applicable state rules and standards regarding the operation of comprehensive ~~residential facilities~~ institutions for children,

and which have been awarded a certificate of need. Each applicant shall submit a copy of the applicant's accreditation, and 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~~ institutions 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~~ medical institutions for children ~~and adolescents under chapter 135B~~. The rules shall take effect immediately upon filing, no later than July 1, 1989. Effective September 1, 1989, the maximum reimbursement rate for a psychiatric medical institution for children shall be the group foster care reimbursement rate unless the federal health care financing administration approves a state Title XIX plan amendment to include coverage of services in a psychiatric medical institution for children. A psychiatric medical institution for children licensed before May 1, 1989, shall be reimbursed at the rate established under the medical assistance program until September 1, 1989. A psychiatric medical institution for children licensed on or after May 1, 1989, may bill the department of human services for actual audited costs up to one hundred twenty dollars per day, but shall be initially reimbursed at the group foster care rate. If the state Title XIX plan amendment is approved, the department of human services shall reimburse a licensed psychiatric medical institution for children at the rate established under the medical assistance program retroactively to the effective date of the plan amendment or the date the psychiatric institution was enrolled in the medical assistance program, whichever is later.

The department of human services shall adopt rules to expand coverage under the medical assistance program to include services provided by ~~specialized~~ psychiatric ~~hospitals~~ medical institutions 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~~ institution certifying that the facility is in accordance with the federal requirements ~~for a hospital~~ as outlined in 42 C.F.R., ~~subpart D~~ § 441.150-441.156. Initially, the rules shall provide that the medical assistance reimbursement rate for the ~~specialized hospitals~~ psychiatric medical institutions for children shall be one hundred twenty dollars per day or the actual audited costs, whichever ~~are~~ is less. The department shall ~~develop~~ adopt a permanent reimbursement methodology for ~~the specialized hospitals to be effective on or before~~ psychiatric medical institutions for children in rules which are effective immediately upon filing no later than July 1, 1989.

The health facilities council shall expedite the process by ruling on a certificate of need application ~~under~~ pursuant to 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~~ psychiatric medical institution for children 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~~ psychiatric medical facility for children is accredited by the joint commission on the accreditation of health care organizations, complies with any applicable state rule or standard regarding the operation of a comprehensive institution for children licensed under section 237.3, subsection 2, paragraph "a", subparagraph (1) or (3), has been awarded a certificate of need, and has received the department's written approval.

Sec. 34. EMERGENCY RULES.

1. The department of inspection and appeals shall adopt rules to implement the requirements of this Act and the rules shall be filed without notice and shall be effective immediately upon filing. The rules must be published as notice of intended action as provided in section 17A.4. The rules shall include and be in accordance with the provisions of regulations and rules provided under each of the following sources:

a. Regulations pursuant to 42 C.F.R., § 441.150-441.156.

b. Rules for community residential facilities or comprehensive residential facilities for children licensed pursuant to section 237.3, subsection 2, paragraph "a", subparagraph (1) or (3).

2. The department of human services, in consultation with the department of inspections and appeals and affected professional groups, shall adopt rules to expand medical assistance coverage under chapter 249A to include eligibility for and services provided by licensed psychiatric medical institutions for children and the rules shall be filed without notice and shall be effective immediately upon filing. The rules must be published as notice of intended action as provided in section 17A.4. The rules shall provide that the initial reimbursement rate paid to a psychiatric medical institution for children under the medical assistance program shall be one hundred twenty dollars per day or the actual audited costs, whichever is less. The initial reimbursement rate is subject to modification pursuant to laws appropriating funding which affect the rate. The department of human services shall develop a permanent reimbursement methodology which shall be effective on or before July 1, 1989.

Sec. 35. INITIAL LICENSURE. A specialized psychiatric hospital for children which is offering services at the time rules under this Act are adopted shall receive a provisional license to operate as a psychiatric medical institution for children. A recipient of a provisional license under this section must comply with the rules and standards within one year of receiving the provisional license in order to obtain a permanent license under chapter 135H.

Sec. 36. NEEDS ASSESSMENT REQUIRED. Pursuant to section 135H.6, subsection 5, the department of human services shall conduct a needs assessment to determine the location and number of children in the state who require the services of a psychiatric medical institution for children. The department shall report the results of the needs assessment with recommendations as to whether the limit on the number of psychiatric medical institution for children beds in the state should be modified. A report on the needs assessment and recommendations shall be submitted to the general assembly on or before January 1, 1990.

Sec. 37. ADOLESCENT RECIPIENTS OF AID TO DEPENDENT CHILDREN – INFORMATION. The department of human services shall identify the number of adolescent recipients under the aid to dependent children program who have not completed high school or have not received a high school equivalency diploma under chapter 259A by county and by high school attendance area. The department shall cooperate with the department of education in studying the impact upon high schools of adolescent recipients returning to school, the high school needs for additional or alternative programming, and needs for infant and child care within or near the high schools. The department shall report its findings to the general assembly by January 1, 1990, and the report shall include recommendations regarding measures necessary to improve the success of adolescent recipients under the aid to dependent children program in completing high school or obtaining a high school equivalency diploma.

Sec. 38. EFFECTIVE DATE. Sections 2 through 17, 25 through 27, and 32 through 36 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved June 1, 1989

CHAPTER 284

STATE FINANCIAL MANAGEMENT

S.F. 119

AN ACT relating to state financial management by revising provisions governing the reversion of appropriations, the prescribing of uniform accounting systems and forms, account coding to identify authorizing statutes, and authorization for the prepayment of claims, and providing properly related matters.

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

Section 1. Section 8.6, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

FORMS. To ~~prescribe all accounting and business forms and the system of accounts and reports of financial transactions by all departments and agencies of the state government other than those of the legislative branch, and to~~ consult with all state officers and agencies which receive reports and forms from county officers, in order to devise standardized reports and forms which will permit computer processing of the information submitted by county officers, and to prescribe forms on which each municipality, at the time of preparing estimates required under section 24.3, shall be required to compile in parallel columns the following data and estimates for immediate availability to any taxpayer upon request:

Sec. 2. Section 8.33, unnumbered paragraph 1, Code 1989, is amended to read as follows:

No obligation of any kind shall be incurred or created subsequent to the last day of the fiscal year for which an appropriation is made, except when specific provision otherwise is made in the Act making the appropriation. On ~~September 30~~ August 31, or as otherwise provided in an appropriation Act, following the close of each fiscal year, all unencumbered or unobligated balances of appropriations made for that fiscal term revert to the state treasury and to the credit of the funds from which the appropriations were made, except that capital expenditures for the purchase of land or the erection of buildings or new construction continue in force until the attainment of the object or the completion of the work for which the appropriations were made unless the Act making an appropriation for the capital expenditure contains a specific provision relating to a time limit for incurring an obligation or reversion of funds. This section does not repeal sections 19.11 through 19.14.

Sec. 3. Section 8.34, Code 1989, 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~~ revenue and finance shall transfer to the fund from which an appropriation was made, any unexpended or unencumbered balance of that appropriation remaining at the expiration of ~~three~~ two months after the close of the fiscal term for which the appropriation was made. At the time the transfer is made on the books of the department of ~~management~~ revenue and finance, the director shall certify that fact to the treasurer of state, who shall make corresponding entries on the books of the treasurer's office.

Sec. 4. Section 8.35A, subsection 1, Code 1989, is amended to read as follows:

1. By July 1 the director of the department of management shall provide a projected expenditure breakdown of each appropriation for the beginning fiscal year to the legislative fiscal bureau in the form and level of detail requested by the bureau. By the fifteenth of each month, the director shall transmit to the legislative fiscal bureau a record for each appropriation of actual expenditures for the prior month of the fiscal year and the fiscal year to date in the form and level of detail as requested by the bureau. By ~~November~~ October 1 the director shall transmit the total record of an appropriation, including reversions and transfers for the prior fiscal year ending June 30, to the legislative fiscal bureau.

Sec. 5. Section 218.85, Code 1989, is amended to read as follows:

218.85 UNIFORM SYSTEM OF ACCOUNTS.

The director of the department of human services through the administrators of the divisions in control of state institutions shall install in all such state institutions under the director's control and supervision the most modern, complete, and uniform system of accounts, records, and reports possible, which system shall be prescribed by the director of ~~management~~ revenue and finance as authorized in section ~~8.6, subsection 1~~ 421.31, subsection 10, and, among other matters, shall clearly show the detailed facts relative to the handling and uses of all purchases.

Sec. 6. Section 421.16, Code 1989, is amended to read as follows:

421.16 EXPENSES.

The director, deputy directors, secretary, and assistants are entitled to receive from the state their actual necessary expenses while traveling on the business of the department. The expenditures shall be sworn to by the party who incurred the expense, and approved and allowed by the director. However, ~~no~~ such ~~expense~~ expenses shall not be allowed ~~the director, deputy directors, secretary, or employees of the department~~ residents of Polk county while in the city of Des Moines or traveling between their homes and the city of Des Moines.

Sec. 7. Section 421.31, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. FORMS. To prescribe all accounting and business forms and the system of accounts and reports of financial transactions by all departments and agencies of the state government other than those of the legislative branch.

Sec. 8. Section 421.39, subsection 1, Code 1989, is amended to read as follows:

1. That the creation of the claim is clearly authorized by law. Statutes authorizing the expenditure may be referenced through account coding authorized by the director.

Sec. 9. Section 421.40, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Before a warrant or its equivalent is issued for a claim payable from the state treasury, the department shall file an itemized voucher showing in detail the items of service, expense, thing furnished, or contract for which payment is sought. However, the director may authorize the prepayment of claims when the best interests of the state are served under rules adopted by the department. The claimant's original invoice shall be attached to a department's approved voucher. The director of the department of revenue and finance shall adopt rules specifying the form and contents for invoices submitted by a vendor to a department. The requirements apply to acceptance of an invoice by a department. A department shall not impose additional or different requirements on submission of invoices than those contained in rules of the director of the department of revenue and finance unless the director exempts the department from the invoice requirements or a part of the requirements upon a finding that compliance would result in poor accounting or management practices.

Approved June 1, 1989

CHAPTER 285

INCOME, FRANCHISE, AND INHERITANCE TAXES

S.F. 186

AN ACT relating to the updating of the reference to the internal revenue code and treatment of payments to individuals of Japanese ancestry, providing minimum tax credits, relating to the franchise tax and providing refund provisions for certain income and inheritance tax payments, and providing applicability and effective dates.

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

Section 1. NEW SECTION. 217.38 RESTITUTION TO INDIVIDUALS OF JAPANESE ANCESTRY.

Notwithstanding any other law of this state, payments paid to an eligible individual of Japanese ancestry under section 105 of the Civil Liberties Act of 1988, Pub. L. 100-383, Title I, shall not be considered as income or an asset for determining the eligibility for state or local government benefit or entitlement programs. The proceeds are not subject to recoupment for the receipt of governmental benefits or entitlements and liens, except liens for child support, are not enforceable against these sums for any reason.

Sec. 2. Section 422.3, subsection 5, Code 1989, is amended to read as follows:

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~~ 1989, whichever is applicable.

Sec. 3. Section 422.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 19. Subtract, to the extent included, the amounts paid to an eligible individual under section 105 of the Civil Liberties Act of 1988, Pub. L. 100-383, Title I, as satisfaction for a claim against the United States arising out of the confinement, holding in custody, relocation, or other deprivation of liberty or property of an individual of Japanese ancestry.

Sec. 4. NEW SECTION. 422.11B MINIMUM TAX CREDIT.

1. There is allowed as a credit against the tax determined in section 422.5, subsection 1, paragraphs "a" through "j" for a tax year an amount equal to the minimum tax credit for that tax year.

The minimum tax credit for a tax year is the excess, if any, of the adjusted net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this section for those prior tax years.

2. The allowable credit under subsection 1 for a tax year shall not exceed the excess, if any, of the tax determined in section 422.5, subsection 1, paragraphs "a" through "j" over the state alternative minimum tax as determined in section 422.5, subsection 1, paragraph "k".

The net minimum tax for a tax year is the excess, if any, of the tax determined in section 422.5, subsection 1, paragraph "k" for the tax year over the tax determined in section 422.5, subsection 1, paragraphs "a" through "j" for the tax year.

The adjusted net minimum tax for a tax year is the net minimum tax for the tax year reduced by the amount which would be the net minimum tax if the only item of tax preference taken into account was that described in paragraph (6) of section 57(a) of the Internal Revenue Code.

Sec. 5. Section 422.33, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 9. a. There is allowed as a credit against the tax determined in subsection 1 for a tax year an amount equal to the minimum tax credit for that tax year.

The minimum tax credit for a tax year is the excess, if any, of the adjusted net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this subsection for those prior tax years.

b. The allowable credit under paragraph "a" for a tax year shall not exceed the excess, if any, of the tax determined in subsection 1 over the state alternative minimum tax as determined in subsection 4.

The net minimum tax for a tax year is the excess, if any, of the tax determined in subsection 4 for the tax year over the tax determined in subsection 1 for the tax year.

The adjusted net minimum tax for a tax year is the net minimum tax for the tax year reduced by the amount which would be the net minimum tax if the only item of tax preference taken into account was that described in paragraph (6) of section 57(a) of the Internal Revenue Code.

Sec. 6. Section 422.60, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. There is allowed as a credit against the tax determined in section 422.63 for a tax year an amount equal to the minimum tax credit for that tax year.

The minimum tax credit for a tax year is the excess, if any, of the adjusted net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this subsection for those prior tax years.

b. The allowable credit under paragraph "a" for a tax year shall not exceed the excess, if any, of the tax determined in section 422.63 over the state alternative minimum tax as determined in subsection 2.

The net minimum tax for a tax year is the excess, if any, of the tax determined in subsection 2 for the tax year over the tax determined in section 422.63 for the tax year.

The adjusted net minimum tax for a tax year is the net minimum tax for the tax year reduced by the amount which would be the net minimum tax if the only item of tax preference taken into account was that described in paragraph (6) of section 57(a) of the Internal Revenue Code.

Sec. 7. Section 422.61, subsection 1, Code 1989, is amended to read as follows:

1. "Financial institution" means a state bank as defined in section 524.103, subsection 19, a state bank chartered under the laws of any other state, a national banking association ~~having its principal office within this state~~, a trust company, a federally chartered savings and loan association, an out-of-state state chartered savings bank, a financial institution chartered by the federal home loan bank board, a non-Iowa chartered savings and loan association, an association incorporated or authorized to do business under chapter 534, or a production credit association.

Sec. 8. Section 422.73, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding subsection 2, a claim for credit or refund of the income tax paid is considered timely if the claim is filed with the department on or before November 10, 1989, if the taxpayer's federal income tax was forgiven under section 170(m) of the Internal Revenue Code because eighty percent of the taxpayer's payment to a college or university was allowed as a charitable contribution since the payment entitled the taxpayer to purchase tickets to an athletic event of the college or university. To the extent the federal income tax was forgiven for the tax year under section 170(m) of the Internal Revenue Code, the Iowa income tax is also forgiven.

Sec. 9. Section 450.94, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 6. Notwithstanding the periods of limitation for filing a claim for refund in subsection 3, with respect to estates of decedents dying on or after July 1, 1982, a qualified heir who has paid an additional inheritance tax under section 450B.3 by reason of the cessation of the qualified use due to cash rent of the special use property by the surviving spouse, shall have until November 10, 1989, to file a claim for refund of the additional inheritance tax paid.

NEW SUBSECTION. 7. Notwithstanding the periods of limitations for filing a claim for refund in subsection 3, estates of decedents dying on or after July 1, 1985, which have elected to treat qualified terminable interest property as passing to the surviving spouse in fee, shall have until November 10, 1990, to make the election allowed under section 6152(c)(3) of the Technical and Miscellaneous Revenue Act of 1988 for joint and survivor annuities.

Sec. 10. Sections 1 and 3* of this Act are retroactive to January 1, 1988, for tax years beginning on or after that date.

Sec. 11. Sections 4, 5, and 6 of this Act apply retroactively to January 1, 1987, for tax years beginning on or after that date.

Sec. 12. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 1, 1989

CHAPTER 286

ABANDONED WELLS

S.F. 441

AN ACT relating to the plugging of abandoned wells, by providing assistance to well owners, providing for well inspection and certification, providing for fees, making a civil penalty applicable, providing an effective date, and providing for repeal of a portion of the Act.

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

Section 1. Section 455B.190, Code 1989, is amended to read as follows:

455B.190 ABANDONED WELLS PROPERLY PLUGGED.

1. As used in this section:

a. "Class 1 well" means a well one hundred feet or less in depth and eighteen inches or more in diameter.

b. "Class 2 well" means a well more than one hundred feet in depth or less than eighteen inches in diameter or a bedrock well.

c. "Class 3 well" means a sandpoint well or a well fifty feet or less in depth constructed by joining a screened drive point with lengths of pipe and driving the assembly into a shallow sand and gravel aquifer.

d. "Department" means the department of natural resources.

e. "Designated agent" means a person other than the state, designated by a county board of supervisors to review and confirm that a well has been properly plugged.

f. "Filling materials" means agricultural lime. Filling materials may also include other materials, including soil, sand, gravel, crushed stone, and pea gravel as approved by the department.

g. "Owner" means the titleholder of the land where a well is located.

h. "Plug" means the closure of an abandoned well with plugging materials which will permanently seal the well from contamination by surface drainage, or permanently seal off the well from contamination into an aquifer.

i. "Plugging materials" means filling and sealing materials.

j. "Sealing materials" means bentonite. Sealing materials may also include neat cement, sand cement grout, or concrete as approved by the department.

k. "Well" means an abandoned well as defined in section 455B.171.

2. All ~~abandoned~~ wells~~, as defined in section 455B.171,~~ shall be properly plugged in accordance with the schedule established by the department. The department shall develop a prioritized closure program and a time frame for the completion of the program and shall adopt rules to implement the program. The schedule established by the department shall provide that to the fullest extent technically and economically feasible, all wells shall be properly plugged not later than July 1, 2000.

3. Wells shall be plugged as follows:

*Sections 1, 2, and 3 probably intended

a. Class 1 wells shall be plugged by placing filling materials up to one foot below the static water level. At least one foot of sealing materials shall be placed on top of the filling materials up to the static water level, as a seal. Filling materials shall be added up to four feet below the ground surface. However, sealing materials may be used to fill the entire well up to four feet below the ground surface. The casing pipe shall be removed down to at least four feet below the ground surface and shall be capped with at least one foot of sealing materials. Obstructions shall be removed from the top four feet of the ground surface and the top four feet shall be backfilled with soil and graded.

b. Class 2 wells shall be plugged by placing filling materials at the bottom of the well up to four feet below the static water level. At least four feet of sealing material shall be added on top of the filling material up to the original static water level. Filling materials shall be placed up to four feet below the ground surface and the well shall be capped with at least one foot of sealing material. However, sealing materials may be used to fill the entire well up to four feet below the ground surface. The upper four feet of the casing pipe below the ground surface shall be removed. The top four feet of the ground surface shall be removed of obstructions and backfilled with soil and graded.

c. Class 3 wells shall be plugged by pulling the casing and sandpoint out of the ground, and collapsing the hole. The well may also be plugged by placing sealing materials up to four feet below the ground surface and by removing the upper four feet of casing pipe below the ground surface. The top four feet of the ground surface shall be removed of obstructions and backfilled with soil and graded.

4. The department shall sponsor an advertising campaign directed to persons throughout the state by print and electronic media designed to notify owners of the deadline for plugging wells, penalties for noncompliance, and information about receiving assistance in plugging wells.

5. An owner may, independent of a contractor, plug a well pursuant to this section subject to review and confirmation by a designated agent of the county or a well driller registered with the department.

6. A person who fails to properly plug ~~an abandoned~~ a well on property the person owns, in accordance with the program established by the department, or as reported by a designated agent or a registered well driller, is subject to a civil penalty of up to one hundred dollars per ~~day~~ every five calendar days that the well remains unplugged or improperly plugged. However, the total civil penalty shall not exceed one thousand dollars. The penalty shall only be assessed after the one thousand dollar limit is reached. If the owner plugs the well in compliance with this section, including applicable departmental rules, before the date that the one thousand dollar limit is reached, the civil penalty shall not be assessed. The penalty shall not be imposed upon a person for improperly plugging a well until the department notifies the person of the improper plugging. The moneys collected shall be deposited in the financial incentive portion of the agriculture management account. The department of agriculture and land stewardship may provide by rule for financial incentive moneys, through expenditure of the moneys allocated to the financial-incentive-program portion of the agriculture management account, to reduce a person's cost in properly plugging wells abandoned prior to July 1, 1987.

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

Approved June 1, 1989

CHAPTER 287

UNCLAIMED PERSONAL PROPERTY

S.F. 407

AN ACT relating to unclaimed intangible personal property by providing for the treatment of claims in the course of the dissolution of a corporation in the same manner as unclaimed property held by a court or by the state and by altering certain aspects of claim administration, distribution of moneys, and other matters properly related with the disposition of unclaimed personal property and procedures related thereto.

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

Section 1. Section 496A.101, subsection 1, Code 1989, is amended to read as follows:

1. Upon the voluntary or involuntary dissolution of a corporation the portion of the assets distributable to a creditor or shareholder who is unknown, or who is under disability and there is no person legally competent to receive such distributive portion, or who cannot be found after the exercise of reasonable diligence by the person or persons responsible for the distribution in liquidation of the corporation's assets, shall be reduced to cash and deposited with the ~~state~~ treasurer of state, ~~together with a statement giving the name of the person, if known, entitled to such fund, that person's last known address, the amount of that person's distributive portion, and such other information about such person as the state treasurer may reasonably require,~~ pursuant to section 556.6 and be accompanied by a form prescribed by the treasurer of state, whereupon the person or persons responsible for the distribution in liquidation of the corporation's assets shall be released and discharged from any further liability with respect to the funds so deposited. The ~~state~~ treasurer of state shall issue the ~~state~~ treasurer's receipt for ~~such fund and shall deposit same in a special account to be maintained by the state treasurer~~ the moneys deposited.

Sec. 2. Section 496A.101, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. Claims for ownership or right to the moneys after they have been remitted to the treasurer of state shall be filed pursuant to chapter 556.

Sec. 3. Section 496A.101, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Moneys deposited with the treasurer of state pursuant to this section before the effective date of this Act and deposited in the special account shall be transferred to the unclaimed property trust fund created by section 556.18 and are subject to the reversion requirements of that section.

Sec. 4. Section 556.8, Code 1989, is amended to read as follows:

556.8 PROPERTY HELD BY STATE COURTS AND PUBLIC OFFICERS AND AGENCIES.

All intangible personal property held for the owner by any court, public corporation, public authority, agency, instrumentality, employee, or public officer of this state, or the United States, or a political subdivision of the state, another state, or the United States, that has remained unclaimed by the owner for more than two years after becoming payable or distributable is presumed abandoned.

Sec. 5. Section 556.11, unnumbered paragraph 1, Code 1989, is amended to read as follows:

All agreements to pay compensation to recover or assist in the recovery of property reported under this section, made within twenty-four months after the date payment or delivery is made under section 556.13 are unenforceable. However, such agreements made after twenty-four months from the date of payment or delivery are valid if the fee or compensation agreed upon is not more than fifteen percent of the recoverable property, the agreement is in writing and signed by the owner, and the writing discloses the nature and value of the property and the name and address of the person in possession. This section does not prevent an owner from

asserting, at any time, that an agreement to locate property is based upon excessive or unjust consideration. This section does not apply to an owner who has a bona fide fee contract with a practicing attorney and counselor as described in chapter 602, article 10.

Sec. 6. Section 556.18, subsection 1, Code 1989, is amended to read as follows:

1. Except as provided in subsection 3, all funds received under this chapter, including the proceeds from the sale of abandoned property under section 556.17, shall be deposited monthly by the treasurer of state in the general ~~funds~~ fund of the state. However, the treasurer of state shall retain in a separate trust fund an amount not exceeding ~~one~~ two hundred thousand dollars from which the treasurer of state shall make prompt payment of claims duly allowed under section 556.20. Before making the deposit, the treasurer of state shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

Sec. 7. Section 602.8105, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. The clerk shall pay to the treasurer of state all fees which have come into the clerk's possession and which are unclaimed pursuant to section 556.8 accompanied by a form prescribed by the treasurer. Claims for payment of the moneys must be filed pursuant to chapter 556.

Sec. 8. UNCLAIMED FEES IN DISTRICT COURT. Moneys remitted to the treasurer of state pursuant to section 602.8105, subsection 4, before the effective date of this Act shall be transferred to the unclaimed property trust fund created by section 556.18 and are subject to the reversion requirements of that section.

Approved June 1, 1989

CHAPTER 288

BUSINESS CORPORATIONS

S.F. 502

AN ACT relating to business corporations, and related matters including the filing of corporate documents with county recorders and providing a special effective date.

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

DIVISION I
GENERAL PROVISIONS
PART A

Section 1. NEW SECTION. 493B.101 SHORT TITLE.

This Act is entitled and may be cited as the "Iowa Business Corporation Act".

Sec. 2. NEW SECTION. 493B.102 RESERVATION OF POWER TO AMEND OR REPEAL.

The general assembly has the power to amend or repeal all or part of this Act at any time and all domestic and foreign corporations subject to this Act are governed by an amendment or repeal.

PART B

Sec. 3. NEW SECTION. 493B.120 FILING REQUIREMENTS.

1. A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing.

2. The document must be filed in the office of the secretary of state.

3. The document must contain the information required by this chapter. It may contain other information as well.

4. The document must be typewritten or printed.

5. The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

6. Except as provided in section 493B.1622, subsection 2, the document must be executed by one of the following methods:

a. The chairperson of the board of directors of a domestic or foreign corporation, its president, or another of its officers.

b. If directors have not been selected or the corporation has not been formed, by an incorporator.

c. If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

7. The person executing the document shall sign it and state beneath or opposite the person's signature, the person's name and the capacity in which the person signs. The document may, but need not, contain:

a. The corporate seals.

b. An attestation by the secretary or an assistant secretary.

c. An acknowledgment, verification, or proof.

The secretary of state may accept for filing a document containing a copy of a signature, however made.

8. If the secretary of state has prescribed a mandatory form for the document under section 493B.121, the document must be in or on the prescribed form.

9. The document must be delivered to the office of the secretary of state for filing and must be accompanied by the correct filing fee.

Sec. 4. NEW SECTION. 493B.121 FORMS.

1. The secretary of state may prescribe and furnish on request forms including but not limited to the following:

a. An application for a certificate of existence.

b. A foreign corporation's application for a certificate of authority to transact business in this state.

c. A foreign corporation's application for a certificate of withdrawal.

d. The annual report.

If the secretary of state so requires, use of these listed forms prescribed by the secretary of state is mandatory.

2. The secretary of state may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter but their use is not mandatory.

Sec. 5. NEW SECTION. 493B.122 FILING, SERVICE, AND COPYING FEES.

1. The secretary of state shall collect the following fees when the documents described in this subsection are delivered to the secretary's office for filing:

Document	Fee
a. Articles of incorporation	$ 50
b. Application for use of indistinguishable name	$ 10
c. Application for reserved name	$ 10
d. Notice of transfer of reserved name	$ 10

e. Application for registered name per month or part thereof ..... $ 2
f. Application for renewal of registered name ..... $ 20
g. Corporation's statement of change of registered agent or registered office or both ..... No fee
h. Agent's statement of change of registered office for each affected corporation ..... No fee
i. Agent's statement of resignation ..... No fee
j. Amendment of articles of incorporation ..... $ 50
k. Restatement of articles of incorporation with amendment of articles ..... $ 50
l. Articles of merger or share exchange ..... $ 50
m. Articles of dissolution ..... $ 5
n. Articles of revocation of dissolution ..... $ 5
o. Certificate of administrative dissolution ..... No fee
p. Application for reinstatement following administrative dissolution ..... $ 5
q. Certificate of reinstatement ..... No fee
r. Certificate of judicial dissolution ..... No fee
s. Application for certificate of authority $100
t. Application for amended certificate of authority $100
u. Application for certificate of withdrawal ..... $ 10
v. Certificate of revocation of authority to transact business ..... No fee
w. Annual report ..... $ 30
x. Articles of correction ..... $ 5
y. Application for certificate of existence or authorization ..... $ 5
z. Any other document required or permitted to be filed by this chapter ..... $ 5

2. The secretary of state shall collect a fee of five dollars each time process is served on the secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

a. $ .50 a page for copying.

b. $5.00 for the certificate.

Sec. 6. NEW SECTION. 493B.123 EFFECTIVE TIME AND DATE OF DOCUMENTS.

1. Except as provided in subsection 2 and section 493A.124,* subsection 3, a document accepted for filing is effective at the later of the following times:

a. At the time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document.

b. At the time specified in the document as its effective time on the date it is filed.

2. A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

*Section 493B.124 probably intended

Sec. 7. NEW SECTION. 493B.124 CORRECTING FILED DOCUMENTS.

1. A domestic or foreign corporation may correct a document filed by the secretary of state if the document satisfies one or both of the following requirements:

a. Contains an incorrect statement.

b. Was defectively executed, attested, sealed, verified, or acknowledged.

2. A document is corrected by complying with both of the following:

a. By preparing articles of correction that satisfy all of the following requirements:

(1) Describe the document, including its filing date, or attach a copy of it to the articles.

(2) Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective.

(3) Correct the incorrect statement or defective execution.

b. By delivering the articles to the secretary of state for filing.

3. Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

Sec. 8. NEW SECTION. 493B.125 FILING DUTY OF SECRETARY OF STATE.

1. If a document delivered to the office of the secretary of state for filing satisfies the requirements of section 493B.120, the secretary of state shall file it.

2. The secretary of state files a document by stamping or otherwise endorsing "filed", together with the secretary's name and official title and the date and time of receipt, on both the document and the receipt for the filing fee. After filing a document, except the annual report required by section 493B.1622, and except as provided in sections 493B.503 and 493B.1509, the secretary of state shall deliver the document, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached, to the domestic or foreign corporation or its representative.

3. If the secretary of state refuses to file a document, the secretary of state shall return it to the domestic or foreign corporation or its representative within ten days after the document was received by the secretary of state, together with a brief, written explanation of the reason for the refusal.

4. The secretary of state's duty to file documents under this section is ministerial. Filing or refusing to file a document does not:

a. Affect the validity or invalidity of the document in whole or part.

b. Relate to the correctness or incorrectness of information contained in the document.

c. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

Sec. 9. NEW SECTION. 493B.126 APPEAL FROM SECRETARY OF STATE'S REFUSAL TO FILE DOCUMENT.

1. If the secretary of state refuses to file a document delivered to the secretary's office for filing, the domestic or foreign corporation may appeal the refusal, within thirty days after the return of the document, to the district court for the county in which the corporation's principal office or, if none in this state, its registered office is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary of state's explanation of the refusal to file.

2. The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

Sec. 10. NEW SECTION. 493B.127 EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT.

A certificate attached to a copy of a document filed by the secretary of state, bearing the secretary of state's signature, which may be in facsimile, and the seal of this state, is conclusive evidence that the original document is on file with the secretary of state.

Sec. 11. NEW SECTION. 493B.128 CERTIFICATE OF EXISTENCE.

1. Anyone may apply to the secretary of state to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.

2. A certificate of existence or authorization must set forth all of the following:

a. The domestic corporation's corporate name or the foreign corporation's corporate name used in this state.

b. That one of the following apply:

(1) If it is a domestic corporation, that it is duly incorporated under the law of this state, the date of its incorporation, and the period of its duration if less than perpetual.

(2) If it is a foreign corporation, that it is authorized to transact business in this state.

c. That all fees required by this chapter have been paid.

d. That its most recent annual report required by section 493B.1622 has been filed by the secretary of state.

e. That articles of dissolution have not been filed.

f. Other facts of record in the office of the secretary of state that may be requested by the applicant.

3. Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in this state.

Sec. 12. NEW SECTION. 493B.129 PENALTY FOR SIGNING FALSE DOCUMENT.

1. A person commits an offense if that person signs a document the person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine of not to exceed one thousand dollars.

Sec. 13. NEW SECTION. 493B.130 RECORDING OF DOCUMENTS WITH COUNTY RECORDER.

A domestic corporation shall provide the secretary of state with a copy of each document, except an annual report which does not change the registered office or registered agent of the corporation, delivered by the corporation for filing with the secretary of state. A registered agent who delivers to the secretary of state for filing a statement pursuant to section 493B.502, subsection 2, or files a statement pursuant to section 493B.502, subsection 3, shall provide a copy of the statement to the secretary of state. A registered agent who delivers to the secretary of state for filing a statement pursuant to section 493B.503, subsection 1, shall provide an additional copy pursuant to this section. If a registered agent delivers for filing with the secretary of state a statement changing the operation's business address from one county to another county or the corporation delivers for filing with the secretary of state a statement changing its registered office from one county to another county, two copies of the statement shall be provided to the secretary of state. The secretary of state shall stamp the copy or copies provided by the corporation or registered agent indicating receipt by the secretary of state and shall send the copy or copies to the county recorder. Upon receipt of the copy and upon receipt of the recording fees due the county recorder, the county recorder shall record and index the copy and return the copy to the corporation or registered agent who provided the copy. Notwithstanding section 331.602, subsection 1, original signatures and typed or printed names of signatories are not required on the copy to be recorded pursuant to this section. For purposes of this section, "county recorder" means the county recorder of the county in which the registered office of the corporation is located as shown on the records of the secretary of state, except that with respect to a change of registered office changing the location of the registered office from one county to another, "county recorder" means the county recorder for the county in which the registered office is located before the change and the county recorder for the county in which the registered office is located after the change.

PART C

Sec. 14. NEW SECTION. 493B.135 SECRETARY OF STATE — POWERS.

The secretary of state has the power reasonably necessary to perform the duties required of the secretary of state by this chapter.

PART D

Sec. 15. NEW SECTION. 493B.140 DEFINITIONS.

In this chapter, unless the context requires otherwise:

1. "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

2. "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

3. "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

4. "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to this chapter.

5. "Deliver" includes mail delivery.

6. "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

7. "Effective date of notice" is defined in section 493B.141.

8. "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

9. "Entity" includes corporation and foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest; and state, United States, and foreign government.

10. "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

11. "Governmental subdivision" includes authority, city, county, district, township, and other political subdivision.

12. "Includes" denotes a partial definition.

13. "Individual" includes the estate of an incompetent, a ward, or a deceased individual.

14. "Means" denotes an exhaustive definition.

15. "Notice" is defined in section 493B.141.

16. "Person" means a person as defined in section 4.1 and includes an individual and an entity.

17. "Principal office" means the office, in or out of this state, so designated in the annual report, where the principal executive offices of a domestic or foreign corporation are located.

18. "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

19. "Record date" means the date established under division 6 or 7* on which a corporation determines the identity of its shareholders for purposes of this chapter.

20. "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under section 493B.840, subsection 3, for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

21. "Share" means the unit into which the proprietary interests in a corporation are divided.

22. "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

*Division VI or VII probably intended

23. "State", when referring to a part of the United States, includes a state and commonwealth and their agencies and governmental subdivisions, and a territory and insular possession and their agencies and governmental subdivisions, of the United States.

24. "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

25. "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

26. "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

Sec. 16. NEW SECTION. 493B.141 NOTICE.

1. Notice under this chapter must be in writing unless oral notice is reasonable under the circumstances.

2. Notice may be communicated in person; by telephone, telegraph, teletype, or other form of wire or wireless communication; or by mail or private carrier. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

3. Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, is effective when mailed, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders.

4. Written notice to a domestic or foreign corporation authorized to transact business in this state may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

5. Except as provided in subsection 3, written notice, if in a comprehensible form, is effective at the earliest of the following:

a. When received.

b. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

c. On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

6. Oral notice is effective when communicated if communicated in a comprehensible manner.

7. If this chapter prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this chapter, those requirements govern.

Sec. 17. NEW SECTION. 493B.142 NUMBER OF SHAREHOLDERS.

1. For purposes of this chapter, any of the following identified as a shareholder in a corporation's current record of shareholders constitutes one shareholder:

a. Three or fewer co-owners.

b. A corporation, partnership, trust, estate, or other entity.

c. The trustees, guardians of the property, custodians, or other fiduciaries of a single trust, estate, or account.

2. For purposes of this chapter, shareholdings registered in substantially similar names constitute one shareholder if it is reasonable to believe that the names represent the same person.

DIVISION II
INCORPORATION

Sec. 18. NEW SECTION. 493B.201 INCORPORATORS.

One or more persons may act as the incorporator or incorporators of a corporation by executing and delivering articles of incorporation to the secretary of state for filing.

Sec. 19. NEW SECTION. 493B.202 ARTICLES OF INCORPORATION.

1. The articles of incorporation must set forth all of the following:

a. A corporate name for the corporation that satisfies the requirements of section 493B.401.

b. The number of shares the corporation is authorized to issue.

c. The street address of the corporation's initial registered office and the name of its initial registered agent at that office.

d. The name and address of each incorporator.

2. The articles of incorporation may set forth any or all of the following:

a. The names and addresses of the individuals who are to serve as the initial directors.

b. Provisions not inconsistent with law regarding:

(1) The purpose or purposes for which the corporation is organized.

(2) Managing the business and regulating the affairs of the corporation.

(3) Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders.

(4) A par value for authorized shares or classes of shares.

(5) The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions.

c. Any provision that under this chapter is required or permitted to be set forth in the bylaws.

d. A provision consistent with section 493B.832.

3. The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

Sec. 20. NEW SECTION. 493B.203 INCORPORATION.

1. Unless a delayed effective date or time is specified, the corporate existence begins when the articles of incorporation are filed.

2. The secretary of state's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

Sec. 21. NEW SECTION. 493B.204 LIABILITY FOR PREINCORPORATION TRANSACTIONS.

All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under this chapter, are jointly and severally liable for all liabilities created while so acting.

Sec. 22. NEW SECTION. 493B.205 ORGANIZATION OF CORPORATION.

1. After incorporation:

a. If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws and carrying on any other business brought before the meeting.

b. If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators to do one of the following:

(1) Elect directors and complete the organization of the corporation.

(2) Elect a board of directors who shall complete the organization of the corporation.

2. Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

3. An organizational meeting may be held in or out of this state.

Sec. 23. NEW SECTION. 493B.206 BYLAWS.

1. The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

2. The bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

Sec. 24. NEW SECTION. 493B.207 EMERGENCY BYLAWS.

1. Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection 4. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

a. Procedures for calling a meeting of the board of directors.

b. Quorum requirements for the meeting.

c. Designation of additional or substitute directors.

2. All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

3. Corporate action taken in good faith in accordance with the emergency bylaws has both of the following effects:

a. The action binds the corporation.

b. The action shall not be used to impose liability on a corporate director, officer, employee, or agent.

4. An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

DIVISION III
PURPOSES AND POWERS

Sec. 25. NEW SECTION. 493B.301 PURPOSES.

1. A corporation incorporated under this chapter has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of incorporation.

2. A corporation engaging in a business that is subject to regulation under another statute of this state may incorporate under this chapter only if permitted by, and subject to all limitations of, the other statute.

Sec. 26. NEW SECTION. 493B.302 GENERAL POWERS.

Unless its articles of incorporation provide otherwise, a corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to do all of the following:

1. Sue and be sued, complain, and defend in its corporate name.

2. Have a corporate seal, which may be altered at will, and use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it.

3. Make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for managing the business and regulating the affairs of the corporation.

4. Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located.

5. Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.

6. Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity.

7. Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other securities of the corporation, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income.

8. Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment.

9. Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity.

10. Conduct its business, locate offices, and exercise the powers granted by this chapter within or without this state.

11. Elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit.

12. Pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents.

13. Make donations for the public welfare or for charitable, scientific, or educational purposes.

14. Transact any lawful business that will aid governmental policy.

15. Make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

Sec. 27. NEW SECTION. 493B.303 EMERGENCY POWERS.

1. In anticipation of or during an emergency as defined in subsection 4, the board of directors of a corporation may do either or both of the following:

a. Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent.

b. Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

2. During an emergency defined in subsection 4, unless emergency bylaws provide otherwise:

a. Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication and radio.

b. One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

3. Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation shall both:

a. Bind the corporation.

b. Not be used to impose liability on a corporate director, officer, employee, or agent.

4. An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

Sec. 28. NEW SECTION. 493B.304 ULTRA VIRES.

1. Except as provided in subsection 2, the validity of corporate action is not challengeable on the ground that the corporation lacks or lacked power to act.

2. A corporation's power to act may be challenged in any of the following proceedings:

a. By a shareholder against the corporation to enjoin the act.

b. By the corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation.

c. By the attorney general under section 493B.1430.

3. In a shareholder's proceeding under subsection 2, paragraph "a", to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss, other than anticipated profits, suffered by the corporation or another party because of enjoining the unauthorized act.

DIVISION IV
NAMES

Sec. 29. NEW SECTION. 493B.401 CORPORATE NAME.

1. A corporate name:

a. Must contain the word "corporation", "incorporated", "company", or "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", or words or abbreviations of like import in another language.

b. Shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by section 493B.301 and its articles of incorporation.

2. Except as authorized by subsections 3 and 4, a corporate name must be distinguishable upon the records of the secretary of state from all of the following:

a. The corporate name of a corporation incorporated or authorized to transact business in this state.

b. A corporate name reserved or registered under section 493B.402 or 493B.403.

c. The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable.

d. The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state.

3. A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary's records from one or more of the names described in subsection 2. The secretary of state shall authorize use of the name applied for if one of the following conditions applies:

a. The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation.

b. The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

4. A corporation may use the name, including the fictitious name, of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the proposed user corporation meets one of the following conditions:

a. Has merged with the other corporation.

b. Has been formed by reorganization of the other corporation.

c. Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

5. This chapter does not control the use of fictitious names; however, if a corporation uses a fictitious name in this state it shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

Sec. 30. NEW SECTION. 493B.402 RESERVED NAME.

1. A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred twenty-day period.

2. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

Sec. 31. NEW SECTION. 493B.403 REGISTERED NAME.

1. A foreign corporation may register its corporate name, or its corporate name with any addition required by section 493B.1506, if the name is distinguishable upon the records of the

secretary of state from the corporate names that are not available under section 493B.401, subsection 2, paragraph "b".

2. A foreign corporation registers its corporate name, or its corporate name with any addition required by section 493B.1506, by delivering to the secretary of state for filing an application:

a. Setting forth its corporate name, or its corporate name with any addition required by section 493B.1506, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged.

b. Accompanied by a certificate of existence, or a document of similar import, from the state or country of incorporation.

3. The name is registered for the applicant's exclusive use upon the effective date of the application.

4. A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application which complies with the requirements of subsection 2 between October 1 and December 31 of the preceding year. The renewal application renews the registration for the following calendar year.

5. A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under that name or consent in writing to the use of that name by a corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in this state. The first registration terminates when the domestic corporation is incorporated with that name or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

DIVISION V
REGISTERED OFFICE AND AGENT – SERVICE

Sec. 32. NEW SECTION. 493B.501 REGISTERED OFFICE AND REGISTERED AGENT.

Each corporation must continuously maintain in this state both of the following:

1. A registered office that may be the same as any of its places of business.

2. A registered agent, who may be any of the following:

a. An individual who resides in this state and whose business office is identical with the registered office.

b. A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office.

c. A foreign corporation or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

Sec. 33. NEW SECTION. 493B.502 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT.

1. A corporation may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

a. The name of the corporation.

b. The street address of its current registered office.

c. If the current registered office is to be changed, the street address of the new registered office.

d. The name of its current registered agent.

e. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment.

f. That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

2. If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any corporation for which the person is the registered agent by notifying the corporation in writing of the change

and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection 1 and recites that the corporation has been notified of the change.

3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in subsection 2 for each corporation, or a single statement for all corporations named in the notice, except that it need be signed only by the registered agent or agents and need not be responsive to subsection 1, paragraph "e", and must recite that a copy of the statement has been mailed to each corporation named in the notice.

4. A corporation may also change its registered office or registered agent in its annual report as provided in section 493B.1622.

Sec. 34. NEW SECTION. 493B.503 RESIGNATION OF REGISTERED AGENT.

1. A registered agent may resign the agent's agency appointment by signing and delivering to the secretary of state for filing the signed original and two exact or conformed copies of a statement of resignation. The statement may include a statement that the registered office is also discontinued.

2. After filing the statement the secretary of state shall mail one copy to the registered office, if not discontinued, and the other copy to the corporation at its principal office.

3. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

Sec. 35. NEW SECTION. 493B.504 SERVICE ON CORPORATION.

1. A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

2. If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office. Service is perfected under this subsection at the earliest of:

a. The date the corporation receives the mail.

b. The date shown on the return receipt, if signed on behalf of the corporation.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

3. This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

DIVISION VI
SHARES AND SHAREHOLDERS' RIGHTS
PART A

Sec. 36. NEW SECTION. 493B.601 AUTHORIZED SHARES.

1. The articles of incorporation must prescribe the classes of shares and the number of shares of each class that the corporation is authorized to issue. If more than one class of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class, and, prior to the issuance of shares of a class, the preferences, limitations, and relative rights of that class must be described in the articles of incorporation. All shares of a class must have preferences, limitations, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by section 493B.602.

2. The articles of incorporation must authorize both of the following:

a. One or more classes of shares that together have unlimited voting rights.

b. One or more classes of shares, which may be the same class or classes as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

3. The articles of incorporation may authorize one or more classes of shares that have any of the following qualities:

a. Have special, conditional, or limited voting rights, or no right to vote, except to the extent prohibited by this chapter.

b. Are redeemable or convertible as specified in the articles of incorporation in any of the following ways:

(1) At the option of the corporation, the shareholders, or another person or upon the occurrence of a designated event.

(2) For cash, indebtedness, securities, or other property.

(3) In a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events.

c. Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative.

d. Have preference over any other class of shares with respect to distributions, including dividends and distributions upon the dissolution of the corporation.

4. The description of the designations, preferences, limitations, and relative rights of share classes in subsection 3 is not exhaustive.

Sec. 37. NEW SECTION. 493B.602 TERMS OF CLASS OR SERIES DETERMINED BY BOARD OF DIRECTORS.

1. If the articles of incorporation so provide, the board of directors may determine, in whole or part, the preferences, limitations, and relative rights, within the limits set forth in section 493B.601, of either of the following:

a. Any class of shares before the issuance of any shares of that class.

b. One or more series within a class before the issuance of any shares of that series.

2. Each series of a class must be given a distinguishing designation.

3. All shares of a series must have preferences, limitations, and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

4. Before issuing any shares of a class or series created under this section, the corporation must deliver to the secretary of state for filing articles of amendment, which are effective without shareholder action, that set forth all of the following:

a. The name of the corporation.

b. The text of the amendment determining the terms of the class or series of shares.

c. The date it was adopted.

d. A statement that the amendment was duly adopted by the board of directors.

Sec. 38. NEW SECTION. 493B.603 ISSUED AND OUTSTANDING SHARES.

1. A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued are outstanding shares until they are reacquired, redeemed, converted, or canceled.

2. The reacquisition, redemption, or conversion of outstanding shares is subject to the limitations of subsection 3 and to section 493B.640.

3. At all times that shares of the corporation are outstanding, one or more shares that together have unlimited voting rights and one or more shares that together are entitled to receive the net assets of the corporation upon dissolution must be outstanding.

Sec. 39. NEW SECTION. 493B.604 FRACTIONAL SHARES.

1. A corporation may:

a. Issue fractions of a share or pay in money the value of fractions of a share.

b. Arrange for disposition of fractional shares by the shareholders.

c. Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

2. Each certificate representing scrip must be conspicuously labeled "scrip" and must contain the information required by section 493B.625, subsection 2.

3. The holder of a fractional share is entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to participate in the assets of the corporation

upon liquidation. The holder of scrip is not entitled to any of these rights unless the scrip provides for them.

4. The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including:

a. That the scrip will become void if not exchanged for full shares before a specified date.

b. That the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scrip holders.

PART B

Sec. 40. NEW SECTION. 493B.620 SUBSCRIPTION FOR SHARES BEFORE INCORPORATION.

1. A subscription for shares entered into before incorporation is irrevocable for six months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

2. The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation unless the subscription agreement specifies them. A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

3. Shares issued pursuant to subscriptions entered into before incorporation are fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

4. If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid more than twenty days after the corporation sends written demand for payment to the subscriber.

5. A subscription agreement entered into after incorporation is a contract between the subscriber and the corporation subject to section 493B.621.

Sec. 41. NEW SECTION. 493B.621 ISSUANCE OF SHARES.

1. The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

2. The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation.

3. Before the corporation issues shares, the board of directors must determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

4. When the corporation receives the consideration for which the board of directors authorized the issuance of shares, the shares issued for that consideration are fully paid and nonassessable.

5. The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the note is paid, or the benefits received. If the services are not performed, the note is not paid, or the benefits are not received, the shares escrowed or restricted and the distributions credited may be canceled in whole or in part.

Sec. 42. NEW SECTION. 493B.622 LIABILITY OF SHAREHOLDERS.

1. A purchaser from a corporation of its own shares is not liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were

authorized to be issued under section 493B.621, or specified in the subscription agreement authorized under section 493B.620.

2. Unless otherwise provided in the articles of incorporation, a shareholder of a corporation is not personally liable for the acts or debts of the corporation.

Sec. 43. NEW SECTION. 493B.623 SHARE DIVIDENDS.

1. Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of one or more classes or series. An issuance of shares under this subsection is a share dividend.

2. Shares of one class or series shall not be issued as a share dividend in respect of shares of another class or series unless one or more of the following conditions are met:

a. The articles of incorporation so authorize.

b. A majority of the votes entitled to be cast by the class or series to be issued approve the issue.

c. There are no outstanding shares of the class or series to be issued.

3. If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, it is the date the board of directors authorizes the share dividend.

Sec. 44. NEW SECTION. 493B.624 SHARE OPTIONS.

A corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board of directors shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the consideration for which the shares are to be issued.

Sec. 45. NEW SECTION. 493B.624A POISON PILL DEFENSE AUTHORIZED.

The terms and conditions of stock rights or options issued by the corporation may include, without limitation, restrictions, or conditions that preclude or limit the exercise, transfer, or receipt of such rights or options by a person, or group of persons, owning or offering to acquire a specified number or percentage of the outstanding common shares or other securities of the corporation, or a transferee of the offeror, or that invalidate or void such stock rights or options held by an offeror or a transferee of the offeror.

Sec. 46. NEW SECTION. 493B.625 CONTENT OF CERTIFICATES.

1. Shares may be, but need not be, represented by certificates. Unless this chapter or another section expressly provides otherwise, the rights and obligations of shareholders are identical whether or not their shares are represented by certificates.

2. At a minimum each share certificate must state on its face all of the following:

a. The name of the issuing corporation and that it is organized under the law of this state.

b. The name of the person to whom issued.

c. The number and class of shares and the designation of the series, if any, the certificate represents.

3. If the issuing corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class, the variations in rights, preferences, and limitations determined for each series, and the authority of the board of directors to determine variations for future series must be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

4. Each share certificate:

a. Must be signed either manually or in facsimile by two officers designated in the bylaws or by the board of directors.

b. May bear the corporate seal or its facsimile.

5. If the person who signed, either manually or in facsimile, a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.

Sec. 47. NEW SECTION. 493B.626 SHARES WITHOUT CERTIFICATES.

1. Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the corporation.

2. Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by section 493B.625, subsections 2 and 3, and, if applicable, section 493B.627.

Sec. 48. NEW SECTION. 493B.627 RESTRICTION ON TRANSFER OF SHARES AND OTHER SECURITIES.

1. The articles of incorporation, bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction does not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

2. A restriction on the transfer or registration of transfer of shares is valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the information statement required by section 493B.626, subsection 2. Unless so noted, a restriction is not enforceable against a person without knowledge of the restriction.

3. A restriction on the transfer or registration of transfer of shares is authorized for any of the following purposes:

a. To maintain the corporation's status when it is dependent on the number or identity of its shareholders.

b. To preserve exemptions under federal or state securities law.

c. For any other reasonable purpose.

4. A restriction on the transfer or registration of transfer of shares may do any of the following:

a. Obligate the shareholder first to offer the corporation or other persons, separately, consecutively, or simultaneously, an opportunity to acquire the restricted shares.

b. Obligate the corporation or other persons, separately, consecutively, or simultaneously, to acquire the restri- ed shares.

c. Require the cor[illegible]ration, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable.

d. Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

5. For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Sec. 49. NEW SECTION. 493B.628 EXPENSE OF ISSUE.

A corporation may pay the expenses of selling or underwriting its shares, and of organizing or reorganizing the corporation, from the consideration received for shares.

PART C

Sec. 50. NEW SECTION. 493B.630 SHAREHOLDERS' PREEMPTIVE RIGHTS.

1. Unless section 493B.1704 is applicable to the corporation, the shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation so provide.

2. A statement included in the articles of incorporation that "the corporation elects to have preemptive rights", or words of similar import, means that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

a. The shareholders of the corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

b. A shareholder may waive the shareholder's preemptive right. A waiver evidenced by a writing is irrevocable even though it is not supported by consideration.

c. There is no preemptive right with respect to:

(1) Shares issued as compensation to directors, officers, agents, or employees of the corporation, its subsidiaries, or its affiliates.

(2) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation, its subsidiaries, or its affiliates.

(3) Shares authorized in articles of incorporation that are issued within six months from the effective date of incorporation.

(4) Shares sold otherwise than for money.

d. Holders of shares of any class without general voting rights but with preferential rights to distributions or assets have no preemptive rights with respect to shares of any class.

e. Holders of shares of any class with general voting rights but without preferential rights to distributions or assets have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

f. Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

3. For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Sec. 51. NEW SECTION. 493B.631 CORPORATION'S ACQUISITION OF ITS OWN SHARES.

1. A corporation may acquire its own shares and shares so acquired constitute authorized but unissued shares.

2. If the articles of incorporation prohibit the reissue of acquired shares, the number of authorized shares is reduced by the number of shares acquired, effective upon amendment of the articles of incorporation.

3. The board of directors may adopt articles of amendment under this section without shareholder action, and deliver them to the secretary of state for filing. The articles must set forth all of the following:

a. The name of the corporation.

b. The reduction in the number of authorized shares, itemized by class and series.

c. The total number of authorized shares, itemized by class and series, remaining after reduction of the shares.

PART D

Sec. 52. NEW SECTION. 493B.640 DISTRIBUTION TO SHAREHOLDERS.

1. A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection 3.

2. If the board of directors does not fix the record date for determining shareholders entitled to a distribution, other than one involving a repurchase or reacquisition of shares, it is the date the board of directors authorizes the distribution.

3. No distribution may be made if, after giving it effect either of the following would result:

a. The corporation would not be able to pay its debts as they become due in the usual course of business.

b. The corporation's total assets would be less than the sum of its total liabilities plus, unless the articles of incorporation permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

4. The board of directors may base a determination that a distribution is not prohibited under subsection 3 either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

5. The effect of a distribution under subsection 3 is measured:

a. In the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of:

(1) The date money or other property is transferred or debt incurred by the corporation.

(2) The date the shareholder ceases to be a shareholder with respect to the acquired shares.

b. In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed.

c. In all other cases, as of:

(1) The date the distribution is authorized if the payment occurs within one hundred twenty days after the date of authorization.

(2) The date the payment is made if it occurs more than one hundred twenty days after the date of authorization.

6. A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

DIVISION VII
MEETINGS – NOTICE – VOTING
PART A

Sec. 53. NEW SECTION. 493B.701 ANNUAL MEETING.

1. A corporation shall hold annually, at a time stated in or fixed in accordance with the bylaws, a meeting of shareholders.

2. Annual shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

3. The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

Sec. 54. NEW SECTION. 493B.702 SPECIAL MEETING.

1. A corporation shall hold a special meeting of shareholders either:

a. On call of its board of directors or the person or persons authorized to call a special meeting by the articles of incorporation or bylaws.

b. If the holders of at least ten percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

2. If not otherwise fixed under sections 493B.703 or 493B.707, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

3. Special shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

4. Only business with the purpose or purposes described in the meeting notice required by section 493B.705, subsection 3, may be conducted at a special shareholders' meeting.

Sec. 55. NEW SECTION. 493B.703 COURT-ORDERED MEETING.

1. The district court of the county where a corporation's principal office, or, if none in this state, its registered office, is located may summarily order a meeting to be held either:

a. On application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held within the earlier of six months after the end of the corporation's fiscal year or fifteen months after its last annual meeting.

b. On application of a shareholder who signed a demand for a special meeting valid under section 493B.702 if either:

(1) Notice of the special meeting was not given within thirty days after the date the demand was delivered to the corporation's secretary.

(2) The special meeting was not held in accordance with the notice.

2. The court may fix the time and place of the meeting, ascertain the shares entitled to participate in the meeting, specify a record date for ascertaining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting or direct that the votes represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

Sec. 56. NEW SECTION. 493B.704 ACTION WITHOUT MEETING.

1. Unless otherwise provided in the articles of incorporation, any action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting or vote, and, except as provided in subsection 5, without prior notice, if one or more written consents describing the action taken are signed by the holders of outstanding shares having not less than ninety percent of the votes entitled to be cast at a meeting at which all shares entitled to vote on the action were present and voted, and are delivered to the corporation for inclusion in the minutes or filing with the corporate records.

2. A written consent shall bear the date of signature of each shareholder who signs the consent and no written consent is effective to take the corporate action referred to in the consent unless, within sixty days of the earliest dated consent delivered in the manner required by this section to the corporation, written consents signed by a sufficient number of holders to take action are delivered to the corporation.

3. If not otherwise fixed under sections 493B.703 or 493B.707, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection 1.

4. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

5. If this chapter requires that notice of proposed action be given to shareholders not entitled to vote and the action is to be taken by consent of the voting shareholders, the corporation must give all shareholders written notice of the proposed action at least ten days before the action is taken. The notice must contain or be accompanied by the same material that, under this chapter, would have been required to be sent to shareholders not entitled to vote in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.

6. Prompt notice of the taking of corporate action without a meeting by less than unanimous written consent shall be given to those shareholders who have not consented in writing. If the taking of that corporate action requires the giving of notice under section 493B.1320, subsection 2, the notice of the action shall set forth the matters described in section 493B.1322.

Sec. 57. NEW SECTION. 493B.705 NOTICE OF MEETING.

1. A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders' meeting no fewer than ten nor more than sixty days before the meeting date. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting.

2. Unless this chapter or the articles of incorporation require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called.

3. Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.

4. If not otherwise fixed under section 493B.703 or 493B.707, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting is the close of business on the day before the first notice is delivered to shareholders.

5. Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under section 493B.707, however, notice of the adjourned meeting must be given under this section to persons who are shareholders as of the new record date.

Sec. 58. NEW SECTION. 493B.706 WAIVER OF NOTICE.

1. A shareholder may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

2. A shareholder's attendance at a meeting:

a. Waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting or promptly upon the shareholder's arrival objects to holding the meeting or transacting business at the meeting.

b. Waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

Sec. 59. NEW SECTION. 493B.707 RECORD DATE.

1. The bylaws may fix or provide the manner of fixing the record date for one or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix a future date as the record date.

2. A record date fixed under this section shall not be more than seventy days before the meeting or action requiring a determination of shareholders.

3. A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty days after the date fixed for the original meeting.

4. If a court orders a meeting adjourned to a date more than one hundred twenty days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

PART B

Sec. 60. NEW SECTION. 493B.720 SHAREHOLDERS' LIST FOR MEETING.

1. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. The list must be arranged by voting group and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder.

2. The shareholders' list must be available for inspection by any shareholder beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, or a shareholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements

of section 493B.1602, subsection 3, to copy the list, during regular business hours and at the person's expense, during the period it is available for inspection.

3. The corporation shall make the shareholders' list available at the meeting, and any shareholder, or a shareholder's agent or attorney, is entitled to inspect the list at any time during the meeting or any adjournment.

4. If the corporation refuses to allow a shareholder, or a shareholder's agent or attorney, to inspect the shareholders' list before or at the meeting, or copy the list as permitted by subsection 3, the district court of the county where a corporation's principal office or, if none in this state, its registered office, is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

5. Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.

Sec. 61. NEW SECTION. 493B.721 VOTING ENTITLEMENT OF SHARES.

1. Except as provided in subsections 2 and 3 or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, is entitled to one vote on each matter voted on at a shareholders' meeting. Only shares are entitled to vote.

2. Absent special circumstances, the shares of a corporation are not entitled to vote if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

3. Subsection 2 does not limit the power of a corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.

4. Redeemable shares are not entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

Sec. 62. NEW SECTION. 493B.722 PROXIES.

1. A shareholder may vote the shareholder's shares in person or by proxy.

2. A shareholder may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form, either personally or by the shareholder's attorney-in-fact.

3. An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for eleven months unless a longer period is expressly provided in the appointment form.

4. An appointment of a proxy is revocable by the shareholder unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include, but are not limited to, the appointment of:

a. A pledgee.

b. A person who purchased or agreed to purchase the shares.

c. A creditor of the corporation who extended it credit under terms requiring the appointment.

d. An employee of the corporation whose employment contract requires the appointment.

e. A party to a voting agreement created under section 493B.731.

5. The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.

6. An appointment made irrevocable under subsection 4 is revoked when the interest with which it is coupled is extinguished.

7. A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when the transferee acquired the

shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

8. Subject to section 493B.724 and to any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

Sec. 63. NEW SECTION. 493B.723 SHARES HELD BY NOMINEES.

1. A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder. The extent of this recognition may be determined in the procedure.

2. The procedure may set forth:

a. The types of nominees to which it applies.

b. The rights or privileges that the corporation recognizes in a beneficial owner.

c. The manner in which the procedure is selected by the nominee.

d. The information that must be provided when the procedure is selected.

e. The period for which selection of the procedure is effective.

f. Other aspects of the rights and duties created.

Sec. 64. NEW SECTION. 493B.724 CORPORATION'S ACCEPTANCE OF VOTES.

1. If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

2. If the name signed on a voted consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

a. The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity.

b. The name signed purports to be that of an administrator, executor, guardian of the property, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment.

c. The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment.

d. The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, or proxy appointment.

e. Two or more persons are the shareholder as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

3. The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

4. The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section are not liable in damages to the shareholder for the consequences of the acceptance or rejection.

5. Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

Sec. 65. NEW SECTION. 493B.725 QUORUM AND VOTING REQUIREMENTS FOR VOTING GROUPS.

1. Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation or this chapter provides otherwise, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

2. Once a share is represented for any purpose at a meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

3. If a quorum exists, action on a matter, other than the election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation or this chapter require a greater number of affirmative votes.

4. An amendment of articles of incorporation adding, changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection 2 or 3 is governed by section 493B.727.

5. The election of directors is governed by section 493B.728.

Sec. 66. NEW SECTION. 493B.726 ACTION BY SINGLE OR MULTIPLE GROUPS.

1. If the articles of incorporation or this chapter provide for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in section 493B.725.

2. If the articles of incorporation or this chapter provide for voting by two or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in section 493B.725. Action may be taken by one voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.

Sec. 67. NEW SECTION. 493B.727 GREATER QUORUM OR VOTING REQUIREMENTS.

1. The articles of incorporation may provide for a greater quorum or voting requirement for shareholders or voting groups of shareholders than is provided for by this chapter.

2. An amendment to the articles of incorporation that adds, changes, or deletes a greater quorum or voting requirement must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.

Sec. 68. NEW SECTION. 493B.728 VOTING FOR DIRECTORS — CUMULATIVE VOTING.

1. Unless otherwise provided in the articles of incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

2. Shareholders do not have a right to cumulate their votes for directors unless the articles of incorporation so provide.

3. A statement included in the articles of incorporation that "[all] [a designated voting group of] shareholders are entitled to cumulate their votes for directors", or words of similar import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among two or more candidates.

PART C

Sec. 69. NEW SECTION. 493B.730 VOTING TRUSTS.

1. One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the

trust, which may include anything consistent with its purpose, and transferring their shares to the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of the names and addresses of all owners of beneficial interests in the trust, together with the number and class of shares each transferred to the trust, and deliver copies of the list and agreement to the corporation's principal office.

2. A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee's name. A voting trust is valid for not more than ten years after its effective date unless extended under subsection 3.

3. All or some of the parties to a voting trust may extend it for additional terms of not more than ten years each by signing an extension agreement and obtaining the voting trustee's written consent to the extension. An extension is valid for ten years from the date the first shareholder signs the extension agreement. The voting trustee must deliver copies of the extension agreement and list of beneficial owners to the corporation's principal office. An extension agreement binds only those parties signing it.

Sec. 70. NEW SECTION. 493B.731 VOTING AGREEMENTS.

1. Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section is not subject to section 493B.730.

2. A voting agreement created under this section is specifically enforceable.

PART D

Sec. 71. NEW SECTION. 493B.740 PROCEDURE IN DERIVATIVE PROCEEDINGS.

1. A person shall not commence a proceeding in the right of a domestic or foreign corporation unless that person was a shareholder of the corporation when the transaction complained of occurred or unless that person became a shareholder through transfer by operation of law from one who was a shareholder at that time.

2. A complaint in a proceeding brought in the right of a corporation must be verified and allege with particularity the demand made, if any, to obtain action by the board of directors and either that the demand was refused or ignored or why the complainant did not make the demand. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.

3. A proceeding commenced under this section shall not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given the shareholders affected.

4. On termination of the proceeding the court may require the plaintiff to pay any defendant's reasonable expenses including attorney fees incurred in defending the proceeding if it finds that the proceeding was commenced without reasonable cause.

5. For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on the beneficial owner's behalf.

DIVISION VIII
DIRECTORS AND OFFICERS
PART A

Sec. 72. NEW SECTION. 493B.801 REQUIREMENT FOR AND DUTIES OF BOARD OF DIRECTORS.

1. Except as provided in subsection 3, each corporation must have a board of directors.

2. All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors, subject to any limitation set forth in the articles of incorporation.

3. A corporation having fifty or fewer shareholders may dispense with or limit the authority of a board of directors by describing in its articles of incorporation who will perform some or all of the duties of a board of directors.

Sec. 73. NEW SECTION. 493B.802 QUALIFICATIONS OF DIRECTORS.

The articles of incorporation or bylaws may prescribe qualifications for directors. A director need not be a resident of this state or a shareholder of the corporation unless the articles of incorporation or bylaws so prescribe.

Sec. 74. NEW SECTION. 493B.803 NUMBER AND ELECTION OF DIRECTORS.

1. A board of directors must consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

2. If a board of directors has power to fix or change the number of directors, the board may increase or decrease by thirty percent or less the number of directors last approved by the shareholders, but only the shareholders may increase or decrease by more than thirty percent the number of directors last approved by the shareholders.

3. The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the shareholders or the board of directors. After shares are issued, only the shareholders may change the range for the size of the board or change from a fixed-range to a variable-range size board or vice versa.

4. Directors are elected at the first annual shareholders' meeting and at each annual meeting thereafter unless their terms are staggered under section 493B.806.

Sec. 75. NEW SECTION. 493B.804 ELECTION OF DIRECTORS BY CERTAIN CLASSES OF SHAREHOLDERS.

If the articles of incorporation authorize dividing the shares into classes, the articles may also authorize the election of all or a specified number of directors by the holders of one or more authorized classes of shares. Each class, or classes, of shares entitled to elect one or more directors is a separate voting group for purposes of the election of directors.

Sec. 76. NEW SECTION. 493B.805 TERMS OF DIRECTORS GENERALLY.

1. The terms of the initial directors of a corporation expire at the first shareholders' meeting at which directors are elected.

2. The terms of all other directors expire at the next annual shareholders' meeting following their election unless their terms are staggered under section 493B.806.

3. A decrease in the number of directors does not shorten an incumbent director's term.

4. The term of a director elected to fill a vacancy expires at the next shareholders' meeting at which directors are elected.

5. Despite the expiration of a director's term, the director continues to serve until a successor for that director is elected and qualifies or until there is a decrease in the number of directors.

Sec. 77. NEW SECTION. 493B.806 STAGGERED TERMS FOR DIRECTORS.

The articles of incorporation may provide for staggering the terms of directors by dividing the total number of directors into two or three groups, with each group containing one-half or one-third of the total, as near as may be. In that event, the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen for a term of two years or three years, as the case may be, to succeed those whose terms expire.

Sec. 78. NEW SECTION. 493B.807 RESIGNATION OF DIRECTORS.

1. A director may resign at any time by delivering written notice to the board of directors, its chairperson, or to the corporation.

2. A resignation is effective when the notice is delivered unless the notice specifies a later effective date.

Sec. 79. NEW SECTION. 493B.808 REMOVAL OF DIRECTORS BY SHAREHOLDERS.

1. The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

2. If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove that director.

3. If cumulative voting is authorized, a director shall not be removed if the number of votes sufficient to elect that director under cumulative voting is voted against the director's removal. If cumulative voting is not authorized, a director may be removed only if the number of votes cast to remove that director exceeds the number of votes cast not to remove the director.

4. A director may be removed by the shareholders only at a meeting called for the purpose of removing the director and after notice stating that the purpose, or one of the purposes, of the meeting is removal of the director. A director shall not be removed pursuant to written consents under section 493B.704 unless written consents are obtained from the holders of all the outstanding shares of the corporation.

Sec. 80. NEW SECTION. 493B.809 REMOVAL OF DIRECTORS BY JUDICIAL PROCEEDING.

1. The district court of the county where a corporation's principal office or, if none in this state, its registered office is located may remove a director of the corporation from office in a proceeding commenced either by the corporation or by its shareholders holding at least twenty percent of the outstanding shares of any class if the court finds that both of the following apply:

a. The director engaged in fraudulent or dishonest conduct with respect to the corporation.

b. Removal is in the best interest of the corporation.

2. The court that removes a director may bar the director from reelection for a period prescribed by the court.

3. If shareholders commence a proceeding under subsection 1, they shall make the corporation a party defendant.

Sec. 81. NEW SECTION. 493B.810 VACANCY ON BOARD.

1. Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors, the vacancy may be filled in any of the following manners:

a. The shareholders may fill the vacancy.

b. The board of directors may fill the vacancy.

c. If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

2. If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders.

3. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date under section 493B.807, subsection 2 or otherwise, may be filled before the vacancy occurs but the new director shall not take office until the vacancy occurs.

Sec. 82. NEW SECTION. 493B.811 COMPENSATION OF DIRECTORS.

Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the compensation of directors.

PART B

Sec. 83. NEW SECTION. 493B.820 MEETINGS.

1. The board of directors may hold regular or special meetings in or out of this state.

2. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 84. NEW SECTION. 493B.821 ACTION WITHOUT MEETING.

1. Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this chapter to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.

2. Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date.

3. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Sec. 85. NEW SECTION. 493B.822 NOTICE OF MEETING.

1. Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

2. Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors must be preceded by at least two days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of incorporation or bylaws.

Sec. 86. NEW SECTION. 493B.823 WAIVER OF NOTICE.

1. A director may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. Except as provided by subsection 2, the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records.

2. A director's attendance at or participation in a meeting waives any required notice to that director of the meeting unless the director at the beginning of the meeting or promptly upon the director's arrival objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Sec. 87. NEW SECTION. 493B.824 QUORUM AND VOTING.

1. Unless the articles of incorporation or bylaws require a different number, a quorum of a board of directors consists of either:

a. A majority of the fixed number of directors if the corporation has a fixed board size.

b. A majority of the number of directors prescribed, or, if no number is prescribed the number in office immediately before the meeting begins, if the corporation has a variable-range size board.

2. The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no fewer than one-third of the fixed or prescribed number of directors determined under subsection 1.

3. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

4. A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is deemed to have assented to the action taken unless one or more of the following occurs:

a. The director objects at the beginning of the meeting or promptly upon the director's arrival to holding it or transacting business at the meeting.

b. The director's dissent or abstention from the action taken is entered in the minutes of the meeting.

c. The director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting.

The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Sec. 88. NEW SECTION. 493B.825 COMMITTEES.

1. Unless the articles of incorporation or bylaws provide otherwise, a board of directors may create one or more committees and appoint members of the board of directors to serve on them. Each committee may have two or more members, who serve at the pleasure of the board of directors.

2. The creation of a committee and appointment of members to it must be approved by the greater of either:

a. A majority of all the directors in office when the action is taken.

b. The number of directors required by the articles of incorporation or bylaws to take action under section 493B.824.

3. Sections 493B.820 through 493B.824, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors, apply to committees and their members as well.

4. To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the authority of the board of directors under section 493B.801.

5. A committee shall not, however:

a. Authorize distributions.

b. Approve or propose to shareholders action that this chapter requires be approved by shareholders.

c. Fill vacancies on the board of directors or on any of its committees.

d. Amend articles of incorporation pursuant to section 493B.1002.

e. Adopt, amend, or repeal bylaws.

f. Approve a plan of merger not requiring shareholder approval.

g. Authorize or approve reacquisition of shares, except according to a formula or method prescribed by the board of directors.

h. Authorize or approve the issuance or sale or contract for sale of shares, or determine the designation and relative rights, preferences, and limitations of a class or series of shares, except that the board of directors may authorize a committee or a senior executive officer of the corporation to do so within limits specifically prescribed by the board of directors.

6. The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in section 493B.830.

PART C

Sec. 89. NEW SECTION. 493B.830 GENERAL STANDARDS FOR DIRECTORS.

1. A director shall discharge that director's duties as a director, including the director's duties as a member of a committee in conformity with all of the following:

a. In good faith.

b. With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

c. In a manner the director reasonably believes to be in the best interests of the corporation.

2. In discharging the director's duties a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the following:

a. One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.

b. Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence.

c. A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

3. A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection 2 unwarranted.

4. A director is not liable for any action taken as a director, or any failure to take any action, if the director performed the duties of the director's office in compliance with this section, or if, and to the extent that, liability for any such action or failure to act has been limited by the articles of incorporation pursuant to section 493B.832.

Sec. 90. NEW SECTION. 493B.831 DIRECTOR CONFLICT OF INTEREST.

1. A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is not voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

a. The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction.

b. The material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction.

c. The transaction was fair to the corporation.

2. For purposes of this section, a director of the corporation has an indirect interest in a transaction if either:

a. Another entity in which the director has a material financial interest or in which the director is a general partner is a party to the transaction.

b. Another entity of which the director is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

3. For purposes of subsection 1, paragraph "a", a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors or on the committee, who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection 1, paragraph "a", if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

4. For purposes of subsection 1, paragraph "b", a conflict of interest transaction is authorized, approved, or ratified if it receives the vote of a majority of the shares entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in subsection 2, paragraph "a", shall not be counted in a vote of shareholders to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection 1, paragraph "b". The vote of those shares, however, is counted in determining whether the transaction is approved under other sections of this chapter. A majority of the shares, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

Sec. 91. NEW SECTION. 493B.832 INDEMNIFICATION OF DIRECTORS.

The articles of incorporation may contain a provision eliminating or 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 breach of the director's duty of loyalty to the corporation or its shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for a transaction from which the director derives an improper personal benefit, or under section 493B.833. A provision shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 92. NEW SECTION. 493B.833 LIABILITY FOR UNLAWFUL DISTRIBUTION.

1. Unless the director complies with the applicable standards of conduct described in section 493B.830, a director who votes for or assents to a distribution made in violation of this chapter or the articles of incorporation is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating this chapter or the articles of incorporation.

2. A director held liable for an unlawful distribution under subsection 1 is entitled to contribution from both of the following:

a. Every other director who voted for or assented to the distribution without complying with the applicable standards of conduct described in section 493B.830.

b. Each shareholder for the amount the shareholder accepted knowing the distribution was made in violation of this chapter or the articles of incorporation.

PART D

Sec. 93. NEW SECTION. 493B.840 REQUIRED OFFICERS.

1. A corporation has the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

2. A duly appointed officer may appoint one or more officers or assistant officers if authorized by the bylaws or the board of directors.

3. The bylaws or the board of directors shall delegate to one of the officers responsibility for preparing minutes of the directors' and shareholders' meetings and for authenticating records of the corporation.

4. The same individual may simultaneously hold more than one office in a corporation.

Sec. 94. NEW SECTION. 493B.841 DUTIES OF OFFICERS.

Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers.

Sec. 95. NEW SECTION. 493B.842 STANDARDS OF CONDUCT FOR OFFICERS.

1. An officer with discretionary authority shall discharge the officer's duties under that authority in conformity with all of the following:

a. In good faith.

b. With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

c. In a manner the officer reasonably believes to be in the best interests of the corporation.

2. In discharging the person's duties an officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by either:

a. One or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented.

b. Legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

3. An officer is not acting in good faith if the officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection 2 unwarranted.

4. An officer is not liable for any action taken as an officer, or any failure to take any action, if the officer performed the duties of the officer's office in compliance with this section.

Sec. 96. NEW SECTION. 493B.843 RESIGNATION AND REMOVAL OF OFFICERS.

1. An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective at a later date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date.

2. A board of directors may remove any officer at any time with or without cause.

Sec. 97. NEW SECTION. 493B.844 CONTRACT RIGHTS OF OFFICERS.

1. The appointment of an officer does not itself create contract rights.

2. An officer's removal does not affect the officer's contract rights, if any, with the corporation. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.

PART E

Sec. 98. NEW SECTION. 493B.850 DEFINITIONS.

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

1. "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

2. "Director" means an individual who is or was a director of a corporation or an individual who, while a director of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. A director is considered to be serving an employee benefit plan at the corporation's request if the director's duties to the corporation also impose duties on, or otherwise involve services by, that director to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate or personal representative of a director.

3. "Expenses" include counsel fees.

4. "Liability" means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

5. "Official capacity" means:

a. When used with respect to a director, the office of director in a corporation.

b. When used with respect to an individual other than a director, as contemplated in section 493B.856, the office in a corporation held by the officer or the employment or agency relationship undertaken by the employee or agent on behalf of the corporation.

"Official capacity" does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, employee benefit plan, or other enterprise.

6. "Party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

7. "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

Sec. 99. NEW SECTION. 493B.851 AUTHORITY TO INDEMNIFY.

1. Except as provided in subsection 4, a corporation may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if all of the following apply:

a. The individual acted in good faith.

b. The individual reasonably believed:

(1) In the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in the corporation's best interests.

(2) In all other cases, that the individual's conduct was at least not opposed to the corporation's best interests.

c. In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful.

2. A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection 1, paragraph "b", subparagraph (2).

3. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

4. A corporation shall not indemnify a director under this section in either of the following circumstances:

a. In connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation.

b. In connection with any other proceeding charging improper personal benefit to the director, whether or not involving action in the director's official capacity, in which the director was adjudged liable on the basis that personal benefit was improperly received by the director.

5. Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation is limited to reasonable expenses incurred in connection with the proceeding.

Sec. 100. NEW SECTION. 493B.852 MANDATORY INDEMNIFICATION.

Unless limited by its articles of incorporation, a corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the director is or was a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding.

Sec. 101. NEW SECTION. 493B.853 ADVANCE FOR EXPENSES.

1. A corporation may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if any of the following apply:

a. The director furnishes the corporation a written affirmation of the director's good faith belief that the director has met the standard of conduct described in section 493B.851.

b. The director furnishes the corporation a written undertaking, executed personally or on the director's behalf, to repay the advance if it is ultimately determined that the director did not meet that standard of conduct.

c. A determination is made that the facts then known to those making the determination would not preclude indemnification under this part.

2. The undertaking required by subsection 1, paragraph "b", must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment.

3. Determinations and authorizations of payments under this section shall be made in the manner specified in section 493B.855.

Sec. 102. NEW SECTION. 493B.854 COURT-ORDERED INDEMNIFICATION.

Unless a corporation's articles of incorporation provide otherwise, a director of the corporation who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court after giving any notice the court considers necessary may order indemnification if it determines either of the following:

1. The director is entitled to mandatory indemnification under section 493B.852, in which case the court shall also order the corporation to pay the directors reasonable expenses incurred to obtain court-ordered indemnification.

2. The director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director met the standard of conduct set forth in

section 493B.851 or was adjudged liable as described in section 493B.851, subsection 4, but if the director was adjudged so liable the director's indemnification is limited to reasonable expenses incurred.

Sec. 103. NEW SECTION. 493B.855 DETERMINATION AND AUTHORIZATION OF INDEMNIFICATION.

1. A corporation shall not indemnify a director under section 493B.851 unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in section 493B.851.

2. The determination shall be made by any of the following:

a. By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding.

b. If a quorum cannot be obtained under paragraph "a", by majority vote of a committee duly designated by the board of directors, in which designation directors who are parties may participate, consisting solely of two or more directors not at the time parties to the proceeding.

c. By special legal counsel:

(1) Selected by the board of directors or its committee in the manner prescribed in paragraph "a" or "b".

(2) If a quorum of the board of directors cannot be obtained under paragraph "a" and a committee cannot be designated under paragraph "b", selected by majority vote of the full board of directors, in which selection directors who are parties may participate.

d. By the shareholders, but shares owned by or voted under the control of directors who are at the time parties to the proceeding shall not be voted on the determination.

3. Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection 2, paragraph "c" to select counsel.

Sec. 104. NEW SECTION. 493B.856 INDEMNIFICATION OF OFFICERS, EMPLOYEES, AND AGENTS.

Unless a corporation's articles of incorporation provide otherwise all of the following apply:

1. An officer of the corporation who is not a director is entitled to mandatory indemnification under section 493B.852, and is entitled to apply for court-ordered indemnification under section 493B.854, in each case to the same extent as a director.

2. The corporation may indemnify and advance expenses under this part to an officer, employee, or agent of the corporation who is not a director to the same extent as to a director.

3. A corporation may also indemnify and advance expenses to an officer, employee, or agent who is not a director to the extent, consistent with law, that may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract.

Sec. 105. NEW SECTION. 493B.857 INSURANCE.

A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the corporation, or who, while a director, officer, employee, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by that individual in that capacity or arising from the individual's status as a director, officer, employee, or agent, whether or not the corporation would have power to indemnify that individual against the same liability under section 493B.851 or 493B.852.

Sec. 106. NEW SECTION. 493B.858 APPLICATION OF PART E.

Except as limited in section 493B.851, subsection 4, paragraph "a" and subsection 5 with respect to proceedings by or in the right of the corporation, the indemnification and advancement of expenses provided by, or granted pursuant to, sections 493B.850 through 493B.857 are not exclusive of any other rights to which persons 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, such provisions, agreements, votes, or other actions shall not provide indemnification for a breach of a director's duty of loyalty to the corporation or its shareholders, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, for a transaction from which the person seeking indemnification derives an improper personal benefit, or for liability under section 493B.833.

DIVISION IX
SPECIAL CLASSES

Sec. 107. NEW SECTION. 493B.901 FOREIGN-TRADE ZONE CORPORATION.

A corporation may be organized under the laws of this state for the purpose of establishing, operating, and maintaining a foreign-trade zone as defined in 19 U.S.C. § 81(a). A corporation organized for the purposes set forth in this section has all powers necessary or convenient for applying for a grant of authority to establish, operate, and maintain a foreign-trade zone under 19 U.S.C. § 81(a), et seq., and regulations promulgated under that law, and for establishing, operating, and maintaining a foreign-trade zone pursuant to that grant of authority.

Sec. 108. NEW SECTION. 493B.902 FOREIGN INSURANCE COMPANIES BECOMING DOMESTIC.

The secretary of state, upon a corporation complying with this section and upon the filing of articles of incorporation and upon receipt of the fees as provided in this chapter, shall issue a certificate of incorporation as of the date of the corporation's original incorporation in its state of original incorporation. The certificate of incorporation shall state on its face that it is issued in accordance with this section. The secretary of state shall forward the articles as provided in this chapter to the county recorder where the principal place of business of the corporation is to be located. The secretary of state shall then notify the appropriate officer of the state or country of the corporation's last domicile that the corporation is now a domestic corporation domiciled in this state. This section applies to life insurance companies, and to insurance companies doing business under chapter 515.

DIVISION X
AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS
PART A

Sec. 109. NEW SECTION. 493B.1001 AMENDMENT OF ARTICLES OF INCORPORATION – AUTHORITY TO AMEND.

1. A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation or to delete a provision not required in the articles of incorporation. Whether a provision is required or permitted in the articles of incorporation is determined as of the effective date of the amendment.

2. A shareholder of the corporation does not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend entitlement, or purpose or duration of the corporation.

Sec. 110. NEW SECTION. 493B.1002 AMENDMENT BY BOARD OF DIRECTORS.

Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one or more amendments to the corporation's articles of incorporation without shareholder action for any of the following purposes:

1. To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law.

2. To delete the names and addresses of the initial directors.

3. To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state.

4. To change each issued and unissued authorized share of an outstanding class into a greater number of whole shares if the corporation has only shares of that class outstanding.

5. To change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name.

6. To make any other change expressly permitted by this chapter to be made without shareholder action.

Sec. 111. NEW SECTION. 493B.1003 AMENDMENT BY BOARD OF DIRECTORS AND SHAREHOLDERS.

1. A corporation's board of directors may propose one or more amendments to the articles of incorporation for submission to the shareholders.

2. For the amendment to be adopted both of the following must occur:

a. The board of directors must recommend the amendment to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the amendment.

b. The shareholders entitled to vote on the amendment must approve the amendment as provided in subsection 5.

3. The board of directors may condition its submission of the proposed amendment on any basis.

4. The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 493B.705. The notice of meeting must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

5. Unless this chapter, the articles of incorporation, or the board of directors acting pursuant to subsection 3 require a greater vote or a vote by voting groups, the amendment to be adopted must be approved by both of the following:

a. A majority of the votes entitled to be cast on the amendment by any voting group with respect to which the amendment would create dissenters' rights.

b. The votes required by sections 493B.725 and 493B.726 by every other voting group entitled to vote on the amendment.

Sec. 112. NEW SECTION. 493B.1004 VOTING ON AMENDMENTS BY VOTING GROUPS.

1. The holders of the outstanding shares of a class are entitled to vote as a separate voting group, if shareholder voting is otherwise required by this chapter, on a proposed amendment if the amendment would do any of the following:

a. Increase or decrease the aggregate number of authorized shares of the class.

b. Effect an exchange or reclassification of all or part of the shares of the class into shares of another class.

c. Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of that class.

d. Change the designation, rights, preferences, or limitations of all or part of the shares of the class.

e. Change the shares of all or part of the class into a different number of shares of the same class.

f. Create a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to, the shares of the class.

g. Increase the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class.

h. Limit or deny an existing preemptive right of all or part of the shares of the class.

i. Cancel or otherwise affect rights to distributions or dividends that have accumulated but not yet been declared on all or part of the shares of the class.

2. If a proposed amendment would affect a series of a class of shares in one or more of the ways described in subsection 1, the shares of that series are entitled to vote as a separate voting group on the proposed amendment.

3. If a proposed amendment that entitles two or more series of shares to vote as separate voting groups under this section would affect those two or more series in the same or a substantially similar way, the shares of all the series so affected must vote together as a single voting group on the proposed amendment.

4. A class or series of shares is entitled to the voting rights granted by this section although the articles of incorporation provide that the shares are nonvoting shares.

Sec. 113. NEW SECTION. 493B.1005 AMENDMENT BEFORE ISSUANCE OF SHARES.

If a corporation has not yet issued shares, its incorporators or board of directors may adopt one or more amendments to the corporation's articles of incorporation.

Sec. 114. NEW SECTION. 493B.1006 ARTICLES OF AMENDMENT.

A corporation amending its articles of incorporation shall deliver to the secretary of state for filing articles of amendment setting forth:

1. The name of the corporation.

2. The text of each amendment adopted.

3. If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself.

4. The date of each amendment's adoption.

5. If an amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required.

6. If an amendment was approved by the shareholders:

a. The designation, number of outstanding shares, number of votes entitled to be cast by each voting group entitled to vote separately on the amendment, and number of votes of each voting group indisputably represented at the meeting.

b. Either the total number of votes cast for and against the amendment by each voting group entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each voting group and a statement that the number cast for the amendment by each voting group was sufficient for approval by that voting group.

Sec. 115. NEW SECTION. 493B.1007 RESTATED ARTICLES OF INCORPORATION.

1. A corporation's board of directors may restate its articles of incorporation at any time with or without shareholder action.

2. The restatement may include one or more amendments to the articles. If the restatement includes an amendment requiring shareholder approval, it must be adopted as provided in section 493B.1003.

3. If the board of directors submits a restatement for shareholder action, the corporation shall notify each shareholder whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 493B.705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy of the restatement that identifies any amendment or other change it would make in the articles.

4. A corporation restating its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

a. Whether the restatement contains an amendment to the articles requiring shareholder approval and, if it does not, that the board of directors adopted the restatement.

b. If the restatement contains an amendment to the articles requiring shareholder approval, the information required by section 493B.1006.

5. Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to them.

6. The secretary of state may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection 4.

Sec. 116. NEW SECTION. 493B.1008 AMENDMENT PURSUANT TO REORGANIZATION.

1. A corporation's articles of incorporation may be amended without action by the board of directors or shareholders to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute if the articles of incorporation after amendment contain only provisions required or permitted by section 493B.202.

2. The individual or individuals designated by the court shall deliver to the secretary of state for filing articles of amendment setting forth all of the following:

a. The name of the corporation.

b. The text of each amendment approved by the court.

c. The date of the court's order or decree approving the articles of amendment.

d. The title of the reorganization proceeding in which the order or decree was entered.

e. A statement that the court had jurisdiction of the proceeding under federal statute.

3. Shareholders of a corporation undergoing reorganization do not have dissenters' rights except as and to the extent provided in the reorganization plan.

4. This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

Sec. 117. NEW SECTION. 493B.1009 EFFECT OF AMENDMENT.

An amendment to articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than shareholders of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

PART B

Sec. 118. NEW SECTION. 493B.1020 AMENDMENT OF BYLAWS BY BOARD OF DIRECTORS OR SHAREHOLDERS.

1. A corporation's board of directors may amend or repeal the corporation's bylaws unless either of the following apply:

a. The articles of incorporation or this chapter reserve this power exclusively to the shareholders in whole or part.

b. The shareholders in amending or repealing a particular bylaw provide expressly that the board of directors shall not amend or repeal that bylaw.

2. A corporation's shareholders may amend or repeal the corporation's bylaws even though the bylaws may also be amended or repealed by its board of directors.

Sec. 119. NEW SECTION. 493B.1021 BYLAW INCREASING QUORUM OR VOTING REQUIREMENT FOR SHAREHOLDERS.

1. If authorized by the articles of incorporation, the shareholders may adopt or amend a bylaw that fixes a greater quorum or voting requirement for shareholders or voting groups

of shareholders than is required by this chapter. The adoption or amendment of a bylaw that adds, changes, or deletes a greater quorum or voting requirement for shareholders must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

2. A bylaw that fixes a greater quorum or voting requirement for shareholders under subsection 1 shall not be adopted, amended, or repealed by the board of directors.

Sec. 120. NEW SECTION. 493B.1022 BYLAW INCREASING QUORUM OR VOTING REQUIREMENT FOR DIRECTORS.

1. A bylaw that fixes a greater quorum or voting requirement for the board of directors may be amended or repealed:

a. If originally adopted by the shareholders, only by the shareholders.

b. If originally adopted by the board of directors, either by the shareholders or by the board of directors.

2. A bylaw adopted or amended by the shareholders that fixes a greater quorum or voting requirement for the board of directors may provide that it may be amended or repealed only by a specified vote of either the shareholders or the board of directors.

3. Action by the board of directors under subsection 1, paragraph "b" to adopt or amend a bylaw that changes the quorum or voting requirement for the board of directors must meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

DIVISION XI
MERGER AND SHARE EXCHANGE

Sec. 121. NEW SECTION. 493B.1101 MERGER.

1. One or more corporations may merge into another corporation if the board of directors of each corporation adopts and its shareholders, if required by section 493B.1103, approve a plan of merger.

2. The plan of merger must set forth all of the following:

a. The name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge.

b. The terms and conditions of the merger.

c. The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property in whole or part.

3. The plan of merger may set forth:

a. Restated articles or amendments to the articles of incorporation of the surviving corporation.

b. Other provisions relating to the merger.

Sec. 122. NEW SECTION. 493B.1102 SHARE EXCHANGE.

1. A corporation may acquire all of the outstanding shares of one or more classes or series of another corporation if the board of directors of each corporation adopts and its shareholders, if required by section 493B.1103, approve the exchange.

2. The plan of exchange must set forth all of the following:

a. The name of the corporation whose shares will be acquired and the name of the acquiring corporation.

b. The terms and conditions of the exchange.

c. The manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or part.

3. The plan of exchange may set forth other provisions relating to the exchange.

4. This section does not limit the power of a corporation to acquire all or part of the shares of one or more classes or series of another corporation through a voluntary exchange or otherwise.

Sec. 123. NEW SECTION. 493B.1103 ACTION ON PLAN.

1. After adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger, except as provided in subsection 7, or share exchange for approval by its shareholders.

2. For a plan of merger or share exchange to be approved both of the following must occur:

a. The board of directors must recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan.

b. The shareholders entitled to vote must approve the plan.

3. The board of directors may condition its submission of the proposed merger or share exchange on any basis.

4. The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 493B.705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or share exchange and contain or be accompanied by a copy or summary of the plan.

5. Unless this chapter, the articles of incorporation, or the board of directors acting pursuant to subsection 3 require a greater vote or a vote by voting groups, the plan of merger or share exchange to be authorized must be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.

6. Separate voting by voting groups is required:

a. On a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one or more separate voting groups on the proposed amendment under section 493B.1004.

b. On a plan of share exchange, by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

7. Action by the shareholders of the surviving corporation on a plan of merger is not required if all of the following apply:

a. The articles of incorporation of the surviving corporation will not differ, except for amendments enumerated in section 493B.1002, from its articles before the merger.

b. Each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after.

c. The number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed by more than twenty percent the total number of voting shares of the surviving corporation outstanding immediately before the merger.

d. The number of participating shares outstanding immediately after the merger plus the number of participating shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed by more than twenty percent the total number of participating shares outstanding immediately before the merger.

8. As used in subsection 7:

a. "Participating shares" means shares that entitle their holders to participate without limitation in distributions.

b. "Voting shares" means shares that entitle their holders to vote unconditionally in elections of directors.

9. After a merger or share exchange is authorized, and at any time before articles of merger or share exchange are filed, the planned merger or share exchange may be abandoned, subject to any contractual rights, without further shareholder action, in accordance with the procedure set forth in the plan of merger or share exchange or, if none is set forth, in the manner determined by the board of directors.

Sec. 124. NEW SECTION. 493B.1104 MERGER OF SUBSIDIARY.

1. A parent corporation owning at least ninety percent of the outstanding shares of each class of a subsidiary corporation may merge the subsidiary into itself without approval of the shareholders of the parent or subsidiary.

2. The board of directors of the parent shall adopt a plan of merger that sets forth both of the following:

a. The names of the parent and subsidiary.

b. The manner and basis of converting the shares of the subsidiary into shares, obligations, or other securities of the parent or any other corporation or into cash or other property in whole or part.

3. The parent corporation shall mail a copy or summary of the plan of merger to each shareholder of the subsidiary who does not waive the mailing requirement in writing.

4. The parent corporation shall not deliver articles of merger to the secretary of state for filing until at least thirty days after the date it mailed a copy of the plan of merger to each shareholder of the subsidiary who did not waive the mailing requirement.

5. Articles of merger under this section shall not contain amendments to the articles of incorporation of the parent corporation except for amendments enumerated in section 493B.1002.

Sec. 125. NEW SECTION. 493B.1105 ARTICLES OF MERGER OR SHARE EXCHANGE.

1. After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the secretary of state for filing articles of merger or share exchange setting forth all of the following:

a. The plan of merger or share exchange.

b. If shareholder approval was not required, a statement to that effect.

c. If approval of the shareholders of one or more corporations party to the merger or share exchange was required, both of the following:

(1) The designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the plan as to each corporation.

(2) Either the total number of votes cast for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.

2. A merger or share exchange takes effect upon the effective date of the articles of merger or share exchange.

Sec. 126. NEW SECTION. 493B.1106 EFFECT OF MERGER OR SHARE EXCHANGE.

1. When a merger takes effect all of the following apply:

a. Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases.

b. The title to all real estate and other property owned by each corporation party to the merger is vested in the surviving corporation without reversion or impairment.

c. The surviving corporation has all liabilities of each corporation party to the merger.

d. A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased.

e. The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger.

f. The shares of each corporation party to the merger that are to be converted into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property are converted, and the former holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under division XIII.

2. When a share exchange takes effect, the shares of each acquired corporation are exchanged as provided in the plan, and the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under division XIII.

Sec. 127. NEW SECTION. 493B.1107 MERGER OR SHARE EXCHANGE WITH FOREIGN CORPORATION.

1. One or more foreign corporations may merge or enter into a share exchange with one or more domestic corporations if:

a. In a merger, the merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger.

b. In a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state or country under whose law the acquiring corporation is incorporated.

c. The foreign corporation complies with section 493B.1105 if it is the surviving corporation of the merger or acquiring corporation of the share exchange.

d. Each domestic corporation complies with the applicable provisions of sections 493B.1101 through 493B.1104 and, if it is the surviving corporation of the merger or acquiring corporation of the share exchange, with section 493B.1105.

2. Upon the merger or share exchange taking effect, the surviving foreign corporation of a merger and the acquiring foreign corporation of a share exchange is deemed:

a. To appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger or share exchange.

b. To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under division XIII.

3. This section does not limit the power of a foreign corporation to acquire all or part of the shares of one or more classes or series of a domestic corporation through a voluntary exchange or otherwise.

Sec. 128. NEW SECTION. 493B.1108 CONSIDERATION OF COMMUNITY INTERESTS IN CONSIDERATION OF ACQUISITION PROPOSALS.

1. A director, in determining what is in the best interest of the corporation when considering a tender offer or proposal of acquisition, merger, consolidation, or similar proposal, may consider any or all of the following community interest factors, in addition to consideration of the effects of any action on shareholders:

a. The effects of the action on the corporation's employees, suppliers, creditors, and customers.

b. The effects of the action on the communities in which the corporation operates.

c. The long-term as well as short-term interests of the corporation and its shareholders, including the possibility that these interests may be best served by the continued independence of the corporation.

2. If on the basis of the community interest factors described in paragraph 1, the board of directors determines that a proposal or offer to acquire or merge the corporation is not in the best interests of the corporation, it may reject the proposal or offer. If the board of directors determines to reject any such proposal or offer, the board of directors has no obligation to facilitate, to remove any barriers to, or to refrain from impeding, the proposal or offer. Consideration of any or all of the community interest factors is not a violation of the business judgment rule or of any duty of the director to the shareholders, or a group of shareholders, even

if the director reasonably determines that a community interest factor or factors outweigh the financial or other benefits to the corporation or a shareholder or group of shareholders.

DIVISION XII
SALE OF ASSETS

Sec. 129. NEW SECTION. 493B.1201 SALE OF ASSETS IN REGULAR COURSE OF BUSINESS AND MORTGAGE OF ASSETS.

1. A corporation may, on the terms and conditions and for the consideration determined by the board of directors do any of the following:

a. Sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of business.

b. Mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of its property whether or not in the usual and regular course of business.

c. Transfer any or all of its property to a corporation all the shares of which are owned by the transferring corporation whether or not in the usual course of business.

2. Unless the articles of incorporation require it, approval by the shareholders of a transaction described in subsection 1 is not required.

Sec. 130. NEW SECTION. 493B.1202 SALE OF ASSETS OTHER THAN IN REGULAR COURSE OF BUSINESS.

1. A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property, with or without the good will, otherwise than in the usual and regular course of business, on the terms and conditions and for the consideration determined by the corporation's board of directors, if the board of directors proposes and its shareholders approve the proposed transaction.

2. For a transaction to be authorized both of the following must occur:

a. The board of directors must recommend the proposed transaction to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the submission of the proposed transaction.

b. The shareholders entitled to vote must approve the transaction.

3. The board of directors may condition its submission of the proposed transaction on any basis.

4. The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 493B.705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, the property of the corporation and contain or be accompanied by a description of the transaction.

5. Unless the articles of incorporation or the board of directors acting pursuant to subsection 3 require a greater vote or a vote by voting groups, the transaction to be authorized must be approved by a majority of all the votes entitled to be cast on the transaction.

6. After a sale, lease, exchange, or other disposition of property is authorized, the transaction may be abandoned subject to any contractual rights without further shareholder action.

7. A transaction that constitutes a distribution is governed by section 493B.640 and not by this section.

DIVISION XIII
DISSENTERS' RIGHTS
PART A

Sec. 131. NEW SECTION. 493B.1301 DEFINITIONS FOR DIVISION XIII.

In this division:

1. "Corporation" means the issuer of the shares held by a dissenter before the corporate action, or the surviving or acquiring corporation by merger or share exchange of that issuer.

2. "Dissenter" means a shareholder who is entitled to dissent from corporate action under section 493B.1302 and who exercises that right when and in the manner required by sections 493B.1320 through 493B.1328.

3. "Fair value", with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable.

4. "Interest" means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

5. "Record shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

6. "Beneficial shareholder" means the person who is a beneficial owner of shares held by a nominee as the record shareholder.

7. "Shareholder" means the record shareholder or the beneficial shareholder.

Sec. 132. NEW SECTION. 493B.1302 SHAREHOLDERS' RIGHT TO DISSENT.

1. A shareholder is entitled to dissent from, and obtain payment of the fair value of the shareholder's shares in the event of, any of the following corporate actions:

a. Consummation of a plan of merger to which the corporation is a party if either of the following apply:

(1) Shareholder approval is required for the merger by section 493B.1103 or the articles of incorporation and the shareholder is entitled to vote on the merger.

(2) The corporation is a subsidiary that is merged with its parent under section 493B.1104.

b. Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan.

c. Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one year after the date of sale.

d. An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it does any or all of the following:

(1) Alters or abolishes a preferential right of the shares.

(2) Creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares.

(3) Alters or abolishes a preemptive right of the holder of the shares to acquire shares or other securities.

(4) Excludes or limits the right of the shares to vote on any matter, or to cumulate votes, other than a limitation by dilution through issuance of shares or other securities with similar voting rights.

(5) Reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under section 493B.604.

(6) Extends, for the first time after being governed by this chapter, the period of duration of a corporation organized under chapter 491 or 496A and existing for a period of years on the day preceding the date the corporation is first governed by this chapter.

e. Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

2. A shareholder entitled to dissent and obtain payment for the shareholder's shares under this chapter is not entitled to challenge the corporate action creating the shareholder's entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

Sec. 133. NEW SECTION. 493B.1303 DISSENT BY NOMINEES AND BENEFICIAL OWNERS.

1. A record shareholder may assert dissenters' rights as to fewer than all the shares registered in that shareholder's name only if the shareholder dissents with respect to all shares beneficially owned by any one person and notifies the corporation in writing of the name and address of each person on whose behalf the shareholder asserts dissenters' rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which the shareholder dissents and the shareholder's other shares were registered in the names of different shareholders.

2. A beneficial shareholder may assert dissenters' rights as to shares held on the shareholder's behalf only if the shareholder does both of the following:

a. Submits to the corporation the record shareholder's written consent to the dissent not later than the time the beneficial shareholder asserts dissenters' rights.

b. Does so with respect to all shares of which the shareholder is the beneficial shareholder or over which that beneficial shareholder has power to direct the vote.

PART B

Sec. 134. NEW SECTION. 493B.1320 NOTICE OF DISSENTERS' RIGHTS.

1. If proposed corporate action creating dissenters' rights under section 493B.1302 is submitted to a vote at a shareholders' meeting, the meeting notice must state that shareholders are or may be entitled to assert dissenters' rights under this part and be accompanied by a copy of this part.

2. If corporate action creating dissenters' rights under section 493B.1302 is taken without a vote of shareholders, the corporation shall notify in writing all shareholders entitled to assert dissenters' rights that the action was taken and send them the dissenters' notice described in section 493B.1322.

Sec. 135. NEW SECTION. 493B.1321 NOTICE OF INTENT TO DEMAND PAYMENT.

1. If proposed corporate action creating dissenters' rights under section 493B.1302 is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenters' rights must do all of the following:

a. Deliver to the corporation before the vote is taken written notice of the shareholder's intent to demand payment for the shareholder's shares if the proposed action is effectuated.

b. Not vote the dissenting shareholder's shares in favor of the proposed action.

2. A shareholder who does not satisfy the requirements of subsection 1, is not entitled to payment for the shareholder's shares under this part.

Sec. 136. NEW SECTION. 493B.1322 DISSENTERS' NOTICE.

1. If proposed corporate action creating dissenters' rights under section 493B.1302 is authorized at a shareholders' meeting, the corporation shall deliver a written dissenters' notice to all shareholders who satisfied the requirements of section 493B.1321.

2. The dissenters' notice must be sent no later than ten days after the corporate action by the shareholders was taken and must do all of the following:

a. State where the payment demand must be sent and where and when certificates for certificated shares must be deposited.

b. Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received.

c. Supply a form for demanding payment that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires

that the person asserting dissenters' rights certify whether or not the person acquired beneficial ownership of the shares before that date.

d. Set a date by which the corporation must receive the payment demand, which date shall not be fewer than thirty nor more than sixty days after the date the subsection 1 notice is delivered.

e. Be accompanied by a copy of this division.

Sec. 137. NEW SECTION. 493B.1323 DUTY TO DEMAND PAYMENT.

1. A shareholder sent a dissenters' notice described in section 493B.1322 must demand payment, certify whether the shareholder acquired beneficial ownership of the shares before the date required to be set forth in the dissenter's notice pursuant to section 493B.1322, subsection 2, paragraph "c", and deposit the shareholder's certificates in accordance with the terms of the notice.

2. The shareholder who demands payment and deposits the shareholder's shares under subsection 1 retains all other rights of a shareholder until these rights are canceled or modified by the taking of the proposed corporate action.

3. A shareholder who does not demand payment or deposit the shareholder's share certificates where required, each by the date set in the dissenters' notice, is not entitled to payment for the shareholder's shares under this division.

Sec. 138. NEW SECTION. 493B.1324 SHARE RESTRICTIONS.

1. The corporation may restrict the transfer of uncertificated shares from the date the demand for their payment is received until the proposed corporate action is taken or the restrictions released under section 493B.1326.

2. The person for whom dissenters' rights are asserted as to uncertificated shares retains all other rights of a shareholder until these rights are canceled or modified by the taking of the proposed corporate action.

Sec. 139. NEW SECTION. 493B.1325 PAYMENT.

1. Except as provided in section 493B.1327, as soon as the proposed corporate action is taken, or upon receipt of a payment demand, the corporation shall pay each dissenter who complied with section 493B.1323 the amount the corporation estimates to be the fair value of the dissenter's shares, plus accrued interest.

2. The payment must be accompanied by all of the following:

a. The corporation's balance sheet as of the end of a fiscal year ending not more than sixteen months before the date of payment, an income statement for that year, a statement of changes in shareholders' equity for that year, and the latest available interim financial statements, if any.

b. A statement of the corporation's estimate of the fair value of the shares.

c. An explanation of how the interest was calculated.

d. A statement of the dissenter's right to demand payment under section 493B.1328.

e. A copy of this division.

Sec. 140. NEW SECTION. 493B.1326 FAILURE TO TAKE ACTION.

1. If the corporation does not take the proposed action within sixty days after the date set for demanding payment and depositing share certificates, the corporation shall return the deposited certificates and release the transfer restrictions imposed on uncertificated shares.

2. If after returning deposited certificates and releasing transfer restrictions, the corporation takes the proposed action, it must send a new dissenters' notice under section 493B.1322 and repeat the payment demand procedure.

Sec. 141. NEW SECTION. 493B.1327 AFTER-ACQUIRED SHARES.

1. A corporation may elect to withhold payment required by section 493B.1325 from a dissenter unless the dissenter was the beneficial owner of the shares before the date set forth in the dissenters' notice as the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action.

2. To the extent the corporation elects to withhold payment under subsection 1, after taking the proposed corporate action, it shall estimate the fair value of the shares, plus accrued interest, and shall pay this amount to each dissenter who agrees to accept it in full satisfaction of the dissenter's demand. The corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenter's right to demand payment under section 493B.1328.

Sec. 142. NEW SECTION. 493B.1328 PROCEDURE IF SHAREHOLDER DISSATISFIED WITH PAYMENT OR OFFER.

1. A dissenter may notify the corporation in writing of the dissenter's own estimate of the fair value of the dissenter's shares and amount of interest due, and demand payment of the dissenter's estimate, less any payment under section 493B.1325, or reject the corporation's offer under section 493B.1327 and demand payment of the fair value of the dissenter's shares and interest due, if any of the following apply:

a. The dissenter believes that the amount paid under section 493B.1325 or offered under section 493B.1327 is less than the fair value of the dissenter's shares or that the interest due is incorrectly calculated.

b. The corporation fails to make payment under section 493B.1325 within sixty days after the date set for demanding payment.

c. The corporation, having failed to take the proposed action, does not return the deposited certificates or release the transfer restrictions imposed on uncertificated shares within sixty days after the date set for demanding payment.

2. A dissenter waives the dissenter's right to demand payment under this section unless the dissenter notifies the corporation of the dissenter's demand in writing under subsection 1 within thirty days after the corporation made or offered payment for the dissenter's shares.

PART C

Sec. 143. NEW SECTION. 493B.1330 COURT ACTION.

1. If a demand for payment under section 493B.1328 remains unsettled, the corporation shall commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

2. The corporation shall commence the proceeding in the district court of the county where a corporation's principal office or, if none in this state, its registered office is located. If the corporation is a foreign corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the registered office of the domestic corporation merged with or whose shares were acquired by the foreign corporation was located.

3. The corporation shall make all dissenters, whether or not residents of this state, whose demands remain unsettled parties to the proceeding as in an action against their shares and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the powers described in the order appointing them, or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter made a party to the proceeding is entitled to judgment for either of the following:

a. The amount, if any, by which the court finds the fair value of the dissenter's shares, plus interest, exceeds the amount paid by the corporation.

b. The fair value, plus accrued interest, of the dissenter's after-acquired shares for which the corporation elected to withhold payment under section 493B.1327.

Sec. 144. NEW SECTION. 493B.1331 COURT COSTS AND COUNSEL FEES.

1. The court in an appraisal proceeding commenced under section 493B.1330 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment under section 493B.1328.

2. The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable, for either of the following:

a. Against the corporation and in favor of any or all dissenters if the court finds the corporation did not substantially comply with the requirements of sections 493B.1320 through 493B.1328.

b. Against either the corporation or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this chapter.

3. If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the corporation, the court may award to these counsel reasonable fees to be paid out of the amounts awarded the dissenters who were benefited.

DIVISION XIV
DISSOLUTION
PART A

Sec. 145. NEW SECTION. 493B.1401 DISSOLUTION BY INCORPORATORS OR INITIAL DIRECTORS.

A majority of the incorporators or initial directors of a corporation that has not issued shares or has not commenced business may dissolve the corporation by delivering to the secretary of state for filing articles of dissolution that set forth all of the following:

1. The name of the corporation.
2. The date of its incorporation.
3. Either of the following:
a. That none of the corporation's shares has been issued.
b. That the corporation has not commenced business.
4. That no debt of the corporation remains unpaid.
5. That the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued.
6. That a majority of the incorporators or initial directors authorized the dissolution.

Sec. 146. NEW SECTION. 493B.1402 DISSOLUTION BY BOARD OF DIRECTORS AND SHAREHOLDERS.

1. A corporation's board of directors may propose dissolution for submission to the shareholders.

2. For a proposal to dissolve to be adopted both of the following must apply:

a. The board of directors must recommend dissolution to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders.

b. The shareholders entitled to vote must approve the proposal to dissolve as provided in subsection 5.

3. The board of directors may condition its submission of the proposal for dissolution on any basis.

4. The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 493B.705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

5. Unless the articles of incorporation or the board of directors acting pursuant to subsection 3 requires a greater vote or a vote by voting groups, the proposal to dissolve to be adopted must be approved by a majority of all the votes entitled to be cast on that proposal.

Sec. 147. NEW SECTION. 493B.1403 ARTICLES OF DISSOLUTION.

1. At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth all of the following:

a. The name of the corporation.

b. The date dissolution was authorized.

c. If dissolution was approved by the shareholders, both of the following:

(1) The number of votes entitled to be cast on the proposal to dissolve.

(2) Either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval.

d. If voting by voting groups was required, the information required by paragraph "c" must be separately provided for each voting group entitled to vote separately on the plan to dissolve.

2. A corporation is dissolved upon the effective date of its articles of dissolution.

Sec. 148. NEW SECTION. 493B.1404 REVOCATION OF DISSOLUTION.

1. A corporation may revoke its dissolution within one hundred twenty days of its effective date.

2. Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

3. After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth all of the following:

a. The name of the corporation.

b. The effective date of the dissolution that was revoked.

c. The date that the revocation of dissolution was authorized.

d. If the corporation's board of directors or incorporators revoked the dissolution, a statement to that effect.

e. If the corporation's board of directors revoked a dissolution authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization.

f. If shareholder action was required to revoke the dissolution, the information required by section 493B.1403, subsection 1, paragraph "c" or "d".

4. Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

5. When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution as if the dissolution had never occurred.

Sec. 149. NEW SECTION. 493B.1405 EFFECT OF DISSOLUTION.

1. A dissolved corporation continues its corporate existence but shall not carry on any business except that appropriate to wind up and liquidate its business and affairs, including any of the following:

a. Collecting its assets.

b. Disposing of its properties that will not be distributed in kind to its shareholders.

c. Discharging or making provision for discharging its liabilities.

d. Distributing its remaining property among its shareholders according to their interests.

e. Doing every other act necessary to wind up and liquidate its business and affairs.

2. Dissolution of a corporation does not do any of the following:

a. Transfer title to the corporation's property.

b. Prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records.

c. Subject its directors or officers to standards of conduct different from those prescribed in division VIII.

d. Change quorum or voting requirements for its board of directors or shareholders; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws.

e. Prevent commencement of a proceeding by or against the corporation in its corporate name.

f. Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution.

g. Terminate the authority of the registered agent of the corporation.

Sec. 150. NEW SECTION. 493B.1406 KNOWN CLAIMS AGAINST DISSOLVED CORPORATION.

1. A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

2. The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must do all of the following:

a. Describe information that must be included in a claim.

b. Provide a mailing address where a claim may be sent.

c. State the deadline, which may not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved corporation must receive the claim.

d. State that the claim will be barred if not received by the deadline.

3. A claim against the dissolved corporation is barred if either of the following occur:

a. A claimant who was given written notice under subsection 2 does not deliver the claim to the dissolved corporation by the deadline.

b. A claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

4. For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

Sec. 151. NEW SECTION. 493B.1407 UNKNOWN CLAIMS AGAINST DISSOLVED CORPORATION.

1. A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

2. The notice must meet all of the following requirements:

a. Be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office or, if none in this state, its registered office is or was last located.

b. Describe the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within five years after the publication of the notice.

3. If the dissolved corporation publishes a newspaper notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within five years after the publication date of the newspaper notice:

a. A claimant who did not receive written notice under section 493B.1406.

b. A claimant whose claim was timely sent to the dissolved corporation but not acted on.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim may be enforced under this section in either of the following ways:

a. Against the dissolved corporation, to the extent of its undistributed assets.

b. If the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to the shareholder in liquidation.

PART B

Sec. 152. NEW SECTION. 493B.1420 GROUNDS FOR ADMINISTRATIVE DISSOLUTION.

The secretary of state may commence a proceeding under section 493B.1421 to administratively dissolve a corporation if any of the following apply:

1. The corporation does not pay within sixty days after they are due any franchise taxes or penalties imposed by this chapter or other law.

2. The corporation has not delivered an annual report to the secretary of state in a form that meets the requirements of section 493B.1622, within sixty days after it is due.

3. The corporation is without a registered agent or registered office in this state for sixty days or more.

4. The corporation does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

5. The corporation's period of duration stated in its articles of incorporation expires.

Sec. 153. NEW SECTION. 493B.1421 PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION.

1. If the secretary of state determines that one or more grounds exist under section 493B.1420 for dissolving a corporation, the secretary of state shall serve the corporation with written notice of the secretary of state's determination under section 493B.504.

2. If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after service of the notice is perfected under section 493B.504, the secretary of state shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation under section 493B.504.

3. A corporation administratively dissolved continues its corporate existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs under section 493B.1405 and notify claimants under sections 493B.1406 and 493B.1407.

4. The administrative dissolution of a corporation does not terminate the authority of its registered agent.

Sec. 154. NEW SECTION. 493B.1422 REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION.

1. A corporation administratively dissolved under section 493B.1421 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must meet all of the following requirements:

a. Recite the name of the corporation at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution either did not exist or have been eliminated.

c. State a corporate name that satisfies the requirements of section 493B.401.

d. Contain a certificate from the department of revenue and finance reciting that all taxes owed by the corporation have been paid.

2. If the secretary of state determines that the application contains the information required by subsection 1 and that the information is correct, the secretary of state shall cancel the

certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under section 493B.504. If the corporate name in subsection 1, paragraph "c" is different than the corporate name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the articles of incorporation insofar as it pertains to the corporate name.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

Sec. 155. NEW SECTION. 493B.1423 APPEAL FROM DENIAL OF REINSTATEMENT.

1. If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, the secretary of state shall serve the corporation under section 493B.504 with a written notice that explains the reason or reasons for denial.

2. The corporation may appeal the denial of reinstatement to the district court within thirty days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved corporation or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

PART C

Sec. 156. NEW SECTION. 493B.1430 GROUNDS FOR JUDICIAL DISSOLUTION.

The district court may dissolve a corporation in any of the following ways:

1. A proceeding by the attorney general, if it is established that either of the following apply:

a. The corporation obtained its articles of incorporation through fraud.

b. The corporation has continued to exceed or abuse the authority conferred upon it by law.

2. A proceeding by a shareholder if it is established that any of the following conditions exist:

a. The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and either irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock.

b. The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent.

c. The shareholders are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired.

d. The corporate assets are being misapplied or wasted.

3. A proceeding by a creditor if it is established that either of the following apply:

a. The creditors claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent.

b. The corporation has admitted in writing that the creditors claim is due and owing and the corporation is insolvent.

4. A proceeding by the corporation to have its voluntary dissolution continued under court supervision.

Sec. 157. NEW SECTION. 493B.1431 PROCEDURE FOR JUDICIAL DISSOLUTION.

1. Venue for a proceeding by the attorney general to dissolve a corporation lies in Polk county. Venue for a proceeding brought by any other party named in section 493B.1430 lies in the county where a corporation's principal office or, if none in this state, its registered office is or was last located.

2. It is not necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

3. A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

Sec. 158. NEW SECTION. 493B.1432 RECEIVERSHIP OR CUSTODIANSHIP.

1. A court in a judicial proceeding brought to dissolve a corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all its property wherever located.

2. The court may appoint an individual or a domestic or foreign corporation authorized to transact business in this state as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

3. The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

a. The receiver may do either or both of the following:

(1) Dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court.

(2) Sue and defend in the receiver's own name as receiver of the corporation in all courts of this state.

b. The custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

4. The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the corporation, its shareholders, and creditors.

5. The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and the receiver's or custodian's counsel from the assets of the corporation or proceeds from the sale of the assets.

Sec. 159. NEW SECTION. 493B.1433 DECREE OF DISSOLUTION.

1. If after a hearing the court determines that one or more grounds for judicial dissolution described in section 493B.1430 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

2. After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with section 493B.1405 and the notification of claimants in accordance with sections 493B.1406 and 493B.1407.

PART D

Sec. 160. NEW SECTION. 493B.1440 DEPOSIT WITH STATE TREASURER.

Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the treasurer of state or other appropriate state official for safekeeping. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount deposited, the treasurer of state or other appropriate state official shall pay the creditor, claimant, or shareholder or that person's representative that amount.

DIVISION XV
FOREIGN CORPORATIONS
PART A

Sec. 161. NEW SECTION. 493B.1501 AUTHORITY TO TRANSACT BUSINESS REQUIRED.

1. A foreign corporation shall not transact business in this state until it obtains a certificate of authority from the secretary of state.

2. The following activities, among others, do not constitute transacting business within the meaning of subsection 1:

a. Maintaining, defending, or settling any proceeding.

b. Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs.

c. Maintaining bank accounts.

d. Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositories with respect to those securities.

e. Selling through independent contractors.

f. Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts.

g. Creating or acquiring indebtedness, mortgages, and security interests in real or personal property.

h. Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

i. Owning, without more, real or personal property.

j. Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like nature.

k. Transacting business in interstate commerce.

3. The list of activities in subsection 2 is not exhaustive.

Sec. 162. NEW SECTION. 493B.1502 CONSEQUENCES OF TRANSACTING BUSINESS WITHOUT AUTHORITY.

1. A foreign corporation transacting business in this state without a certificate of authority shall not maintain a proceeding in any court in this state until it obtains a certificate of authority.

2. The successor to a foreign corporation that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this state until the foreign corporation or its successor obtains a certificate of authority.

3. A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

4. A foreign corporation is liable for a civil penalty of not to exceed a total of one thousand dollars if it transacts business in this state without a certificate of authority. The attorney general may collect all penalties due under this subsection.

5. Notwithstanding subsections 1 and 2, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in this state.

Sec. 163. NEW SECTION. 493B.1503 APPLICATION FOR CERTIFICATE OF AUTHORITY.

1. A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must set forth all of the following:

a. The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of section 493B.1506.

b. The name of the state or country under whose law it is incorporated.

c. Its date of incorporation and period of duration.

d. The street address of its principal office.

e. The address of its registered office in this state and the name of its registered agent at that office.

f. The names and usual business addresses of its current directors and officers.

2. The foreign corporation shall deliver with the completed application a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated.

Sec. 164. NEW SECTION. 493B.1504 AMENDED CERTIFICATE OF AUTHORITY.

1. A foreign corporation authorized to transact business in this state must obtain an amended certificate of authority from the secretary of state if it changes any of the following:

a. Its corporate name.

b. The period of its duration.

c. The state or country of its incorporation.

2. The requirements of section 493B.1503 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

Sec. 165. NEW SECTION. 493B.1505 EFFECT OF CERTIFICATE OF AUTHORITY.

1. A certificate of authority authorizes the foreign corporation to which it is issued to transact business in this state subject, however, to the right of the state to revoke the certificate as provided in this chapter.

2. A foreign corporation with a valid certificate of authority has the same but no greater rights and has the same but no greater privileges as, and except as otherwise provided in this chapter is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic corporation of like character.

3. This chapter does not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state.

Sec. 166. NEW SECTION. 493B.1506 CORPORATE NAME OF FOREIGN CORPORATION.

1. If the corporate name of a foreign corporation does not satisfy the requirements of section 493B.401, the foreign corporation, to obtain or maintain a certificate of authority to transact business in this state, may do either of the following:

a. Add the word "corporation", "incorporated", "company", or "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", to its corporate name for use in this state.

b. Use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

2. Except as authorized by subsections 3 and 4, the corporate name, including a fictitious name, of a foreign corporation must be distinguishable upon the records of the secretary of state from all of the following:

a. The corporate name of a corporation incorporated or authorized to transact business in this state.

b. A corporate name reserved or registered under section 493B.402 or 493B.403.

c. The fictitious name of another foreign corporation authorized to transact business in this state.

d. The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state.

3. A foreign corporation may apply to the secretary of state for authorization to use in this state the name of another corporation incorporated or authorized to transact business in this

state that is not distinguishable upon the secretary of state's records from the name applied for. The secretary of state shall authorize use of the name applied for if either of the following apply:

a. The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation.

b. The applicant delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

4. A foreign corporation may use in this state the name, including the fictitious name, of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation has done any of the following:

a. Merged with the other corporation.

b. Been formed by reorganization of the other corporation.

c. Acquired all or substantially all of the assets, including the corporate name, of the other corporation.

5. If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of section 493B.401, it shall not transact business in this state under the changed name until it adopts a name satisfying the requirements of section 493B.401 and obtains an amended certificate of authority under section 493B.1504.

Sec. 167. NEW SECTION. 493B.1507 REGISTERED OFFICE AND REGISTERED AGENT OF FOREIGN CORPORATION.

A foreign corporation authorized to transact business in this state must continuously maintain in this state both of the following:

1. A registered office that may be the same as any of its places of business.

2. A registered agent, who may be any of the following:

a. An individual who resides in this state and whose business office is identical with the registered office.

b. A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office.

c. A foreign corporation or foreign not-for-profit corporation authorized to transact business in this state whose business office is identical with the registered office.

Sec. 168. NEW SECTION. 493B.1508 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT OF FOREIGN CORPORATION.

1. A foreign corporation authorized to transact business in this state may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

a. Its name.

b. The street address of its current registered office.

c. If the current registered office is to be changed, the street address of its new registered office.

d. The name of its current registered agent.

e. If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment.

f. That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

2. If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any foreign corporation for which the agent is the registered agent by notifying the corporation in writing

of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection 1 and recites that the corporation has been notified of the change.

3. A corporation may also change its registered office or registered agent in its annual report as provided in section 493B.1622.

Sec. 169. NEW SECTION. 493B.1509 RESIGNATION OF REGISTERED AGENT OF FOREIGN CORPORATION.

1. The registered agent of a foreign corporation may resign the agency appointment by signing and delivering to the secretary of state for filing the original and two exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

2. After filing the statement, the secretary of state shall attach the filing receipt to one copy and mail the copy and receipt to the registered office if not discontinued. The secretary of state shall mail the other copy of the foreign corporation to its principal office address shown in its most recent annual report.

3. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

Sec. 170. NEW SECTION. 493B.1510 SERVICE ON FOREIGN CORPORATION.

1. The registered agent of a foreign corporation authorized to transact business in this state is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

2. A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent annual report if the foreign corporation meets any of the following conditions:

a. Has no registered agent or its registered agent cannot with reasonable diligence be served.

b. Has withdrawn from transacting business in this state under section 493B.1520.

c. Has had its certificate of authority revoked under section 493B.1531.

3. Service is perfected under subsection 2 at the earliest of:

a. The date the foreign corporation receives the mail.

b. The date shown on the return receipt, if signed on behalf of the foreign corporation.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

4. A foreign corporation may also be served in any other manner permitted by law.

PART B

Sec. 171. NEW SECTION. 493B.1520 WITHDRAWAL OF FOREIGN CORPORATION.

1. A foreign corporation authorized to transact business in this state shall not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.

2. A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application must set forth all of the following:

a. The name of the foreign corporation and the name of the state or country under whose law it is incorporated.

b. That it is not transacting business in this state and that it surrenders its authority to transact business in this state.

c. That it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state.

d. A mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under paragraph "c".

e. A commitment to notify the secretary of state in the future of any change in its mailing address.

3. After the withdrawal of the corporation is effective, service of process on the secretary of state under this section is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign corporation at the mailing address set forth under subsection 2.

PART C

Sec. 172. NEW SECTION. 493B.1530 GROUNDS FOR REVOCATION.

The secretary of state may commence a proceeding under section 493B.1531 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

1. The foreign corporation does not deliver its annual report to the secretary of state within sixty days after it is due.

2. The foreign corporation does not pay within sixty days after they are due any franchise taxes or penalties imposed by this chapter or other laws.

3. The foreign corporation is without a registered agent or registered office in this state for sixty days or more.

4. The foreign corporation does not inform the secretary of state under section 493B.1508 or 493B.1509 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty days of the change, resignation, or discontinuance.

5. An incorporator, director, officer, or agent of the foreign corporation signed a document that person knew was false in any material respect with intent that the document be delivered to the secretary of state for filing.

6. The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger.

Sec. 173. NEW SECTION. 493B.1531 PROCEDURE FOR AND EFFECT OF REVOCATION.

1. If the secretary of state determines that one or more grounds exist under section 493B.1530 for revocation of a certificate of authority, the secretary of state shall serve the foreign corporation with written notice of the secretary's determination under section 493B.1510.

2. If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after service of the notice is perfected under section 493B.1510, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation under section 493B.1510.

3. The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

4. The secretary of state's revocation of a foreign corporation's certificate of authority appoints the secretary of state the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office, or, if none is on file, in its application for a certificate of authority.

5. Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

Sec. 174. NEW SECTION. 493B.1532 APPEAL FROM REVOCATION.

1. A foreign corporation may appeal the secretary of state's revocation of its certificate of authority to the district court within thirty days after service of the certificate of revocation is perfected under section 493B.1510. The foreign corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the secretary of state's certificate of revocation.

2. The court may summarily order the secretary of state to reinstate the certificate of authority or may take any other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

DIVISION XVI
RECORDS AND REPORTS
PART A

Sec. 175. NEW SECTION. 493B.1601 CORPORATE RECORDS.

1. A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

2. A corporation shall maintain appropriate accounting records.

3. A corporation or its agent shall maintain a record of its shareholders in a form that permits preparation of a list of the names and addresses of all shareholders in alphabetical order by class of shares showing the number and class of shares held by each.

4. A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

5. A corporation shall keep a copy of the following records:

a. Its articles or restated articles of incorporation and all amendments to them currently in effect.

b. Its bylaws or restated bylaws and all amendments to them currently in effect.

c. Resolutions adopted by its board of directors creating one or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding.

d. The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three years.

e. All written communications to shareholders generally within the past three years, including the financial statements furnished for the past three years under section 493B.1620.

f. A list of the names and business addresses of its current directors and officers.

g. Its most recent annual report delivered to the secretary of state under section 493B.1622.

Sec. 176. NEW SECTION. 493B.1602 INSPECTION OF RECORDS BY SHAREHOLDERS.

1. A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in section 493B.1601, subsection 5, if the shareholder gives the corporation written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy.

2. A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection 3 and gives the corporation written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy any of the following:

a. Excerpts from minutes of any meeting of the board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken

by the shareholders or board of directors without a meeting, to the extent not subject to inspection under section 493B.1602, subsection 1.

b. Accounting records of the corporation.

c. The record of shareholders.

3. A shareholder may inspect and copy the records described in subsection 2 only if:

a. The shareholder's demand is made in good faith and for a proper purpose.

b. The shareholder describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect.

c. The records are directly connected with the shareholder's purpose.

4. The right of inspection granted by this section shall not be abolished or limited by a corporation's articles of incorporation or bylaws.

5. This section does not affect either of the following:

a. The right of a shareholder to inspect records under section 493B.720 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant.

b. The power of a court, independently of this chapter, to compel the production of corporate records for examination.

Sec. 177. NEW SECTION. 493B.1603 SCOPE OF INSPECTION RIGHT.

1. A shareholder's agent or attorney has the same inspection and copying rights as the shareholder the agent or attorney represents.

2. The right to copy records under section 493B.1602 includes, if reasonable, the right to receive copies made by photographic, xerographic, or other technological means.

3. The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge shall not exceed the estimated cost of production or reproduction of the records.

4. The corporation may comply with a shareholder's demand to inspect the record of shareholders under section 493B.1602, subsection 2, paragraph "c" by providing the shareholder with a list of its shareholders that was compiled no earlier than the date of the shareholder's demand.

Sec. 178. NEW SECTION. 493B.1604 COURT-ORDERED INSPECTION.

1. If a corporation does not allow a shareholder who complies with section 493B.1602, subsection 1, to inspect and copy any records required by that subsection to be available for inspection, the district court of the county where the corporation's principal office or, if none in this state, its registered office is located may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

2. If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other records, the shareholder who complies with section 493B.1602, subsections 2 and 3 may apply to the district court in the county where the corporation's principal office or, if none in this state, its registered office is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

3. If the court orders inspection and copying of the records demanded, it shall also order the corporation to pay the shareholder's costs, including reasonable counsel fees, incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

4. If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.

PART B

Sec. 179. NEW SECTION. 493B.1620 FINANCIAL STATEMENTS FOR SHAREHOLDERS.

A corporation shall prepare annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year and an income statement for that year. Upon written request from a shareholder, a corporation, at its expense, shall furnish to that shareholder the financial statements requested. If the annual financial statements are reported upon by a public accountant, that report must accompany them.

Sec. 180. NEW SECTION. 493B.1621 OTHER REPORTS TO SHAREHOLDERS.

1. If a corporation indemnifies or advances expenses to a director under section 493B.851 through 493B.854 in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to the shareholders with or before the notice of the next shareholders' meeting.

2. If a corporation issues or authorizes the issuance of shares for promissory notes or for promises to render services in the future, the corporation shall report in writing to the shareholders the number of shares authorized or issued, and the consideration received by the corporation, with or before the notice of the next shareholders' meeting.

Sec. 181. NEW SECTION. 493B.1622 ANNUAL REPORT FOR SECRETARY OF STATE.

1. Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report that sets forth all of the following:

a. The name of the corporation and the state or country under whose law it is incorporated.

b. The address of its registered office and the name of its registered agent at that office in this state, together with the consent of any new registered agent.

c. The address of its principal office.

d. The names and business addresses of its directors and principal officers.

e. The total number of authorized shares, itemized by class and series, if any, within each class.

f. The total number of issued and outstanding shares, itemized by class and series, if any, within each class.

g. A statement of the amount of agricultural land in this state owned by the corporation.

h. A statement that the corporation is or is not a family farm corporation as defined in section 172C.1.

2. Information in the annual report must be current as of the first day of January of the year in which the report is due. The annual report shall be executed on behalf of the corporation and signed as provided in section 493B.120 or by any other person authorized by the board of directors of the corporation.

3. The first annual report shall be delivered to the secretary of state between January 1 and April 1 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports must be delivered to the secretary of state between January 1 and April 1 of the following calendar years.

4. If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within thirty days after the effective date of notice, it is deemed to be timely filed.

5. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the annual report, provided that the form contains the information required in section 493B.502 or 493B.1508. If the secretary of state determines that an annual report does not contain the information required by this section

but otherwise meets the requirements of section 493B.502 or 493B.1508 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 493B.123, before returning the annual report to the corporation as provided in this section. A statement of change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the annual report.

DIVISION XVII
TRANSITION PROVISIONS

Sec. 182. NEW SECTION. 493B.1701 APPLICATION TO EXISTING CORPORATIONS.

1. Except as provided in this subsection or chapters 504 or 504A, this chapter does not apply to or affect entities subject to chapters 504 or 504A. Such entities continue to be governed by all laws of this state applicable to them before the effective date of this Act as those laws are amended. This chapter does not derogate or limit the powers to which such entities are entitled.

2. Unless otherwise provided, this chapter does not apply to an entity subject to chapter 174, 176, 497, 498, 499, 499A, 524, 533, or 534 or a corporation organized on the mutual plan under chapter 491, or a telephone company organized as a corporation under chapter 491 qualifying pursuant to an internal revenue service letter ruling under I.R.C. § 501(c)(12) as a nonprofit corporation entitled to distribute profits in a manner similar to a chapter 499 corporation, unless such entity voluntarily elects to adopt the provisions of this chapter and complies with the procedure prescribed by subsection 3 of this section.

3. The procedure for the voluntary election referred to in subsection 2 is as follows:

a. A resolution reciting that the corporation voluntarily adopts this chapter and designating the address of its initial registered office and the name of its registered agent or agents at that office and, if the name of the corporation is not in compliance with the requirements of this chapter, amending the articles of incorporation of the corporation to change the name of the corporation to one complying with the requirements of this chapter, shall be adopted by the board of directors and shareholders by the procedure prescribed by this chapter for the amendment of articles of incorporation.

b. Upon adoption of the required resolution or resolutions, an instrument shall be executed by the corporation by its president or a vice president and by its secretary or an assistant secretary and verified by one of the officers signing the instrument, which shall set forth all of the following:

(1) The name of the corporation.

(2) Each such resolution adopted by the corporation and the date of adoption of each resolution.

(3) The address of its registered office and the name of its registered agent.

c. The instrument shall be delivered to the secretary of state for filing and recording in the secretary of state's office, and shall be filed and recorded in the office of the county recorder. The corporation shall at the time it files the instrument with the secretary of state deliver also to the secretary of state for filing in the secretary of state's office any annual report which is then due.

If the county of the initial registered office as stated in the instrument is one which is other than the county where the principal place of business of the corporation, as designated in its articles of incorporation, was located, the secretary of state shall forward also to the county recorder of the county in which the principal place of business of the corporation was located a copy of the instrument and the secretary of state shall forward to the recorder of the county in which the initial registered office of the corporation is located, in addition to the original of the instrument, a copy of the articles of incorporation of the corporation together with all amendments to them as then on file in the secretary of state's office.

d. Upon the filing of the instrument by a corporation all of the following apply:

(1) All of the provisions of this chapter apply to the corporation.

(2) The secretary of state shall issue a certificate as to the filing of the instrument and deliver the certificate to the corporation or its representative.

(3) The secretary of state shall not file the instrument with respect to a corporation unless at the time of filing the corporation is validly existing and in good standing in that office under the chapter under which it is incorporated. The corporation shall be considered validly existing and in good standing for the purpose of this chapter for a period of three months following the expiration date of the corporation, provided all annual reports due have been filed and all fees due in connection with the annual reports have been paid.

e. The provisions of this chapter becoming applicable to a corporation voluntarily electing to be governed by this chapter do not affect any right accrued or established, or any liability or penalty incurred, under the chapter under which it is incorporated prior to the filing by the secretary of state in the secretary of state's office of the instrument manifesting the election by the corporation to adopt the provisions of this chapter as provided in subsection 3.

4. Except as specifically provided in this chapter, this chapter applies to all domestic corporations in existence on the effective date of this Act that were incorporated under any general statute of this state providing for incorporation of corporations for profit if power to amend or repeal the statute under which the corporation was incorporated was reserved.

5. A corporation subject to this chapter which does not have a registered office or registered agent or both designated on the records of the secretary of state is subject to all of the following provisions:

a. The office of the corporation set forth in its first annual report filed under this chapter shall be deemed its registered office until December 31, 1990, or until it files a designation of registered office with the secretary of state, whichever is earlier.

b. The person signing the first annual report of the corporation filed under this chapter shall be deemed the registered agent until December 31, 1990, or a statement designating a registered agent has been filed with the secretary of state, whichever is earlier.

c. Section 502* does not apply to the corporation until December 31, 1990, or until the corporation files a designation of registered office and registered agent at that office with the secretary of state, whichever is earlier.

6. A corporation subject to this chapter is not subject to chapter 491, 492, 493, 494, 495, or 496.

Sec. 183. NEW SECTION. 493B.1702 APPLICATION TO QUALIFIED FOREIGN CORPORATIONS.

A foreign corporation authorized to transact business in this state on the effective date of this Act is subject to this chapter but is not required to obtain a new certificate of authority to transact business under this chapter.

Sec. 184. NEW SECTION. 493B.1703 SAVINGS PROVISIONS.

1. Except as provided in subsection 2, the repeal of a statute by this chapter does not affect:

a. The operation of the statute or any action taken under it before its repeal.

b. Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal.

c. Any violation of the statute, or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal.

d. Any proceeding, reorganization, or dissolution commenced under the statute before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed.

2. If a penalty or punishment imposed for violation of a statute repealed by this Act is reduced by this Act, the penalty or punishment if not already imposed shall be imposed in accordance with this chapter.

*Section 493B.502 probably intended

Sec. 185. NEW SECTION. 493B.1704 PREEMPTIVE RIGHTS FOR EXISTING CORPORATIONS.

Notwithstanding any other provision of this chapter, a corporation which was incorporated under, or which elected to be governed by, chapter 496A prior to December 31, 1989, shall be governed by the following until December 31, 1992:

Except to the extent limited or denied by this section or by the articles of incorporation, shareholders have a preemptive right to acquire unissued shares or securities convertible into such shares or carrying a right to subscribe to or acquire shares.

Unless otherwise provided in the articles of incorporation:

1. No preemptive right exists:

a. To acquire any shares issued to directors, officers, or employees pursuant to approval by the affirmative vote of the holders of a majority of the shares entitled to vote thereon or when authorized by and consistent with a plan approved by such a vote of shareholders.

b. To acquire any shares sold otherwise than for cash.

c. To acquire treasury shares of the corporation.

2. Holders of shares of any class that is preferred or limited as to dividends or assets are not entitled to any preemptive right.

3. Holders of shares of common stock are not entitled to any preemptive right to shares of any class that is preferred or limited as to dividends or assets or to any obligations, unless convertible into shares of common stock or carrying a right to subscribe to or acquire shares of common stock.

4. Holders of common stock without voting power have no preemptive right to shares of common stock with voting power.

5. The preemptive right is only an opportunity to acquire shares or other securities under such terms and conditions as the board of directors may fix for the purpose of providing a fair and reasonable opportunity for the exercise of the right.

Sec. 186. Section 491.1, Code 1989, is amended to read as follows:

491.1 WHO MAY INCORPORATE.

Any number of persons may become incorporated under this chapter prior to July 1, 1971 for the transaction of any lawful business, but the incorporation confers no power or privilege not possessed by natural persons, except as provided in this chapter. ~~All domestic corporations shall be organized under chapter 496A only, except for corporations which are to become subject to one or more of the following chapters: 174, 176, 499, 499A, 504A, 506, 508, 510*, 512, 514, 515, 515A, 518, 518A, 519, 524, 533, and 534.~~ All domestic corporations shall be organized under chapter 493B, except as expressly provided otherwise in chapter 493B.

Sec. 187. NEW SECTION. 491.101A POISON PILL DEFENSE AUTHORIZED.

The terms and conditions of stock rights or options issued by the corporation may include, without limitation, restrictions, or conditions that preclude or limit the exercise, transfer, or receipt of such rights or options by a person, or group of persons, owning or offering to acquire a specified number or percentage of the outstanding common shares or other securities of the corporation, or a transferee of the offeror, or that invalidate or void such stock rights or options held by an offeror or a transferee of the offeror.

Sec. 188. NEW SECTION. 491.101B CONSIDERATION OF COMMUNITY INTERESTS IN CONSIDERATION OF ACQUISITION PROPOSALS.

1. A director, in determining what is in the best interest of the corporation when considering a tender offer or proposal of acquisition, merger, consolidation, or similar proposal, may consider any or all of the following community interest factors, in addition to consideration of the effects of any action on shareholders:

a. The effects of the action on the corporation's employees, suppliers, creditors, and customers.

b. The effects of the action on the communities in which the corporation operates.

c. The long-term as well as short-term interests of the corporation and its shareholders, including the possibility that these interests may be best served by the continued independence of the corporation.

2. If on the basis of the community interest factors described in paragraph 1, the board of directors determines that a proposal or offer to acquire or merge the corporation is not in the best interests of the corporation, it may reject the proposal or offer. If the board of directors determines to reject any such proposal or offer, the board of directors has no obligation to facilitate, to remove any barriers to, or to refrain from impeding, the proposal or offer. Consideration of any or all of the community interest factors is not a violation of the business judgment rule or of any duty of the director to the shareholders, or a group of shareholders, even if the director reasonably determines that a community interest factor or factors outweigh the financial or other benefits to the corporation or a shareholder or group of shareholders.

Sec. 189. Section 504A.6, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

504A.6 CORPORATE NAME.

1. A corporate name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by its articles of incorporation.

2. Except as authorized by subsections 3 and 4, a corporate name must be distinguishable upon the records of the secretary of state from all of the following:

a. The corporate name of a nonprofit corporation or business corporation incorporated or authorized to conduct affairs or do business in this state.

b. A corporate name reserved under section 504A.7, or reserved or registered under the Iowa business corporation Act.

c. The fictitious name of a foreign business or nonprofit corporation authorized to transact business or conduct affairs in this state because its real name is unavailable.

3. A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary's records from one or more of the names described in subsection 2. The secretary of state shall authorize use of the name applied for if one of the following conditions applies:

a. The other corporation consents to the use in writing and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation.

b. The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

4. A corporation may use the name, including the fictitious name, of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to conduct affairs or transact business in this state and the proposed user corporation meets one of the following conditions:

a. Has merged with the other corporation.

b. Has been formed by reorganization of the other corporation.

c. Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

5. This chapter does not control the use of fictitious names; however, if a corporation uses a fictitious name in this state it shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

Sec. 190. Section 504A.67, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

504A.67 NAME OF A FOREIGN CORPORATION.

1. If the corporate name of a foreign corporation does not satisfy the requirements of section 504A.6, the foreign corporation, to obtain or maintain a certificate of authority to conduct affairs in this state, may use a fictitious name to transact business in this state if its real name

is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

2. Except as authorized by subsections 3 and 4, the corporate name, including a fictitious name, of a corporation must be distinguishable upon the records of the secretary of state from all of the following:

a. The corporate name of a nonprofit or business corporation incorporated or authorized to conduct affairs or to transact business in this state.

b. A corporate name reserved under section 504A.7 or section 493B.402, or registered under section 493B.403.

c. The fictitious name of another foreign business or nonprofit corporation authorized to transact business or conduct affairs in this state.

3. A foreign corporation may apply to the secretary of state for authorization to use in this state the name of another corporation, incorporated or authorized to transact business or conduct affairs in this state, that is not distinguishable upon the records of the secretary of state from the name applied for. The secretary of state shall authorize use of the name applied for if one of the following conditions applies:

a. The other corporation consents to the use in writing and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation.

b. The applicant delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

4. A foreign corporation may use in this state the name, including a fictitious name, of another domestic or foreign business or nonprofit corporation that is used in this state if the other corporation is incorporated or authorized to transact business or conduct affairs in this state and the foreign corporation meets one of the following conditions:

a. Has merged with the other corporation.

b. Has been formed by reorganization of the other corporation.

c. Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

5. If a foreign corporation authorized to conduct affairs in this state changes its corporate name to one that does not satisfy the requirements of section 504A.6, it shall not conduct affairs in this state under the changed name until it adopts a name satisfying the requirements of section 504A.6 and obtains an amended certificate of authority.

Sec. 191. Section 508.12, Code 1989, is amended to read as follows:

508.12 REDOMESTICATION OF INSURERS.

An insurer which is organized under the laws of any state, and is admitted to do business in this state for the purpose of writing insurance authorized by this chapter may become a domestic insurer by complying with section 491.33 or 493B.902 and with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business 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. 192. Section 515.1, Code 1989, is amended to read as follows:

515.1 APPLICABILITY.

Corporations formed for the purpose of insurance, other than life insurance, shall be governed by the provisions of chapter 491, chapter 493B, or chapter 504A, except as modified by the provisions of this chapter.

Sec. 193. Section 515.99, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

515.99 FOREIGN COMPANIES MAY BECOME DOMESTIC.

An insurer which is organized under the laws of any state, and is admitted to do business in this state for the purpose of writing insurance authorized by this chapter may become a domestic insurer by complying with section 491.33 or 493B.902 and with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business 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. 194. Section 545.102, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. Shall be distinguishable upon the records of the secretary of state from the name of a corporation or limited partnership organized under the law of this state or licensed or registered as a foreign corporation or foreign limited partnership in this state or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, without the written consent of the corporation or limited partnership, which consent shall be filed with the secretary of state, and provided the name is not identical.

Sec. 195. Chapter 496A is repealed.

Sec. 196. This Act is effective December 31, 1989.

Approved June 1, 1989

CHAPTER 289

HEALTH INSURANCE MAMMOGRAPHY COVERAGE

H.F. 199

AN ACT relating to individual and group accident and sickness insurance, nonprofit health service plans, health maintenance organizations, and Medicare supplemental insurance policies, by mandating inclusion of minimum mammography examination coverage under certain conditions.

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

Section 1. NEW SECTION. 514C.4 MANDATED COVERAGE FOR MAMMOGRAPHY.

1. A policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide minimum mammography examination coverage, including, but not limited to, the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after July 1, 1989:

a. Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.

b. An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.

c. An individual or group health maintenance organization contract regulated under chapter 514B.

d. An individual or group Medicare supplemental policy.

A long-term care policy or contract is specifically excluded from regulation under this section.

2. As used in this section, "minimum mammography examination coverage" means benefits which are better than or equal to the following minimum requirements:

a. One baseline mammogram for any woman who is thirty-five through thirty-nine years of age.

b. A mammogram every two years for any woman who is forty through forty-nine years of age, or more frequently if recommended by the woman's physician.

c. A mammogram every year for any woman who is fifty years of age or older.

3. Mammogram benefits may be subject to any policy or contract provisions which apply generally to other services covered by the policy or contract.

4. As used in this section:

a. "Medicare" means the Health Insurance for the Aged Act, Title XVIII of the federal Social Security Amendments of 1965, as amended (Title I, Part I of Pub. L. No. 89-97).

b. "Medicare supplemental policy" means any individual or group accident and sickness insurance policy or certificate or individual subscriber contract delivered or issued for delivery to any resident of the state who is eligible for Medicare, except any long-term care insurance policy as defined in section 514G.4.

5. The commissioner of insurance shall adopt rules under chapter 17A necessary to implement this section no later than July 1, 1989.

Approved June 2, 1989

CHAPTER 290

REAL ESTATE APPRAISAL

H.F. 790

AN ACT relating to the voluntary certification of real estate appraisers, real estate appraisal standards, and providing for penalties.

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

Section 1. NEW SECTION. 117B.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Voluntary Appraisal Standards and Appraiser Certification Law".

Sec. 2. NEW SECTION. 117B.2 DEFINITIONS.

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

1. "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis. A "valuation" is an estimate of the value of real estate or real property. An "analysis" is a study of real estate or real property other than estimating value.

2. "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting as a disinterested third party in rendering an appraisal, valuation, or analysis.

3. "Appraisal report" means any written communication of an appraisal.

4. "Appraisal foundation" means the appraisal foundation incorporated as an Illinois not-for-profit corporation on November 30, 1987.

5. "Board" means the real estate appraiser examining board established pursuant to this chapter.

6. "Certified appraisal or certified appraisal report" means an appraisal or appraisal report given or signed and certified as an appraisal or appraisal report by an Iowa certified real estate appraiser.

7. "Specialized services" means a hypothetical or other special valuation, or an analysis or an appraisal which does not fall within the definition of an appraisal assignment.

8. A "certified real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid certificate for appraisals of types of real estate which may include residential, commercial, or rural real estate, as may be established under this chapter.

9. "Associate real estate appraiser" means a person who may not yet fully meet the requirements for certification but who is providing significant input into the appraisal development under the direction of a certified appraiser.

10. "Review appraiser" means a person who is responsible for the administrative approval of the appraised value of real property or assures that appraisal reports conform to the requirements of law and policy, or that the value of real property estimated by appraisers represents adequate security, fair market value, or other defined value.

Sec. 3. NEW SECTION. 117B.3 PURPOSES — VOLUNTARY CERTIFICATION.

The purpose of this chapter is to establish standards for real estate appraisals and a procedure for the voluntary certification of real estate appraisers.

A person who is not a certified real estate appraiser under this chapter may appraise real estate for compensation if certification is not required by this chapter or by federal or state law, rule, or policy.

Sec. 4. NEW SECTION. 117B.4 IOWA REAL ESTATE APPRAISER BOARD.

A real estate appraiser examining board is established within the professional licensing and regulation division of the department of commerce. The board consists of seven members, two of whom shall be public members and five of whom shall be real estate appraisers.

1. The governor shall appoint the members of the board who are subject to confirmation by the senate. The governor may remove a member for cause.

2. Appointees shall possess or maintain at least those standards of ethics, education, and experience required by federal regulations.

3. Each real estate appraiser member of the board appointed after January 1, 1992, must be a certified real estate appraiser. The governor shall attempt to represent each class of certified appraisers in making the appointments.

4. The term of each member is three years; except that, of the members first appointed, two shall be appointed for two years and two shall be appointed for one year.

5. Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. A person shall not serve as a member of the board for more than two consecutive terms.

6. The public members of the board shall not engage in the practice of real estate appraising.

7. The board shall meet at least once each calendar quarter to conduct its business.

8. The members of the board shall elect a chairperson from among the members to preside at board meetings.

9. A quorum of the board is four members. At least three of the four members shall be appraiser members.

Sec. 5. NEW SECTION. 117B.5 POWERS OF THE BOARD.

1. The board shall adopt rules establishing uniform appraisal standards and appraiser certification requirements and other rules necessary to administer and enforce this chapter and its responsibilities under chapter 258A. The board shall consider and may incorporate any standards recommended by the appraisal foundation, or by a professional appraisal organization, or by a public authority or organization responsible to review appraisals or for the oversight of appraisers.

2. The uniform appraisal standards shall meet all of the following requirements:

a. Require compliance with federal law and appraisal standards adopted by federal authorities as they apply to federally covered transactions.

b. Develop standards for the scope of practice for certified real estate appraisers.

3. Appraiser certification requirements shall require a demonstration that the applicant has a working knowledge of current appraisal theories, practices, and techniques which will provide a high degree of service and protection to members of the public dealt within a professional relationship under authority of the certification. The board shall establish the examination specifications for each category of certified real estate appraiser, provide or procure appropriate examinations, establish procedures for grading examinations, receive and approve or disapprove applications for certification, and issue certificates.

4. The board shall maintain a registry of the names and addresses of appraisers certified under this chapter and retain records and application materials submitted to the board.

Sec. 6. NEW SECTION. 117B.6 FEES.

1. The board shall establish and collect fees for certification, examination, reexamination, renewal of certification, and delinquency at an amount necessary to pay the administrative costs of sustaining the board and implementing this chapter. The fees shall include, but are not limited to, amounts to cover the costs for the following items:

a. Per diem, expenses, and travel expenses for board members, peer review committee persons, or disciplinary panel members.

b. Salary, per diem, and expenses of an executive secretary, assistants, and employees.

c. Office facilities, supplies, and equipment.

2. Fees collected by the board shall be transmitted to the treasurer of state who shall deposit the fees in the general fund of the state.

Sec. 7. NEW SECTION. 117B.7 CERTIFICATION PROCESS.

1. Applications for original certification, renewal certification, and examinations shall be made in writing to the board on forms approved by the board.

2. Until the board has adopted final rules to implement this chapter, the board may issue interim annual certification to qualified applicants. No interim annual certifications may be issued or renewed following the publication of final certification rules by the board.

Sec. 8. NEW SECTION. 117B.8 EXAMINATION REQUIREMENT.

An original certification as a certified real estate appraiser shall not be issued to a person who has not demonstrated through a written examination that the person possesses the following knowledge and understanding:

1. Appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and economic concepts applicable to real estate.

2. Understanding of the principles of land economics, real estate appraisal processes, and problems likely to be encountered in gathering, interpreting, and processing data in carrying out appraisal assignments.

3. Knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for each classification of certificate applied for.

4. Knowledge of other appropriate principles and procedures for the classifications applied for.

5. Basic understanding of Iowa real estate, property tax, and eminent domain laws.

6. Understanding of the types of misconduct for which disciplinary proceedings may be initiated against a certified real estate appraiser.

Sec. 9. NEW SECTION. 117B.9 EDUCATION AND EXPERIENCE REQUIREMENT.

The board shall determine what real estate appraisal or real estate appraisal review experience and what education shall be required to provide appropriate assurance that an applicant for certification is competent to perform the certified appraisal work which is within the scope of practice defined by the board. The board shall prescribe a required minimum number of tested hours of education relating to the provisions of this chapter, the uniform appraisal standards, and other rules issued in accordance with this chapter.

Sec. 10. NEW SECTION. 117B.10 NONRESIDENT CERTIFICATION.

1. An applicant for certification as a real estate appraiser who is not a resident of Iowa shall submit, with the application for certification, an irrevocable consent that service of process upon the applicant may be made by delivery of the process to the secretary of state if, in an action against the applicant in a court of this state arising out of the applicant's activities as a certified real estate appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

2. A nonresident of Iowa who has complied with subsection 1 may obtain a certificate as a certified real estate appraiser by complying with the certification requirements in this chapter.

Sec. 11. NEW SECTION. 117B.11 NONRESIDENT CERTIFICATION BY RECIPROCITY.

If, in the determination by the board, another state is deemed to have substantially equivalent certification requirements, an applicant who is certified under the laws of the other state may obtain a certificate as a certified real estate appraiser upon terms and conditions as determined by the board.

Sec. 12. NEW SECTION. 117B.12 BASIS FOR DENIAL.

The board may deny the issuance of a certificate as a certified real estate appraiser to an applicant on any of the grounds listed in this chapter or in chapter 258A.

Sec. 13. NEW SECTION. 117B.13 PRINCIPAL PLACE OF BUSINESS.

1. Each certified real estate appraiser shall advise the board of the address of the appraiser's principal place of business and all other addresses at which the appraiser is currently engaged in the business of preparing real estate appraisal reports.

2. When a certified real estate appraiser changes the appraiser's principal place of business, the appraiser shall immediately give written notification of the change to the board and apply for an amended certificate.

3. Each certified real estate appraiser shall notify the board of the appraiser's current residence address. Residence addresses on file with the board are exempt from disclosure as public records.

Sec. 14. NEW SECTION. 117B.14 CERTIFICATE.

A certificate issued under this chapter shall bear the signatures or facsimile signatures of the members of the board and a certificate number assigned by the board.

Sec. 15. NEW SECTION. 117B.15 USE OF TERM.

1. The term "certified real estate appraiser" shall only be used to refer to individuals who hold the certificate and shall not be used in connection with or as part of the name or signature of a firm, partnership, corporation, or group, or in a manner that it may be interpreted as referring to a firm, partnership, corporation, group, other business entity, or anyone other than an individual holder of the certificate.

2. The term "associate real estate appraiser" shall only be used to refer to individuals who do not yet fully meet the requirements for certification but who provide significant input into the appraisal development under the direction of a certified appraiser.

3. A certificate shall not be issued under this chapter to a firm, corporation, partnership, group, or other business entity.

Sec. 16. NEW SECTION. 117B.16 CONTINUING EDUCATION.

1. As a prerequisite to renewal of a certification, a certified real estate appraiser shall present evidence satisfactory to the board of having met continuing education requirements.

2. The basic continuing education requirement for renewal of certification shall be the completion, during the immediately preceding term, of the number of classroom hours of instruction required by the board in courses or seminars which have received the approval of the board.

Sec. 17. NEW SECTION. 117B.17 DISCIPLINARY PROCEEDINGS.

1. The rights of a holder of a certificate as a certified real estate appraiser may be revoked or suspended, or the holder may be otherwise disciplined in accordance with this chapter. The board may investigate the actions of a certified real estate appraiser and may revoke or suspend the rights of a holder or otherwise discipline a holder for violation of a provision of this chapter, or chapter 258A, or of a rule adopted under this chapter or commission of any of the following acts or omissions:

a. Procurement or attempt to procure a certificate under this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, or participating in any form of fraud or misrepresentation.

b. Failure to meet the minimum qualifications established by this chapter.

c. A conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is substantially related to the qualifications, functions, and duties of a person developing real estate appraisals and communicating real estate appraisals to others.

d. Violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter.

e. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

f. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.

g. Willful disregard or violation of a provision of this chapter or a rule of the board of the administration and enforcement of this chapter.

2. In a disciplinary proceeding based upon a civil judgment a certified real estate appraiser shall be given an opportunity to present matters in mitigation and extenuation, but not to collaterally attack the civil judgment.

3. Notwithstanding the limitations of section 258A.3, subsection 2, paragraph "e", the board shall adopt a rule providing for civil penalties in amounts and for the reasons authorized by federal law where federal law requires the board to have the authority to impose the civil penalties in order to obtain or to retain the board's designation as a qualified state appraiser certifying agency.

Sec. 18. NEW SECTION. 117B.18 STANDARDS OF PRACTICE.

1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter.

2. A certified real estate appraiser shall not accept an appraisal assignment or a fee for an appraisal assignment if the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion or if the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.

3. A certified real estate appraiser may provide specialized services to facilitate the client's or employer's objectives. Specialized services shall not be communicated as a certified appraisal or as a certified appraisal report. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis or opinion or conclusion, the work is an appraisal assignment rather than an assignment for specialized services. Communication of a valuation under oath is an appraisal assignment.

4. A certified real estate appraiser who enters into an agreement to perform specialized services may be paid a fixed fee or a fee that is contingent on the results achieved by the specialized services.

5. If a certified real estate appraiser enters into an agreement to perform specialized services for a contingent fee, this fact shall be clearly stated in each written and oral report. In each written report, this fact shall be clearly stated in a prominent location in the report, each letter of transmittal, and the certification statement made by the appraiser in the report.

6. A certified real estate appraiser making a significant contribution to the valuation or analysis process in completing an appraisal assignment shall sign the final written report or acknowledge the appraiser's contribution in a verbal report.

Sec. 19. NEW SECTION. 117B.19 RETENTION OF RECORDS.

1. A certified real estate appraiser shall retain for three years, originals or true copies of all written contracts engaging the appraiser's services for real estate appraisal work and all reports and supporting data assembled and formulated for use by the appraiser or the associate appraiser in preparing the reports.

2. The three-year period for retention of records is applicable to each engagement of the services of a certified real estate appraiser and shall commence upon the date of the submission of the appraisal to the client unless, within the three-year period, the appraiser is notified that the appraisal or report is involved in litigation, in which event the three-year period for the retention of records shall commence upon the date of the final disposition of the litigation.

3. All records required to be maintained under this chapter shall be made available by a certified real estate appraiser for inspection and copying by the board on reasonable notice to the appraiser.

Approved June 2, 1989

CHAPTER 291

SWIMMING POOLS AND SPAS

H.F. 373

AN ACT relating to the registration, regulation, and inspection of swimming pools and spas, and providing penalties.

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

Section 1. NEW SECTION. 135J.1 DEFINITIONS.

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

1. "Department" means the Iowa department of public health.

2. "Local board of health" means a county, city, or district board of health as defined in section 137.2.

3. "Swimming pool" means an artificial basin and its appurtenances, either constructed or operated for swimming, wading, or diving, and includes a swimming pool, wading pool, waterslide, or associated bathhouse.

4. "Spa" means a bathing facility such as a hot tub or whirlpool designed for recreational or therapeutic use. However, "spa" does not include a facility used under direct supervision of qualified medical personnel.

Sec. 2. NEW SECTION. 135J.2 APPLICABILITY.

This chapter applies to all swimming pools and spas owned or operated by local or state government, or commercial interests or private entities including, but not limited to, facilities operated by cities, counties, public or private school corporations, hotels, motels, camps, apartments, condominiums, and health or country clubs. This chapter does not apply to facilities intended for single family use. To avoid duplication and promote coordination of inspection activities, the department may enter into agreements pursuant to chapter 28E with a local board of health or multiple boards of health representing contiguous areas to provide for inspection and enforcement in accordance with this chapter.

Sec. 3. NEW SECTION. 135J.3 REGISTRATION REQUIRED.

A person shall not operate a swimming pool or spa without first having registered with the department. Registration shall be renewed annually.

Sec. 4. NEW SECTION. 135J.4 POWERS AND DUTIES.

The department is responsible for registering and regulating the operation of swimming pools and spas. The department shall conduct seminars and training sessions, and disseminate information regarding health practices, safety measures, and operating procedures required under this chapter. The department may:

1. Inspect, at the time of installation and periodically thereafter, all swimming pools and spas for the purpose of detecting and eliminating health or safety hazards.

2. Establish minimum safety and sanitation criteria for the operation and use of swimming pools and spas.

3. Establish minimum qualifications for swimming pool, spa, and waterslide operators and lifeguards.

4. Establish and collect fees to defray the cost of administering this chapter. However, the portion of fees needed to defray the costs of a local board of health in implementing this chapter shall be established by the local board of health.

5. Adopt rules in accordance with chapter 17A for the implementation and enforcement of this chapter, and the establishment of fees. The department shall appoint an advisory committee composed of owners, operators, local officials, and representatives of the public to advise it in the formulation of appropriate rules.

6. Enter into agreements with a local board of health or local boards of health in a contiguous area to implement the inspection and enforcement provisions of this chapter. The agreements shall provide that the fees established by the local board or boards of health for inspection and enforcement shall be retained by the local board or boards. A local board of health or boards of health in a contiguous area may enter into such an agreement with the department. However, inspection fees shall not be charged by the department for facilities which are inspected by third-party authorities. Third-party authorities shall be approved by the department. The department shall monitor and certify the inspection and enforcement programs of local boards of health and approved third-party authorities.

Sec. 5. NEW SECTION. 135J.5 PENALTY.

A person who violates a provision of this chapter commits a simple misdemeanor. Each day upon which a violation occurs constitutes a separate violation.

Sec. 6. NEW SECTION. 135J.6 ENFORCEMENT.

If the department or a local board or boards of health acting pursuant to agreement with the department determines that a provision of this chapter or a rule adopted pursuant to this chapter has been or is being violated, the department or the local board or boards of health may order that a facility or item of equipment not be used until the necessary corrective action has been taken. The department or the local board of health may request the county attorney to bring appropriate legal proceedings to enforce this chapter, including an action to enjoin violations. The attorney general may also institute appropriate legal proceedings at the request of the department. This remedy is in addition to any other legal remedy available to the department or a local board or boards of health.

Sec. 7. Section 25A.14, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. A claim relating to a swimming pool or spa as defined in section 135J.1 which has been inspected in accordance with chapter 135J, or a swimming pool or spa inspection program, which has been established or certified by the state in accordance with that chapter, unless the claim is based upon an act or omission of an officer or employee of the state and the act or omission constitutes actual malice or a criminal offense.

Sec. 8. Section 613A.4, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A claim relating to a swimming pool or spa as defined in section 135J.1 which has been inspected by a municipality or the state in accordance with chapter 135J, or a swimming pool or spa inspection program which has been certified by the state in accordance with that chapter, whether or not owned or operated by a municipality, unless the claim is based upon an act or omission of an officer or employee of the municipality and the act or omission constitutes actual malice or a criminal offense.

Approved June 2, 1989

CHAPTER 292

REAL ESTATE EDUCATION

H.F. 764

AN ACT relating to the establishment of real estate education programs and making an appropriation and relating to reciprocity in continuing education requirements for persons licensed to sell real estate in this state.

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

Section 1. Section 117.8, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The administrator of the professional licensing and regulation division of the department of commerce shall hire a real estate education director to assist the commission in administering education programs for the commission.

Sec. 2. Section 117.14, Code 1989, is amended to read as follows:

117.14 FEES AND EXPENSES.

All fees and charges collected by the real estate commission under this chapter shall be paid into the general fund in the state treasury, except that the equivalent of ten dollars per year of the fees for each real estate salesperson's or broker's license shall be paid into the Iowa real estate education fund created in section 117.54. All expenses incurred by the commission under this chapter, including compensation of staff assigned to the commission, shall be paid out of the general fund in the state treasury, except for expenses incurred and compensation paid for the real estate education director, which shall be paid out of the real estate education fund.

Sec. 3. Section 117.27, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Establishing and maintaining a real estate education program.

Sec. 4. NEW SECTION. 117.54 REAL ESTATE EDUCATION FUND.

The Iowa real estate education fund is created as a financial assurance mechanism to assist in the establishment and maintenance of a real estate education program at the university of northern Iowa and to assist the real estate commission in providing an education director. The fund is created 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 real estate education fund. Interest or other income earned by the fund shall be deposited in the fund. Seventy percent of the moneys in the fund shall be distributed and are appropriated to the board of regents for the purpose of establishing and maintaining a real estate education program at the university of northern Iowa. Thirty percent of the moneys in the fund shall be distributed and are appropriated to the professional licensing and regulation division of the department of commerce for the purpose of hiring and compensating a real estate education director.

Sec. 5. Section 258A.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A person licensed to sell real estate in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a resident of another state or district having a continuing education requirement for the occupation or profession and meets all requirements of that state or district for practice therein, if the state or district accords the same privilege to Iowa residents, or for periods that the person is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the appropriate board of examiners.

Sec. 6. INCREASE IN FEES. The real estate commission shall, by administrative rule, increase the fees for a real estate salesperson's and a real estate broker's license by the equivalent of ten dollars per year. The amount of the increase shall be paid by the professional licensing and regulation division of the department of commerce into the Iowa real estate education fund of the state treasury.

Approved June 2, 1989

CHAPTER 293

HIGHWAYS, ROADS, AND STREETS

S.F. 524

AN ACT relating to roads and funding available for roads including appropriations of moneys to the affected jurisdictions, creating the county bridge construction fund and the city bridge construction fund, and creating the Iowa highway research board and providing for the board's compensation and expenses.

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

Section 1. NEW SECTION. 307D.1 DEFINITIONS.

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

1. "Board" means the Iowa highway research board of the state department of transportation.
2. "Department" means the state department of transportation.

Sec. 2. NEW SECTION. 307D.2 IOWA HIGHWAY RESEARCH BOARD.

There is created the Iowa highway research board for the purpose of providing for the ongoing research of materials, design, and maintenance of Iowa's highways as provided in this chapter.

Sec. 3. NEW SECTION. 307D.3 DUTIES AND OBJECTIVES.

The duties and objectives of the board are:

1. To supervise and coordinate research and development with the United States department of transportation and all other transportation research organizations. The research shall include, but not be limited to, the study of standards for road and bridge construction, design, and maintenance, and the development of new materials.
2. To acquire a knowledge of research and development needs of Iowa's roads and transportation systems.
3. To act as a clearinghouse for suggestions, problem statements, and proposals for highway research and development.
4. To make recommendations to the general assembly, the governor, Iowa's congressional delegation, the department and the United States department of transportation based upon research conducted and supervised by the board.
5. To monitor the progress of recommended projects and periodically evaluate each project's success and impact upon Iowa's highways.
6. To periodically report and publish the results of research conducted by the board.
7. To annually report by December 15 of each year to the general assembly and the governor regarding the board's activities and research.

Sec. 4. NEW SECTION. 307D.4 GOVERNING BOARD – STAFF.

The powers of the board shall be vested in and exercised by a governing board consisting of fourteen members appointed by the governor, subject to confirmation by the senate in accordance with section 2.32, and four members of the general assembly. The membership shall be qualified as follows:

1. Three members shall be county engineers or members of county boards of supervisors.
2. Three members shall be city engineers.
3. Three members shall be employed by the department in the administration of highways.
4. Five members shall be university representatives, two from the state university of Iowa, two from Iowa state university of science and technology, and one from the university of northern Iowa. One of the members from both the state university of Iowa and Iowa state university of science and technology shall be faculty members of the respective institution's engineering college; the other members shall be faculty members of any college or department excluding the engineering college of the respective institution.
5. Four members shall be members of the general assembly, 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.

No more than a simple majority of the members of the board shall be of the same political party or same gender as provided in sections 69.16 and 69.16A.

Sec. 5. NEW SECTION. 307D.5 TERMS OF OFFICE — OFFICERS SELECTED.

The board shall be appointed for staggered terms of four years beginning and ending as provided in section 69.19. The legislative members of the board shall be appointed to staggered four-year terms of office, two of which shall expire every two years. A legislative member's tenure on the board is terminated if the board member ceases to be a member of the general assembly. Vacancies in the membership shall be filled for the unexpired term in the same manner as the original appointment. The board shall annually select from its membership a chairperson and a vice chairperson by a majority vote of the total membership. A member of the department, as selected by the board, shall serve as secretary.

Sec. 6. NEW SECTION. 307D.6 MEETINGS OF THE BOARD — EXPENSES.

The board shall meet at least six times each year and shall hold special meetings on the call of the chairperson. Except as otherwise provided, the members of the board shall serve without additional compensation to the salary and expenses authorized for the office or position held by the member. Members representing political subdivisions who are not elected officials shall receive forty dollars per diem and necessary and actual expenses incurred in the performance of their duties. Legislative members shall be paid for their actual and necessary expenses and, when the general assembly is not in session, per diem as provided in sections 2.10 and 2.12. The department's members of the board shall be reimbursed for their actual and necessary expenses from the funds appropriated pursuant to section 313.5.

Sec. 7. NEW SECTION. 307D.7 ADDITIONAL AUTHORITY.

The board may:

1. Do all things necessary, proper and expedient in executing and achieving the duties and objectives assigned to the board in this chapter.
2. Hold public hearings.
3. Enter into contracts, within the limits of funds made available to the board, with individuals, organizations, and institutions for services furthering the objectives of the board.
4. Accept grants of money, property, or other resources from the federal government or any other source, and upon its own order use the money, property, or other resources to accomplish the duties and objectives of the board.

Sec. 8. Section 310.10, Code 1989, is amended to read as follows:

310.10 FARM-TO-MARKET ROAD SYSTEM DEFINED.

The farm-to-market road system shall embrace those roads as defined in section 306.3, subsection 5. However, a road which is classified as being part of the arterial or arterial connector system under chapter 306 but whose jurisdiction still vests in the county in which it is

located, shall be deemed to be part of the farm-to-market road system until the time the jurisdiction of the road is transferred to the department.

Sec. 9. Section 312.1, unnumbered paragraph 2, Code 1989, is amended to read as follows:

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~~ road use tax fund.

Sec. 10. Section 312.2, subsections 1 through 4, Code 1989, are amended to read as follows:

1. To the primary road fund, ~~forty-five~~ forty-seven and one-half percent.
2. To the secondary road fund of the counties, ~~twenty-eight~~ twenty-four and one-half percent.
3. To the farm-to-market road fund, ~~nine~~ eight percent.
4. To the street construction fund of the cities, ~~eighteen~~ twenty percent.

Sec. 11. Section 312.2, subsection 14, Code 1989, is amended to read as follows:

14. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the revitalize Iowa's sound economy fund, created under section 315.2, the revenue accruing to the road use tax fund in the amount equal to ~~two thirds of~~ the revenues collected under each of the following:

a. From the excise tax on motor fuel and special fuel imposed under the tax rate of section 324.3 except aviation gasoline:

~~(1) For the period July 1, 1985, through December 31, 1985, the amount of excise tax collected from two cents per gallon.~~

~~(2) From and after January 1, 1986,~~ the amount of excise tax collected from ~~three~~ one and eleven-twentieths cents per gallon.

b. From the excise tax on special fuel for diesel engines:

~~(1) For the period July 1, 1985, through December 31, 1985, the amount of excise tax collected from one cent per gallon.~~

~~(2) For the period January 1, 1986, through December 31, 1986, the amount of excise tax collected from two cents per gallon.~~

~~(3) From and after January 1, 1987,~~ the amount of excise tax collected from ~~three~~ one and eleven-twentieths cents per gallon.

Sec. 12. Section 312.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the secondary road fund the revenue accruing to the road use tax fund in the amount equal to the revenues collected under each of the following:

a. From the excise tax on motor fuel and special fuel imposed under the tax rate of section 324.3, except aviation gasoline, the amount of excise tax collected from nine-twentieths cent per gallon.

b. From the excise tax on special fuel for diesel engines, the amount of excise tax collected from nine-twentieths cent per gallon.

Sec. 13. Section 312.2, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 19. a. The treasurer of state, before making the allotments provided for in this section, for the fiscal year beginning July 1, 1990, and each succeeding fiscal year, credit from the road use tax fund two million dollars to the county bridge construction fund, which is hereby created. Moneys credited to the county bridge construction fund shall be allocated to counties by the department for bridge construction and reconstruction based on needs in accordance with rules adopted by the department.

b. The treasurer of state, before making the allotments provided for in this section, for the fiscal year beginning July 1, 1990, and each succeeding fiscal year, credit from the road use tax fund five hundred thousand dollars to the city bridge construction fund, which is hereby created. Moneys credited to the city bridge construction fund shall be allocated to cities by

the department for bridge construction and reconstruction based on needs in accordance with rules adopted by the department.

NEW SUBSECTION. 20. Subsections 1 through 4 do not apply during the fiscal period beginning July 1, 1989, through June 30, 1991. For the fiscal year beginning July 1, 1989, and the succeeding fiscal year, the treasurer of state, after making the other allotments provided for in this section, shall credit:

a. To the primary road fund, two hundred eighty-five million dollars less the combined amount of moneys credited in the fiscal year to the primary road fund under subsections 7 and 11 and moneys credited for the use of the department on primary road projects under section 315.4, subsection 1.

b. To the secondary road fund of the counties, one hundred forty-eight million dollars less the combined amount of moneys credited in the fiscal year to the secondary road fund under subsection 14A and moneys credited for the use of counties on secondary road projects under section 315.4, subsection 2.

c. To the farm-to-market road fund, forty-eight million dollars less the amount of moneys credited to the farm-to-market road fund under subsection 11.

d. To the street construction fund of the cities, one hundred twelve million dollars less the amount of moneys credited for the use of cities on city street projects under section 315.4, subsection 3.

e. If in a fiscal year there are insufficient moneys credited to the road use tax fund to fully credit to the respective funds the full amount appropriated under paragraphs "a" through "d", the treasurer of state shall reduce the amounts credited under paragraphs "a" through "d" by the amount of the shortfall among the respective funds in proportion to the allocation among the funds under subsections 1 through 4. Similarly, if in a fiscal year there are moneys credited to the road use tax fund in excess of those necessary to fully credit the respective funds with the amounts appropriated under paragraphs "a" through "d", the treasurer of state shall increase the amounts credited under paragraphs "a" through "d" by the amount of the additional available moneys among the respective funds in proportion to the allocation among the funds under subsections 1 through 4.

This subsection is repealed effective July 1, 1991.

Sec. 14. NEW SECTION. 312.3A STREET RESEARCH FUND.

Prior to the allocation to the cities under section 312.3, subsection 2, the department is authorized to set aside each year two hundred thousand dollars from the street construction fund of the cities in a fund to be known as the street research fund. The street research fund shall be used by the department solely for the purpose of financing engineering studies and research projects which have as their objective the more efficient use of funds and materials that are available for the construction and maintenance of city streets, including city street bridges and culverts. The research projects and engineering studies authorized shall be conducted in cooperation with the city engineers. On or before January 31 each year the department shall file a report with the governor, state transportation commission, city engineers, chief clerk of the house of representatives, and secretary of the senate showing the work accomplished and projects undertaken under this section.

Sec. 15. Section 312.16, Code 1989, is amended to read as follows:

312.16 ~~DEFINITION~~ DEFINITIONS.

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

1. "Department" means the state department of transportation.

2. "Fiscal year" means the period of twelve months beginning on July 1 and ending on June 30.

Sec. 16. Section 315.4, Code 1989, is amended to read as follows:

315.4 ALLOCATION OF FUND.

Moneys credited to the RISE fund shall be allocated as follows:

1. ~~Fifty percent~~ Twenty thirty-firsts for the use of the department on primary road projects exclusively for highways which are identified under section 307A.2 as being part of the network of commercial and industrial highways.

2. ~~Twenty-five percent~~ One thirty-first for the use of counties on secondary road projects.

3. ~~Twenty-five percent~~ Ten thirty-firsts for the use of cities on city street projects.

Commencing June 30, 1990, all uncommitted moneys in the RISE fund on June 30 of each year which are allocated under this section for the use of counties on secondary road projects shall be credited to the secondary road fund.

Sec. 17. Section 602.8106, subsection 4, Code 1989, is amended to read as follows:

4. The clerk shall remit all other fines and forfeited bail received from a magistrate to the treasurer of state to be credited to the general fund of the state, except that annually the first two million five hundred thousand dollars in fines which are imposed through vehicle violation citations issued by motor vehicle division personnel at portable and fixed weigh stations in the state which shall be credited to the road use tax fund.

Sec. 18. 1988 Iowa Acts, chapter 1019, sections 21, 23, and 24, are repealed.

Sec. 19. Except for the provisions of section 13 of this Act relating to the county bridge construction fund and the city bridge construction fund, it is the intent of the general assembly that no additional statutory off-the-top allocations from the road use tax fund shall be enacted by the general assembly.

Sec. 20. The legislative council shall appoint a study committee for the purpose of studying, and making recommendations for the allocation of secondary road fund moneys and farm-to-market road fund moneys among the counties. A majority of the members of the study committee shall be representatives of the counties. The recommendations shall be submitted to the governor, the chief clerk of the house, and the secretary of the senate not later than January 31, 1990.

Sec. 21. The Iowa highway research board created prior to the enactment of this Act by the state department of transportation shall advise the Iowa highway research board created under this Act.

Sec. 22. There is appropriated from the road use tax fund to the state department of transportation the sum of $15,000 or so much thereof as is necessary, for the purpose of conducting a study, in consultation with the department of natural resources and representatives of cities and counties, to analyze and report on the impact of waterway opening and floodplain requirements existing in federal or state law, regulations, administrative rules or design guides, on current and future road and bridge requirements, costs, and needs. The analysis shall consider what economies the various road programs might achieve by modifying these requirements, including reducing or eliminating the liability a road jurisdiction might have with current or alternative future requirements for road and bridge features for waterways and floodplains, including analyzing the risk to and benefits for roads and bridges and the risks and costs to land, improvements, and human activity. The study shall recommend methods for reducing the future highway program costs for providing bridges in Iowa. The study shall be submitted to the governor, the chief clerk of the house, and the secretary of the senate not later than January 31, 1990.

Sec. 23. Section 17 of this Act takes effect July 1, 1990.

Approved June 2, 1989

CHAPTER 294

HOTEL AND MOTEL TAX EXEMPTION

S.F. 185

AN ACT relating to the hotel and motel tax and providing an exemption.

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

Section 1. Section 422A.1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A city or county may impose by ordinance of the city council or by resolution of the board of supervisors a hotel and motel tax, at a rate not to exceed seven percent, which shall be imposed in increments of one or more full percentage points upon the gross receipts from the renting of sleeping rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, mobile home which is tangible personal property, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals; except the gross receipts from the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges located in the state of Iowa and the guests of a religious institution if the property is exempt under section 427.1, subsection 9, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally. The tax when imposed by a city shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county. "Renting" and "rent" include any kind of direct or indirect charge for such sleeping rooms, apartments, or sleeping quarters, or their use. However, the tax does not apply to the gross receipts from the renting of a sleeping room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one consecutive days.

Approved June 3, 1989

CHAPTER 295

CREDIT CHARGES

S.F. 462

AN ACT relating to credit transactions by changing the maximum service fee on loans by industrial loan companies, by changing the maximum finance charge for certain consumer loans pursuant to open-end credit.

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

Section 1. Section 536A.23, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. Charge, receive, or collect in advance, a service charge in excess of one dollar for each fifty dollars of the amount of the note, not to exceed a total of one hundred twenty dollars.

Sec. 2. Section 537.2402, subsection 3, Code 1989, is amended to read as follows:

3. If the billing cycle is monthly, the charge ~~may~~ shall not exceed an amount equal to one and ~~one-half~~ sixty-five hundredths percent of ~~that part of~~ the maximum amount pursuant to subsection 2 ~~which is five hundred dollars or less and one and one-fourth percent of that part of the maximum amount which is more than five hundred dollars~~. If the billing cycle is not monthly, the maximum charge for the billing cycle shall bear the same relation to the applicable monthly maximum charge as the number of days in the billing cycle bears to three hundred

sixty-five divided by twelve. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from the regular date.

Approved June 3, 1989

CHAPTER 296

SUBSTANTIVE CODE CORRECTIONS

S.F. 141

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, and remove ambiguities.

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

Section 1. Section 5.4, Code 1989, is amended to read as follows:

5.4 DUTIES — REPORTS.

~~It shall be the duty of each of said~~ The commissioners ~~to~~ shall attend the meeting of the national conference of commissioners on uniform state laws, or ~~to~~ arrange for the attendance of at least one of their number at ~~such~~ the national conference, and both in and out of ~~such~~ the national conference they shall do all in their power to promote uniformity in state laws, upon all subjects where uniformity ~~may be~~ is deemed desirable and practicable; ~~said~~. The commission shall report to the ~~legislature at its next session~~ legislative council of the general assembly, ~~and from time to time thereafter as said commission may deem proper~~, an account of its transactions, and its advice and recommendations for legislation. This report shall be printed for presentation to ~~each legislature~~ the council. The council shall submit the report to the speaker of the house and president of the senate who shall forward it to the appropriate committees of the general assembly for further study. ~~It shall also be the duty of said~~ The commission ~~to~~ shall bring about as far as practicable the uniform judicial interpretation of all uniform laws and generally ~~to~~ devise and recommend ~~such~~ additional legislation or other or further course of action as shall tend to accomplish the purposes of this chapter.

Sec. 2. Section 7E.6, subsection 3, Code 1989, is amended to read as follows:

3. Any position of membership on the lottery board which currently receives a salary shall receive during the 1986-1987 fiscal year a salary at one-half of the level received in the 1985-1986 fiscal year and a compensation of forty dollars per day and expenses in the 1987-1988 fiscal year and each fiscal year thereafter. ~~Any position of membership on the racing commission which currently receives a salary shall receive that salary during the 1986-1987 fiscal year, and a compensation of forty dollars per day and expenses in the 1987-1988 fiscal year and each fiscal year thereafter.~~

Sec. 3. Section 7E.6, subsection 8, Code 1989, is amended to read as follows:

8. It is the intent of the general assembly that this section shall be the governing provision on the subject of the compensation of any position of membership on any board, committee, commission, or council in the state government and that the provisions of this section shall govern over any conflicting provision of law except provisions enacted subsequent to July 1, 1986, notwithstanding the provisions of section 4.7.

Sec. 4. Section 17A.6, subsection 2, Code 1989, is amended to read as follows:

2. Subject to the direction of the administrative rules co-ordinator, the Code editor shall cause the "Iowa Administrative Code" to be compiled, indexed, and published in loose-leaf form

containing all rules adopted and filed by each agency. The Code editor further shall cause loose-leaf supplements to the Iowa administrative code to be published ~~at least every other week,~~ as determined by the administrative rules coordinator and the administrative rules review committee, containing all rules filed for publication in the prior ~~two weeks~~ time period. The supplements shall be in such form that they may be inserted in the appropriate places in the permanent compilation. The administrative rules co-ordinator shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system.

Sec. 5. Section 20.4, subsection 2, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Supervisory employee means any individual having authority in the interest of the public employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other public employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. All school superintendents, assistant superintendents, principals and assistant principals shall be deemed to be supervisory employees.

Sec. 6. Section 20.11, subsections 4 and 5, Code 1989, are amended to read as follows:

4. The board shall file its findings of fact and conclusions of law. If the board finds that the party accused has committed a prohibited practice, the board may, within thirty days of its decision, enter into a consent order with the party to discontinue the practice, or after the thirty days following the decision may petition the district court for injunctive relief pursuant to rules of civil procedure 320 to 330.

5. ~~Any party aggrieved by any decision or order of the board may within ten days from the date such decision or order is filed, appeal therefrom to the district court of the county in which the hearing was held, by filing with the board a written notice of appeal setting forth in general terms the decision appealed from and the grounds of the appeal. The board shall forthwith give notice to the other parties in interest.~~ The board's review of proposed decisions and the rehearing or judicial review of final decisions is governed by the provisions of chapter 17A.

Sec. 7. Section 20.11, subsections 6, 7, 8, 9, 10, and 11, Code 1989, are amended by striking the subsections.

Sec. 8. Section 20.17, subsection 4, Code 1989, is amended to read as follows:

4. The terms of a proposed collective bargaining agreement shall be made available to the public by the public employer and reasonable notice shall be given to the public employees by the employee organization prior to a ratification election. The collective bargaining agreement shall become effective only if ratified by a majority of those voting by secret ballot.

Sec. 9. Section 37.9, unnumbered paragraph 4, Code 1989, is amended to read as follows:

Commencing with the commissioners ~~elected~~ appointed to take office after January 1, 1952, one commissioner shall be ~~elected~~ appointed for a term of one year, two commissioners shall be ~~elected~~ appointed for a term of two years, and two commissioners shall be ~~elected~~ appointed for a term of three years, or in each ~~of the foregoing instances~~ instance until a successor is ~~elected~~ appointed and qualified. Thereafter, the successors in each instance shall hold office for a term of three years.

Sec. 10. Section 37.10, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

37.10 QUALIFICATION — APPOINTMENT.

Each commissioner shall be an honorably discharged soldier, sailor, marine, airman, or coast guard member and be a resident of the city in which the memorial hall or monument is located or live within the county if the memorial hall or monument is located outside of a city or is a joint memorial as provided in this chapter.

Each commission member shall be appointed by the mayor with approval of the council or by the chairperson of the county board of supervisors in the case of a county or joint memorial building or monument.

Sec. 11. Section 49.7, Code 1989, is amended to read as follows:

49.7 WHEN REPRECINCTING REQUIRED.

Each county board of supervisors and city council shall make any changes in precinct boundaries necessary to comply with sections 49.3, 49.4 and 49.5 not earlier than July 1 nor later than November 15 of the year immediately following each year in which the federal decennial census is taken, unless the general assembly by joint resolution establishes different dates for compliance with these sections. Any or all of the publications required by section 49.11 may be made after November 15 if necessary. Each county board and city council shall notify the state commissioner and the commissioner whenever the boundaries of election precincts are changed and shall provide a map delineating the new boundary lines. Upon failure of a county board or city council to make the required changes by the dates specified by this section as determined by the state commissioner, the state commissioner shall make or cause to be made the necessary changes as soon as possible, and shall assess to the county or city, as the case may be, the expenses incurred in so doing. The state commissioner may request the services of personnel of and materials available to the legislative service bureau to assist the state commissioner in making any required changes in election precinct boundaries which become the state commissioner's responsibility.

Sec. 12. Section 78.1, subsection 1, Code 1989, is amended to read as follows:

1. ~~Judges~~ Justices of the supreme court and judges of the court of appeals and district courts, including district associate judges and judicial magistrates.

Sec. 13. Section 78.2, subsection 7, Code 1989, is amended to read as follows:

7. ~~Field persons, auditors,~~ The director and ~~other~~ employees ~~of the income, corporation, and sales tax division~~ of the department of revenue and finance, as authorized by the director, and as set forth in ~~chapter~~ chapters 421 and 422.

Sec. 14. Section 96.7, subsection 7, paragraph b, unnumbered paragraph 4, Code 1989, is amended to read as follows:

The division shall annually calculate a base rate for each calendar year. The base rate is equal to the sum of the benefits charged to governmental contributory employers in the calendar year immediately preceding the computation date plus or minus the difference between the total benefits and contributions paid by governmental contributory employers since January 1, 1980, which sum is divided by the total taxable wages reported by governmental contributory employers during the calendar year immediately preceding the computation date, rounded to the next highest one-tenth of one percent. Excess contributions from the years 1978 and 1979 shall be used to offset benefits paid in any calendar year where total benefits exceed total contributions of governmental contributory employers. The contribution rate as a percentage of taxable wages of the employer shall be assigned as follows:

If the percentage of excess rank is:	The contribution rate shall be:	Approximate cumulative taxable payroll
1	Base Rate − 0.9	14.3
2	Base Rate − 0.6	28.6
3	Base Rate − 0.3	42.9
4	Base Rate	57.2
5	Base Rate + 0.3	71.5
6	Base Rate + 0.6	85.8
7	Base Rate + 0.9	100.0

Sec. 15. Section 96.8, subsection 4, paragraph a, Code 1989, is amended to read as follows:

a. In any case in which the enterprise or business of a subject employer has been sold or otherwise transferred to a subsequent employing unit or reorganized or merged into a single employing unit under the provisions of section 96.7, subsection ~~3~~ 2, paragraph "b", the account of the transferring employer shall terminate as of the date on which such transfer, reorganization or merger was completed.

Sec. 16. Section 141.22, subsection 6, Code 1989, is amended to read as follows:

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 HIV-related 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. 17. Sections 162.3, 162.5, 162.6, 162.7, 162.9, and 162.10, Code 1989, are affirmed and reenacted.

Sec. 18. Section 162.8, Code 1989, is amended to read as follows:

162.8 COMMERCIAL BREEDER'S LICENSE.

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 expires one year from date of issue. The license fee is forty dollars per year and the certificate fee is ~~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 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. 19. Section 169.14, subsection 8, Code 1989, is amended to read as follows:

8. ~~The board's actions may be appealed to the department of inspections and appeals and judicial~~ Judicial review of the board's action may be sought in accordance with ~~the terms of chapters 10A and~~ chapter 17A.

Sec. 20. Section 206.5, unnumbered paragraph 3, Code 1989, is amended to read as follows:

Commercial ~~and public~~ applicators shall choose between one-year certification for which the applicator shall pay a thirty dollar fee or three-year certification for which the applicator shall pay a seventy-five dollar fee. Public applicators ~~shall be~~ are exempt from the thirty and seventy-five dollar certification fees and instead ~~be~~ are subject to a ten-dollar annual certification fee or a fifteen dollar fee for a three-year certification. The commercial, public, 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.

PARAGRAPH DIVIDED. 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.

PARAGRAPH DIVIDED. 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.

Sec. 21. Section 214A.16, Code 1989, is amended to read as follows:

214A.16 NOTICE OF BLENDED FUEL.

All motor vehicle fuel kept, offered, or exposed for sale, or sold at retail containing over one percent ethanol, methanol, or any combination of oxygenate octane enhancers shall be identified as "with" either "ethanol", "methanol", "ethanol/methanol", or similar wording on a white adhesive decal with black letters at least ~~one~~ one-half inch high and at least one-quarter inch wide placed between thirty and forty inches above the driveway level on the front sides of any container or pump from which the motor fuel is sold.

Sec. 22. Section 237.15, subsection 4, Code 1989, is amended to read as follows:

4. "Person or court responsible for the child" means the department, including but not limited to the department of human services, agency, or individual who is the guardian of a ~~neglected, dependent, or delinquent~~ child by court order issued by the juvenile or district court and has the responsibility of the care of the child, or the court having jurisdiction over the child.

Sec. 23. Section 237.16, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The state foster care review board is created within the department of inspections and appeals. The state board consists of seven members appointed by the governor, subject to confirmation by the senate and directly responsible to the governor. The appointment is for a term of four years which begins and ends as provided in section 69.19. Vacancies on the state board shall be filled in the same manner as original appointments are made.

Sec. 24. Section 275.23A, subsection 3, Code 1989, is amended to read as follows:

3. The school board shall notify the state commissioner of elections and the county commissioner of elections of each county in which a portion of the school district is located whenever the boundaries of director districts are changed. The board shall provide the commissioners with maps showing the new boundaries. If, following a federal decennial census a school district elects not to redraw director districts under this section, the school board shall so certify to the state commissioner of elections, and the school board shall also certify to the state commissioner the populations of the retained director districts as determined under the latest federal decennial census. Upon failure of a district board to make the required changes by the dates established under this section as determined by the state commissioner of elections, the state commissioner of elections shall make or cause to be made the necessary changes as soon as possible, and shall assess any expenses incurred to the school district. The state commissioner of elections may request the services of personnel of and materials available to the legislative service bureau to assist the state commissioner in making any required boundary changes.

Sec. 25. Section 281.15, subsection 8, Code 1989, is amended by striking the subsection.

Sec. 26. Section 299.24, Code 1989, is amended to read as follows:

299.24 RELIGIOUS GROUPS EXEMPTED FROM SCHOOL STANDARDS.

When members or representatives of a local congregation of a recognized church or religious denomination established for ten years or more within the state of Iowa prior to July 1, 1967, which professes principles or tenets that differ substantially from the objectives, goals, and philosophy of education embodied in standards set forth in section ~~257.25~~ 256.11, and rules adopted in implementation thereof, file with the director of the department of education proof of the existence of such conflicting tenets or principles, together with a list of the names, ages, and post-office addresses of all persons of compulsory school age desiring to be exempted from the compulsory education law and the educational standards law, whose parents or guardians are members of the congregation or religious denomination, the director, subject to the approval of the state board of education, may exempt the members of the congregation or religious denomination from compliance with any or all requirements of the compulsory education law and the educational standards law for two school years. When the exemption has once been granted, renewal of such exemptions for each succeeding school year may be conditioned by the director, with the approval of the board, upon proof of achievement in the basic skills of arithmetic, the communicative arts of reading, writing, grammar, and spelling, and an understanding of United States history, history of Iowa, and the principles of American government, by persons of compulsory school age exempted in the preceding year, which shall be determined on the basis of tests or other means of evaluation selected by the director with the approval of the state board. The testing or evaluation, if required, shall be accomplished prior to submission of the request for renewal of the exemption. Renewal requests shall be filed with the director on or before April 15 of the school year preceding the school year for which the applicants desire exemption.

Sec. 27. Section 321.34, subsection 5, paragraph b, Code 1989, 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. 28. Section 321.52, subsection 4, paragraph b, Code 1989, is amended to read as follows:

b. When a wrecked or salvage 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 salvage 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~~ 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. For the purpose of this section, a wrecked or salvage 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 agency performing the examinations shall retain twenty-five 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 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.

The provision of this subsection requiring a component parts review by a peace officer specially certified or recertified by the Iowa law enforcement academy to do salvage theft examinations shall become effective July 1, 1990. Component parts reviews conducted before July 1, 1990, 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 component parts reviews. The state department of transportation shall adopt rules in accordance with chapter 17A to carry out this section, including transition rules allowing for component parts reviews prior to July 1, 1990.

Sec. 29. Section 321.123, subsection 1, unnumbered paragraphs 2 and 3, Code 1989, are amended to read as follows:

A travel trailer may be stored under ~~the provisions of~~ section 321.134, provided the travel trailer is not used for human habitation for any period during storage and is not moved upon the highways of the state. A travel trailer stored under ~~the provisions of~~ section 321.134 ~~shall~~ is not ~~be~~ subject to ~~either a personal property tax or~~ a mobile home tax assessed under ~~the provisions of~~ chapter 135D.

~~If a travel trailer has been registered under this chapter at any time during a calendar year, the travel trailer is not subject to a personal property tax for that year.~~

Sec. 30. Section 321.130, Code 1989, is amended to read as follows:

321.130 FEES IN LIEU OF TAXES.

The registration fees imposed by this chapter upon private passenger motor vehicles or semitrailers are in lieu of all state and local taxes, except local vehicle taxes, to which motor vehicles or semitrailers are subject~~, and if a motor vehicle or semitrailer has been registered at any time under this chapter it shall not thereafter be subject to a personal property tax unless the motor vehicle or semitrailer has been in storage continuously as an unregistered motor vehicle or semitrailer during the preceding registration year~~.

Sec. 31. Section 321.196, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Except as otherwise provided, an operator's license expires, at the option of the applicant, two or four years from the licensee's birthday anniversary occurring in the year of issuance if the licensee is between the ages of ~~eighteen~~ seventeen years, eleven months and seventy years on the date of issuance of the license, otherwise the license is effective for a period of two years. The license is renewable without written examination or penalty within a period of thirty days after its expiration date. A person shall not be considered to be driving with

an invalid license during a period of thirty days following the license expiration date. However, for a license renewed within the thirty-day period, the date of issuance shall be considered to be the previous birthday anniversary on which it expired. Applicants whose licenses are restricted due to vision or other physical deficiencies may be required to renew their licenses every two years. For the purposes of this section the birthday anniversary of a person born on February 29 shall be deemed to occur on March 1. All applications for renewal of operators' licenses shall be made under the direct supervision of a uniformed member of the department and shall be approved by the uniformed member. The department in its discretion may authorize the renewal of a valid license upon application without an examination provided that the applicant satisfactorily passes a vision test as prescribed by the department.

Sec. 32. Section 321.213, Code 1989, is amended to read as follows:

321.213 LICENSE SUSPENSIONS OR REVOCATIONS DUE TO VIOLATIONS BY JUVENILE DRIVERS.

Upon the entering of an order at the conclusion of an adjudicatory hearing under section 232.47 that the child violated a provision of this chapter or chapter 321A or chapter 321J for which the penalty is greater than a simple misdemeanor, the clerk of the juvenile court in the adjudicatory hearing shall forward a copy of the adjudication to the department. Notwithstanding section 232.55, a final adjudication in a juvenile court that the child violated a provision of this chapter or chapter 321A or chapter 321J constitutes a final conviction of a violation of a provision of this chapter or chapter 321A or chapter 321J for purposes of section 321.189, subsection 2, paragraph "b", and sections 321.193, 321.194, 321.200, 321.209, 321.210, 321.215, ~~and~~ 321A.17, 321J.2, 321J.3, and 321J.4.

Sec. 33. Section 321.288, Code 1989, is amended to read as follows:

321.288 CONTROL OF VEHICLE — REDUCED SPEED.

~~1.~~ A person operating a motor vehicle shall have the vehicle under control at all times.

~~2.~~ A ~~person operating a motor vehicle~~ and shall reduce the speed to a reasonable and proper rate:

~~a~~ 1. When approaching and passing a person walking in the traveled portion of the public highway.

~~b~~ 2. When approaching and passing an animal which is being led, ridden, or driven upon a public highway.

~~c~~ 3. When approaching and traversing a crossing or intersection of public highways, or a bridge, sharp turn, curve, or steep descent, in a public highway.

~~d~~ 4. When approaching and passing an emergency warning device displayed in accordance with rules adopted under section 321.449, or an emergency vehicle displaying a revolving or flashing light.

~~e~~ 5. When approaching and passing a slow moving vehicle displaying a reflective device as provided by section 321.383.

~~f~~ 6. When approaching and passing through a sign posted construction or maintenance zone upon the public highway.

Sec. 34. Section 321.299, unnumbered paragraph 3, Code 1989, is amended to read as follows:

Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle ~~on audible signal~~ and shall not increase the speed of the overtaken vehicle until completely passed by the overtaking vehicle.

Sec. 35. Section 321.323, Code 1989, is amended to read as follows:

321.323 BACKING VEHICLE ON HIGHWAY.

~~No~~ A person shall ~~operate~~ not cause a vehicle to be moved in a backward direction on a highway ~~in reverse gear~~ unless and until ~~such operation~~ the vehicle can be ~~made~~ backed with

reasonable safety, and shall yield the right of way to any approaching vehicle on the highway or an intersecting highway ~~thereto~~ which is so close ~~thereto~~ as to constitute an immediate hazard.

Sec. 36. Section 321.555, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. Operating a motor vehicle in violation of section 321J.2 or its predecessor statute.

Sec. 37. Section 321A.3, subsection 1, Code 1989, 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, 321J, 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 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. 38. Section 331.209, subsection 5, Code 1989, is amended to read as follows:

5. Each county board shall notify the state commissioner of elections whenever the boundaries of supervisor districts are changed and shall provide a map delineating the new boundary lines. Upon failure of a county board to make the required changes by the dates specified by this section as determined by the state commissioner of elections, the state commissioner of elections shall make or cause to be made the necessary changes as soon as possible, and shall assess to the county the expenses incurred in so doing. The state commissioner of elections may request the services of personnel and materials available to the legislative service bureau to assist the state commissioner in making any required changes in supervisor district boundaries which become the state commissioner's responsibility.

Sec. 39. Section 384.1, Code 1989, is amended to read as follows:

384.1 TAXES CERTIFIED.

A city may certify taxes to be levied by the county on all taxable property within the city limits, for all city government purposes. However, the tax levied by a city on tracts of land and improvements thereon used and assessed for agricultural or horticultural purposes, ~~may~~ shall not exceed three dollars and three-eighths cents per thousand dollars of assessed value in any year. Improvements ~~and personal property~~ located on such tracts of land and not used for agricultural or horticultural purposes and all residential dwellings ~~shall be~~ are subject to the same rate of tax levied by the city on all other taxable property within the city. A city's tax levy for the general fund ~~may~~ shall not exceed eight dollars and ten cents per thousand dollars of taxable value in any tax year, except for the levies authorized in section 384.12.

Sec. 40. Section 420.207, Code 1989, is amended to read as follows:

420.207 TAXATION IN GENERAL.

Sections 427.1, 427.3 to 427.11, 428.4, ~~428.16 to~~ 428.20, 428.22, 428.23, 436.10, 436.11, 437.1, 437.3, 437.14, 441.21, 443.1 to 443.3, 444.2 to 444.5, and 447.9 to 447.13, so far as applicable, apply to cities acting under special charters.

Sec. 41. Section 422.5, subsection 7, Code 1989, is amended to read as follows:

7. Upon determination of the latest cumulative inflation factor, the director shall multiply each dollar amount set forth in subsection 1, paragraphs "a" ~~and~~ through "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.

Sec. 42. Section 422.12, subsection 1, Code 1989, is amended to read as follows:

1. A personal exemption credit in the following amounts:

a. For an estate or trust, a single individual, or a married person filing a separate return, ~~fifteen~~ twenty dollars.

b. For a head of household, or a husband and wife filing a joint return, ~~thirty~~ forty dollars.

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

d. For a single individual, husband, wife or head of household, an additional exemption of ~~fifteen~~ twenty dollars for each of said individuals who has attained the age of sixty-five years before the close of the tax year or on the first day following the end of the tax year.

e. For a single individual, husband, wife or head of household, an additional exemption of ~~fifteen~~ twenty dollars for each of said individuals who is blind at the close of the tax year. For the purposes of this paragraph, an individual is blind only if the individual's central visual acuity does not exceed twenty-two hundredths in the better eye with correcting lenses, or if the individual's visual acuity is greater than twenty-two hundredths but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

~~f. For tax years beginning on or after January 1, 1979 and for each of the next four succeeding tax years, the amount of the personal exemption credits provided in this subsection shall be increased in the amount of one dollar for each tax year, except that the personal exemption credit allowed under paragraph "b" of this subsection shall be increased in the amount of two dollars for each tax year. The personal exemption credits determined pursuant to this paragraph for tax years beginning on or after January 1, 1983 shall continue for succeeding tax years.~~

Sec. 43. Section 427.1, subsections 10, 15, 16, 21, 28, 29, and 35, Code 1989, are amended by striking the subsections.

Sec. 44. Section 427.1, subsections 12, 13, 19, and 30, Code 1989, are amended to read as follows:

12. HOMES FOR SOLDIERS. The buildings~~,~~ and grounds~~, furniture, and household equipment~~ of homes owned and operated by organizations of soldiers, sailors, or marines of any of the wars of the United States when used for a home for disabled soldiers, sailors, or marines and not operated for pecuniary profit.

13. AGRICULTURAL PRODUCE. Growing agricultural and horticultural crops ~~and products,~~ except commercial orchards and vineyards~~, and all horticultural and agricultural produce harvested by or for the person assessed within one year previous to the listing, all wool shorn from the person's sheep within such time, all poultry, ten stands of bees, honey and beeswax produced during that time and remaining in the possession of the producer, and all livestock~~.

19. CAPITAL STOCK OF COMPANIES. The shares of capital stock of telegraph and telephone companies, freight-line and equipment companies, transmission line companies as defined in section 437.1, express companies, ~~corporations engaged in merchandising as defined in section 428.16,~~ domestic corporations engaged in manufacturing as defined in section 428.20, and manufacturing corporations organized under the laws of other states having their main operating offices and principal factories in the state of Iowa, and corporations not organized for pecuniary profit.

30. RURAL WATER SALES. The real ~~and personal~~ property of a nonprofit corporation engaged in the distribution and sale of water to rural areas when devoted to public use and not held for pecuniary profit.

Sec. 45. Section 427.3, subsection 5, Code 1989, 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~~ Where the word "soldier" ~~shall appear~~ appears in this chapter, it ~~shall be construed to include~~ includes, without limitation, the members of the United States air force and the United States merchant marine.

Sec. 46. Section 427.5, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The person shall file with the appropriate assessor on forms obtained from the assessor the claim for exemption for the year for which the person is first claiming the exemption. The claim shall be filed not later than July 1 of the year for which the person is claiming the exemption. The claim shall set out the fact that the person is a resident of and domiciled in the state of Iowa, and a person within the terms of section 427.3, and shall give the volume and page on which the certificate of satisfactory service, order of separation, retirement, furlough to reserve, inactive status, or honorable discharge or certified copy thereof is recorded in the office of the county recorder, and may include the designation of the property from which the exemption is to be made, and shall further state that the claimant is the equitable ~~and~~ or legal owner of the property designated.

Sec. 47. Section 427.8, Code 1989, is amended to read as follows:

427.8 PETITION FOR SUSPENSION OR CANCELLATION OF TAXES, ASSESSMENTS, AND RATES.

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 real 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. 48. Section 427.13, Code 1989, is amended to read as follows:

427.13 WHAT TAXABLE.

All other real property~~, real or personal,~~ is subject to taxation in the manner prescribed, and this section is also intended to embrace:

~~1. Ferry~~ ferry franchises and toll bridges, which, for the purpose of this chapter are considered real property.

~~2. Household furniture, beds and bedding made use of in hotels and boarding houses and not hereinbefore exempted.~~

~~3. Gold and silver plate, watches, jewelry, and musical instruments.~~

~~4. Every description of vehicle, including bicycles, except as otherwise provided.~~

~~5. Threshing machines.~~

~~6. Boats and vessels of every description, wherever registered or licensed, and whether navigating the waters of the state or not, if owned either wholly or in part by inhabitants of this state, to the amount owned in this state.~~

However, ~~the provisions of~~ this section ~~shall be~~ is subject to ~~the provisions of~~ section 427.1.

Sec. 49. Section 428.1, subsection 4, Code 1989, is amended by striking the subsection.

Sec. 50. Section 428.4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Property shall be assessed for taxation each year. ~~Personal property shall be listed and assessed in 1980 and every two years thereafter in the name of the owner of the personal property on the first day of January and the assessment made shall be the value of the personal property as of January 1 of the year of the assessment.~~ Real estate shall be listed and assessed in 1981 and every two years thereafter. The assessment of real estate shall be the value of the real estate as of January 1 of the year of the assessment. The year 1981 and each odd-numbered year thereafter shall be a reassessment year. In any year, after the year in which an assessment has been made of all the real estate ~~or personal property~~ in ~~any~~ an assessing

jurisdiction, ~~it shall be the duty of~~ the assessor ~~to~~ shall value and assess or revalue and reassess, as the case may require, any real estate ~~and personal property~~ that the assessor finds was incorrectly valued or assessed, or was not listed, valued, and assessed, in the assessment year immediately preceding, also any real estate ~~or personal property~~ the assessor finds has changed in value subsequent to January 1 of the preceding real estate ~~or personal property~~ assessment year. However, a percentage increase on a class of property shall not be made in a year not subject to an equalization order unless ordered by the department of revenue and finance. The assessor shall determine the actual value and compute the taxable value thereof as of January 1 of the year of the revaluation and reassessment. The assessment shall be completed as specified in section 441.28, but no reduction or increase in actual value shall be made for prior years. If an assessor makes a change in the valuation of the real estate as provided for ~~herein, the provisions of~~ sections 441.23, 441.37, 441.38 and 441.39 ~~shall~~ apply.

Sec. 51. Section 428.4, unnumbered paragraph 4, Code 1989, is amended by striking the unnumbered paragraph.

Sec. 52. Section 428.10, Code 1989, is amended to read as follows:

428.10 ICE AND COAL DEALERS.

Each ice or coal dealer shall be assessed upon the average amount of capital used by the dealer in conducting the dealer's business. In estimating the amount of capital so used, there shall be taken into consideration the increase and decrease of the value of ice and coal held in store, and upon the value of the dealer's warehouses or ice houses situated upon lands leased from railway companies or other persons, and upon the value, if any, of such leasehold interest.

~~Such assessment shall be listed as personal property.~~ In determining the average amount of capital invested the assessor shall take into consideration the entire year's business prior to January 1, next preceding the assessment period.

Sec. 53. Section 428.20, Code 1989, is amended to read as follows:

428.20 "MANUFACTURER" DEFINED — DUTY TO LIST.

~~Any~~ A person~~, firm, or corporation~~ who purchases, receives, or holds personal property of any description for the purpose of adding to ~~the~~ its value ~~thereof~~ by ~~any~~ a process of manufacturing, refining, purifying, combining of different materials, or by the packing of meats, with a view to selling the ~~same~~ property for gain or profit, ~~shall be deemed~~ is a ~~manufacturer~~ "manufacturer" for the purposes of this title, and shall list such property for taxation.

Sec. 54. Section 428.23, Code 1989, is amended to read as follows:

428.23 MANUFACTURER TO LIST.

Corporations organized under the laws of this state for pecuniary profit and engaged in manufacturing as defined in section 428.20 shall list their real ~~estate, personal~~ property ~~not hereinbefore mentioned, and moneys and credits~~ in the same manner as is required of individuals.

Sec. 55. Section 428.35, subsection 6, Code 1989, is amended to read as follows:

6. PAYMENT OF TAX. ~~Such specific~~ The tax, when determined ~~as aforesaid~~, shall be entered in the same manner as general ~~personal~~ property taxes on the tax list of the taxing district, and the proceeds of the collection of ~~such~~ the tax shall be distributed to the same taxing units and in the same proportion as the general ~~personal~~ property tax on the tax list of ~~said~~ each taxing district. All provisions of the law relating to the assessment and collection of ~~personal~~ property taxes and the powers and duties of the county treasurer, county auditor and all other officers with respect to the assessment, collection, and enforcement of ~~personal~~ property taxes ~~shall~~ apply to the assessment, collection, and enforcement of the tax imposed by this section.

Sec. 56. Section 428.36, Code 1989, is amended to read as follows:

428.36 LISTING PROPERTY OF FINANCIAL INSTITUTIONS.

The real estate, fixtures, and equipment, ~~and tangible personal property~~ as defined in section 427A.1, of every financial institution, as defined in chapter 422, division V, and of every credit union established under chapter 533 shall be listed, assessed, and taxed to the institution or the credit union in the same manner and at the same rate as such property in the hands of individuals.

Sec. 57. Section 430A.6, Code 1989, is amended to read as follows:

430A.6 REAL ~~AND PERSONAL~~ PROPERTY ASSESSMENT.

All real ~~and tangible personal~~ property of individuals, corporations or agencies subject to ~~the provisions of~~ this chapter and located within the state of Iowa shall be assessed in the same manner as other real ~~and tangible personal~~ property.

Sec. 58. Section 432.7, Code 1989, is amended to read as follows:

432.7 ASSESSMENT.

~~It shall be the duty of the~~ The assessor shall, upon the receipt of ~~said~~ the statements, and from other information acquired by the assessor, ~~to~~ assess against every corporation or association referred to in section 432.6, ~~the value of all personal property owned by such corporation or association, together with~~ the actual value of each parcel of real estate situated in the assessment district of ~~such~~ the assessor, and all the ~~said~~ property shall be assessed at the same rate, and for the same purposes as the property of private individuals, as provided in section 441.21.

Sec. 59. Section 433.11, Code 1989, is amended to read as follows:

433.11 OTHER REAL ~~AND PERSONAL~~ PROPERTY.

Land, lots, and other real ~~estate and personal~~ property belonging to ~~any~~ a telegraph company or telephone company not used exclusively in its telegraph or telephone business ~~shall be~~ are subject to assessment and taxation on the same basis as other property of individuals in the ~~several~~ counties where situated.

Sec. 60. Section 441.10, unnumbered paragraph 3, Code 1989, is amended to read as follows:

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. 61. Section 441.17, subsections 2 and 10, Code 1989, are amended to read as follows:

2. Cause to be assessed, in accordance with section 441.21, all the property~~, personal and real,~~ in the assessor's county or city ~~as the case may be~~, except ~~such as is~~ property exempt from taxation, or the assessment of which is otherwise provided for by law.

10. Measure the exterior length and exterior width of all mobile homes except those for which measurements are contained in the manufacturer's and importer's certificate of origin, and report the information to the county treasurer. Check all mobile homes ~~and travel trailers~~ for inaccuracy of measurements as necessary or upon written request of the county treasurer ~~and check travel trailers for violations of registration~~ and report the findings immediately to the county treasurer. If a mobile home has been converted to real estate the title shall be collected and returned to the county treasurer for cancellation. If taxes due for prior years

have not been paid, the assessor shall collect the unpaid taxes due as a condition of conversion. The assessor shall make frequent inspections and checks within the assessor jurisdiction of all mobile homes and mobile home parks ~~and travel trailers~~ and make all the required and needed reports to carry out the purposes of this section.

Sec. 62. Section 441.19, unnumbered paragraph 1, and subsection 1, Code 1989, are amended to read as follows:

The assessor shall list every person in the assessor's county or city as the case may be and assess all the property ~~therein, personal and real~~ in the county or city, except ~~such as is heretofore~~ property exempted or otherwise assessed. ~~Any~~ A person who ~~shall refuse~~ refuses to assist in making out a list of the person's property, or of any property which the person is by law required to assist in listing, ~~or who shall refuse to make either of the oaths or affirmations or combinations thereof required by section 441.20, shall be~~ is guilty of a simple misdemeanor.

1. Supplemental and optional to the procedure for the assessment of property by the assessor as provided in this chapter, the assessor ~~is hereby authorized to~~ may require from all persons required to list their property for taxation as provided by sections 428.1, and 428.2 ~~and 428.3~~, a supplemental return to be prescribed by the director of revenue and finance upon which ~~such~~ the person shall list the person's property. ~~Such~~ The supplemental return shall be in substantially the same form as now prescribed by law for the assessment rolls used in the listing of property by the assessors, ~~and the director of revenue and finance may prescribe separate supplemental forms for the listing of personal property, both tangible and intangible. It shall be the duty of every~~ Every person required to list property for taxation ~~to~~ shall make a complete listing of ~~such~~ the property upon ~~such~~ supplemental forms and ~~to~~ return the ~~same~~ listing to the assessor as promptly as possible. ~~Such~~ The return shall be verified over the signature of the person making the return and ~~the provisions of~~ section 441.25 ~~shall apply~~ applies to any person making such a return. The assessor shall make ~~such~~ supplemental return forms available as soon as practicable after the first day of January of each year. The assessor shall make ~~such~~ supplemental return forms available to the taxpayer by mail, or at a designated place within the taxing district.

Sec. 63. Section 441.21, subsection 1, paragraphs a and c, Code 1989, are amended to read as follows:

a. All ~~real and tangible personal~~ property subject to taxation shall be valued at its actual value which shall be entered opposite each item, and, except as otherwise provided in this section, shall be assessed at one hundred percent of its actual value, and the value so assessed shall be taken and considered as the assessed value and taxable value of the property upon which the levy shall be made.

c. In assessing and determining the actual value of special purpose industrial ~~real and tangible personal~~ property having an actual value of five million dollars or more, the assessor shall equalize the values of such property with the actual values of other comparable special purpose industrial property in other counties of the state. Such special purpose industrial property includes, but is not limited to chemical plants. If a variation of ten percent or more exists between the actual values of comparable industrial property having an actual value of five million dollars or more located in separate counties, the assessors of ~~such~~ the counties shall consult with each other and with the department of revenue and finance to determine if adequate reasons exist for ~~such~~ the variation. If no ~~such~~ adequate reasons exist, the assessors shall make adjustments in ~~such~~ the actual values to provide for a variation of ten percent or less. For the purposes of this paragraph, special purpose industrial property includes structures which are designed and erected for operation of a unique and special use, are not rentable in existing condition, and are incapable of conversion to ordinary commercial or industrial use except at a substantial cost.

Sec. 64. Section 441.24, subsection 1, Code 1989, is amended to read as follows:

1. If ~~any corporation or~~ a person ~~refuse~~ refuses to furnish the verified statements required in connection with the assessment of property by the assessor, or to list the corporation's or person's property, ~~or to take or subscribe the oath required,~~ the director of revenue and finance, or assessor, as the case may be, shall proceed to list and assess ~~such~~ the property according to the best information obtainable, and shall add to the taxable valuation one hundred percent thereof, which valuation and penalty shall be separately shown, and shall constitute the assessment; and if the valuation of ~~such~~ the property ~~shall be~~ is changed by ~~any~~ a board of review, or on appeal ~~therefrom~~ from a board of review, a like penalty shall be added to the valuation thus fixed.

Sec. 65. Section 441.26, unnumbered paragraphs 1 and 4, Code 1989, are amended to read as follows:

The director of revenue and finance shall each year prescribe the form of assessment roll to be used by all assessors in assessing ~~real and personal~~ property, ~~including moneys and credits,~~ in this state, also the form of pages of the assessor's assessment book. ~~Such~~ The assessment rolls shall be in ~~such~~ a form ~~as~~ that will permit entering ~~thereon~~, separately, the names of all persons~~, partnerships, corporations, or associations~~ assessed; ~~shall contain a form of oath or affirmation to be administered to each person assessed~~, and shall also contain a notice in substantially the following form:

The assessment rolls shall be used in listing the property and showing the values affixed to the property of all persons~~, partnerships, corporations, or associations~~ assessed. The rolls shall be made in duplicate. The duplicate roll shall be signed by the assessor, detached from the original and delivered to the person assessed if there has been an increase or decrease in the valuation of the property. If there has been no change in the evaluation, the information on the roll may be printed on computer stock paper and preserved as required by this chapter. If the person assessed requests in writing a copy of the roll, the copy shall be provided to the person. ~~It is lawful to combine the affidavit or form of oath or affirmation as to real and personal property, and the affidavit or form of oath or affirmation as to moneys and credits, into one affidavit or form of oath or affirmation, and only the one such affidavit or form of oath or affirmation is sufficient on the assessment roll.~~ The pages of the assessor's assessment book shall contain columns ruled and headed for the information required by this chapter and that which the director of revenue and finance deems essential in the equalization work of the director. The assessor shall return all assessment rolls and schedules to the county auditor, along with the completed assessment book, as provided in this chapter, and the county auditor shall carefully keep and preserve the rolls, schedules and book for a period of five years from the time of its filing in the county auditor's office.

Sec. 66. Section 441.35, subsection 1, Code 1989, is amended to read as follows:

1. To equalize assessments by raising or lowering the individual assessments of real property, including new buildings, ~~personal property or moneys and credits~~ made by the assessor.

Sec. 67. Section 441.45, Code 1989, is amended to read as follows:

441.45 ABSTRACT TO STATE DEPARTMENT OF REVENUE AND FINANCE.

The county assessor of each county and each city assessor shall, on or before July 1 of each year, make out and transmit to the department of revenue and finance an abstract of the real ~~and personal~~ property in the assessor's county or city, as the case may be, and file a copy ~~thereof~~ of the abstract with the county auditor, in which the assessor shall set forth:

1. The number of acres of land and the aggregate taxable values of the ~~same~~ land, exclusive of city lots, returned by the assessors, as corrected by the board of review.

2. The aggregate taxable values of real estate by class in each township and city in the county, returned as corrected by the board of review.

~~3. The aggregate taxable values of personal property.~~

4 3. Other facts ~~as may be~~ required by the director of revenue and finance.

~~In any case where~~ If a board of review continues in session beyond June 1, under ~~provisions of~~ sections 441.33 and 441.37, the abstract of the real ~~and personal~~ property shall be made out and transmitted to the department of revenue and finance within fifteen days after the date of final adjournment by ~~said~~ the board.

Sec. 68. Section 443.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Before the first day of July in each year, the county auditor shall transcribe the assessments of the townships and cities into a book or record, to be known as the tax list, properly ruled and headed, with separate columns, in which shall be entered the names of the taxpayers, descriptions of lands, number of acres and value, numbers of city lots and value, ~~value of personal property~~ and each description of tax, with a column for polls and one for payments, and shall complete it by entering the amount due on each installment, separately, and carrying out the total of both installments. The total of all columns of each page of each book or other record shall balance with the tax totals. After computing the amount of tax due and payable on each property, the county auditor shall round the total amount of tax due and payable on the property to the nearest even whole dollar.

Sec. 69. Section 455A.6, subsection 6, paragraph b, Code 1989, is amended to read as follows:

b. Hear appeals in contested cases pursuant to chapter 17A on matters relating to actions taken by the director under chapter 84, 93, ~~455B,~~ 455C, or 469.

Sec. 70. Section 474.1, unnumbered paragraph 3, Code 1989, is amended to read as follows:

As used in this chapter and chapters 475A, 476, 476A, 478, ~~and~~ 479, and 479A, "division" and "utilities division" mean the utilities division of the department of commerce.

Sec. 71. Section 474.9, Code 1989, is amended to read as follows:

474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

The utilities board 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 chapters 476, 476A, 478, ~~and~~ 479, and 479A, and has other duties as provided by law.

Sec. 72. Section 476.10, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When the board deems it necessary in order to carry out the duties imposed upon it by this chapter for the purpose of determining rate matters to investigate the books, accounts, practices, and activities of, or make appraisals of the property of any public utility, or to render any engineering or accounting services to any public utility, or to review the operations or annual reports of the public utility under section 476.31 or 476.32, the public utility shall pay the expense reasonably attributable to the investigation, appraisal, service, or review. The board shall ascertain the expenses including certified expenses incurred by the consumer advocate division of the department of justice directly chargeable to the public utility under section 475A.6, and shall render a bill, ~~by certified mail,~~ to the public utility, either at the conclusion of the investigation, appraisal, services, or review, or from time to time during its progress, which bill is notice of the assessment and shall demand payment. The total amount of such expense in any one calendar year, for which any public utility shall become liable, shall not exceed two-tenths of one percent of its gross operating revenues derived from intrastate public utility operations in the last preceding calendar year.

Sec. 73. Section 515B.12, Code 1989, is amended to read as follows:

515B.12 TAX EXEMPTION.

The association is exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on ~~real or personal~~ property.

Sec. 74. Section 533.24, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A credit union shall be deemed an institution for savings and ~~shall be~~ is subject to taxation only as to its real estate, ~~tangible personal property,~~ and moneys and credits. The shares shall not be taxed.

Sec. 75. Section 537.2501, subsection 1, paragraph f, as enacted by 1989 Iowa Acts, House File 552, section 2, is amended to read as follows:

f. With respect to open-end credit pursuant to a credit card issued by the creditor which ~~entities~~ entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, the parties may contract for an over-limit charge not to exceed ten dollars if the balance of the account exceeds the credit limit established pursuant to the agreement. The over-limit charge under this paragraph shall not be assessed again in a subsequent billing cycle unless in a subsequent billing cycle the account balance has been reduced below the credit limit.

If the differential treatment of this subsection based on the number of persons honoring a credit card is found to be unconstitutional, the parties may contract for the over-limit charge as described in this paragraph in any consumer credit transaction pursuant to open-end credit, and the other conditions relating to the over-limit charge shall remain in effect.

Sec. 76. Section 537.7103, subsection 3, paragraph a, subparagraph (1), Code 1989, is amended to read as follows:

(1) Notifying a debtor of the fact that the ~~debtor~~ debt collector may report a debt to a credit bureau or engage an agent or an attorney for the purpose of collecting the debt.

Sec. 77. Section 598.17, unnumbered paragraph 2, Code 1989, is amended to read as follows:

If at the time of trial petitioner fails to present satisfactory evidence that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved, the respondent may then proceed to present such evidence as though the respondent had filed the original petition.

Sec. 78. Section 601G.9, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Establish rules relating to the operation, organization, and procedure of the office of the citizen's aide. The rules are exempt from chapter 17A and shall be published in the Iowa administrative code.

Sec. 79. Section 601K.33, subsection 5, Code 1989, is amended to read as follows:

5. The members of the commission appointed by the governor shall be appointed to terms of four years beginning ~~July~~ May 1. Legislative members shall be appointed to terms of two years beginning January 1 of odd-numbered years. However, members appointed under subsections 3 and 4 shall cease to be members if they no longer hold the office from which they were appointed. Not more than seven of the members appointed under subsection 3 shall belong to the same political party at the time of appointment. A person designated under subsection 2 is appointed for a term of four years beginning ~~July~~ May 1 and must be an assistant director, or head of a division, section, or bureau of that agency whose function relates to children, youth, or families while serving on the commission. Vacancies shall be filled in the same manner as the original appointment. Not more than nine of the voting members of the commission shall be of the same gender.

Sec. 80. Section 602.3105, Code 1989, is amended to read as follows:

602.3105 APPLICATIONS.

Applications for certification shall be on forms prescribed and furnished by the board and the board shall not require that the application contain a photograph of the applicant. An applicant shall not be denied certification because of age, citizenship, sex, race, religion, marital status, or national origin although the application may require citizenship information. The board may consider the past felony record of an applicant ~~only if the felony conviction relates directly to the practice of certified shorthand reporting~~. Character references may be required, but shall not be obtained from certified shorthand reporters.

Sec. 81. Section 602.3201, Code 1989, is amended to read as follows:

602.3201 ~~UNLAWFUL~~ REQUIREMENT OF CERTIFICATION — USE OF TITLE.

A person shall not engage in the profession of shorthand reporting unless the person is certified pursuant to this chapter, or otherwise exempted pursuant to section 602.6603, subsection 4. ~~A~~ Only a person who is certified by the board ~~is a certified shorthand reporter. A person who is not certified by the board shall not~~ may assume the title of certified shorthand reporter, or use the abbreviation C.S.R., or any words, letters, or figures to indicate that the person is a certified shorthand reporter.

Sec. 82. Section 602.3203, subsection 5, Code 1989, is amended to read as follows:

5. Conviction of a felony ~~related to the practice of shorthand reporting or conviction of a felony that would affect the ability to practice shorthand reporting~~. A copy of the record of conviction or plea of guilty is conclusive evidence.

Sec. 83. Section 602.6305, subsection 2, Code 1989, as amended by 1989 Iowa Acts, Senate File 498, is amended to read as follows:

2. A person does not qualify for appointment to the office of district associate judge unless the person is at the time of appointment a resident of the county in which the vacancy exists, licensed to practice law in Iowa, and will be able, measured by the person's age at the time of appointment, to complete the initial term of office ~~plus a four-year term of office~~ prior to reaching age seventy-two.

Sec. 84. Section 602.7103, subsection 1, Code 1989, is amended to read as follows:

1. The chief judge ~~of the juvenile court~~ may appoint and may remove for cause with due process a juvenile court referee. The referee shall be an attorney admitted to practice law in this state, and shall be qualified for duties by training and experience.

Sec. 85. Section 682.23, subsection 4, Code 1989, is amended to read as follows:

4. MUNICIPAL BONDS. Bonds, or other interest-bearing obligations, which are a direct obligation of ~~any~~ a county, township, city, ~~village,~~ school district, or other municipal corporation or district, having power to levy general taxes, in the state of Iowa, and also bonds, or other interest-bearing obligations, which are a direct obligation of ~~any~~ a county, township, city, village, school district, or other municipal corporation or district, having power to levy general taxes, in any adjoining state, and having a population of not less than five thousand; ~~and also bonds, or other interest-bearing obligations, which are a direct obligation of any county, township, city, village, school district, or other municipal corporation or district, having power to levy general taxes, in any other state, having a population of not less than ten thousand~~. ~~Provided~~ However, the total funded indebtedness of ~~any such~~ a municipality enumerated in this subsection shall not exceed ten percent of the assessed value of the taxable property ~~therein~~ in the municipality, as ascertained by the last assessment for tax purposes, and ~~provided further that such~~ the municipality or district ~~has~~ shall not have defaulted in the payment of any of its bonded indebtedness within the ten preceding years.

Sec. 86. Section 702.17, as amended by 1989 Iowa Acts, Senate File 201, section 1, is amended to read as follows:

702.17 SEX ACT.

The term "sex act" or "sexual activity" means any sexual contact between two or more persons by: penetration of the penis into the vagina or anus; contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person; contact between the finger or hand of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed pursuant to chapter 148, 148C, 150, 150A, 151, or 152; or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

Sec. 87. Section 714.25, Code 1989, is amended by adding the following new unnumbered paragraph before unnumbered paragraph one:

NEW UNNUMBERED PARAGRAPH. 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. 88. Section 725.7, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. A person who violates this section is guilty of the following:

a. Illegal gaming in the fourth degree if the sum of money or value of other property involved does not exceed one hundred dollars. Illegal gaming in the fourth degree constitutes the following:

(1) A serious misdemeanor for a first offense.

(2) An aggravated misdemeanor for a second offense.

(3) A class "D" felony for a third offense.

(4) A class "C" felony for a fourth or subsequent offense.

b. Illegal gaming in the third degree if the sum of money or value of other property involved exceeds one hundred dollars but does not exceed five hundred dollars. Illegal gaming in the third degree constitutes the following:

(1) An aggravated misdemeanor for a first offense.

(2) A class "D" felony for a second offense.

(3) A class "C" felony for a third or subsequent offense.

c. Illegal gaming in the second degree if the sum of money or value of other property involved exceeds five hundred dollars but does not exceed five thousand dollars. Illegal gaming in the second degree constitutes the following:

(1) A class "D" felony for a first offense.

(2) A class "C" felony for a second or subsequent offense.

d. Illegal gaming in the first degree if the sum of money or value of other property involved exceeds five thousand dollars. Illegal gaming in the first degree constitutes a class "C" felony.

Sec. 89. Section 727.11, Code 1989, is amended to read as follows:

727.11 DISCLOSURE OF INFORMATION CONCERNING USE OF VIDEOTAPES — PENALTY.

1. ~~A~~ Except as provided in subsection 2, 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.

2. In the absence of consent, the information may be released ~~to~~ in any of the following situations:

a. 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.

b. To the extent reasonably necessary to collect payment for the rental, lease, or other distribution fee for the materials, if the individual has been given written notice that the payment is due and the individual has failed to pay or arrange for payment within a reasonable time after this notice.

c. If the disclosure is for the exclusive purpose of marketing goods and services directly to the consumer. The person disclosing the information shall inform the customer in writing that the customer may, by written notice, require the person to refrain from disclosing the information pursuant to this paragraph.

~~2~~ 3. A person who violates this section commits a simple misdemeanor.

Sec. 90. Section 805.6, subsection 1, paragraph c, subparagraph (2), Code 1989, is amended to read as follows:

(2) If the violation charged involved or resulted in an accident or injury to property and the total damages are less than ~~two hundred fifty~~ five hundred dollars, the amount of fifty dollars plus court costs.

Sec. 91. Section 805.7, subsection 2, Code 1989, is amended to read as follows:

2. COLLECTION BOXES. The chief judge of the district may permit the maintenance of locked collection boxes to be used at weigh stations and other locations where vehicles are inspected and weighed with portable scales. ~~Such~~ The boxes shall be used solely for the deposit of fines, ~~and~~ costs, and guaranteed arrest bond certificates received ~~upon written admissions of those~~ for scheduled violations applicable to commercial carriers. The collection boxes shall remain locked at all times and shall be opened only by the clerk of the district court or the clerk's designee. The chief judge of the district may prescribe procedures for the system and may discontinue its use if necessary.

Sec. 92. Section 805.10, subsection 1, Code 1989, is amended to read as follows:

1. When the violation charged involved or resulted in an accident or injury to property and the total damages are ~~two hundred fifty~~ five hundred dollars or more, or in an injury to person.

Sec. 93. Section 907.3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Pursuant to section 901.5, the trial court may, upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, exercise any of the options contained in ~~subsections 1 and 2 of~~ this section. However, this section ~~shall~~ does not apply to a forcible felony.

Sec. 94. 1986 Iowa Acts, chapter 1245, section 2064, is amended to read as follows:

SEC. 2064. The Code editor, in consultation with ~~the reorganization legislative oversight committee~~ an appropriate subcommittee of the senate committee on judiciary and the house committee on judiciary and law enforcement, shall develop and implement ~~by July 1, 1988,~~ the uniform system of terminology, through the Code editor's bills and under section 14.13 of the Code, for the designation of the agencies, units, and positions of state government as established in sections 7E.2 and ~~7E.2B~~ 7E.4 of the Code, as far as practicable and consistent with apparent legislative intent. This development and implementation may include recommendations for refinements in the uniform system of terminology. In cases of inconsistent usage of terminology, superseded terms shall be read to be consistent with the intent of this Act, until necessary changes in language are made under this section. The Code editor shall also develop a style manual to provide, to the extent practicable, for uniform statutory provisions in regard to the specifications of agencies, boards, committees, commissions, councils, and positions on the subjects of, as appropriate, offices, positions, meetings, quorums, reports, oaths, compensation, powers, and related matters for those agencies, bodies, and positions.

Sec. 95. 1982 Iowa Acts, chapter 1162, section 14, is amended to read as follows:

SEC. 14. This Act shall take effect July 1 following its enactment and shall apply to persons sentenced for crimes committed after the effective date of this Act.

Sec. 96. Sections 37.11 through 37.14, 37.19, 321.407, 426.9, 427.16, 428.3, 428.8, 428.12, 428.16 through 428.19, 428.21, and 441.20, Code 1989, are repealed.

Approved June 3, 1989

CHAPTER 297

ENERGY EFFICIENCY MEASURES

S.F. 419

AN ACT relating to energy efficiency and providing effective dates.

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

Section 1. Section 18.115, subsection 4, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. In conjunction with the requirements of section 18.3, subsection 1, effective January 1, 1990, the state vehicle dispatcher, and any other state agency purchasing motor vehicles for other than law enforcement purposes, shall each year purchase new passenger automobiles such that the average fuel efficiency for the fleet of new passenger automobiles purchased in that year by the state vehicle dispatcher is not less than two miles per gallon under the average fuel economy standard for the automobiles' model year as established by the United States secretary of transportation under 15 U.S.C. § 2002. This paragraph does not apply to automobiles purchased for law enforcement purposes. The group of comparable automobiles within the total fleet purchased by the state vehicle dispatcher, or any other state agency purchasing motor vehicles for other than law enforcement purposes, shall have an average fuel efficiency rating not less than two miles per gallon under the average fuel economy rating for that model year for that class of comparable automobiles as defined in 40 C.F.R. § 315-82. As used in this paragraph, "fuel economy" means the average number of miles traveled by an automobile per gallon of gasoline consumed as determined by the United States environmental protection agency administrator in accordance with 26 U.S.C. § 4064(c).

NEW UNNUMBERED PARAGRAPH. The state vehicle dispatcher shall annually report the average combined fuel economy for all new motor vehicles purchased by classification (passenger automobiles, enforcement automobiles, vans, and light trucks) no later than January 31 of each year to the department of management and the energy and geological resources division of the department of natural resources. As used in this paragraph, "combined fuel economy" means the combined fuel economy as defined in 40 C.F.R. § 600.002.

Sec. 2. Section 93.7, Code 1989, is amended by adding the following new subsection immediately following subsection 1:

NEW SUBSECTION. 1A. Identify a state facility in the state to be used as a marketing tool to promote energy conservation by providing a showcase for the department to demonstrate energy efficiency.

Sec. 3. NEW SECTION. 93.13A ENERGY CONSERVATION MEASURES IDENTIFIED.

The state, state agencies, political subdivisions of the state, schools, area education agencies, and area schools shall identify and implement, through energy audits and engineering analyses, all energy conservation measures identified for which financing is made available by the department to the entity. The energy conservation measure financings shall be supported through payments from energy savings.

Sec. 4. NEW SECTION. 262.69A PURCHASE OF FUEL EFFICIENT AUTOMOBILES.

Institutions under the control of the state board of regents shall purchase only new automobiles which have at least the fuel economy required for purchase of new automobiles by the state vehicle dispatcher under section 18.115, subsection 4. This section does not apply to automobiles purchased for law enforcement purposes.

Sec. 5. NEW SECTION. 303.81A PURCHASE OF ENERGY EFFICIENCY PACKAGES.

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 ultra-high frequency transmitters.

Sec. 6. NEW SECTION. 364.23 ENERGY EFFICIENT LIGHTING REQUIRED.

All city-owned exterior flood lighting, including but not limited to, street and security lighting, shall be replaced when worn-out exclusively with high pressure sodium lighting or lighting with equivalent or better energy efficiency as approved in rules adopted by the utilities board within the utilities division of the department of commerce.

Sec. 7. NEW SECTION. 364.24 TRAFFIC LIGHT SYNCHRONIZATION.

After July 1, 1992, all cities with more than three traffic lights within the corporate limits shall establish a traffic light synchronization program for energy efficiency in accordance with rules adopted by the state department of transportation. The state department of transportation shall adopt rules required by this section by July 1, 1990.

Sec. 8. Section 474.5, Code 1989, is amended to read as follows:

474.5 RULES, FORMS AND SERVICE.

1. The utilities board may from time to time make or amend ~~such general~~ its rules or orders as ~~may be~~ necessary for the preservation of order and the regulation of proceedings before it, including forms of notice and the service thereof, which shall conform as nearly as may be to those in use in the courts of the state.

2. The utilities board shall adopt rules approving the types of city-owned or utility-owned lighting which shall be used in providing energy efficient exterior lighting under sections 364.23 and 476.62.

Sec. 9. Section 476.1A, unnumbered paragraph 2, Code 1989, is amended to read as follows:

However, sections 476.20, 476.21, 476.41 through 476.44, 476.51, 476.56, 476.62, and 476.66 and chapters 476A and 478, to the extent applicable, apply to such electric utilities.

Sec. 10. Section 476.1B, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Enforcement of section 476.62.

Sec. 11. Section 476.52, unnumbered paragraph 1, Code 1989, is amended to read as follows:

It is the policy of this state that a public utility shall operate in an efficient manner. If the board determines in the course of a proceeding conducted under section 476.3 or 476.6 that a utility is operating in an inefficient manner, or is not exercising ordinary, prudent management, or in comparison with other utilities in the state the board determines that the utility is performing in a less beneficial manner than other utilities, the board may reduce the level of profit or adjust the revenue requirement for the utility to the extent the board believes appropriate to provide incentives to the utility to correct its inefficient operation. If the board determines in the course of a proceeding conducted under section 476.3 or 476.6 that a utility is operating in such an extraordinarily efficient manner that tangible financial benefits result to the ratepayer, the board may increase the level of profit or adjust the revenue requirement for the utility. In making its determination under this section, the board may also consider a public utility's pursuit of energy efficiency programs. The board shall adopt rules for determining the level of profit or the revenue requirement adjustment that would be appropriate.

Sec. 12. NEW SECTION. 476.62 ENERGY EFFICIENT LIGHTING REQUIRED.

All public utility-owned exterior flood lighting, including but not limited to street and security lighting, shall be replaced when worn-out exclusively with high pressure sodium lighting or lighting with equivalent or better energy efficiency as approved in rules adopted by the board.

Sec. 13. NEW SECTION. 476.63 ENERGY CONSERVATION AND EFFICIENCY PROGRAMS.

The division shall consult with the energy and geological resources division of the department of natural resources in the development and implementation of public utility energy conservation and efficiency programs.

Sec. 14. Section 478A.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding subsection 1, commencing January 1, 1990, a person may sell or offer for sale in this state a decorative gas lamp manufactured after December 31, 1978, if the utilities board within the utilities division of the department of commerce determines, after notice and an opportunity for interested persons to comment at an oral presentation, that the sale or offer for sale of decorative gas lamps does not violate the public interest.

Sec. 15. PILOT PROJECT — SUMMER FOUR-DAY WORK WEEK. The director of the department of personnel shall conduct a pilot project during the summer months of 1989 and 1990 wherein state employees in a selected office area or areas shall work four ten-hour days per week rather than five eight-hour days per week. The director of the department of personnel shall report on the results of the pilot project to the governor and the general assembly by January 1, 1991. The report shall include findings on the energy savings which resulted from the pilot project as well as estimates of the energy savings which would result from statewide application of a state employee four ten-hour day work week during summer months. The report shall include the director's findings on the extent in which a state employee four ten-hour day work week could be adopted statewide as well as findings on the effects the four ten-hour day work week had on state employee morale and work efficiency.

Sec. 16. STUDY — TELECOMMUTING DEMONSTRATION. The director of the department of personnel shall in a study identify state employees who could telecommute one or more days during the work week. The director of the department of personnel shall report on the results of the study to the governor and the general assembly by January 15, 1990. The report shall identify those positions in state government where the employees could telecommute one or more days during their work week and estimate the resulting energy savings if such a plan were implemented. The report shall also include a statement as to the effects telecommuting would have on state employee morale and work efficiency as well as an estimate of any start-up costs which would be incurred by the state.

As used in this section, "telecommute" means to conduct work at the employee's residence through the use of computer terminals.

Sec. 17. Section 15 of this Act and this section, being deemed of immediate importance, take effect upon enactment.

Approved June 3, 1989

CHAPTER 298

STATE BUDGETARY MATTERS INCLUDING CAPITAL PROJECTS AND EQUIPMENT LEASING

S.F. 546

AN ACT relating to budgetary matters by creating a legislative capital projects committee to review proposed capital projects and requires the governor to establish criteria for evaluating and funding the projects; requiring the use of the most recent estimate of the revenue estimating conference in the budget process; establishing a coordinated leasing program; requiring notification to the department of management and appropriations committees of any request for or loss of federal or nonstate funds; and extending the lottery.

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

Section 1. Section 2.45, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The legislative capital projects committee which shall be composed of ten members appointed as follows:

a. Two senate members of the legislative fiscal committee or the senate committee on appropriations, one to be appointed by the majority leader of the senate and one to be appointed by the minority leader of the senate.

b. Two house members of the legislative fiscal committee or the house committee on appropriations, one to be appointed by the speaker of the house and one to be appointed by the minority leader of the house.

c. The chairpersons of the senate and house committees on appropriations.

d. Four members of the legislative council, one appointed by the speaker of the house, one by the majority leader of the senate, one by the minority leader of the house, and one by the minority leader of the senate.

The chairperson of the legislative council shall designate the chairperson or chairpersons of the legislative capital projects committee.

Sec. 2. Section 2.46, subsection 2, Code 1989, is amended to read as follows:

2. EXAMINATION. Examine the reports and official acts of the executive council and of each officer, board, commission, and department of the state, in respect to the conduct and expenditures thereof and the receipts and disbursements of public funds thereby. All state departments and agencies are required to immediately notify the legislative fiscal committee of the legislative council and the director of the legislative fiscal bureau if any state facilities within their jurisdiction have been cited for violations of any federal, state, or local laws or regulations or have been decertified or notified of the threat of decertification from compliance with any state, federal, or other nationally recognized certification or accreditation agency or organization.

Sec. 3. NEW SECTION. 2.47A POWERS OF LEGISLATIVE CAPITAL PROJECTS COMMITTEE.

1. The legislative capital projects committee shall do all of the following:

a. Receive the recommendations of the governor regarding the funding and priorities of proposed capital projects pursuant to section 8.3A, subsection 2, paragraph "b".

b. Receive the reports of all capital project budgeting requests of all state agencies, with individual state agency priorities noted, pursuant to section 8.6, subsection 13.

c. Receive the five-year capital project priority plan for all state agencies, pursuant to section 8.6, subsection 14.

d. Receive notifications of proposed transfers of excess bond revenues pursuant to section 8.39A.

e. Receive quarterly status reports for all ongoing capital projects of state agencies, pursuant to section 18.12, subsection 15.

**f. Receive the annual report of acquisitions, dispositions, improvements, and construction relating to the inventory of real property and equipment of the state, pursuant to section 18.12A.*

*g. Review the reasons for and the frequency of cost overruns and restarting of capital projects by state agencies.**

h. Examine and evaluate, on a continuing basis, the state's system of contracting and subcontracting in regard to capital projects.

2. The legislative capital projects committee, subject to the approval of the legislative council, may do all of the following:

a. Gather information relative to capital projects, as defined in section 8.3A, for the purpose of aiding the general assembly to properly appropriate moneys for capital projects.

b. Examine the reports and official acts of the state agencies, as defined in section 8.3A, with regard to capital project planning and budgeting and the receipt and disbursement of capital project funding.

c. Establish advisory bodies to the committee in areas where technical expertise is not otherwise readily available to the committee. Advisory body members may be reimbursed for actual and necessary expenses from funds appropriated pursuant to section 2.12, but only if the reimbursement is approved by the legislative council.

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*Item veto; see message at end of the Act

d. Compensate experts from outside state government for the provision of services to the committee from funds appropriated pursuant to section 2.12, but only if the compensation is approved by the legislative council.

e. Make recommendations to the legislative fiscal committee, legislative council, and the general assembly regarding issues relating to the planning, budgeting, and expenditure of capital project funding.

3. The capital projects committee shall determine its own method of procedure and shall keep a record of its proceedings which shall be open to public inspection. The committee shall meet as often as deemed necessary, subject to the approval of the legislative council, and the committee shall inform the legislative council in advance of its meeting dates.

Sec. 4. NEW SECTION. 8.3A CAPITAL PROJECT PLANNING AND BUDGETING — GOVERNOR'S DUTIES.

1. DEFINITIONS. For the purposes of this section:

*a. *"Capital project" means a project funded by state appropriations or bonding authorized by the general assembly with a cost of two hundred fifty thousand dollars or more undertaken by the state or a state agency, which meets one or more of the following descriptions:*

(1) The project involves new construction, the acquisition or lease of land or buildings, the acquisition or lease of original equipment for a new facility, or the replacement, by purchase, lease, or other means, of original equipment for an existing facility.

(2) The project changes the nature or use of a facility.

(3) The project constitutes a major improvement or alteration to a facility, which may include the acquisition, lease, or replacement, by purchase, lease, or other means, of equipment, and the improvement or alteration has at least a fifteen-year life cycle.

*(4) The project involves the improvement, alteration, or major maintenance of land or buildings received as a gift by the state or a state agency.**

"Capital project" does not include highway and right-of-way projects or airport capital projects undertaken by the state department of transportation and financed from dedicated funds or capital projects funded by nonstate grants, gifts, or contracts obtained at or through state universities, if the projects do not require a commitment of additional state resources for maintenance, operations, or staffing.

A capital project shall not be divided into smaller projects in such a manner as to thwart the intent of this section to provide for the evaluation of a capital project whose cost cumulatively equals or exceeds two hundred fifty thousand dollars.

b. "Facility" means a distinct parcel of land or a building used by the state or a state agency for a specific purpose.

c. "State agency" means any executive, judicial, or legislative department, commission, board, institution, division, bureau, office, agency, or other entity of state government.

2. DUTIES. The governor shall:

a. Develop criteria for the evaluation of proposed capital projects which shall include but not be limited to the following:

(1) Fiscal impacts on costs and revenues.

(2) Health and safety effects.

(3) Community economic effects.

(4) Environmental, aesthetic, and social effects.

(5) Amount of disruption and inconvenience caused by the capital project.

(6) Distributional effects.

(7) Feasibility, including public support and project readiness.

(8) Implications of deferring the project.

(9) Amount of uncertainty and risk.

(10) Effects on interjurisdictional relationships.

(11) Advantages accruing from relationships to other capital project proposals.

(12) Private sector contracting for construction, operation, or maintenance.

b. Make recommendations to the general assembly and the legislative capital projects committee regarding the funding and priorities of proposed capital projects.

*Item veto; see message at end of the Act

c. Develop maintenance standards and guidelines for capital projects.

d. Review financing alternatives available to fund capital projects, including the evaluation of the advantages and disadvantages of bonding for all types of capital projects undertaken by all state agencies.

e. Monitor the debt of the state or a state agency.

Sec. 5. Section 8.6, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 13. CAPITAL PROJECT BUDGETING REQUESTS. To compile annually, no later than October 1, all capital project budgeting requests of all state agencies, as capital project and state agency are defined in section 8.3A, and to consolidate the requests, with individual state agency priorities noted, into a report for submission to the legislative capital projects committee not later than October 1, with any additional information regarding such capital project budgeting requests or priorities to be compiled and submitted in the same manner no later than November 1.

NEW SUBSECTION. 14. CAPITAL PROJECT PRIORITY PLAN. To prepare annually, in cooperation with the department of general services, a five-year capital project priority plan for all state agencies, as capital project and state agency are defined in section 8.3A, to be submitted no later than July 1, beginning in the year 1990, to the legislative capital projects committee. The plan shall include but not be limited to the following:

a. A detailed list of all proposed capital projects for all state agencies, which the department of management believes should be undertaken or continued for at least the next five fiscal years.

b. Background information regarding each proposed capital project and the need for the project.

c. Information regarding the fiscal effect of each capital project on future operating expenses of the affected state agency.

d. A notation of the priority listing of capital projects for each state agency.

e. The proposed means of funding each capital project.

f. A schedule for the planning and implementation or construction of each capital project.

g. A schedule for the next fiscal year of proposed debt service payments from issues of bonds previously authorized.

h. A review of capital projects which have recently been implemented or completed or are in the process of implementation or completion.

i. Recommendations as to the maintenance of physical properties and equipment of state agencies.

j. Such other information as the department of management deems relevant to the foregoing matters.

NEW SUBSECTION. 15. CAPITAL PROJECT PLANNING AND BUDGETING AUTHORITY. To call upon any state agency, as defined in section 8.3A, for assistance the director may require in performing the director's duties under subsections 13 and 14. All state agencies, upon the request of the director, shall assist the director and are authorized to make available to the director any existing studies, surveys, plans, data, and other materials in the possession of the state agencies which are relevant to the director's duties.

Sec. 6. Section 8.22, subsection 1, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The governor's program shall include a single budget request for all capital projects, as defined in section 8.3A, proposed by the governor. The request shall include but not be limited to the following:

a. The purpose and need for each capital project.

b. A priority listing of capital projects.

c. The costs of acquisition, lease, construction, renovation, or demolition of each capital project.

d. The identification of the means and source of funding each capital project.

e. The estimated operating costs of each capital project after completion.

f. The estimated maintenance costs of each capital project after completion.

g. The consequences of delaying or abandoning each capital project.

h. Alternative approaches to meeting the purpose or need for each capital project.
i. Alternative financing mechanisms.
j. A cost-benefit analysis or economic impact of each capital project.

*Sec. 7. *Section 8.22A, unnumbered paragraph 3, Code 1989, is amended to read as follows:*

By December 15, 1986 and each succeeding year the conference shall agree to a revenue estimate for the fiscal year beginning the following July 1. ~~That~~ The most recent *estimate shall be used* without revision *by the governor in the preparation* and presentation *of the budget* ~~message~~ *under section 8.22 and by the* ~~legislature~~ general assembly *in the budget process.**

*Sec. 8. NEW SECTION. *8.39A TRANSFER OF EXCESS BOND REVENUES.*

1. If excess bond revenues relating to a capital project, as defined in section 8.3A, or relating to a noncapital project with a cost of one hundred thousand dollars or more, are available for transfer and use for purposes other than those designated in the bond sale, or for purposes not designated in the scope of the project, the excess revenues shall not be transferred or used for any other purpose unless the state agency, as defined in section 8.3A, in charge of the capital or noncapital project requests in writing and receives approval from the governor and the director of the department of management to transfer and use the excess revenues for another purpose.

Upon receipt of the written request, the director of the department of management shall notify the members of the legislative capital projects committee of the proposed transfer. The notice shall include information concerning the amount of the proposed transfer, the state agencies affected by the proposed transfer, the proposed use of the revenues to be transferred, and the reasons for the transfer. The members shall be given at least two weeks to review and comment on the proposed transfer before the excess revenues are transferred.

*2. The director shall report any transfer made under this section to the legislative capital projects committee on a monthly basis. The report shall cover each calendar month and shall be due the tenth day of the following month. The report shall contain the following: the amount of each transfer, the date of each transfer, the state agencies affected, a brief explanation of the reason for the transfer, the date of notice to the members of the legislative capital projects committee, and such other information as may be required by the legislative capital projects committee. A summary of all transfers made under this section shall be included in the annual report of the legislative capital projects committee.**

*Sec. 9. NEW SECTION. *12.45 SHORT TITLE.*

*This division shall be known as the "Iowa Leasing Program Act".**

*Sec. 10. NEW SECTION. *12.46 DEFINITIONS.*

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

1. "Approved lease" means a financing lease involving a state agency which has been reviewed by the treasurer of state pursuant to this division and has been approved as meeting the criteria established by the treasurer of state for financing leases and for compliance with federal and state laws.

2. "Financing lease" means a lease in which the lessee may purchase the property leased at a price which is less than the fair market value of the property at the end of the lease term or a lease of property where the lease term is eighty percent or more of the anticipated economic life of the property, as more fully defined in rules adopted by the treasurer of state pursuant to section 12.48.

3. "Leasing corporation" means a nonprofit corporation organized at the direction of the treasurer of state pursuant to this division to operate and finance a coordinated equipment leasing program for state agencies.

4. "Obligations" means bonds, notes, loan agreements, certificates of participation, commercial paper, and other evidences of indebtedness, including refunding bonds, issued under the provisions of this division.

*5. "State agency" means the state or a state department, division, board, commission, institution, or authority, except it does not include the state board of regents.**

*Item veto; see message at end of the Act

*Sec. 11. NEW SECTION. *12.47 LEGISLATIVE FINDINGS AND INTENT.*

1. The general assembly finds the following:

a. State agencies are obligating the state by entering into financing leases for equipment and have been doing so without sufficient coordination and review to determine compliance with tax laws for tax-exempt financing.

b. There is a need to review and coordinate leasing activities by state agencies to achieve better lease terms and to ensure that the leases are in the best interests of the state.

c. It is in the interest and welfare of the citizens of the state for the treasurer of state to review all financing leases entered into by state agencies, to provide a mechanism for a coordinated leasing program therefor, and to achieve cost savings by coordinating the state's leasing activities.

*2. The leasing program provided for in this division is intended to provide state agencies with better terms for their financing leases and to assure adequate review of financing leases entered into by state agencies for compliance with tax laws for tax-exempt financing.**

*Sec. 12. NEW SECTION. *12.48 LEASE CRITERIA.*

*The treasurer of state shall adopt rules pursuant to chapter 17A setting forth criteria for all financing leases to be executed by state agencies. This criteria may include specific authorized lease terms and procedures for review of financing leases and may include a provision that some or all payments under financing leases are to be made through the office of the treasurer of state.**

*Sec. 13. NEW SECTION. *12.49 FINANCING LEASES.*

*Notwithstanding the provisions of section 18.12, all state agencies are authorized to enter into financing leases in accordance with this division, provided that a financing lease for a prison or prison-related facility shall be subject to the restrictions set forth in section 18.12. All financing leases to be executed by state agencies shall first be reviewed by the treasurer of state for compliance with federal and state laws and for compliance with the criteria established by the treasurer of state for financing leases before being executed. In addition, no state agency shall enter into a financing lease unless the department of management has provided the treasurer of state with written approval for the financing of the property which is the subject of the financing lease.**

*Sec. 14. NEW SECTION. *12.50 LEASING CORPORATIONS.*

*The treasurer of state is authorized to incorporate, and appoint a board of directors for, one or more nonprofit corporations under chapter 504A, which meet and comply with the requirements of this division. These corporations are subject to and have the powers and privileges conferred by this division and those provisions of chapter 504A which are not inconsistent with and to the extent not restricted or limited by this division. A corporation is not incorporated pursuant to and under this division unless incorporated by the treasurer of state and unless its articles of incorporation provide that it is incorporated pursuant to this division. The treasurer of state is authorized to provide staff support to leasing corporations and to charge leasing corporations for its administrative costs in providing a leasing program and costs of providing staff support.**

*Sec. 15. NEW SECTION. *12.51 POWERS.*

Any leasing corporation established pursuant to this division shall, subject to the restrictions and limits herein contained, have the following powers:

1. To enter into approved leases with state agencies. The leases may include provisions for payment as a part of the lease charges of the administrative charges and costs incurred by the treasurer of state and the leasing corporation.

2. To sell interests in approved leases subject to applicable provisions of state and federal law.

3. To purchase property for the purpose of leasing it to state agencies pursuant to approved leases.

4. To commingle and pledge as security for a series or issue of obligations approved leases for the purpose of funding property purchases. Obligations may be issued in series under one or more resolutions or trust agreements in the discretion of the leasing corporation.

*Item veto; see message at end of the Act

5. To borrow working capital funds and other funds as necessary for start-up and continuing operations, provided that the funds are borrowed in the name of the leasing corporation only, and to issue obligations in connection therewith. Borrowings are limited obligations of the character described in section 12.54 and are payable solely from the revenues of the leasing corporation or the proceeds of obligations pledged for that purpose.

6. To establish, maintain, and set aside reserves which it deems necessary in connection with its operations or to enhance the security for its obligations.

*7. To authorize its officers, agents, and employees to take any other action and do all things necessary or desirable to carry out the purposes of this division.**

**Sec. 16.* NEW SECTION. *12.52 OBLIGATIONS.*

1. A leasing corporation may from time to time issue obligations for the purpose of funding property purchases and the obligations of the leasing corporations are negotiable for all purposes notwithstanding their payment from limited sources and without regard to any other law.

2. Each issue of obligations is payable solely out of the proceeds of the issue; revenues of the leasing corporation from the proceeds of authorized leases to state agencies; proceeds of refunding obligations; and fees, charges, and other revenues of the leasing corporation from the leasing program or otherwise available to the leasing corporation and pledged to the payment of the obligations.

3. Obligations may be issued as serial obligations or as term obligations, or both. Obligations shall be authorized by a bond resolution of the leasing corporation and shall bear dates; mature at times; bear interest at rates which may be fixed or variable as provided in the bond resolution; be payable at times; be in denominations; be in a form, either coupon or fully registered; carry registration and conversion privileges; be payable in such currencies; and be subject to terms of redemption as the bond resolution provides. Obligations shall be executed by the manual or facsimile signatures of officers of the leasing corporation designated by its board of directors. Obligations shall be sold in a manner, at either public or private sale without regard to chapter 75, and at prices as the leasing corporation determines.

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

a. Pledging or assigning the revenues derived from the financing leases with respect to which the obligations are to be issued.

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

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

d. Limitations on the use of the property leased.

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

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

g. The refunding of outstanding obligations.

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

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

j. Providing for security for the benefit of the holders of the obligations.

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

*Item veto; see message at end of the Act

5. Neither the board of the leasing corporation nor a person executing the obligations is liable personally on the obligations or subject to personal liability or accountability by reason of their issuance.

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

*7. The leasing corporation may refund any of its obligations. Refunding obligations shall be issued in the same manner as other obligations of the leasing corporation.**

**Sec. 17.* NEW SECTION. *12.53 TRUST AGREEMENT TO SECURE OBLIGATIONS.*

*In the discretion of the treasurer of state, obligations may be secured by a trust agreement by and between a leasing corporation or the treasurer of state, and a corporate trustee or trustees, which may be a trust company or bank located in or outside of the state of Iowa that has the powers of a trust company. The trust agreement may pledge the revenues to be received by the leasing corporation, may contain provisions for protecting and enforcing the rights and remedies of the holders of obligations as reasonable and proper and not in violation of law, including provisions that have been authorized to be included in any bond resolution of the leasing corporation, and may restrict the individual right of action by holders of obligations. A trust agreement may contain other provisions the treasurer of state deems reasonable and proper for the security of the holders of obligations. Expenses incurred in carrying out the trust agreement may be treated as a part of the cost of the operation of the leasing program.**

**Sec. 18.* NEW SECTION. *12.54 PAYMENT OF OBLIGATIONS — NONLIABILITY OF STATE.*

Obligations are obligations of a leasing corporation and not of the state of Iowa. Each obligation shall state that it represents and constitutes a debt of the leasing corporation, but not of the state of Iowa within the meaning of any constitutional or statutory limitation, and that it does not constitute a pledge of the full faith and credit of the state of Iowa. The obligations shall not grant to the owners or holders of the obligations the right to have the state levy taxes or appropriate funds for the payment of the principal or interest on the obligations. The obligations are payable, and shall state that they are payable, solely from the revenues pledged for their payment in accordance with the bond resolution.

*This division does not authorize a leasing corporation or the treasurer of state or any department, board, commission, or other agency to create an obligation of the state within the meaning of the constitution or laws of Iowa.**

**Sec. 19.* NEW SECTION. *12.55 PLEDGE OF REVENUES.*

A leasing corporation may fix, revise, charge, and collect fees and may contract with any person to do so.

*The leasing corporation shall pledge the revenues from authorized leases as security for the issue of obligations relating to the leases. A pledge is valid and binding from the time when the pledge is made, the revenues pledged by the leasing corporation are immediately subject to the lien of the pledge without physical delivery of the pledge or further act, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the leasing corporation, irrespective of whether the parties have notice of the lien. The bond resolution or a financing statement, continuation statement, or other instrument by which the leasing corporation's interest in revenues is assigned need not be filed or recorded in public records in order to perfect the lien against third parties except that a copy of it shall be filed in the records of the leasing corporation and with the treasurer of state.**

**Sec. 20.* NEW SECTION. *12.56 FUNDS FOR SALES OF OBLIGATIONS AS TRUST FUNDS — APPLICATION OF FUNDS.*

Moneys received by or on behalf of a leasing corporation under this division, whether as proceeds from the sale of obligations or as revenues, are trust funds to be held and applied as provided in this division. An officer with whom or a bank or trust company with which the moneys are deposited shall act as trustee of the moneys and shall hold and apply the moneys

*Item veto; see message at end of the Act

*for the purposes of this division subject to rules that this division and the bond resolution authorizing the obligations of an issue may provide.**

**Sec. 21.* NEW SECTION. *12.57 RIGHTS OF HOLDERS OF OBLIGATIONS.*

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

**Sec. 22.* NEW SECTION. *12.58 REFUNDING BONDS — PURPOSE — PROCEEDS — INVESTMENT OF PROCEEDS.*

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

2. The proceeds of obligations issued for the purpose of refunding outstanding obligations may, in the discretion of the leasing corporation, be applied to the purchase or retirement at maturity or redemption of the outstanding obligations either on their earliest or a subsequent redemption date or upon the purchase or at the maturity of the obligations and may, pending an application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on a date determined by the leasing corporation.

3. Any escrowed proceeds, pending their use, may be invested and reinvested in direct obligations of the United States of America, maturing at times as appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding obligations to be refunded. The interest, income, and profits, if any, earned or realized on an investment may also be applied to the payment of the outstanding obligations to be refunded.

*4. Refunding obligations are subject to this division in the same manner and to the same extent as other obligations issued pursuant to the division.**

**Sec. 23.* NEW SECTION. *12.59 ANNUAL REPORT.*

*The treasurer shall annually provide a report to the governor and the members of the general assembly of the volume and nature of financing leases entered into by state agencies under this division.**

**Sec. 24.* NEW SECTION. *12.60 OBLIGATIONS AS LEGAL INVESTMENTS.*

*Banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, insurance companies and insurance associations, and executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, moneys, or other funds belonging to them or within their control in obligations of a leasing corporation.**

**Sec. 25.* NEW SECTION. *12.61 NOTICE.*

A leasing corporation shall publish a notice of its intention to issue obligations in a newspaper published in and with general circulation in the state. The notice shall include a statement of the maximum amounts of obligations proposed to be issued, and in general terms, what receipts will be pledged to pay bond service charges on the obligations. An action which questions the legality or validity of the obligations or the power of the leasing corporation to issue

*Item veto; see message at end of the Act

*the obligations or the effectiveness or validity of any proceedings adopted for the authorization or issuance of the obligations shall not be brought after thirty days from the date of publication of the notice.**

**Sec. 26.* NEW SECTION. *12.62 LIBERAL CONSTRUCTION OF DIVISION.*

*This division, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purpose.**

**Sec. 27.* NEW SECTION. *12.63 EXERCISE OF POWERS AS ESSENTIAL PUBLIC FUNCTION — EXEMPTION FROM TAXATION.*

*The exercise of the powers granted by this division will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and as the operation and maintenance of a program by the treasurer of state and leasing corporations organized under this division will constitute the performance of an essential public function. Income of a leasing corporation is exempt from all taxation in the state. Property of a leasing corporation, acquired or held for the purposes of this division, is exempt from all taxation and special assessments in the state if the property was exempt for the fiscal year in which the property was first acquired or held and the property shall continue to be exempt for subsequent fiscal years. Property of a leasing corporation, acquired or held for the purpose of this division, is subject to taxation and special assessments in the state if the property was taxable for the fiscal year in which the property was first acquired or held and the property shall continue to be taxable for subsequent fiscal years.**

Sec. 28. Section 18.12, Code 1989, is amended by adding the following new subsections after subsection 14 and renumbering the subsequent subsection:

NEW SUBSECTION. 15. Prepare quarterly status reports for all ongoing capital projects of all state agencies, as capital project and state agency are defined in section 8.3A, and submit the status reports to the legislative capital projects committee.

NEW SUBSECTION. 16. Call upon any state agency, as defined in section 8.3A, for assistance the director may require in performing the director's duties under subsection 15 regarding capital project status reports* *and under section 18.12A regarding the inventory of state property**. All state agencies, upon the request of the director and with the approval of the director of the department of management, shall assist the director and are authorized to make available to the director any existing studies, surveys, plans, data, and other materials in the possession of the state agencies which are relevant to the director's duties.

**Sec. 29.* NEW SECTION. *18.12A INVENTORY OF STATE PROPERTY.*

1. The director shall prepare and maintain a correct and current inventory of all real property and equipment, the acquisition or lease of which would constitute a capital project, as defined in section 8.3A, which is owned or leased by or held in trust for the state of Iowa or any state agency, as defined in section 8.3A. In addition, the director shall prepare and maintain the status on additional data elements relating to the real property and equipment designated by the department of revenue and finance which are necessary for use by the department of revenue and finance in preparation of the comprehensive annual financial report of the state. The inventory shall be indexed by location and control of the real property. The inventory shall include but not be limited to the following:

a. The location and legal description of the real property.

b. The source of acquisition of the real property.

c. Improvements or construction relating to the real property.

d. A functional description of the real property.

e. The condition and age, expected life cycle, and maintenance needs of buildings on the real property.

f. If land or buildings are to be vacated, the current use of the land or buildings, and other possible uses for the land or buildings.

g. The continued need for and availability of alternatives to meet the need for the land or buildings.

*Item veto; see message at end of the Act

h. The state agency in control of the real property.

i. The location, source of acquisition, condition and age, expected life cycle, and maintenance needs of the equipment and the state agency in control of it.

2. The director shall establish procedures requiring each state agency to report all acquisitions of real property, improvements or construction relating to real property, and dispositions of real property and all acquisitions and dispositions of equipment, and the reporting of the additional data elements necessary for the department of revenue and finance to prepare the financial report, in order that the inventory can be promptly corrected and accurately maintained. Except in an emergency due to an act of nature or insurrection, an acquisition or disposition of real property or equipment shall not be made, construction shall not be commenced, funds or valuable consideration shall not be given, and a final document of conveyance of real property shall not be transmitted until the state agency has complied with the procedures required pursuant to this subsection for reporting such an acquisition or disposition of real property or construction or such an acquisition or disposition of equipment and until the director has issued to the state agency a written acknowledgement of the receipt of such report. The director shall issue the written acknowledgement of the receipt of the report within five days of the receipt of the report. Nothing in this subsection requires nor in the procedures established by the director shall require prior notification to the director of the state agency's intent to apply or the state agency's applying for federal, private or nonstate funds for a capital project.

*3. The director shall prepare and submit annually to the governor, the department of revenue and finance, and the legislative capital projects committee a report of the acquisitions and dispositions of real property and equipment and improvements and construction relating to real property subject to this section.**

Sec. 30. NOTIFICATION OF RECEIPT OF NONSTATE FUNDS. All constitutional and statutory offices, administrative departments, and independent agencies, except those institutions governed by chapter 262, shall notify the department of management, the chairpersons, vice chairpersons, and ranking members of the senate and house of representatives' committees on appropriations and of the appropriate joint appropriations subcommittees, and the legislative fiscal bureau of any request for, approval of, or an award of federal or other nonstate funds, or of the loss of federal or other nonstate funds during the fiscal period beginning October 1, 1988, and ending September 30, 1989. The notification shall be made no later than December 15, 1989, and shall include the name of the grantor and of the funding grant, the estimated amount of funds, and the planned expenditures for the funds. Institutions governed by chapter 262 shall provide this notification only for those awards of funds which specifically require a commitment of additional state resources.

Sec. 31. 1985 Iowa Acts, chapter 33, section 129, is repealed.

Approved June 3, 1989, except those items which I hereby disapprove and which are designated as section 7 in its entirety; section 3, subsections d and g; that portion of section 4 which I have bracketed in ink and is initialed by me; section 8 in its entirety; sections 9 through 27, in their entirety; section 3, subsection f; that portion of section 28 which I have bracketed in ink and is initialed by me; and section 29 in its entirety. 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 546, an Act relating to budgetary matters by creating a legislative capital projects committee to review proposed capital projects and requires the Governor to establish criteria for evaluating and funding the projects; requiring the use of the most recent estimate of the Revenue Estimating Conference in the budget process; establishing a coordinated leasing program; requiring notification to the Department of Management and appropriations committees of any request for or loss of federal or nonstate funds; and extending the lottery.

Senate File 546 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 7, in its entirety. By requiring the Governor to use the most recent estimate of the Revenue Estimating Conference "without revision", this provision would prevent me from presenting a budget which reflects proposed changes in current revenue streams. If the Governor had no ability to propose changes in revenue from that forecast by the Revenue Estimating Conference, it would be impossible to propose tax cuts or adjustments in revenues should such appear necessary. Clearly, the law now requires the Governor to base the budget on the Revenue Estimating Conference's projections and that will continue to be done. But explicit adjustments in those projections based on proposed revenues must be permitted.

I am unable to approve the item designated as Section 3, subsections d and g; the designated portion of Section 4, referring to the definition of "capital project"; and Section 8, in its entirety. While the concept of coordinated capital project planning and budgeting is important, these provisions relating to the evaluation and review of proposed capital projects would impose an inappropriate intrusion on executive branch administrative responsibilities.

I am unable to approve the items designated as Sections 9 through 27, in their entirety. These items would establish the Iowa Leasing Program Act and grant the State Treasurer coordination and oversight responsibilities of leasing arrangements in the executive branch. The creation of the Leasing Program would reduce the current powers of the Department of General Services to coordinate lease arrangements through its procurement responsibilities. The added bureaucracy created by this program would confuse the administration of this increasingly critical area.

Further, the Treasurer's Office was established as a separate elected position to assure its independence in the investment of state funds. Extending the Treasurer's role in the fundamental purchasing and procurement decisions of the executive branch would destroy that independence.

I am unable to approve the item designated as Section 3, subsection f; the designated portion of Section 28; and the item designated as Section 29, in its entirety. These provisions require the Department of General Services to maintain a statewide inventory of property, to receive reports from all state agencies regarding any addition or deletion from that inventory, and to report that inventory to the legislature. The legislature did not provide any resources for the Department of General Services to assume the significant responsibilities created by this item. Each agency now is required to maintain separate inventories of property in a manner adequate to be incorporated in the Comprehensive Annual Financial Report of the State. Until adequate resources are provided to consolidate this function in the Department of General Services, each agency will have to continue to undertake this responsibility.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 546 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 299

CITY DEVELOPMENT

H.F. 313

AN ACT relating to voluntary annexation by authorizing a city to provide for a transition for imposition of city taxes within an annexed area and by reducing the common boundary of an adjoining property and certain designated municipal property, and providing an effective date.

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

Section 1. Section 368.1, subsection 11, Code 1989, is amended to read as follows:

11. "Adjoining" means having a common boundary for not less than ~~two hundred~~ fifty feet. Land areas may be adjoining although separated by a roadway or waterway.

Sec. 2. Section 368.7, unnumbered paragraphs 2 and 3, Code 1989, are amended to read as follows:

An application for annexation of territory not within the urbanized area of a city other than the city to which the annexation is directed must be approved by resolution of the council which receives the application. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. Upon receiving approval of the council, the city clerk shall file a copy of the resolution, map, and legal description of the territory involved with the state department of transportation. The city clerk shall also file a copy of the map and resolution with the county recorder and secretary of state. The annexation is completed upon acknowledgment by the secretary of state that the secretary of state has received the map and resolution.

An application for annexation of territory within the urbanized area of a city other than the city to which the annexation is directed must be approved both by resolution of the council which receives the application and by the board. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. The annexation is completed when the board has filed copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

Sec. 3. Section 368.11, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. In the discretion of a city council, a provision for a transition for the imposition of city taxes against property within an annexation area. The provision shall not allow a greater exemption from taxation than the tax exemption formula schedule provided under section 427B.3, paragraphs "a" through "e", and shall be applied in the levy and collection of taxes. The provision may also allow for the partial provision of city services during the time in which the exemption from taxation is in effect.

Sec. 4. Section 403.17, subsection 20, Code 1989, is amended to read as follows:

20. "Economic development area" means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises. Such designated area shall not include land which is part of a century farm.

Sec. 5. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 5, 1989

CHAPTER 300

COLLEGE AID COMMISSION

H.F. 644

AN ACT relating to institutions, programs, and funds for which the college aid commission acts as a guaranteeing agency.

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

Section 1. Section 261.1, subsection 6, Code 1989, is amended to read as follows:

6. ~~Six~~ Seven additional members to be appointed by the governor. One of such members shall be selected to represent private colleges, private universities and private junior colleges located in the state of Iowa. When appointing such one member, the governor shall give careful consideration to any person or persons nominated or recommended by any organization or association of some or all private colleges, private universities and private junior colleges located in the state of Iowa. One such member shall be enrolled as a student at a board of regents institution, merged area school, or accredited private institution. One such member shall be a representative of a lending institution located in this state. One such member shall be a representative of the Iowa student loan liquidity corporation. The other three such members, none of whom shall be official board members or trustees of an institution of higher learning or of an association of such institutions, shall be selected to represent the general public.

Sec. 2. Section 261.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Approve transfers from the scholarship and tuition grant reserve fund under section 261.20.

Sec. 3. Section 261.12, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. 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 twelve semester hours for the fall and spring semesters, or the trimester or quarter equivalent, shall be equal to the amount of a tuition grant that would be paid to a full-time student times a number which represents twelve semester hours, or the trimester or quarter equivalent, divided by the number of hours in which the part-time student is actually enrolled.

Sec. 4. NEW SECTION. 261.20 SCHOLARSHIP AND TUITION GRANT RESERVE FUND.

1. A scholarship and tuition grant reserve fund is created to assure that financial assistance will be available to all students who are awarded scholarships or tuition grants through programs funded under this chapter. The fund is created as a separate fund in the state treasury, and moneys in the fund shall not revert to the general fund unless, and then only to the extent that, the funds exceed the maximum allowed balance.

2. The maximum balance of the scholarship and tuition grant reserve fund is an amount equal to one percent of the funds appropriated to the scholarship and tuition grant programs under section 261.25 during the preceding fiscal year. The moneys in the fund shall be placed in separate accounts within the fund, according to the source and purpose of the original appropriation. Moneys in the various accounts shall only be used to alleviate a current fiscal year shortfall in appropriations for scholarship or tuition grant programs that have the same nature as the programs for which the moneys were originally appropriated. At the conclusion of a fiscal year, any surplus appropriations made to the commission for scholarship or tuition grant programs are appropriated to the scholarship and grant reserve fund in an amount equal to the amount of the surplus or the amount necessary to achieve the maximum balance, whichever amount is less.

3. Transfers of moneys from the scholarship and tuition grant reserve fund to appropriation accounts in which there is a current fiscal year shortfall may be made only with the prior written approval of the governor. At least two weeks before moneys are transferred from

the fund, the commission shall notify the chairpersons of the standing appropriations committees of the general assembly and the co-chairpersons of the education appropriations subcommittee of the proposed transfer. The notice shall include information concerning the amount of and reason for the proposed transfer. The chairpersons shall be given at least two weeks to review and comment on the proposed transfer before the transfer can be made.

4. The commission shall annually report to the general assembly the methodology and manner in which the commission makes the determination of awards for programs for which funds are appropriated under section 261.25.

Sec. 5. Section 261.35, subsections 4 and 5, Code 1989, are amended to read as follows:

4. "Higher Education Act of 1965" means the federal Higher Education Act of 1965, as amended and codified in 20 U.S.C. § 1071 et seq.

5. "Eligible borrower" means a person, or the parent of a person, who is a resident of this state and is enrolled or will be enrolled at an eligible institution within or without the state or who is a nonresident of this state and is enrolled or will be enrolled at an eligible institution within the state, or who is a resident of ~~a contiguous~~ another state and is borrowing from an Iowa-based eligible lender and is enrolled or will be enrolled at an eligible institution within or without the state, or who has previously received a loan guaranteed by the commission. All eligible borrowers must meet the eligibility requirements established by the commission. The commission shall establish the qualifications for being a resident of this state; however, the qualifications shall not be more stringent than those established by the state board of regents.

Sec. 6. Section 261.37, subsections 1, 5, and 7, Code 1989, are amended to read as follows:

1. To review the Iowa guaranteed ~~student~~ loan and the Iowa guaranteed loan payment ~~program~~ programs.

5. To ~~promulgate~~ adopt rules pursuant to chapter 17A to implement the provisions of this division including establishing standards for educational institutions, lenders, and individuals to become eligible institutions, lenders, and borrowers. ~~The~~ Notwithstanding any contrary provisions in chapter 537, the rules and standards established shall be consistent with the requirements provided in the Higher Education Act of 1965.

7. To establish an effective system for the collection of delinquent loans, including the adoption of an agreement with the Iowa department of revenue and finance to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a guaranteed ~~student~~ or parental loan made under this division. The commission shall adopt rules under chapter 17A necessary to assist the department of revenue and finance in the implementation of the student loan setoff program as established under section 421.17, subsection 23.

Sec. 7. Section 261.38, subsection 2, Code 1989, is amended to read as follows:

2. The general assembly shall appropriate moneys from the loan reserve account of the commission to the college aid commission for operating costs of the guaranteed ~~student~~ loan program. Moneys appropriated from the loan reserve account for operating costs of the guaranteed ~~student~~ loan program that are unencumbered or unobligated on June 30 of a fiscal year shall revert to the loan reserve account of the commission.

Sec. 8. Section 261.42, Code 1989, is amended to read as follows:

261.42 SHORT TITLE.

This division shall be known and may be cited as the "Iowa Guaranteed ~~Student~~ Loan Program".

Sec. 9. NEW SECTION. 261.43 ACTIONS NOT BARRED.

No lapse of time shall be a bar to any action to recover on any loan guaranteed by the commission.

Sec. 10. NEW SECTION. 261.44 GUARANTEED LOAN PAYMENT PROGRAM.

An* guaranteed loan payment program is established to be administered by the commission. The purpose of the program is to assist individuals to enter professions in areas of employment critical to the welfare of the citizens of the state. The commission shall adopt rules pursuant to chapter 17A to provide for the administration of the program. Moneys appropriated for the program shall be used to repay loans to students demonstrating the greatest financial need and shall not be prorated among all qualified applicants. If moneys appropriated are insufficient to repay loans to all qualified applicants, priority shall be given to repayment of debts under the Iowa guaranteed student loan program.

Sec. 11. Section 261.45, Code 1989, is amended to read as follows:

261.45 ~~GUARANTEED~~ TEACHER LOAN ~~PAYMENT PROGRAM~~ PAYMENTS.

~~There is established a guaranteed student loan payment program to be administered by the commission.~~ An individual ~~who meets all of the following conditions~~ is eligible for reimbursement payments under the guaranteed loan payment program if the individual meets all of the following conditions:

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

2. ~~Has~~ As of the beginning of a school year, has an outstanding debt with an eligible lender under the Iowa guaranteed student loan program ~~as of the beginning of a school year~~ or the Iowa supplemental loans for students program, has parents with an outstanding debt with an eligible lender under the Iowa PLUS loan program, or has an outstanding debt under the Stafford loan program, the supplemental loans for students program, or the PLUS loan program.

3. Has never defaulted on a loan guaranteed by the commission or by the federal government.

4. Teaches one or more of the following during that school year:

a. A sequential mathematics course at the advanced algebra level or higher.

b. A chemistry, advanced chemistry, physics, or advanced physics course.

5. Graduated from college after January 1, 1983, with a major in mathematics or science.

~~The commission shall adopt rules under chapter 17A to provide for the administration of this program.~~

~~There is appropriated from the general fund of the state to the Iowa college aid commission, the sum of eighty-five thousand dollars, or as much thereof as is necessary, for the fiscal year beginning July 1, 1987 and each succeeding fiscal year, to make the reimbursement payments required under this section.~~

~~Maximum~~ The maximum annual reimbursement ~~payments~~ payment to an eligible teacher for loan repayments made during a school year ~~shall be equal to~~ is one thousand dollars or the remainder of a the teacher's loan, whichever is less. Total payments for an eligible teacher shall not exceed six thousand dollars. If a teacher fails to complete a year of instruction in a course listed in subsection 4, the teacher shall not be reimbursed for loan repayments made during that school year.

The commission may sign contracts with eligible students at or after the time of loan origination to assure loan repayment.

Sec. 12. Section 261.46, Code 1989, is amended to read as follows:

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~~ the guaranteed loan payment program if the ~~individual~~ therapist:

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.

*According to enrolled Act

4. ~~Has~~ For the third and fourth years of an occupational therapist program, has an outstanding debt with an eligible lender under the Iowa guaranteed student loan program~~,~~ or the Iowa supplemental loans for students 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~~ or has an outstanding debt under the Stafford loan program, the supplemental loans for students program, or the PLUS loan program.

~~The commission shall adopt rules under chapter 17A to provide for the administration of the program.~~ The maximum annual reimbursement payment to an eligible occupational therapist for loan payments made during a year for loans qualifying under subsection 4 ~~shall be equal to~~ is four thousand dollars or the remainder of ~~a~~ the therapist's 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~~ therapist shall not be reimbursed for payments made during that year.

The commission may sign contracts with eligible students at or after the time of loan origination to assure loan repayment.

Sec. 13. NEW SECTION. 261.47 NURSING LOAN PAYMENTS.

An individual is eligible for reimbursement payments under the guaranteed loan payment program if the individual meets all of the following conditions:

1. Is a registered nurse or a licensed practical nurse employed on a full-time basis in practice as a registered nurse or licensed practical nurse, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, in a hospital, state agency, agency of a political subdivision, or agency delivering home-based health care, or a health care facility in this state and, in subsequent years, anywhere in this state.

2. As of the beginning of the state fiscal year, has an outstanding debt with an eligible lender under the Iowa guaranteed student loan program or the Iowa supplemental loans for students program, has parents with an outstanding debt with an eligible lender under the Iowa PLUS loan program, or has an outstanding debt under the Stafford loan program, the supplemental loans for students program, or the PLUS loan program.

3. Has never defaulted on a loan guaranteed by the commission or the federal government.

4. Has graduated from an approved registered nurse or licensed practical nurse program on or after April 1, 1989.

The maximum annual reimbursement payment to an eligible registered nurse or licensed practical nurse for loan payments made during a year for loans qualifying under subsection 2 is one thousand dollars or the remainder of the individual's loan, whichever is less.

Total payments under this section are limited to a six-year period and shall not exceed six thousand dollars. If a registered nurse or licensed practical nurse fails to complete a year of employment in practice, the individual shall not be reimbursed for payments made during that year.

The commission may sign contracts with eligible students at or after the time of loan origination to assure loan repayment.

Sec. 14. NEW SECTION. 261.48 MINORITY TEACHER LOAN PAYMENTS.

An individual is eligible for reimbursement payments under the guaranteed loan payment program if the individual meets all of the following conditions:

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

2. Is a member of a minority.

3. Has never defaulted on a loan guaranteed by the commission.

4. Has an outstanding debt with an eligible lender under the Iowa guaranteed student loan program or the Iowa supplemental loans for students program, has parents with an outstanding debt with an eligible lender under the Iowa PLUS loan program, or has an outstanding debt under the Stafford loan program, the supplemental loans for students program, or the PLUS loan program.

5. Graduated from college after January 1, 1989.

The maximum annual reimbursement payment to an eligible teacher under this section for loan repayments made during a school year is one thousand dollars or the remainder of the teacher's loan, whichever is less. Total payments under this section for an eligible teacher are limited to a six-year period and shall not exceed six thousand dollars. If a teacher fails to complete a year of employment on a full-time basis as provided in subsection 1, the teacher shall not be reimbursed for loan payments made during that school year. If the number of eligible applicants exceeds the funding available, the commission may accept applicants based on academic scholarship.

The commission may sign contracts with eligible students at or after the time of loan origination to assure loan repayment.

A teacher receiving a reimbursement payment under this section is not eligible for a reimbursement payment under section 261.45.

Sec. 15. NEW SECTION. 261.49 NATIONAL GUARD LOAN PAYMENTS.

A member of the national guard is eligible for reimbursement payments under the guaranteed loan payment program if the individual meets all of the following conditions:

1. Is a member of the national guard who has completed basic military training, or is participating in the reserve officer training corps simultaneous-membership program as an advanced cadet.

2. Has never defaulted on a loan guaranteed by the commission.

3. Is an Iowa resident whose membership in the Iowa national guard is in good standing.

4. Has an outstanding debt with an eligible lender under the Iowa guaranteed student loan program or the Iowa supplemental loans for students program, has parents with an outstanding debt with an eligible lender under the Iowa PLUS loan program, or has an outstanding debt under the Stafford loan program, the supplemental loans for students program, or the PLUS loan program.

The maximum annual reimbursement to an eligible national guard member during a year for loans qualifying under subsection 4 is two thousand dollars or the remainder of the member's loan, whichever is less. Total payments for an eligible national guard member are limited to a five-year period and shall not exceed a total of ten thousand dollars.

If a national guard member becomes separated from the national guard, the member shall not be reimbursed for payments made during the year that the member is separated from the national guard.

The commission may sign contracts with eligible students at or after the time of loan origination to assure loan repayment.

Sec. 16. NEW SECTION. 261.50 PHYSICIAN LOAN PAYMENTS.

A physician is eligible for reimbursement payments under the guaranteed loan payment program if the physician meets all of the following conditions:

1. Is licensed to practice medicine under chapter 148 or 150A.

2. Has never defaulted on a loan guaranteed by the commission.

3. Agrees to practice in an eligible community of fewer than five thousand population for a minimum period of four consecutive years.

4. Has an outstanding debt with an eligible lender under the Iowa guaranteed student loan program or the Iowa supplemental loans for students program, has parents with an outstanding debt with an eligible lender under the Iowa PLUS loan program, or has an outstanding debt under the Stafford loan program, the supplemental loans for students program, or the PLUS loan program.

The maximum annual reimbursement payment to an eligible physician during a year for loans qualifying under subsection 4 is five thousand dollars or the remainder of the loan, whichever is less. Total payments for an eligible physician are limited to a four-year period and shall not exceed a total of twenty thousand dollars.

If a physician fails to practice in an eligible community for a year or portion of a year during the four-year period, the individual shall not be reimbursed for payments made during that year.

The commission may sign contracts with eligible students at or after the time of loan origination to assure loan repayment.

Sec. 17. Section 261.54, unnumbered paragraphs 2 and 3, Code 1989, are amended to read as follows:

There is created a science and mathematics loan repayment fund for deposit of payments made by recipients. Payments made by recipients of the loans shall be transferred ~~on each June 30~~ quarterly from the fund created in this section to the general fund of the state. Payments remaining in the fund on each June 30 shall be transferred to the general fund of the state.

The interest rate collected on the loan shall be equal to the interest rate being collected by an eligible lender under the guaranteed ~~student~~ loan payment program.

Sec. 18. Section 261.81, Code 1989, 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, and the part-time or full-time summer employment of students registered for classes at Iowa postsecondary institutions during the succeeding school year, 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, the department of natural resources, the department of agriculture and land stewardship, or the department of corrections, or is part of the Iowa heritage corps, if an Iowa heritage corps is created by the general assembly. ~~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 or affect existing contracts for services.

Sec. 19. Section 261.84, subsection 3, Code 1989, is amended to read as follows:

3. Demonstrate financial need. A student's need shall be determined on the basis of a need analysis system approved for use by the commission or under the federal work-study program.

Sec. 20. NEW SECTION 261.86 LEGISLATIVE INTENT.

It is the intent of the general assembly to renew the ethic of civic obligation and spread the responsibilities of citizenship more equitably by expanding opportunities to Iowa's young people to pursue educational, vocational, and professional objectives after secondary school and by mobilizing the same young people to deal with pressing social problems in the state including health, education, literacy, child care, hunger, adequate housing, homelessness, and conservation of natural resources.

Sec. 21. NEW SECTION. 261.87 DEFINITIONS.

1. "Academic semester" means an academic semester as defined in rules adopted by the college aid commission.

2. "Accredited private institution" means an institution of higher education as defined in section 261.9, subsection 5.

3. "Commission" means the college aid commission.

4. "Cost of attendance" means the cost of tuition, room, and board at a public higher education institution attended by a volunteer or, in the case of attendance at an accredited private institution, the highest cost for tuition, room, and board for attendance at a regents' university.

5. "Department" means the department of human services.

6. "Eligible higher education institution" means an accredited private institution, merged area school, or regents' university.

7. "Merged area school" means an area school as defined under section 280A.2, subsection 10.

8. "Regents' university" means an institution governed by the state board of regents, as defined under section 262.7, subsections 1, 2, and 3.

9. "Volunteer" means a person who meets the eligibility requirements established by the commission and who has been accepted for participation in the Iowa work for college program.

10. "Voucher" means a service and education opportunity voucher issued by the commission.

Sec. 22. NEW SECTION. 261.88 IOWA WORK FOR COLLEGE PROGRAM.

An Iowa work for college program is established to be administered jointly by the college aid commission and the department of human services. The program shall be administered under the following conditions:

1. The commission, with the assistance of the department, shall contract with public or nonprofit entities to provide work opportunities for eligible volunteers. The commission, the department, and the public or nonprofit entities may be allotted up to two percent of the funds appropriated for administrative purposes and expenses of the program. The commission shall adopt rules and forms, as needed, for the administration of the program.

2. The commission shall establish guidelines and procedures for application and acceptance to the program. Guidelines established shall be based on a person's financial need, the person's inability to attend college without acceptance into the program, or the likelihood that the person would incur heavy debt repayment obligations if the person attended college, given the person's anticipated financial assistance alternatives.

3. Program volunteers shall receive stipends equivalent to seven hundred dollars per month for each month of work completed under the program. The state shall contribute five hundred dollars per month and the employer shall either contribute two hundred dollars per month to the volunteer's stipend or provide the volunteer with room and board. The employer shall also contribute one hundred dollars per month to the education trust fund created pursuant to section 261.90. The volunteer may elect to defer receipt of the employer's stipend contribution and receive a single lump sum stipend amount upon completion of the period of service under the program.

4. Upon completion of the service, the volunteer shall receive vouchers entitling the volunteer to educational benefits. Each voucher shall have a value equal to the cost of the volunteer's attendance for one academic semester at an eligible higher education institution. The volunteer participant shall receive four vouchers for each year of service completed. The vouchers may be redeemed at an eligible higher education institution. Only one voucher may be redeemed per semester of attendance by a program participant. Vouchers must be redeemed within ten years of the date of issuance and are not transferable.

5. Volunteers may be assigned work for any public or nonprofit entity for a period of either one or two years. The volunteers shall agree to make a full-time commitment to a work assignment as approved by the commission and the department. The volunteers shall be available to work at least forty hours per week without regard to regular working hours and at all times during their periods of work, except for authorized periods of leave. The work assignments shall not be made to replace regular employees or for participation in religious or political activities.

6. The public or nonprofit entity to which an individual is assigned shall supervise and direct that individual in the same manner as other employees and shall pay for all necessary work materials, supplies, and transportation costs. The state shall provide general liability and workers compensation coverage for the volunteers, under chapter 25A, as if the volunteers were

state employees. The volunteers are exempt from chapter 96, under section 96.19, subsection 6, paragraph "a", subparagraph (6), subpart (e), and are exempt from chapters 19A, 97A, and 400.

Sec. 23. NEW SECTION. 261.89 ACCEPTANCE AND REDEMPTION OF VOUCHERS.

Eligible higher education institutions shall accept vouchers from students enrolled in the institutions and shall remit any vouchers received to the commission. The commission shall transmit an amount to the institution which equals the cost of attendance for the current semester. If a student discontinues attendance before the end of a semester, the entire amount of the refund that the student would be eligible to receive if the student had paid the tuition, room, and board, shall be repaid to the commission and shall revert to the trust fund created under section 261.90. The commission shall issue the student a voucher equal in value to the amount of the refund received by the trust fund. The commission shall redeem the value of each voucher from the employer contributions for that student, in accordance with the proportion that the voucher is to total number of vouchers earned by the student, and from the Iowa work for college funds which are appropriated by the general assembly and deposited into the trust fund under section 261.90.

Sec. 24. NEW SECTION. 261.90 IOWA COLLEGE TRUST FUND.

The Iowa college trust fund is created as a repository for deposits made by employers under the work for college program for volunteers under that program, state appropriations for the work for college program, and state appropriations and other moneys deposited into the trust fund for the education savings program. The fund is created as a separate fund in the state treasury, and any moneys remaining in the fund at the end of each fiscal year shall not revert to the general fund, notwithstanding section 8.33, but shall remain in the Iowa college trust fund. Interest or other income earned by the fund shall be deposited in the fund. Moneys deposited by employers of volunteers in the work for college program shall be deposited and accounted for in the name of the volunteer for whom the money is deposited. Moneys deposited in the name of a person named by the trustor under the education savings program shall be accounted for separately from moneys deposited for the work for college program. Money in the fund may be distributed by the college aid commission to carry out the duties of administration of the work for college program and the education savings program and moneys in the fund are appropriated for those purposes.

Sec. 25. NEW SECTION. 261.91 EDUCATION SAVINGS PROGRAM.

1. An education savings program is established to be administered by the college aid commission. The program will provide funds to match moneys in education savings accounts established for qualifying individuals.

Not later than April 15 of each year, the commission shall receive applications for matching funds from trustors of education savings accounts. Matching funds shall be granted by the commission based upon the moneys appropriated by the general assembly for the program and the income of the applicants. Each applicant shall submit evidence to the commission of the amount of money deposited in the applicant's education savings account during the preceding calendar year and the applicant's adjusted gross income during the preceding calendar year and other financial information deemed necessary by the commission.

The commission shall categorize the applicants based upon the income criteria and shall distribute matching funds, to the extent that the commission determines is appropriate to the category and to the extent that moneys are available for the program, on the following basis:

a. For an applicant whose income is less than one hundred fifty percent of the poverty level established by the federal office of management and budget, one dollar for each dollar deposited in an education savings account.

b. For an applicant whose income is between one hundred fifty and one hundred ninety-nine percent of the federal poverty level established by the federal office of management and budget, fifty cents for each dollar deposited in an education savings account.

c. For an applicant whose income is between two hundred and two hundred fifty percent of the federal poverty level established by the federal office of management and budget, twenty-five cents for each dollar deposited in an education savings account.

Matching funds for a year shall not exceed two thousand dollars if the beneficiary is not the trustor. If the beneficiary is the trustor, matching funds and funds contributed by the trustor shall not exceed two hundred dollars per year and the total matching funds and trustor contributions shall each not exceed two thousand dollars.

When the trustor submits evidence to the commission that distribution has been made from an education savings account and the distribution is used exclusively to pay certified eligible education expenses incurred by the trustor for the beneficiary, the college aid commission shall make distribution of moneys in the Iowa college trust fund that have been designated for the trustor in an amount not to exceed the difference between the certified eligible education expenses of the beneficiary for the year and the distribution from the education savings account.

When a beneficiary is no longer eligible for distribution of funds from an education savings account, any funds remaining in the Iowa college trust fund that have been designated for that beneficiary shall have the designation removed.

For the purposes of this subsection, an education savings account is a trust created or organized in the United States for the exclusive benefit of the one individual named by the trustor.

2. The trust must meet the following requirements:

a. The trustee must be a bank, credit union, savings and loan association, or a person who demonstrates to the satisfaction of the director of the department of revenue and finance that the manner in which the person will administer the trust will be consistent with the requirements of this section.

b. The trust funds shall not be invested in life insurance contracts.

c. The interest of the trustor in the balance of the trust shall be nonforfeitable.

d. The assets of the trust shall not be commingled with other property except in a common trust fund or a common investment fund.

e. The books and records of the trust shall be kept in accordance with this subsection using the tax year of the trustor and the tax year shall be specified in the governing instrument.

f. The trust shall be created to be an education savings account for the benefit of one named individual, and the date of birth of the named individual shall be specified. A trustor may establish only one trust under this subsection.

g. Contributions shall be accepted only from the trustor.

h. Contributions shall be accepted only in cash.

i. If the beneficiary is not the trustor, a balance in the account on the day after the day on which the beneficiary attains thirty years of age, or, if earlier, the date on which the beneficiary dies, shall be distributed on that date; ninety percent to the trustor and ten percent to the college aid trust fund established in section 261.90.

j. If the beneficiary is the trustor, a balance in the account on the day after the day on which the beneficiary attains sixty-five years of age, or, if earlier, the date on which the beneficiary retires or dies, shall be distributed on that date, ninety percent to the trustor, or the trustor's estate, and ten percent to the college aid trust fund established in section 261.90.

k. A beneficiary may be the named individual in only one education savings account.

3. For purposes of this section, the following definitions apply:

a. "Named individual" or "beneficiary" means an eligible individual specified in the written governing instrument of an education savings account.

b. "Eligible individual" means an individual who is the trustor of the account or is a son, daughter, stepson, or stepdaughter of the trustor of the account, or a descendant of any of the individuals listed.

4. For purposes of this section, a custodial account shall be treated as a trust if the assets of the account are held by a bank, credit union, savings and loan association, or another person who demonstrates to the satisfaction of the director, that the manner in which that person

will administer the account will be consistent with the requirements of this subsection, and if the custodial account would, except for the fact that it is not a trust, constitute an education savings account. In the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of the account shall be treated as the trustee of the account.

Sec. 26. Sections 261.36, 261.39, 261.40, 261.72, and 261.84, Code 1989, are amended by striking from the sections the words "student loan" and inserting in lieu thereof the word "loan payment".

Approved June 5, 1989

CHAPTER 301

RURAL COMMUNITY 2000 PROGRAM

H.F. 703

AN ACT relating to the financing for the rural community 2000 program and authorizing the issuance of bonds and notes by the Iowa finance authority for the program.

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

Section 1. Section 15.281, Code 1989, is amended to read as follows:

15.281 ~~COMMUNITY AND RURAL DEVELOPMENT LOAN~~ RURAL COMMUNITY 2000 PROGRAM.

This part shall be known as the "~~Community and Rural Development Loan~~ Rural Community 2000 Program".

Sec. 2. Section 15.282, Code 1989, is amended to read as follows:

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 or grants for traditional infrastructure, new infrastructure, and housing.

Sec. 3. Section 15.283, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 5. The department may establish an interest or principal payment program to pay up to all the interest or an amount of principal equal to the total interest amount due on municipal bonds sold by the local community as authorized by this section. The department may use part or all of the moneys available for traditional or new infrastructure assistance for the interest or principal payment program. The program shall only be available to communities which demonstrate a substantial local effort to assist in community development. The department shall develop rules defining "substantial local effort".

NEW SUBSECTION. 6. Notwithstanding subsection 4, for the fiscal year beginning July 1, 1989, all funds allocated under this program for housing shall be applied to programs under section 220.100, subsection 2, paragraphs "b" and "c".

Sec. 4. Section 15.284, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Any Iowa city or county is eligible to apply for loans or grants from this category. Along with the application, the city or county shall submit the following:

Sec. 5. Section 15.284, subsection 5, Code 1989, is amended to read as follows:

5. The interest rate ~~shall~~ for a loan, if assessed, may 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 or grant, to be paid as a lump sum ~~percent or a percent of the interest rate~~.

Sec. 6. Section 15.285, subsection 2, Code 1989, is amended to read as follows:

2. Any political subdivision, or nonprofit development corporation, is eligible to apply for loans or grants under this category.

Sec. 7. Section 15.285, subsection 5, Code 1989, is amended to read as follows:

5. The interest rate ~~shall~~ for a loan, if assessed, may 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 or grant, to be paid as a lump sum percent or a percent of the interest rate.

Sec. 8. Section 15.285, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The new infrastructure category shall include new infrastructure systems or networks of the state of Iowa, its agencies or instrumentalities which the governor, by executive order, finds and determines will provide local communities with the benefits of new infrastructure. Proceeds of bonds issued to fund costs of state new infrastructure shall not be considered moneys available under the program for purposes of the allocation under subsection (4) of section 15.283. Subsections (2), (3), and (5) of this section are not applicable to state new infrastructure.

Sec. 9. Section 15.286, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Any Iowa city, county, housing agency, or developer shall be eligible to apply for loans or grants under this category. Along with the application the person shall submit the following:

Sec. 10. Section 15.286, subsection 2, as amended by 1989 Iowa Acts, Senate File 112, section 8, is amended to read as follows:

2. Applicants must be seeking funds to assist in meeting the area needs of ~~low~~ lower and ~~moderate~~ very low income ~~persons~~ families in pursuit of decent housing or in meeting the purposes of the housing trust fund program as described in section 220.100, subsection 2.

Sec. 11. Section 15.286, subsection 3, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. For purposes of this section:

a. "Lower income families" means lower income families as defined in section 220.1, subsection 3.

b. "Very low income families" means very low income families as defined in section 220.1, subsection 4.

Sec. 12. Section 15.286, subsection 4, paragraph b, subparagraph (3), as amended by 1989 Iowa Acts, Senate File 112, section 9, is amended to read as follows:

(3) ~~A program~~ Programs to assist ~~low income persons and~~ lower income, the disadvantaged, or the disabled.

Sec. 13. Section 15.286, subsection 4, paragraph b, Code 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) A project involving a community development corporation or financial institution participating in a federal or state community reinvestment program.

Sec. 14. Section 15.286, subsection 5, Code 1989, is amended to read as follows:

5. Interest charged to applicants ~~shall~~ for a loan, may 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 or grant, to be paid as a lump sum percent, ~~or a percent of the interest rate~~.

Sec. 15. Section 15.286, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A housing project which receives funds under the rural community 2000 program, for the portion of the project receiving funding under the rural community 2000 program shall provide, as nearly as practical, that twenty-five percent of the housing units, as nearly as practical, be available for very low income families and seventy-five percent of the housing units be available for lower income families.

Sec. 16. Section 15.287, Code 1989, is amended to read as follows:

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 or grants made under this part.

Sec. 17. Section 15.288, Code 1989, is amended to read as follows:

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 or grants under the ~~community and rural development loan~~ rural community 2000 program. It is the intent of the general assembly that loans or grants 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. A city, county, political subdivision, or other municipal corporation, may repay a loan received through a state funded program by a tax levied for a debt service fund under sections 331.430, subsection 2, and 384.4, subsection 2.

*Sec. 18. *Section 98.35, Code 1989, 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.* Three 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. 19. NEW SECTION. 220.134 RURAL COMMUNITY 2000 FINANCING PROGRAM — DEFINITIONS FUNDING — BONDS AND NOTES.

1. The authority shall cooperate with the department of economic development in the creation, administration, and financing of the rural community 2000 financing program established in sections 15.281 through 15.287.

2. Terms used in this part have the meanings given them in sections 15.281 through 15.287 unless the context requires otherwise.

*Item veto; see message at end of the Act

3. The authority may issue its bonds and notes for the purpose of funding the revolving fund created under section 15.287 and for the purpose of refunding any of its bond or notes issued for purposes under this section.

4. The authority 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.

Sec. 20. NEW SECTION. 220.135 SECURITY — RESERVE FUNDS — PLEDGES — NONLIABILITY — IRREVOCABLE CONTRACTS.

1. The authority shall provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 220.134 that the principal of, premium, and interest on the bonds or notes are payable solely out of the pledged receipts as designated in the resolution, trust agreement, or other instrument authorizing the issuance of the bonds. Except for those tax revenues deposited in the revolving loan fund created under section 15.287, the state shall not appropriate tax revenues, directly or indirectly, to the authority for the payment of its bonds, notes, or obligations issued under section 220.134.

For purposes of this section, unless the context otherwise requires: "pledged receipt" means the revenues and receipts received or to be received by the authority from grants, gifts, or payments on guarantees made to the authority by any person, from accrued interest received from the sale of obligations, from income from the investment of special funds of the authority, including the revolving fund established under section 15.287, from the revenues and receipts deposited in the revolving fund established under section 15.287, and from any other moneys which are available for the payment of principal, premium, if any, or interest on the bonds, notes, or other obligation issued under section 220.134.

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 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. The resolution, trust agreement, or any other instrument by which a pledge is created does not need to be

recorded or filed under the uniform commercial code, chapter 554, 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 out of pledged receipts to the extent that the pledged receipts 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 moneys from, or to 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 rural community 2000 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 the bonds or notes, 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.

7. *The authority is authorized to use up to two and one-half percent of the moneys appropriated under section 98.35 to advance the costs of issuance of such bonds and notes and for administration of the rural community 2000 financing program.

8. The authority shall not issue more than thirty million dollars in bonds or notes in any one fiscal year and not more than a total dollar amount of one hundred fifty million shall be outstanding at any time. Bonds issued to fund new infrastructure of the state shall not exceed one-third of the maximum and shall not be limited as to the amount which may be issued in any one fiscal year.

Sec. 21. NEW SECTION. 220.136 ADOPTION OF RULES.

The authority shall adopt rules pursuant to chapter 17A to implement sections 220.134 and 220.135. The rules shall provide for additional objective criteria for the ranking of applications for grants. Not less than fifty percent weight shall be given to financial need, giving appropriate allowance to such factors as legal and economic capacity to incur debt, local tax levels, local effort, costs of vital services including sewer and water, unmet needs for basic services, per capita income, and the extent to which a project is calculated to improve the conditions which result in greater financial need. No grant shall be for less than ten percent or more than thirty percent of the reasonable cost of a project. The rules shall not impose restrictions on local costs in addition to chapter 384, division VI.

Sec. 22. Section 98.35 and section 220.134 shall only be implemented upon executive order of the governor.

Approved June 5, 1989, except the items which I hereby disapprove and which are designated as section 18 in its entirety; and section 20, subsection 7 in its entirety. 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 House File 703, an Act relating to the financing for the rural community 2000 program and authorizing the issuance of bonds and notes by the Iowa Finance Authority for the program.

House File 703 establishes a Rural Community 2000 program. This is the so-called CORDLAP program that was put in place last year. It is designed to provide financial assistance to local governments for infrastructure improvements. The bill also establishes the possibility of raising revenues through debt financing to augment the program. These bonds would be issued by the Iowa Finance Authority and would be secured by repayments of loans made under the program. However, the bill also earmarks up to three cents of the cigarette tax revenues received by the state to be used to back these bonds, if needed.

This bill appropriately expands the CORDLAP program by authorizing the use of grants as well as lower or no interest loans when providing assistance to local communities' infrastructure needs. Specifically, many communities in Iowa need grants from the state in order to develop new water systems or develop regional water systems because of the lingering drought.

House File 703 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 18, in its entirety and Section 20, subsection 7, in its entirety.

These provisions in House File 703 set a very dangerous financial precedent for this state. They would authorize the use of what are normally general fund revenues — cigarette taxes — to pay off debt obligated by the Iowa Finance Authority. Earmarking state revenues in such a fashion substantially reduces the flexibility of the state in dealing with changing financial needs. Moreover, tieing up general fund revenues to pay off debt is fiscally unwise and flies in the face of our efforts to restore the state's fiscal house to good order. Earmarking of cigarette taxes could just be the first move to finance debt through use of earmarked general fund tax revenues. Extended to its logical conclusion, such earmarking would hamstring the state's ability to respond to changing needs and force our children and grandchildren to pay off debts that we incur.

With this action, I am not eliminating the ability of the Rural Community 2000 program to obtain additional financing through revenue bonds. However, those revenue bonds would have to be backed solely by loan proceeds that are pledged by the recipient of the loans. In addition, we have separately authorized the Iowa Finance Authority to use bond bank authority to pool local bond issues to provide greater opportunities for financing essential local infrastructure projects.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 703 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 302

COMPENSATION FOR PUBLIC OFFICIALS, AND OTHER PERSONNEL MATTERS

S.F. 536

AN ACT relating to the compensation and benefits for public officials by specifying salary rates and ranges and related matters generally relating to the compensation of public officials and employees and providing an effective date.

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, 1989, 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:

..... $ 55,700

b. DEPARTMENT OF JUSTICE

Salary for the attorney general:

..... $ 69,600

c. OFFICE OF THE AUDITOR OF STATE

Salary for the auditor of state:

..... $ 55,700

d. OFFICE OF THE SECRETARY OF STATE

Salary for the secretary of state:

..... $ 55,700

e. OFFICE OF THE TREASURER OF STATE

Salary for the treasurer of state:

..... $ 55,700

f. OFFICE OF THE GOVERNOR

Salary for the governor:

..... $ 72,500

Sec. 2. The lieutenant governor shall receive an annual salary of $25,100 for the fiscal year beginning July 1, 1989. 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 $60 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 section, including office and staff expenses, shall be paid from funds appropriated to the office of the lieutenant governor by the general assembly.

Sec. 3.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1989, 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 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:
..... $ 81,900

b. Each justice of the supreme court:
..... $ 78,900

c. Chief judge of the court of appeals:
..... $ 78,800

d. Each associate judge of the court of appeals:
..... $ 75,800

e. Each chief judge of a judicial district:
..... $ 75,000

f. Each district judge except the chief judge of a judicial district:
..... $ 72,000

g. Each district associate judge:
..... $ 62,800

h. Each judicial magistrate:
..... $ 15,800

Sec. 4. Persons receiving the salary rates established under sections 1, 2, and 3 of this Act shall not receive any additional salary adjustments provided by this Act.

Sec. 5. The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in section 6 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 6 of this Act.

The governor, in establishing salaries as provided in section 6 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 pursuant to section 6 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. 6. The following annual salary ranges are effective for the positions specified in this section and for the fiscal year indicated. The ranges for the fiscal year beginning July 1, 1989, 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, 1989, and as otherwise provided in this section:

	1989-90 FY	
	Minimum	Maximum
a. Range 1	$ 7,000	$21,300
b. Range 2	$25,600	$42,600
c. Range 3	$35,200	$49,700
d. Range 4	$42,600	$57,000
e. Range 5	$49,700	$64,100

2. The following are range 2 positions: administrator of criminal and juvenile justice planning, 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 on the status of blacks, the division for deaf services, the division for Spanish-speaking people, 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, and the division of veterans affairs of the department of public defense.

3. 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, and chairperson and members of the employment appeals board of the department of inspections and appeals.

4. The following are range 4 positions: superintendent of banking, superintendent of credit unions, superintendent of savings and loan associations, administrator of the alcoholic beverages division of the department of commerce, state public defender, secretary of the state fair board, and chairperson and members of the board of parole.

5. 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.

6. The following salary ranges are effective for the fiscal year beginning July 1, 1989, and as otherwise provided in this section:

DEPARTMENT DIRECTOR'S SALARIES

	1989-90 FY	
	Minimum	Maximum
a. Range 6	$38,500	$51,600
b. Range 7	$52,700	$64,700
c. Range 8	$56,400	$75,100
d. Range 9	$63,000	$89,300

7. 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.

8. The following are department director's salary 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 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.

9. The following are department director's salary range 8 positions: director of the department of management, director of revenue and finance, director of the department of natural resources, and director of the department of corrections.

10. The following are the department director's salary range 9 positions: director of the department of education, director of the department of human services, director of the department of economic development, director of the state department of transportation, executive secretary of the state board of regents, and lottery commissioner.

Sec. 7.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1989, 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:
..... $ 49,800

b. Two members of the public employment relations board:
..... $ 46,200

Sec. 8. 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, 1989, 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 provided by law within the salary range from funds provided for that purpose:

For the state court administrator:	Minimum	Maximum
.....	$52,200	$75,700

Sec. 9. The annual salary rates or ranges provided in sections 1, 2, 3, 6, 7, and 8 of this Act become effective for the fiscal year beginning July 1, 1989, with the pay period beginning June 23, 1989. **An individual salary increase authorized within the salary ranges provided in sections 6 and 8 of this Act shall not exceed five and one-tenth percent for the fiscal year beginning July 1, 1989.**

Sec. 10. Section 2.10, subsection 2, Code 1989, is amended by striking the subsection.

Sec. 11. Section 220.6, subsection 2, Code 1989, 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~~. All employees of the authority are exempt from the merit system.

Approved May 26, 1989, except the item which I hereby disapprove and which is designated as that portion of section 9, 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 secretary of state this same date a copy of which is attached.

TERRY E. BRANSTAD, *Governor*

*Item veto; see message at end of the Act

Dear Madam Secretary:

I hereby transmit Senate File 536, an Act relating to the compensation and benefits for public officials by specifying salary rates and ranges and related matters generally relating to the compensation of public officials and employees and providing an effective date.

Senate File 536 is, therefore, approved on this date with the following exception which I hereby disapprove.

I am unable to approve the designated item in Section 9. This section would prevent any individual salary increases for department and division directors from exceeding 5.1 percent for Fiscal Year 1990.

The legislature appropriates funds, and establishes ranges of salaries for department directors and many other directors. These provisions are appropriate and acceptable as rights and responsibilities of the legislature. However, the Governor, in the exercise of the executive branch responsibilities, must retain the flexibility to set specific department and division director salary levels based upon performance. Indeed, I use salary policy to reward outstanding performance and to recognize less than adequate performance. Limiting increases to 5.1 percent would, therefore, negatively impact my ability to manage the executive branch's managerial responsibilities. We should not normalize all salary adjustments as is envisioned in this bill. Instead, they must continue to be performance based.

For the above reason, I respectfully disapprove this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 536 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 303

SALARIES AND BENEFITS FOR PUBLIC OFFICIALS AND EMPLOYEES

S.F. 532

AN ACT relating to the compensation and benefits for legislators, and other public officials and employees by specifying salary levels, by providing adjustments for salaries, by specifying properly related matters, by making appropriations, and by specifying effective dates for certain provisions.

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

Section 1. The funds appropriated to the various state departments, boards, commissions, councils, 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 state police officers council bargaining unit.
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 Iowa united professionals 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 2 and 3 of this Act for employees not covered by a collective bargaining agreement.

Sec. 2.

1. All pay plans provided for in section 19A.9, subsection 2, as they exist for the fiscal year ending June 30, 1989, 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 three and one-half percent for the fiscal year beginning July 1, 1989, effective with the pay period beginning June 23, 1989. 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 of a merit increase.
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 as provided 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 as provided 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.

Sec. 3. 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, 1989, and ending June 30, 1990, an average base salary increase of three and one-half percent for the fiscal year beginning July 1, 1989, of the base salaries of professional and scientific staff members, except board office employees as provided for in section 11 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, 1989, and ending June 30, 1990, by increasing the salary levels for each grade and step within the plans by three and one-half percent for the fiscal year beginning July 1, 1989. 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, 1989, and ending June 30, 1990, an average base salary increase for the fiscal year beginning July 1, 1989, 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, 1989, or according to a different procedure that is agreeable to both parties.

Sec. 4. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as may be necessary, to be used for the purposes designated:

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:

..... $ 1,112,860

Sec. 5.

1. There is appropriated from the road use tax fund to the salary adjustment fund for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as may be necessary, to be used for the purposes designated:

To supplement other funds appropriated by the general assembly:

..... $ 1,867,463

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as may be necessary, to be used for the purposes designated:

To supplement other funds appropriated by the general assembly:

..... $ 5,265,002

3. Except as otherwise provided in this Act, the amounts appropriated in subsections 1 and 2 of this section and section 6 shall be used to fund the annual pay adjustments, expense reimbursement, and related benefits for public officials and employees as provided for in this Act.

Sec. 6. There is appropriated from the general fund of the state to the following listed departments, commissions, councils, boards, or offices, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as may be necessary, to supplement other funds appropriated by the general assembly to the following state departments, councils, commissions, boards, or offices and local agencies or programs listed:

1. EXECUTIVE COUNCIL:
..... $ 1,808

2. GENERAL SERVICES:

a. Administration
..... $ 22,565

b. Communications
..... $ 17,842

c. Director's office
..... $ 4,198

d. Materials management
..... $ 3,411

e. Property management
..... $ 171,606

f. Printing and mail
..... $ 26,239

g. Records management
..... $ 16,530

h. Information services division
..... $ 284,256

3. GOVERNOR'S OFFICE:

a. General office
..... $ 29,709

b. Terrace Hill
..... $ 3,671

c. Administrative rules
..... $ 1,572

4. GOVERNOR, LIEUTENANT:
..... $ 5,505

5. DEPARTMENT OF MANAGEMENT:
..... $ 75,751

6. DEPARTMENT OF PERSONNEL:
..... $ 175,865

7. DEPARTMENT OF REVENUE AND FINANCE:

a. Processing
..... $ 251,351

b. Accounting
..... $ 55,896

c. Operations, systems and statistics
..... $ 17,700

d. Local government
..... $ 32,606

e. Office review
..... $ 161,167

f. In-state field audit
..... $ 2,049

g. Out-of-state field audit
..... $ 49,375
h. Taxpayer service
..... $ 223,585
i. Collections
..... $ 31,674
j. Tax policy and appeals
..... $ 106,203
8. SECRETARY OF STATE:
..... $ 62,261
9. STATE-FEDERAL RELATIONS:
..... $ 7,735
10. TREASURER OF STATE:
..... $ 43,242
11. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP:
a. Administration division
..... $ 45,573
b. Farm commodity division
..... $ 36,146
c. Regulatory division
..... $ 169,379
d. Laboratory division
..... $ 30,293
e. Soil conservation operations
..... $ 207,239
12. DEPARTMENT OF NATURAL RESOURCES:
..... $ 429,255
13. DEPARTMENT OF ECONOMIC DEVELOPMENT:
a. General office
..... $ 32,127
b. Tourism promotion
..... $ 22,211
c. International marketing
..... $ 25,299
d. National marketing
..... $ 28,046
e. Film office
..... $ 3,207
f. Small business program
..... $ 9,246
g. Community progress
..... $ 17,064
14. COLLEGE AID COMMISSION:
..... $ 10,205
15. DEPARTMENT OF CULTURAL AFFAIRS:
a. Iowa arts council
..... $ 8,118
b. State historical society
..... $ 67,154
c. State library
..... $ 27,660
d. Terrace Hill
..... $ 6,393

e. Administration
..... $ 15,327
f. Iowa public television
..... $ 184,804
16. DEPARTMENT OF EDUCATION:
a. Administration
..... $ 235,309
b. Vocational education
..... $ 39,354
c. Vocational rehabilitation
..... $ 96,885
17. DEPARTMENT FOR THE BLIND:
..... $ 48,833
18. CIVIL RIGHTS COMMISSION:
..... $ 54,994
19. DEPARTMENT OF ELDER AFFAIRS:
..... $ 16,095
20. IOWA DEPARTMENT OF PUBLIC HEALTH:
a. Central administration
..... $ 33,870
b. Professional licensure
..... $ 18,330
c. Health planning
..... $ 27,152
d. Disease prevention
..... $ 57,995
e. Substance abuse
..... $ 16,731
f. Dental examiners
..... $ 6,125
g. Medical examiners
..... $ 33,505
h. Nursing board
..... $ 26,688
i. Pharmacy examiners
..... $ 22,843
j. Family and community health
..... $ 23,635
k. Emergency medical services
..... $ 5,762
21. DEPARTMENT OF HUMAN RIGHTS:
a. Administration
..... $ 12,443
b. Children, youth and families
..... $ 7,037
c. Deaf services division
..... $ 13,251
d. Persons with disabilities
..... $ 5,004
e. Spanish-speaking people
..... $ 2,720
f. Status of women
..... $ 6,521

g. Status of blacks
..... $ 2,731
h. Criminal and juvenile justice
..... $ 10,342
22. DEPARTMENT OF HUMAN SERVICES:
a. General administration
..... $ 250,927
b. Community services
..... $ 1,808,671
c. Child support recovery
..... $ 25,598
d. Toledo juvenile home
..... $ 176,194
e. Eldora
..... $ 319,003
f. Marshalltown
..... $ 1,166,487
g. Cherokee
..... $ 603,538
h. Clarinda
..... $ 312,419
i. Independence
..... $ 647,885
j. Mt. Pleasant
..... $ 301,881
k. Glenwood
..... $ 1,658,882
l. Woodward
..... $ 1,319,818
23. ATTORNEY GENERAL:
a. General office
..... $ 198,845
b. Prosecuting attorney training
..... $ 4,041
24. DEPARTMENT OF CORRECTIONS:
a. Central office
..... $ 68,116
b. Training center
..... $ 10,537
c. Ft. Madison
..... $ 734,022
d. Anamosa
..... $ 496,818
e. Oakdale
..... $ 387,336
f. Newton
..... $ 89,734
g. Mt. Pleasant
..... $ 386,183
h. Rockwell City
..... $ 100,046
i. Clarinda
..... $ 159,912

j. Mitchellville
..... $ 122,692
k. Community-based corrections—statewide
..... $ 1,194,379
25. JUDICIAL DEPARTMENT:
..... $ 2,080,273
26. PAROLE BOARD:
..... $ 30,642
27. AUDITOR OF STATE:
..... $ 75,059
28. CAMPAIGN FINANCE DISCLOSURE COMMISSION:
..... $ 8,717
29. DEPARTMENT OF EMPLOYMENT SERVICES:
a. Industrial services
..... $ 62,704
b. Labor services
..... $ 85,391
30. DEPARTMENT OF INSPECTIONS AND APPEALS:
a. Operations
..... $ 191,595
b. Foster care review board
..... $ 8,342
c. Public defender
..... $ 170,101
31. PUBLIC EMPLOYMENT RELATIONS BOARD:
..... $ 25,718
32. LAW ENFORCEMENT ACADEMY:
..... $ 30,696
33. DEPARTMENT OF PUBLIC DEFENSE:
a. Operations
..... $ 91,249
b. Veterans affairs
..... $ 5,028
c. Disaster services
..... $ 11,279
34. DEPARTMENT OF PUBLIC SAFETY:
a. Administration
..... $ 58,028
b. Communications
..... $ 126,031
c. Division of criminal investigation
..... $ 240,160
d. Narcotics enforcement
..... $ 60,633
e. Fire marshal
..... $ 61,442
f. Capitol security
..... $ 54,565
35. REGENTS, BOARD OFFICE:
..... $ 52,169

36. STATE UNIVERSITY OF IOWA—GENERAL UNIVERSITY:
a. Faculty
..... $ 7,506,660
b. Professional and scientific
..... $ 1,617,085
c. Merit
..... $ 2,073,773
37. STATE UNIVERSITY OF IOWA—UNIVERSITY HOSPITALS:
a. Faculty
..... $ 33,041
b. Professional and scientific
..... $ 600,127
c. Merit
..... $ 433,468
38. STATE UNIVERSITY OF IOWA—PSYCHIATRIC HOSPITAL:
a. Faculty
..... $ 81,874
b. Professional and scientific
..... $ 151,321
c. Merit
..... $ 90,893
39. STATE UNIVERSITY OF IOWA—HOSPITAL SCHOOL:
a. Faculty
..... $ 37,819
b. Professional and scientific
..... $ 139,237
c. Merit
..... $ 120,023
40. STATE UNIVERSITY OF IOWA—OAKDALE CAMPUS:
a. Professional and scientific
..... $ 12,437
b. Merit
..... $ 90,381
41. STATE UNIVERSITY OF IOWA—HYGIENIC LABORATORY:
a. Professional and scientific
..... $ 114,542
b. Merit
..... $ 65,994
42. STATE UNIVERSITY OF IOWA—FAMILY PRACTICE PROGRAM:
a. Faculty
..... $ 123,317
b. Professional and scientific
..... $ 7,084
c. Merit
..... $ 2,741
43. STATE UNIVERSITY OF IOWA—SPECIALIZED CHILD HEALTH SERVICES:
a. Faculty
..... $ 17,784
b. Professional and scientific
..... $ 15,189
c. Merit
..... $ 3,665

44. IOWA STATE UNIVERSITY—GENERAL UNIVERSITY

a. Faculty

..... $ 5,408,909

b. Professional and scientific

..... $ 1,274,017

c. Merit

..... $ 1,631,284

45. IOWA STATE UNIVERSITY—AGRICULTURAL EXPERIMENT STATION:

a. Faculty

..... $ 1,023,536

b. Professional and scientific

..... $ 127,715

c. Merit

..... $ 172,219

46. IOWA STATE UNIVERSITY—COOPERATIVE EXTENSION:

a. Faculty

..... $ 582,035

b. Professional and scientific

..... $ 622,891

c. Merit

..... $ 121,256

47. UNIVERSITY OF NORTHERN IOWA:

a. Faculty

..... $ 2,249,783

b. Professional and scientific

..... $ 430,778

c. Merit

..... $ 715,887

48. SCHOOL FOR THE DEAF:

a. Faculty

..... $ 240,304

b. Professional and scientific

..... $ 22,833

c. Merit

..... $ 93,419

49. BRAILLE AND SIGHT-SAVING SCHOOL:

a. Faculty

..... $ 110,614

b. Professional and scientific

..... $ 4,401

c. Merit

..... $ 81,343

50. SALARY ADJUSTMENT FUND — EARLY RETIREMENT:

..... $ 219,000

51. The distribution of salary adjustment funds to the various departments, divisions, commissions, councils, offices, boards, and other state or local agencies or programs as provided by this section is requested by the general assembly to fulfill its constitutional responsibility to appropriate funds to provide for the maintenance and operation of state government. The department of management shall report to the legislative fiscal committee, not later than August 1, 1989, a distributive schedule as of July 1, 1989, for necessary upward or downward adjustments to each account for consideration during the 1990 regular session of the general assembly.

Sec. 7. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1989, and ending June 30, 1990, 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. Regional libraries:
..... $ 30,870

2. Substance abuse treatment facilities:
..... $ 167,929

3. Local boards of health:
..... $ 57,842

4. Local homemaker and chore service programs:
..... $ 185,925

5. Local maternal and child health programs:
..... $ 114,000

6. Services contracted by the department of public health from the university of Iowa hospitals and clinics for specialized child health care:
..... $ 43,700

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. 8. 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 expenditure authorization is provided, unless otherwise provided, in an amount necessary to fund salary adjustments as otherwise provided in this Act.

Sec. 9. 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, 1989, and ending June 30, 1990.

Sec. 10. 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. 11. 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.

Sec. 12. There is appropriated from the general fund of the state to the Iowa department of personnel for the fiscal years specified, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

To implement contractually bargained benefits with the American federation of state, county and municipal employees, Iowa united professionals, and state police officers council, including pretax premium conversion and pretax dependent care programs:

1988-89 FY ..... $ 88,000
1989-90 FY ..... $ 245,000

Sec. 13. Section 2.10, subsections 1, 3, 6, and 7, Code 1989, are amended to read as follows:

1. Every member of the general assembly except the president of the senate, the speaker of the house, and majority and minority floor ~~leaders of the senate and house~~ leader of each house shall receive an annual salary of ~~sixteen~~ eighteen thousand ~~six~~ one hundred dollars for the year ~~1989~~ 1991 and subsequent years while serving as a member of the general assembly. The presiding officer of the senate and the majority and minority floor ~~leaders of the senate and house, except the senate majority leader,~~ leader of each house shall receive an annual salary of ~~twenty-two~~ twenty-five thousand nine hundred seventy-five dollars for the year ~~1989~~ 1991 and subsequent years while serving in ~~such~~ the capacity. In addition, each such member shall receive the sum of ~~forty~~ fifty 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~~ thirty-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.

3. The speaker of the house ~~and the senate majority leader~~ shall receive an annual salary of ~~twenty-three~~ twenty-seven thousand nine hundred dollars for the year ~~1989~~ 1991 and subsequent years while ~~serving as~~ the speaker of the house ~~or as the senate majority leader~~. Expense and travel allowances shall be the same for the speaker of the house and the presiding officer of the senate and the majority and minority leader of each house as provided for other members of the general assembly.

6. In addition to the salaries and expenses authorized by this section, members of the general assembly shall be paid ~~forty~~ fifty dollars per day, ~~except the speaker of the house who shall be paid sixty dollars per day~~, and necessary travel and actual expenses incurred in attending meetings for which per diem or expenses are authorized by law for members of the general assembly who serve on statutory boards, commissions, or councils, and for standing or interim committee or subcommittee meetings subject to the provisions of section 2.14, or when on authorized legislative business when the general assembly is not in session. However, if a member of the general assembly ~~or the lieutenant governor~~ is engaged in authorized legislative business at a location other than at the seat of government during the time the general assembly is in session, payment may be made for the actual transportation and lodging costs incurred because of the business. Such per diem or expenses shall be paid promptly from funds appropriated pursuant to section 2.12.

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~~ fifty 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. 14. Section 2.40, Code 1989, is amended to read as follows:

2.40 MEMBERSHIP IN STATE INSURANCE PLANS.

1. A member of the general assembly may elect to become a member of a state group insurance plan for employees of the state established under chapter 509A subject to the following conditions:

~~1~~ a. 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~~ b. The member shall pay the 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~~ c. The member shall authorize a payroll deduction of the premium due according to the member's pay plan selected pursuant to section 2.10, subsection 5.

4 d. The premium rate shall be the same as the premium rate paid by a state employee for the plan selected.

~~In order to implement this section a~~ A member of the general assembly may elect to become a member of a state group insurance plan ~~effective January 1, 1989~~. 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.

2. A part-time employee of the general assembly may elect to become a member of a state group insurance plan for employees of the state established under chapter 509A subject to the following conditions:

a. The part-time employee 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 and shall have the same rights to change programs or coverage as are afforded such state employees.

b. The part-time employee shall pay the total premium and administrative costs for the plan selected through payroll deduction.

c. A part-time employee may continue membership in a state group insurance plan without reapplication during the employee's employment during consecutive sessions of the general assembly. For the purpose of electing to become a member of the state health or medical service group insurance plan, a part-time employee of the general assembly has the status of a "new hire", full-time state employee when the employee is initially eligible or during the first subsequent enrollment change period.

d. A part-time employee of the general assembly who elects membership in a state health or medical group insurance plan shall state each year whether the membership is to extend through the interim period between consecutive sessions of the general assembly. If the membership is to extend through the interim period the part-time employee shall authorize a payroll deduction for the period of session employment in an amount sufficient to cover the total annual premium and administrative costs for the plan selected. The part-time employee shall notify the finance officer within thirty-one days after the conclusion of the general assembly whether the person's decision to extend the membership through the interim period is confirmed. If the decision is rescinded, appropriate adjustments shall be made for amounts withheld in advance to cover premium payments. However, adjustments shall not be made for amounts withheld to cover administrative costs.

e. A member of a state health or medical group insurance plan pursuant to this subsection shall have the same rights upon final termination of employment as a part-time employee as are afforded full-time state employees excluded from collective bargaining as provided in chapter 20.

Sec. 15. Section 7E.6, subsection 1, paragraph a, Code 1989, is amended to read as follows:

1. a. Any position of membership on any board, committee, commission, or council in the executive branch of state government which is compensated by the payment of a per diem to the holder of that position under ~~the~~ statutory law ~~in effect on January 1, 1986,~~ shall ~~continue to~~ be compensated ~~by~~ at the rate of fifty dollars per diem ~~in the amount so set~~, notwithstanding any other law to the contrary.

Sec. 16. Section 7E.6, subsections 2 and 3, Code 1989, are amended to read as follows:

2. Any position of membership on any board, committee, commission, or council in the state government which has a compensation level limited to expenses only is eligible to receive, in addition to such actual expense reimbursement, an additional expense allowance of ~~forty~~ fifty dollars per day if the holder of any such position applies for such additional expense allowance and the holder of the position has an income level of one hundred fifty percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

3. Any position of membership on the lottery board ~~which currently receives a salary~~ shall receive ~~during the 1986-1987 fiscal year a salary at one-half of the level received in the 1985-1986 fiscal year and a~~ compensation of ~~forty~~ fifty dollars per day and expenses ~~in the 1987-1988 fiscal year and each fiscal year thereafter. Any position of membership on the racing commission which currently receives a salary shall receive that salary during the 1986-1987 fiscal year, and a compensation of forty dollars per day and expenses in the 1987-1988 fiscal year and each fiscal year thereafter.~~

Sec. 17. Section 79.1, unnumbered paragraphs 9 and 10, Code 1989, are amended to read as follows:

~~The director of revenue and finance shall charge the entire payroll for a pay period to the fiscal year in which the payroll is paid.~~

~~However, a~~ A specific annual salary rate or annual salary adjustment commencing with a fiscal year shall commence on July 1 except that if a pay period overlaps two fiscal years, a specific annual salary rate or annual salary adjustment shall commence with the first day of a pay period as specified by the general assembly.

Sec. 18. Sections 13, 15, and 16 of this Act take effect January 1, 1991.

Sec. 19. Section 14 of this Act takes effect January 1, 1990.

Approved May 5, 1989

CHAPTER 304

HEALTH CARE PROGRAMS AND APPROPRIATIONS

S.F. 538

AN ACT relating to medical and health care, including matters relating to the maternal and child health program; the expansion of medical assistance eligibility for certain persons; physicians' charges for services to beneficiaries of health insurance under Title XVIII of the federal Social Security Act and providing for the collection and analysis of information; health care access and a study of health care insurance; the requirement of the department of human services to collect certain data relating to usage of health maintenance organization services by recipients of medical assistance; rural health systems delivery and related taxation and rural occupational health; requiring the department of human services to adopt rules to conduct studies regarding health care providers which are reimbursed under the medical assistance program; health care utilization; operation of the Iowa comprehensive health insurance association; making appropriations to certain state agencies; requiring certain employers to provide health insurance; providing a sales tax exemption to certain nonprofit health organizations; and providing for other properly related matters.

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

Section 1. The purpose of this Act is to better provide health care coverage for uninsured and underinsured Iowans, to provide state assistance and support to developing rural health service delivery systems which are appropriate to rural communities, and to establish means to contain health care costs while ensuring access to quality health care for all Iowans.

Sec. 2. Divisions I through VI of this Act shall be known as "Serving the Uninsured and Underinsured". Divisions VII and VIII of this Act shall be known as "Rural Health Care Services and Agricultural Occupational Health". Divisions IX and X of this Act shall be known as "Health Care Cost Containment".

DIVISION I

Sec. 101. This division shall be known as the "Maternal and Child Health Division".

Sec. 102. Section 22.7, subsection 2, Code 1989, is amended to read as follows:

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a victim of sexual assault or domestic violence and the victim's sexual assault or domestic violence counselor are not subject to disclosure except as provided in section 236A.1. However, the Iowa department of public health shall adopt rules which provide for the sharing of information among agencies concerning the maternal and child health program, while maintaining an individual's confidentiality.

Sec. 103. Section 135.11, subsection 19, Code 1989, is amended to read as follows:

19. 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 federal Social Security Act. The department shall provide technical assistance to encourage the coordination and collaboration of state agencies in developing outreach centers which provide publicly-supported services for pregnant women, infants, and children. The department shall work in cooperation with the legislative fiscal bureau in monitoring the effectiveness of the maternal and child health centers, including the provision of transportation for patient appointments and the keeping of scheduled appointments.

**Sec. 104. *REIMBURSEMENT LEVEL TO MATERNAL AND CHILD HEALTH CENTERS. The department of human services under the medical assistance program shall renegotiate the rates of reimbursement of the full allowable costs to maternal health centers*

*Item veto; see message at end of the Act

*providing services to pregnant women and infants; to child health centers providing early and periodic screening, diagnosis, treatment, and other related services to children; and to community health centers providing services to pregnant women, infants, and children as often as necessary to assure that the rates are commensurate with the providers' full cost of providing the services.**

DIVISION II

Sec. 201. This division shall be known as the "Medicaid Coverage Expansion Division".

Sec. 202. Section 249A.3, subsection 1, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. Is a pregnant woman whose pregnancy has been medically verified and who qualifies under either of the following:

(1) The woman would be eligible for a cash payment under the aid to dependent children program, or under an aid to dependent children, unemployed parent program, under chapter 239, if the child were born and living with the woman in the month of payment.

(2) The woman meets the income and resource requirements of the aid to dependent children program under chapter 239, provided the unborn child is considered a member of the household, and the woman's family is treated as though deprivation exists.

NEW PARAGRAPH. f. Is a child who is less than six years of age and who meets the income and resource requirements of the aid to dependent children program under chapter 239.

NEW PARAGRAPH. g. Is a child who is less than eight years of age as prescribed by the federal Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203 § 4101, whose income is not more than one hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

NEW PARAGRAPH. h. Is a woman who, while pregnant, meets eligibility requirements for assistance under the federal Social Security Act, § 1902(l) and continues to meet the requirements except for income. The woman is eligible to receive assistance until sixty days after the date pregnancy ends.

NEW PARAGRAPH. i. Is a pregnant woman who is determined to be presumptively eligible by a health care provider qualified under the federal Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-509, § 9407. The woman is eligible for ambulatory prenatal care assistance for a period of fourteen days following the presumptive eligibility determination. If the department receives the woman's medical assistance application within the fourteen-day period, the woman is eligible for ambulatory prenatal care assistance for forty-five days from the date presumptive eligibility was determined or until the department actually determines the woman's eligibility for medical assistance, whichever occurs first. The costs of services provided during the presumptive eligibility period shall be paid by the medical assistance program for those persons who are determined to be ineligible through the regular eligibility determination process.

NEW PARAGRAPH. j. Is a pregnant woman or infant less than one year of age whose income does not exceed the federally prescribed percentage of the poverty level in accordance with the federal Medicare Catastrophic Coverage Act of 1988, Pub. L. No. 100-360, § 302.

NEW PARAGRAPH. k. Is a pregnant woman or infant whose income is more than the limit prescribed under the federal Medicare Catastrophic Coverage Act of 1988, Pub. L. No. 100-360 § 302, but not more than one hundred eighty-five percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

NEW PARAGRAPH. l. Is a child for whom adoption assistance or foster care maintenance payments are paid under Title IV-E of the federal Social Security Act.

NEW PARAGRAPH. m. Is an individual or family who is ineligible for aid to dependent children under chapter 239 because of requirements that do not apply under Title XIX of the federal Social Security Act.

NEW PARAGRAPH. n. Was a federal supplemental security income or a state supplementary assistance recipient, as defined by section 249.1, and a recipient of federal social security

*Item veto; see message at end of the Act

benefits at one time since August 1, 1977, and would be eligible for federal supplemental security income or state supplementary assistance but for the increases due to the cost of living in federal social security benefits since the last date of concurrent eligibility.

NEW PARAGRAPH. o. Is an individual whose spouse is deceased and who is ineligible for federal supplemental security income or state supplementary assistance, as defined by section 249.1, due to the elimination of the actuarial reduction formula for federal social security benefits under the federal Social Security Act and subsequent cost of living increases.

NEW PARAGRAPH. p. Is an individual who is at least sixty years of age and is ineligible for federal supplemental security income or state supplementary assistance, as defined by section 249.1, because of receipt of social security widow or widower benefits and is not eligible for federal Medicare, part A coverage.

NEW PARAGRAPH. q. Is a disabled individual, and is at least eighteen years of age, who receives parental social security benefits under the federal Social Security Act and is not eligible for federal supplemental security income or state supplementary assistance, as defined by section 249.1, because of the receipt of the social security benefits.

Sec. 203. Section 249A.4, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 11. In determining the medical assistance eligibility of a pregnant woman, infant, or child under the federal Social Security Act, § 1902(l), resources which are used as tools of the trade shall not be considered.

NEW SUBSECTION. 12. In determining the medical assistance eligibility of a pregnant woman, infant, or child under the federal Social Security Act, § 1902(l), or pursuant to section 249A.3, subsection 2, paragraph "g", the department shall establish resource standards and exclusions not less generous than the resource standards and exclusions adopted pursuant to section 255A.5, if in compliance with federal laws and regulations.

Sec. 204. MEDICAL ASSISTANCE ELIGIBLITY* — EXPANSION OF SERVICES.

1. The department of human services and the Iowa department of public health shall expand the targeted case management program for pregnant women to extend to all areas of the state.

2. The department of human services, under the medical assistance program, shall continue the expansion of the targeted case management program for early and periodic screening, diagnosis, and treatment for children eligible for assistance, with the goal of expanding the program to all areas of the state within a reasonable period of time. The department of human services shall make use of medical information obtained through the medical assistance management information system regarding child usage of primary and preventive health services to identify children in need of early and periodic screening, diagnosis, and treatment services and use models developed in other states to provide the services to the children identified.

3. The department of human services in cooperation with the Iowa department of public health and the health data commission shall review and evaluate as a high-risk group, births of medical assistance recipients and shall evaluate the effect of expansion of medical assistance services on reducing the risk.

DIVISION III

Sec. 301. This division shall be known as the "Medicare Assignment Division".

Sec. 302. LEGISLATIVE FINDINGS. Many senior citizens with limited incomes find it difficult or impossible to locate physicians willing to accept Medicare assignments as payment in full for services, and this places these senior citizens at risk of further impoverishment because of medical expenses. The Iowa medical society is to be commended for establishing, with the assistance of the department of elder affairs and area agencies on aging, a voluntary program to encourage physicians to accept Medicare assignments as payment in full for services to low-income Medicare patients. There is a need, however, to track the impact of this program in meeting the needs of low-income Medicare patients to receive affordable health care. This tracking requires the collection and analysis of information on physician practices with respect to Medicare assignments, including breakdowns by geographic region and by medical specialization.

*According to enrolled Act

Sec. 303. NEW SECTION. 249D.24 INFORMATION ON ACCEPTANCE OF MEDICARE ASSIGNMENTS.

1. The department, in cooperation with the appropriate professional medical organizations, shall collect and analyze information on the number of physicians in Iowa in each of the following categories, including breakdowns by geographic region and by medical specialization:

a. Physicians who accept Medicare assignments as payment in full for all Medicare patients.

b. Physicians who accept Medicare assignments as payment in full for all Medicare patients with income and resources below the level established by the department.

c. Physicians who participate in a voluntary Medicare assignment program.

2. The department shall identify any areas of the state and physician specialty areas in which physician participation in any of the categories under subsection 1 is not sufficient to meet the access to care needs of Medicare patients in Iowa and shall recommend activities to improve access in those areas.

3. The information developed by the department shall be provided at least annually to the governor and the general assembly and to other interested persons upon request.

4. As used in this section:

a. "Medicare" means the program of health insurance established under Title XVIII of the federal Social Security Act.

b. "Medicare assignment" means payment by Medicare of charges for health care services provided to Medicare patients.

c. "Medicare patient" means a patient who is a beneficiary under Medicare.

DIVISION IV

Sec. 401. This division shall be known as the "Health Care Access Division".

Sec. 402. HEALTH CARE ACCESS FOR CHILDREN. The children of Iowa are a precious and valuable resource. The future of Iowa depends upon the continued good health and well-being of Iowa's children. Yet, an estimated twenty-eight thousand children are at risk of ill health for lack of health care services. It is a public purpose of this state to provide access to health care for Iowa's children who are uninsured, including but not limited to those who are not covered by group health care plans, those whose families cannot afford private health insurance, and those who do not qualify for the medical assistance program. This public purpose of providing health care access to Iowa's uninsured children can be fulfilled by state financial support of private nonprofit entities who provide primary health care insurance benefits to children who would otherwise be uninsured.

**Sec. 403. NEW SECTION. 91E.1 DEFINITIONS.*

As used in this chapter:

1. "Employee" means a person who is not self-employed, is an employee as defined in section 91A.2, and who:

a. Beginning July 1, 1991, works an average of at least thirty hours per week and at least six hundred hours in a calendar year.

b. Beginning July 1, 1992, works an average of at least twenty-five hours per week and at least five hundred hours per calendar year.

c. Beginning July 1, 1993, works an average of at least twenty hours per week and at least four hundred hours per calendar year.

2. "Employer" means an employer as defined in section 91A.2 who:

a. Beginning July 1, 1991, employs fifty or more employees.

b. Beginning July 1, 1992, employs forty or more employees.

c. Beginning July 1, 1993, employs twenty or more employees.

3. "Enrollee" means a person who purchases health care coverage through use of moneys expended by the state health care insurance plan pool.

4. "Self-insurance health plan" means a plan which provides health benefits to the employees of an employer, which is not a health insurance plan, and in which the employer is liable for actual costs of the health care service provided by the plan plus administrative costs.

*Item veto; see message at end of the Act

*5. "Third-party payor" means an entity, including but not limited to the medical assistance program, the federal Medicare program, or a provider of health insurance or service contracts under chapter 509, 514, or 514A.**

**Sec. 404.* NEW SECTION. *91E.2 HEALTH CARE INSURANCE PLAN ESTABLISHED.*

1. Effective July 1, 1991, a health care insurance plan is established to provide primary and preventive health care insurance coverage to Iowans who are not otherwise covered by the medical assistance program, the federal Medicare program, a third-party payor plan, or other similar program or plan.

2. The plan shall provide for a schedule of premium contributions, copayments, coinsurance, and deductibles to be paid by enrollees in the health care insurance plan based upon a sliding fee scale which takes into account the enrollee's income, assets, and financial needs.

*3. Provision of only the benefit package under the health care insurance plan shall not be subject to or considered part of a collective bargaining negotiation.**

**Sec. 405.* NEW SECTION. *91E.3 HEALTH CARE INSURANCE PLAN POOL ESTABLISHED.*

1. Effective July 1, 1991, a health care insurance pool is established within the state treasury. Moneys within the pool shall be expended to provide health care insurance coverage to those enrollees under the health care insurance plan as established in section 91E.2.

2. Funds in the pool shall include, but are not limited to, revenues collected from employers who do not provide primary and preventive health care insurance or benefits coverage to their employees.

*3. Contributions to the pool may come from the financial participation of employers, employees, and other funding sources and shall be used to provide a health care insurance benefit package to cover primary care benefits and hospitalization. Moneys in the pool shall not be expended to provide payment for services for which a person is eligible pursuant to chapter 249A, receives coverage through private health care insurance or benefits coverage, or through another responsible party.**

Sec. 406. EFFECTIVE DATE. Sections 404 through 405 of this Act take effect only after enactment by the general assembly of a funding mechanism for the health care insurance plan and pool, employer participation, employer responsibilities, and state responsibility for coverage of unemployed and low-income employed persons whose income is less than two hundred percent of the federal poverty level and who are not currently eligible for health insurance coverage through any federally financed health insurance program.

Sec. 407. HEALTH CARE INSURANCE STUDY. The legislative council shall contract for a comprehensive study of the state's health insurance needs and means to meet Iowans needs for health insurance, including an implementation proposal for mandatory employer-sponsored health insurance coverage. The legislative council shall appoint a steering committee which may include representatives of health professions, labor, business, insurance, government, and consumers to administer, oversee, and monitor the study. The study shall provide preliminary information and recommendations to the general assembly and the legislative council by February 1, 1990, and a final report containing information and recommendations by November 15, 1990, which shall include but not be limited to the following:

1. Collection and assembling of data describing the following:

a. Characteristics of employed persons who are uninsured and of unemployed persons who are uninsured.

b. Characteristics of employers who do and do not offer insurance to their employees.

c. Cost estimates for covering the unemployed who are not currently eligible for health insurance coverage through any federally financed health insurance program.

d. Characteristics of health insurance coverage and health insurance needs of farmers and other self-employed persons.

*Item veto; see message at end of the Act

e. The impact of the uninsured population on rural hospitals and the university of Iowa hospitals and clinics and the impact of implementing mandatory, employer-subsidized coverage on those hospitals.

f. The impact upon employers of implementing mandatory, employer-subsidized coverage.

g. The potential savings to the state and its political subdivisions as a result of mandatory employer-sponsored health care.

h. The causes and financial effects of the choice by employees not to accept employer-offered health insurance coverage.

2. Development of a proposal to implement the health care insurance plan established in section 91E.2, including the following elements:

a. A schedule to phase in coverage of all employees and every employer in the state.

b. At least three options, with cost estimates, for a mandatory employer-sponsored primary and preventive health insurance benefit package provided to employees and dependents of employees.

c. An additional option, with a cost estimate and an analysis of cost-effectiveness for a health insurance benefit package provided to employees and dependents of employees which includes but is not limited to major medical expenses, inpatient care, outpatient care, maternity and postnatal care, emergency care, and care for conditions related to nervous disorders, mental health, and substance abuse.

d. Options regarding delivery of a health care insurance plan which include consideration of existing public and private insurance delivery systems, health maintenance organizations, preferred provider organizations, and other managed care options.

e. A provision that the health care insurance plan operation and coverage issuance does not discriminate based upon sex or marital status.

f. A provision to coordinate coverage under the health care insurance plan with the Iowa comprehensive health insurance association established under chapter 514E.

g. A provision to enhance the coverage of employees who are underinsured.

h. A provision to minimize the potential for adverse selection under the health care insurance plan.

i. A provision for the eligibility of persons who are early retirees.

j. Provisions for health care cost containment, coordination of benefits, health maintenance, quality of care, and prevention under the health care insurance plan.

k. A provision to discourage employers who are offering health care insurance benefits to employees from reducing or eliminating benefits when health care insurance coverage becomes mandatory.

l. A provision for the state to make available technical assistance to small businesses for the implementation of mandatory employer-sponsored health insurance.

m. A provision setting a financial participation rate in the costs of health care coverage for employees as a minimum standard for employer compliance with requirements to provide health care coverage.

n. A provision to subsidize the purchase of health insurance coverage for employed and unemployed low-income Iowans not covered under a qualifying health care insurance plan.

o. Recommendations and options regarding methods to finance the plan.

p. Recommendations regarding program administration, including the unit of state government to be assigned administrative responsibility.

q. Recommendations regarding the coordination of health insurance coverage between two-earner families when both earners have health insurance coverage available through their employers.

r. A provision which considers an option for state responsibility for insurance premium assistance for employed persons whose income is less than two hundred percent of the federal poverty level.

3. Development of additional program options capable of implementation on a demonstration or statewide basis, including the following:

a. A program providing at least primary and preventive health services to children in working families, where the income level of the families does not exceed one hundred eighty-five percent of the federal poverty level.

b. A program providing state participation in the financing of health insurance coverage for employers of fewer than twenty employees who previously have not provided health coverage for their employees and who can demonstrate that the employer cannot otherwise provide such coverage. The program shall include participation by the employer in an amount equal to at least one-third of the cost of the employees' health care coverage.

c. A program for families previously participating in the aid to dependent children program whose reason for leaving the program was employment earnings, who have exhausted transitional medical assistance coverage, and who are still employed but who have no health care coverage. Such a program shall include a sliding fee schedule for participation.

d. A program for small employers that establishes a multiple employer trust accessible to employers, with or without state participation, to reduce the premiums charged for such trusts and increase the availability of such trusts.

e. A program to provide catastrophic health care coverage for employed persons who are currently uninsured or underinsured.

f. A program to provide support to uninsured and underinsured working families that recognizes ongoing health care expenditures for chronic conditions and that would provide protection against a requirement to completely spend down on a monthly basis in order to be eligible for the medically needy program.

g. A program providing health insurance tax credits for employers. The employer must provide two-thirds of the premium payment of the health insurance plan for the employees enrolled in the plan. An employee enrolled in the plan must pay one-third of the premium for the individual employee under the health insurance plan. The amount of the tax credit provided shall be one-half of the premium paid by the employer. The tax credit shall be provided to an employer for a maximum of five years. Any tax credit provided in excess of the employer's tax liability during the first taxable year may be credited to the employer's tax liability for the remaining four years or until an excess no longer exists. An employer shall only be eligible for the tax credit provided if the health insurance plan provided has been selected by the insurance division of the department of commerce.

h. A program providing greater income tax recognition of the costs of health care for employers who are self-employed or part of a partnership, including tax recognition on a sliding scale based upon income.

The department of revenue and finance, the division of insurance of the department of commerce, the Iowa department of public health, and the department of human services, the department of employment services, other executive departments, and the legislative fiscal bureau shall fully cooperate with the study in providing timely information necessary to identify costs and coverage levels related to the study.

Sec. 408. Section 99E.31, subsection 2, paragraph b, subparagraph (7), Code 1989, is amended to read as follows:

(7) The quality of the jobs to be created. In rating the quality of the jobs the department shall award more points to those jobs that have a higher wage scale, have a lower turnover rate, are full-time or career-type positions, provide comprehensive health benefits, or have other related factors.

Sec. 409. HEALTH INSURANCE RECOGNIZED. The Iowa department of economic development shall recognize the value of health insurance benefit packages provided by employers in evaluating grant and loan requests under the programs administered by the department.

Sec. 410. TECHNICAL ASSISTANCE – SMALL EMPLOYERS. The insurance division shall develop a proposal to provide technical assistance to small employers in identifying, accessing, and evaluating multiple employer trusts within the state, and to recommend ways in which the state may assist in overcoming obstacles which deter employers from participating in

multiple employer trusts. The insurance division shall present a report to the general assembly regarding the proposal and recommendations by January 1, 1990.

DIVISION V

Sec. 501. This division shall be known as the "Medicaid Recipients in Health Maintenance Organizations Division".

Sec. 502. COLLECTION OF DATA REQUIRED – MEDICAL ASSISTANCE RECIPIENTS. The department of human services shall collect data regarding the usage of health care services delivered by health maintenance organizations to recipients of medical assistance under chapter 249A. The data collection shall include records of recipient usage of primary care services through health maintenance organizations as contrasted with recipient usage of primary care services for recipients not covered by health maintenance organizations, including but not limited to child immunizations, diagnostic tests for sickle-cell anemia, and complete physicals. The department shall survey recipients regarding difficulty in obtaining access or services, including but not limited to transportation problems and difficulty communicating with health care providers. The department shall provide the data, accompanied by analyses, to the general assembly on or before January 1, 1990.

DIVISION VI

Sec. 601. This division shall be known as the "Nonprofit Health Organization Division".

Sec. 602. Section 422.45, subsection 22, paragraph b, Code 1989, is amended to read as follows:

b. Residential facilities ~~for mentally retarded children~~ licensed by the department of human services pursuant to chapter 237, other than those maintained by individuals as defined in section 237.1, subsection 7.

**Sec. 603.* *Section 422.45, Code 1989, is amended by adding the following new subsection:*

NEW SUBSECTION. *41. The gross receipts from the sale of equipment and supplies if purchased by any of the following nonprofit health organizations which receive federal funds:*

a. Community-based substance abuse treatment and prevention programs, as designated under section 125.12.

b. Child health clinics, as designated under section 135.11.

c. Maternal health clinics, as designated under section 135.11.

d. Well-elderly clinics, as designated under section 135.11.

e. Family planning clinics, as designated under section 234.21.

f. Area agencies on aging, as designated under section 249D.32.

*g. Medicare certified hospice programs, as certified by the department of inspections and appeals or as certified under the federal Medicare program.**

DIVISION VII

Sec. 701. This division shall be known as the "Rural Health Service Delivery Division".

Sec. 702. NEW SECTION. 135.13 OFFICE OF RURAL HEALTH ESTABLISHED.

1. The office of rural health is established within the department. There is established an advisory committee to the office of rural health consisting of one representative, approved by the respective agency, of each of the following agencies: the department of human services, the department of agriculture and land stewardship, the Iowa department of public health, the department of inspections and appeals, the national institute for rural health policy, the rural health resource center, the institute of agricultural medicine and occupational health, the Iowa state association of counties, and the health policy corporation of Iowa. The governor shall appoint a representative of each of two farm organizations active within the state, a representative of an agricultural business in the state, a practicing rural family physician, and a rural health practitioner who is not a physician as members of the advisory committee. Two state senators appointed by the majority leader of the senate, and two state representatives appointed by the speaker of the house of representatives shall also be members of the

*Item veto; see message at end of the Act

advisory committee. Of the members appointed by the majority leader of the senate and the speaker of the house of representatives, not more than one from each house shall be a member of the same political party.

2. The office of rural health shall do all of the following:

a. Provide technical assistance grants to rural communities and counties exploring alternative means of delivering rural health services, including but not limited to hospital conversions, cooperative agreements among hospitals, physician and health practitioner support, public health services, emergency medical services, medical assistance facilities, rural health care clinics, and alternative means which may be included in the long-term community health services and developmental plan developed under this paragraph or in a long-term plan developed through the rural health transition grant program pursuant to the federal Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203, § 4005(e). The office of rural health shall encourage the local boards of health and hospital governing boards to adopt a long-term community health services and developmental plan as provided in section 135B.33 and perform the duties required of the Iowa department of public health in section 135B.33.

b. Provide competitive research grants, to be awarded by the advisory committee, to conduct economic analyses of the effects of health care restructuring models on rural communities, including but not limited to the employment effects on the community of redirecting funds to new areas of service, the overall effects of redirection of the funds on the number of health care dollars expended within the rural community, and the benefit to the health of patients of redirecting the funds.

c. The office of rural health shall make a report to the general assembly regarding the impact of the current compensation structure under Medicare on rural hospitals and other health care providers, shall provide information regarding the current compensation system to Iowa's congressional delegation, and shall make recommendations to the general assembly regarding recommendations to be made to Iowa's congressional delegation to improve the compensation structure.

d. For the purposes of this section, "Medicare" means the program of health insurance established under Title XVIII of the federal Social Security Act.

e. Provide technical assistance to assist rural communities in improving Medicare reimbursements through the establishment of rural health clinics, defined pursuant to 42 U.S.C. § 1395(x), and distinct part skilled nursing facility beds.

f. Coordinate services to provide research for the following items:

(1) Examination of the prevalence of rural occupational health injuries in the state.

(2) Assessment of training and continuing education available through local hospitals and others relating to diagnosis and treatment of diseases associated with rural occupational health hazards.

(3) Determination of continuing education support necessary for rural health practitioners to diagnose and treat illnesses caused by exposure to rural occupational health hazards.

(4) Determination of the types of actions that can help prevent agricultural accidents.

(5) Surveillance and reporting of disabilities suffered by persons engaged in agriculture resulting from diseases or injuries, including identifying the amount and severity of agricultural-related injuries and diseases in the state, identifying causal factors associated with agricultural-related injuries and diseases, and indicating the effectiveness of intervention programs designed to reduce injuries and diseases.

Sec. 703. NEW MEDICAL FACILITY LICENSURE CATEGORY RECOMMENDATIONS. In cooperation with the advisory committee to the office of rural health, the office of rural health of the Iowa department of public health shall make recommendations to the general assembly on or before February 1, 1990, regarding the development of a new medical facility licensure category to respond to the changing health care needs of rural Iowa. The office of rural health through the advisory committee shall seek federal waivers and take additional action to permit federal reimbursement under the federal Medicare program and the medical assistance program for services provided in a facility licensed under the new category.

Sec. 704. Section 347.7, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The tax levy authorized by this section for operation and maintenance of the hospital may be available in whole or in part to any county with or without a county hospital organized under this chapter, to be used to enhance rural health services in the county. However, the tax levied may be expended for enhancement of rural health care services only following a local planning process. The Iowa department of public health shall establish guidelines to be followed by counties in implementing the local planning process which shall require legal notice, public hearings, and a referendum in accordance with sections 347.7 and 347.30 prior to the authorization of any new levy or a change in the use of a levy. Enhancement of rural health services for which the tax levy pursuant to this section may be used includes but is not limited to emergency medical services, health care services shared with other hospitals, rural health clinics, and support for rural health care practitioners and public health services. When alternative use of funds from the tax levy authorized by this section is proposed in a county with a county hospital organized under this chapter, use of the funds shall be agreed upon by the elected board of trustees of the county hospital. When alternative use of funds from the tax levy authorized by this section is proposed in a county without a county hospital organized under this chapter, use of the funds shall be agreed upon by the board of supervisors and any publicly elected hospital board of trustees within the county prior to submission of the question to the voters. Moneys raised from a tax levied in accordance with this paragraph shall be designated and administered by the board of supervisors in a manner consistent with the purposes of the levy.

DIVISION VIII

Sec. 801. This division shall be known as the "Rural Agricultural Occupational Health Division".

Sec. 802. AGRICULTURAL HEALTH AND SAFETY PROGRAMS. The state board of regents shall continue, beyond its original two-year time period, the agricultural health and safety service pilot programs established as part of the college of medicine of the university of Iowa to provide medical and engineering services to any person engaged in farming in cooperation with the office of rural health of the Iowa department of public health, the department of agriculture and land stewardship, and the Iowa state university of science and technology, pursuant to 1987 Iowa Acts, chapter 233, section 408, subsection 2, paragraph "a", subparagraph (2).

The board of regents shall provide the office of rural health with information concerning the programs so that the office of rural health may serve as a repository of the information.

As used in this section, "farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, or the production of livestock, spraying, or harvesting. The programs shall be expanded to include the following services and goals:

1. Involvement of six urban hospitals to participate in networking services with rural area hospitals provided that the two original participant hospitals are provided sufficient funding to continue to develop their programs.
2. Development of grants for small hospitals which participate in the programs.
3. Implementation of farmer stipends.
4. Employment of an industrial hygienist, a director or coordinator, an evaluator, and support staff.
5. Provision for a safety specialist and support staff to be employed at Iowa state university of science and technology.
6. Provision for a reporting system of sickness, diseases, and accidents relating to farmers.
7. Support for a national coalition for agricultural safety and health by providing travel expenses to facilitate explanation of the pilot programs to interested persons.
8. Support programs to enhance the agriculture-related safety of children.

DIVISION IX

Sec. 901. This division shall be known as the "Medicaid Cost Containment Division".

*Sec. 902. NEW SECTION. *8.7 STATE HEALTH CARE COST CONTAINMENT COORDINATING UNIT ESTABLISHED.*

*A state health care cost containment coordinating unit is established within the department of management. The coordinating unit shall consist of the director of the department of management, the administrator of the state medical assistance program, and the director of the department of personnel. The coordinating unit shall review cost containment strategies regarding state-funded health care coverage.**

Sec. 903. PHARMACEUTICAL VENDOR SERVICES AND CONSULTANT PHARMACIST SERVICES.

The department of human services shall adopt rules which require all intermediate care facilities to execute separate written contracts for pharmaceutical vendor services and consultant pharmacist services. The consultant pharmacist contract shall require monthly drug regimen review reports and shall provide for reimbursement on the basis of fair market value.

The board of pharmacy examiners shall conduct a study of consultant pharmacist practices in Iowa and examine the impact of establishing a consultant pharmacist certification process to ensure the delivery of appropriate consultant pharmacist services. A report shall be presented to the general assembly by January 15, 1990.

Sec. 904. SELECTIVE CONTRACTING REVIEW REQUIRED. The department of human services shall review and evaluate for potential usage in Iowa, selective contracting arrangements with health care providers used under the medical assistance program in other states. The department shall report the results of the review and evaluation to the joint human services subcommittee of the senate and house committees on appropriations by January 20, 1991.

DIVISION X

Sec. 1001. This division shall be known as the "Health Care Utilization Division".

Sec. 1002. HEALTH CARE UTILIZATION INFORMATION AND TASK FORCE.

1. The Iowa health data commission shall annually publish all of the following:

a. Comparisons between health care providers of charges, length of stay, and numbers of admissions for selected diagnoses or procedures utilized on an inpatient basis.

b. Comparisons between health care providers of charges and numbers of encounters for selected diagnoses and procedures utilized on an ambulatory care basis.

c. Comparisons across geographic areas of population-based admission or incidence rates for selected diagnoses and procedures.

d. Comparisons between health care providers using indicators which may include structure, process, and severity-adjusted outcome methodologies.

e. Information regarding research published concerning the medical efficacy of certain medical procedures and information regarding numbers of the procedures performed in Iowa.

f. A trends analysis which delineates cost increases in different components of the health care industry.

g. Recommendations to appropriate organizations and agencies regarding the potential uses of reports published pursuant to this subsection.

2. The Iowa health data commission shall contract for a health care utilization study to review, identify, and address issues related to the utilization of health care services in the state by comparing national data with Iowa data. The commission shall appoint a representative task force to oversee and review the study:

a. The study shall complete all of the following tasks:

(1) Collect and analyze existing research on the medical efficacy of certain medical procedures and study potential overutilization of the procedures in the state, and prepare a summary of procedures for which there is a significant level of usage in the state and for which

*Item veto; see message at end of the Act

substantial evidence from nationwide data suggests there is overutilization on a national level.

(2) Use information collected by the health data commission to evaluate variations in the utilization of diagnostic-related groups and assess the effects of the variations on patient outcomes and health care costs.

(3) Utilize findings developed under this section and analysis of actions taken in other states to identify protocols used in other states for the usage of procedures identified as having high coefficients of variation and as being subject to overutilization.

(4) Make recommendations to the commission and the representative task force regarding the use and potential application of the study findings by health care providers, educators, purchasers, governmental entities, insurers, consumers, and other interested constituencies.

b. The task force shall complete all of the following tasks:

(1) Make recommendations to appropriate agencies and organizations regarding protocol development and implementation, physician education, second opinions for procedures, and reimbursement limitations on procedures which have been identified as subject to overutilization.

(2) Make recommendations regarding other means of reducing health care costs by utilizing health care services more effectively.

(3) Report its findings relating to the duties established by this paragraph to the commission, the governor, and the general assembly on or before January 1, in the years 1991, 1992, and 1993.

3. This section is repealed effective January 30, 1993.

Sec. 1003. Section 514E.1, subsection 2, Code 1989, is amended to read as follows:

2. "Association policy" means an individual or group policy issued by the association that provides the coverage specified in section 514E.4.

Sec. 1004. Section 514E.2, subsection 2, Code 1989, is amended to read as follows:

2. The board of directors of the association shall consist of ~~not less than~~ four ~~nor more than eight~~ members selected by the members of the association, ~~subject to approval by the commissioner and a~~ two of whom shall be representatives from corporations operating pursuant to chapter 514 on the effective date of this Act or any successors in interest, and two of whom shall be representatives of insurers providing coverage pursuant to chapter 509 or 514A; four public ~~member~~ members selected by the ~~commissioner~~ governor; the commissioner or the commissioner's designee from the division of insurance; and two members of the general assembly, one of whom shall be appointed by the speaker of the house and one of whom shall be appointed by the senate majority leader, who shall be ex officio and nonvoting members. The composition of the board of directors shall be in compliance with sections 69.16 and 69.16A. The governor's appointees shall be chosen from a broad cross-section of the residents of this state.

~~In order to select the initial board of directors and organize the association, the commissioner shall give notice to all carriers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting, each carrier member is entitled to one vote in person or by proxy. If the board of directors is not selected within sixty days after the organizational meeting, the commissioner shall appoint the initial board. In approving or selecting members of the board, the commissioner shall consider whether all carriers are fairly represented.~~ Members of the board may be reimbursed from the moneys of the association for expenses incurred by them as members, but shall not be otherwise compensated by the association for their services.

Sec. 1005. Section 514E.2, Code 1989, is amended by adding the following new subsection 10 and renumbering the subsequent subsections:

NEW SUBSECTION. 10. The association is subject to oversight by the legislative fiscal committee of the legislative council. Not later than April 30 of each year, the board of directors shall submit to the legislative fiscal committee a financial report for the preceding year in a form approved by the committee.

Sec. 1006. Section 514E.2, subsection 12, Code 1989, is amended by striking the subsection.

DIVISION XI

Sec. 1101. MEDICAL ASSISTANCE EXPANSION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To expand medical assistance coverage and conduct studies pursuant to divisions II and V of this Act, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,155,000
..... FTEs 12.5

Of the full-time equivalent positions authorized in this section, 11.5 FTEs are allocated to community services of which 3 FTEs are allocated to perform responsibilities related to section 249A.4, subsection 12, and 1.0 FTE is allocated to general administration.

Sec. 1102. MATERNAL AND CHILD HEALTH. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salary and support of one full-time equivalent position to develop additional outreach centers for maternal and child health services as provided under section 104 of this Act and to provide additional prevention services to women and children to decrease problems of pregnancy outcomes, to reduce the incidence of low birth weights, and to assist children with special health care needs:

..... $ 520,000

Sec. 1103. CHILD HEALTH CARE SERVICES PROVIDED. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To provide, within funds appropriated in this section, physician services to children eligible for services provided in child health centers under 641 I.A.C. ch. 76:

..... $ 400,000

The physician services shall be subject to managed care and selective contracting provisions and shall be used to provide treatment of the children in a physician's office and shall include coverage of diagnostic procedures and prescription drugs required for the treatment. Services provided under this subsection shall be reimbursed according to Title XIX reimbursement rates.

Sec. 1104. OFFICE OF RURAL HEALTH. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the office of rural health:

..... $ 150,000
..... FTEs 2.0

1. Of the funds appropriated in this section, $50,000 is allocated for the establishment of the office of rural health as provided under section 702 of this Act.

*2. *Of the funds appropriated in this section, $50,000 is allocated to the office of rural health to provide technical assistance grants to rural communities and counties exploring alternative means of delivering rural health services as provided under section 702 of this Act.*

*3. *Of the funds appropriated in this section, $50,000 is allocated to the office of rural health to provide competitive research grants to conduct economic analyses of the effects of health care restructuring models on rural communities as provided under section 702 of this Act.**

*Item veto; see message at end of the Act

**Sec. 1105. AGRICULTURAL HEALTH AND SAFETY — STATE BOARD OF REGENTS. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For continuation and additional responsibilities related to the agricultural health and safety service pilot programs as provided under section 802 of this Act:

..... *$ 275,000*

1. Of the funds appropriated in this section, $150,000 is allocated to support agricultural health and safety service programs as established in 1987 Iowa Acts, chapter 233, section 408, subsection 2, paragraph "a", subparagraph (2). Programs funded by this section shall provide medical and engineering services administered by the college of medicine at the university of Iowa to persons engaged in agriculture in cooperation with the Iowa department of public health, the department of agriculture and land stewardship, and the Iowa state university of science and technology. Of the funds appropriated in this section, not more than $150,000 shall be used for salary and benefits of staff, including an industrial hygienist, director, evaluator, and support staff.

2. Of the funds appropriated in this section, $30,000 is allocated to support the work of a full-time agricultural safety specialist and related staff at Iowa state university of science and technology. The agricultural safety specialist shall provide support to the Iowa agricultural health and safety services program at the university of Iowa and to other farm safety programs in this state.

3. Of the funds appropriated in this section, $10,000 is allocated for a public purpose to support the national coalition for agricultural safety and health. The allocated moneys shall be used for in-state travel, staff support, and dissemination of information, including recommendations, to persons engaged in agriculture in this state.

4. Of the funds appropriated in this section, $15,000 is allocated to the college of medicine at the university of Iowa which in cooperation with the department of agriculture and land stewardship, the Iowa department of public health, and Iowa state university of science and technology shall research issues relating to the following:

(a) The current level of skill among rural health professionals in diagnosing rural health occupational diseases.

(b) The continuing education support necessary for rural health practitioners to diagnose and treat injuries and diseases caused by exposure to rural occupational health hazards.

5. Of the funds appropriated in this section, $15,000 is allocated for a public purpose to support farm family rehabilitation management in continuing the project to develop rehabilitation services and adaptive devices for farmers.

6. Of the funds appropriated in this section $15,000 is allocated to the institute of agricultural medicine and occupational health to develop program materials and program activities for farm families.

7. Of the funds appropriated in this section, $15,000 is allocated for a public purpose to grant to a nonprofit safety education and disaster services organization located in central Iowa to offer between five and ten courses around the state for farm families and farm workers. The courses shall cover first aid, lifesaving, farm accident prevention behaviors, and proper methods of handling farm chemicals.

*8. Of the funds appropriated in this section, $25,000 is allocated to support the activities of a nonprofit grass-roots organization emphasizing farm safety for children.**

Sec. 1106. AGRICULTURAL HEALTH AND SAFETY — IOWA DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

To support agricultural health and safety programs:

..... $ 45,000

1. Of the funds appropriated in this section, $15,000 is allocated to support the surveillance and reporting of disabilities suffered by persons engaged in agriculture resulting from

*Item veto; see message at end of the Act

diseases or injuries, including identifying the amount and severity of agricultural related injuries and diseases in the state, identifying causal factors associated with agricultural related injuries and diseases, and evaluating the effectiveness of intervention programs designed to reduce injuries and diseases. The department shall cooperate with the department of agriculture and land stewardship, Iowa state university of science and technology, and the college of medicine at the university of Iowa.

2. Of the funds appropriated in this section, $30,000 is allocated for a public purpose to provide one-time competitive grants, not to exceed $10,000 each, to hospitals networking in the Iowa agricultural health and safety services program. Hospitals shall use grant funds to create stipends for persons engaged in agriculture who are without third-party health coverage or who are otherwise unable to pay for services, and to implement the program through training personnel, developing outreach programs and educational materials, and purchasing equipment needed to offer savings.

3. As used in this section, "agriculture" means an activity relating to the production, processing, warehousing, or handling of commodities produced from farming, as defined in section 567.1. For purposes of this section, a person is engaged in agriculture if the person is consistently exposed to a related activity described in this subsection.

4. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated by this section remaining on or after June 30, 1990, shall not revert to the general fund of the state, but shall be used to support programs as provided in this section.

**Sec. 1107. STATE HEALTH DATA COMMISSION. There is appropriated from the general fund of the state to the state health data commission for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:*

For health care utilization information and a study as provided under section 1002 of this Act:

..... *$ 100,000**

Sec. 1108. PRIMARY AND PREVENTIVE HEALTH CARE FOR CHILDREN. If division II and section 1101 of this Act are enacted, there is appropriated from the general fund of the state to the Iowa department of public health for the fiscal period beginning October 1, 1989, and ending June 30, 1990, $300,000 and in the fiscal years beginning July 1, 1990, and July 1, 1991, $450,000, or so much thereof as is necessary, to be used for the purposes designated:

For the public purpose of providing a renewable grant, following a request for proposals, to a statewide charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code which was organized prior to April 1, 1989, and has as one of its purposes the sponsorship or support for programs designed to improve the quality, awareness, and availability of health care for the young, to serve as the funding mechanism for the provision of primary health care and preventive services to children in the state who are uninsured and who are not eligible under any public plan of health insurance, provided all of the following conditions are met:

1. The organization shall provide a match in advance of each state dollar provided as follows:

a. In the fiscal year beginning July 1, 1989, two dollars.

b. In the fiscal year beginning July 1, 1990, three dollars.

c. In the fiscal year beginning July 1, 1991, four dollars.

2. The organization coordinates services with new or existing public programs and services provided by or funded by appropriate state agencies in an effort to avoid inappropriate duplication of services and ensure access to care to the extent as is reasonably possible. The organization shall work with the Iowa department of public health, family and community health division, to ensure duplication is minimized.

3. The organization's governing board includes in its membership representatives from the executive and legislative branches of state government.

4. Grant funds are available as needed to provide services and shall not be used for administrative costs of the department or the grantee.

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*Item veto; see message at end of the Act

5. Notwithstanding section 8.33, funds appropriated in this section which are unencumbered or unobligated on June 30, 1990, shall not revert to the general fund but shall remain available to the department for the provision of maternal and child health services.

6. The organization's purpose is consistent with the public policy stated in section 402 of this Act.

**Sec. 1109. RURAL PILOT PROGRAM. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:*

To implement, in consultation with the center for health services research of the university of Iowa, a pilot program or programs established in a rural hospital or hospitals serving a designated county or multicounty area in Iowa for the provision of primary and preventive health care and inpatient services to persons who are uninsured, based upon the same eligibility guidelines as those established for the indigent patient program at the university of Iowa hospitals and clinics and subject to program approval and oversight by the advisory committee to the office of rural health as provided under section 702 of this Act and subject to the following conditions:

1. The aggregate payments to providers of services under the pilot program shall not exceed the aggregate payments that would have been made if the recipients had been eligible for and received services pursuant to the medical assistance program. The pilot program established pursuant to this section shall not be interpreted to create any entitlement to services on behalf of any eligible individual except to the extent that funding is available pursuant to this section.

2. The funds appropriated for the pilot program or programs shall be used by the rural hospital or hospitals selected for additional patient care and not for defraying other costs including but not limited to capital expenditure costs or costs of services which were rendered by the hospital or hospitals and for which the hospital or hospitals have not been reimbursed.

3. The program or programs shall develop cooperative agreements with hospitals in the selected county or multicounty area for the delivery of services.

4. A county in which a program operates shall agree to maintain its existing level of support for indigent and charity health care.

5. The program shall work with the university of Iowa family practice program in the delivery of health care services under the program:

..... *$ 500,000**

Sec. 1110. HEAD INJURIES COUNCIL. There is appropriated from the general fund of the state to the department of human rights for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

Persons with disabilities division, including not more than the following full-time equivalent positions:

..... $ 50,000

..... FTEs 1.5

It is the intent of the general assembly that the funds appropriated under this subsection be used for payment of expenses of the advisory council on head injuries and for salaries and expenses of the division of persons with disabilities in connection with the advisory council on head injuries. The advisory council shall conduct a survey designed to register persons who have an existing brain injury with the central registry for brain injuries, including persons who are institutionalized or in a residence.

Sec. 1111. DEPARTMENT OF ELDER AFFAIRS. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

*Item veto; see message at end of the Act

1. For elderly services programs, to expand mental health outreach activities to rural communities through existing case management programs:
..... $ 25,000
2. To area agencies on aging, to provide funding for support personnel for the long-term care residents' advocate and the care review committees at the local area agency on aging level:
..... $ 120,000

Sec. 1112. PUBLIC HEALTH PROGRAMS EXPANSION. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:
1. To the disease prevention division to provide funding to contract for outside pharmaceutical services:
..... $ 35,000
*2. *To the disease prevention division to provide competitive grants to acquired immunodeficiency syndrome coalitions in Iowa:*
..... *$ 50,000**
3. To the family and community health division to provide grant moneys to maintain child health services of the mobile and regional child health clinics of the University of Iowa hospitals and clinics:
..... $ 79,911
4. To the family and community health division for grants to local boards of health for the expansion of the public health nursing program:
..... $ 50,000
5. To the family and community health division for grants to county boards of supervisors for expansion of the homemaker-home health aide program:
..... $ 309,857
6. To the family and community health division for expansion of the well-elderly clinics program:
..... $ 166,000

**Sec. 1113. HEALTH CARE INSURANCE STUDY — APPROPRIATION. There is appropriated from the general fund of the state to the legislative council for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*
To contract with a consultant to implement a health care insurance study pursuant to section 407 of this Act:
..... *$ 200,000**

Sec. 1114. PROGRAM EVALUATIONS REQUIRED. The Iowa department of public health shall perform evaluations of each of the pilot programs established pursuant to sections 1103, 1108, and 1109 of this Act. The evaluations shall include quarterly reports which detail program expenditures, services provided, and persons served according to demographic groupings. An evaluation report on each program shall be provided quarterly to the legislative fiscal committee and the legislative fiscal bureau.

Sec. 1115. EMERGENCY RULES. The department of human services shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b" to implement sections 202 and 203 and section 1101 of this Act and the rules and implementation of the sections shall become effective on July 1, 1989.

Approved June 5, 1989, except for the items which I hereby disapprove and which are designated as secton 104 in its entirety; sections 402, 403, 404, 405, and 406 in their entirety; section 603 in its entirety; section 902 in its entirety; section 1104, subsections 2 and 3 in their entirety; section 1105 in its entirety; section 1107 in its entirety; section 1109 in its entirety; section 1112, subsection 2 in its entirety; and section 1113 in its entirety. My reasons for vetoing these

*Item veto; see message at end of the Act

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 538, an Act relating to medical and health care, including matters relating to the maternal and child health program; the expansion of medical assistance eligibility for certain persons; physicians' charges for services to beneficiaries of health insurance under Title XVIII of the federal Social Security Act and providing for the collection and analysis of information; health care access and a study of health care insurance; the requirement of the department of human services to collect certain data relating to usage of health maintenance organization services by recipients of medical assistance; rural health systems delivery and related taxation and rural occupational health; requiring the department of human services to adopt rules to conduct studies regarding health care providers which are reimbursed under the medical assistance program; health care utilization; operation of the Iowa comprehensive health insurance association; making appropriations to certain state agencies; requiring certain employers to provide health insurance; providing a sales tax exemption to certain nonprofit health organizations; and providing for other properly related matters.

Senate File 538 appropriates $4.5 million for various new health and medical care programs.

Given the fiscal constraints of the state budget, particularly for Fiscal Year 1991, I was required to scrutinize these programs with great care. Without some reduction in the ongoing costs of state government in Fiscal Year 1991, the state would be placed in a deficit position or forced to increase taxes. I cannot accept either option.

Indeed, a number of the programs included in this bill increase the potential liability of the state's taxpayers for additional expenditures in the future. At the same time, I understand and support reasonable efforts to help provide medical care to the most vulnerable people in our state. And, I understand the important role that government and the private sector must play as partners in that effort. As a result, I have scrutinized this bill very carefully in an effort to make certain that the state is taking appropriate first steps to provide for such care without threatening the state's taxpayers with a major tax increase.

In short, my actions on this bill are designed to be sensitive to the highest priority needs of Iowans who are threatened by the lack of health care insurance, while prudently planning for longer term solutions to this problem. I also was guided by a desire to avoid major tax increases on our citizens and to keep our small businesses competitive.

Specifically, I am approving a significant expansion of the Medicaid program to cover pregnant women and children under the SOBRA program. Coverage will be provided to pregnant women or infants up to 185 percent of the poverty level; significant additional services are added to the Medicaid program to aid women and children in greatest need. Unfortunately, the General Assembly did not fully fund this Medicaid expansion. As a result, I am required to veto other portions of the bill in order to ensure that this — the highest priority of our health care plan — is implemented this year.

I am approving expansions of our maternal and child health care programs, additional funds to provide physician care for children in dire need of primary and preventive medical assistance; and the establishment of a new public/private partnership to provide additional health care coverage for children and each of these actions represents a significant commitment on the part of the state to provide both preventive and primary medical care to pregnant women and children who are without medical insurance coverage. In addition, we are undertaking a comprehensive study of the uninsured population in our state. I will be developing recommendations to the General Assembly in January for further actions that the state and/or the private sector might take to deal with this problem in both a cost effective and appropriate way.

Senate File 538 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 104, in its entirety. This section requires the Department of Human Services to negotiate with maternal and child health care centers

so that the "full cost" of these services is received by the providers. Such a mandate for renegotiation of rates allows for no negotiation at all; with a state mandate to provide "full costs", the state's bargaining position would be substantially weakened. While providers should receive reasonable costs for their services, the General Assembly should allow the Department of Human Services to negotiate the appropriate level of those costs to ensure that the state's funds are being well spent.

I am unable to approve the items designated as Sections 402, 403, 404, 405, and 406, in their entirety. These provisions in Senate File 538 establish a health care insurance plan to provide primary and preventive health care insurance coverage to all Iowans who are not now covered by insurance. A health care insurance pool is established and its specific effective dates and coverage levels are provided for in this section. The pool would presumably be funded through a combination of state and private dollars. But a funding mechanism is noticeably absent from the bill. This division of the bill also requires a comprehensive study of the state's health insurance needs and the means to meet the needs of those not covered by health insurance.

Indeed, I have already commissioned a study on this same issue and the preliminary report of the study indicates that the total costs of providing for those needs could be up to $251 million. My health care insurance task force is in the process of reviewing those numbers and developing options the state may select in attempting to deal with the most serious needs of uninsured Iowans. We expect that report to be received some time this fall. Obviously, the legislative study committee has not yet even met on this issue.

It would appear that the legislature has put the cart before the horse. Until the studies are completed on appropriate state options for dealing with the uninsured, the legislature should not be putting in statute a time line, eligibility requirements, and a specific pool which would likely require contributions by the state, employers and employees for purposes of providing mandatory health insurance for all of Iowa's uninsured. While I understand that these provisions would not become effective until the legislature enacts a funding formula, the specific provisions in these sections of the bill presume a particular outcome of the study before it is even completed. Moreover, it is likely that there will be federal action dealing with this issue within the next two years. Therefore, it would be much wiser for the state to carefully study the options that are available to it, take appropriate first steps to deal with the most vulnerable populations and then work to develop a public/private consensus on the appropriate next step at the state level to provide health care services to those in need. I plan to do just that. After reviewing the recommendations of my task force on health care insurance, I will be making recommendations to that effect for the next session of the General Assembly.

The expansion of SOBRA, the additional funds for M & CH clinics, funding for physician care for children in need of health care services, and the establishment of the public/private partnership to provide medical care for children that I have signed in this bill are all appropriate first steps. However, I am not comfortable committing to major tax increases or major increases in liability for our employers or employees in the state when a full study of this issue has not been completed and appropriate options have yet to be developed.

I am unable to approve the item designated as Section 603, in its entirety. This provision in Senate File 538 provides an exemption from the sales tax for equipment and supplies purchased by a number of health organizations which receive federal funds in the state. The Department of Revenue and Finance has not been able to fully estimate the fiscal impact of these exemptions at this time. Until such a complete fiscal estimate can be conducted, additional sales tax exemptions in this area should not be authorized.

I am unable to approve the item designated as Section 902, in its entirety. This provision in Senate File 538 establishes a health care cost containment coordinating unit composed of the Director of the Department of Management, the administrator of the State Medical Assistance Program, and the Director of the Department of Personnel. An informal state health care costs

containment coordinating unit has been established in the executive branch of state government. Moreover, the leader of that group is, and must be, the Director of the Department of Human Services. The Director of the Department of Personnel and the Director of the Department of Management are also important players as is the Director of the Department of Public Health. These individuals will continue to play a lead role in the state in the development of health care costs containment options for the public and private sectors.

I am unable to approve the item designated as Section 1104, subsections 2 and 3, in their entirety. These provisions in the bill would appropriate $100,000 to the office of rural health for technical service and competitive research grants. While I have authorized the establishment of an office of rural health and $50,000 to commence its establishment, I believe it is premature to provide funds to this office for competitive grants or technical assistance until this office is fully operational. I will be willing to review appropriate recommendations from the Department of Health for such purposes in the future.

I am unable to approve the item designated as Section 1105, in its entirety. This provision appropriates $275,000 of general fund money for the first time to agricultural health and safety service pilot programs. I do not question the importance of these programs — I have maintained language in the bill which strengthens statutory responsibilities for them. Indeed, I believe that the grant funds have been, and may continue to be found for these purposes. Given the fiscal constraints of the state, I cannot approve a substantial increase in the state funding for these new state pilot programs at this time. Moreover, I have provided for $45,000 to the Department of Public Health for agricultural health and safety service programs which can provide some coordination and assistance in this area.

I am unable to approve the item designated as Section 1107, in its entirety. This section of the bill appropriates an additional $100,000 to the Health Data Commission. The authority granted to the Health Data Commission in Senate File 538 to do additional cost containment analysis is appropriate and has been approved. However, I do not believe that the commission needs an additional $100,000 to accomplish this function. I have separately approved an additional appropriation of $149,000 to the Commission to expand its operations. Those funds can and should be used to help meet the statutory requirements included in Senate File 538, as well.

I am unable to approve the item designated as Section 1109, in its entirety. This section appropriates $500,000 for the establishment of a rural health care pilot program or programs. After consulting with the officials involved in the development of this bill and the Department of Public Health, it appears that this new appropriation has not been fully considered or developed. Given the significant underfunding in the SOBRA program, it would appear that the $500,000 approved in this new pilot program would be better spent allowing us to expand the SOBRA program to provide care to pregnant women and children. In addition, the substantial additional funds already approved in this bill for primary and preventive care for children also represent an additional commitment by the state in this area.

I am unable to approve the item designated as Section 1112, subsection 2, in its entirety. This subsection provides a new appropriation of $50,000 for AIDS coalitions throughout the state. Given the fiscal constraints of the state, this new expenditure cannot be justified at this time.

I am unable to approve the item designated as Section 1113 in its entirety. This provision in Senate File 538 appropriates $200,000 to the legislative council to conduct a health care study. As I have indicated previously, such a study is already well underway by my health insurance task force, which includes representatives of the General Assembly. Clearly, the legislative council can, and should, commence efforts to develop options to deal with those who are without health insurance in our state. However, the council can make use of the substantial data and work that has been done by the executive branch's study without the expenditure of an additional $200,000 for a consultant.

In short, Senate File 538 provides for a substantial expansion of the state's commitment to health care in Iowa. The Medicaid program is significantly expanded to include the coverage

for pregnant women and children; additional primary and preventive care is provided to children through a public/private partnership and the Department of Public Health, an office of rural health is established to help coordinate serious health care needs in rural areas, and additional funds are provided for well elderly clinics and to provide additional homemaker/health services for the elderly who wish to stay in their homes. I believe all these are appropriate steps forward.

However, in order to fund these programs, I am required to veto some of the new spending that is included in this bill. Many of the appropriations that have been vetoed are duplicative of expenditures made elsewhere in the budget and for that reason, are unnecessary. I have attempted with my actions in this bill to ensure that the state will take a prudent and sensitive step forward in caring for those who are most in need of health care. We can and must avoid the specter of a major tax increase and still provide for a detailed and comprehensive study of the appropriate next step for state and private action to deal with Iowans in need of health care.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 538 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 305

CAPITOL RESTORATION APPROPRIATION
S.F. 289

AN ACT making a supplemental appropriation to the department of general services 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 general services 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 restoration of the capitol building:

..... $ 700,000

Notwithstanding section 8.33, unobligated or unencumbered funds remaining on June 30, 1989, shall not revert to the general fund of the state but shall be available for expenditure for the purposes for which appropriated for the fiscal year beginning July 1, 1989.

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

Approved March 17, 1989

CHAPTER 306

JUVENILE DETENTION CENTERS APPROPRIATIONS
S.F. 123

AN ACT deappropriating and reappropriating moneys for the planning or construction of juvenile facilities and providing an effective date.

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

Section 1. 1988 Iowa Acts, chapter 1284, section 54, subsection 1, paragraph c, is amended to read as follows:

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~~ four hundred fifty thousand ~~(700,000)~~ dollars.

Sec. 2. 1988 Iowa Acts, chapter 1284, section 55, unnumbered paragraph 1, is amended to read as follows:

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~~ seven hundred fifty thousand two hundred eighty-four ~~(1,000,284)~~ dollars, and the moneys are appropriated for the following purposes:

Sec. 3. 1988 Iowa Acts, chapter 1284, section 55, subsection 2, is amended to read as follows:

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~~ four hundred fifty thousand ~~(700,000)~~ dollars.

Sec. 4. 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 dollars, after the conditions of 1988 Iowa Acts, chapter 1284, section 53, have been met and eleven million one hundred thousand 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, to the children, youth, and families division of the department of human rights for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the sum of two hundred fifty thousand dollars for planning, site selection, solicitations of requests for proposals, or remodeling or construction of county or multi-county juvenile detention centers.

Sec. 5. If the general fund ending balance for the fiscal year beginning July 1, 1987, is not sufficient under section 4 and the governor does not certify to the department of revenue and finance that the appropriation in section 4 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 children, youth, and families division of the department of human rights the sum of two hundred fifty thousand dollars for planning, site selection, solicitations of requests for proposals, or remodeling or construction of county or multi-county juvenile detention centers.

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

Approved March 27, 1989

CHAPTER 307

DEPARTMENTAL SUPPLEMENTAL APPROPRIATIONS

S.F. 363

AN ACT relating to and making supplemental appropriations to the auditor of state, department of general services, department of human services, college aid commission, state board of regents, Iowa department of public health, department of commerce, department of corrections, judicial department, department of cultural affairs, Iowa state fair authority, department of agriculture and land stewardship, department of natural resources, department of public defense, state department of transportation, department of personnel, Iowa finance authority, and council of state governments for the remainder of the fiscal year ending June 30, 1989, and providing an effective date.

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

AUDITOR OF STATE

Section 1. There is appropriated from the general fund of the state to 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 the cost of auditing the clerks of district courts and implementing GAAP incrementation:
..... $ 221,900

DEPARTMENT OF COMMERCE

Sec. 2. 1988 Iowa Acts, chapter 1274, section 16, is amended to read as follows:

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~~
1,443,854

Sec. 3. 1988 Iowa Acts, chapter 1274, section 17, unnumbered paragraph 1, is amended to read as follows:

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)~~ five hundred forty-two thousand nine hundred eleven 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.

Sec. 4. 1988 Iowa Acts, chapter 1274, section 23, unnumbered paragraphs 1 and 2, are amended to read as follows:

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~~
3,552,436

Sec. 5. 1988 Iowa Acts, chapter 1274, section 25, unnumbered paragraphs 1 and 2, are amended to read as follows:

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~~
4,489,791

DEPARTMENT OF HUMAN SERVICES

Sec. 6. There is appropriated from the general fund of the state to the department of human 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. For medical assistance to be used for the same purposes and to supplement funds appropriated by 1988 Iowa Acts, chapter 1276, section 3:

..... $ 2,200,000

2. For medical contracts to be used for the same purposes and to supplement funds appropriated by 1988 Iowa Acts, chapter 1276, section 4:

..... $ 600,000

3. For the Iowa veterans home to be used for the same purposes and to supplement funds appropriated by 1988 Iowa Acts, chapter 1276, section 12:

..... $ 250,000

4. For juvenile justice reimbursement to counties to be used for the same purposes and to supplement funds appropriated by 1988 Iowa Acts, chapter 1276, section 25:

..... $ 1,200,000

5. For major maintenance projects at the institutions to correct cited violations of codes or standards, projects to bring facilities into compliance, and projects to repair or replace critical deteriorated components or equipment:

..... $ 1,000,000

The department of human services shall expend the funds appropriated in this subsection in the following priority at the following named facilities for the major maintenance projects designated:

	FACILITY	PROJECT
a.	Cherokee	Fire sprinkler system — laundry
b.	Cherokee	Fire alarm/detection system — laundry
c.	Cherokee	Replace fire doors — main center
d.	Cherokee	Replace fire doors — Ginzberg, Voldeng, Donohoe
e.	Cherokee	Replace fire doors — main building wings
f.	Cherokee	Fire alarm/detection system, doors, exit lighting — Wirth
g.	Cherokee	Wire glass exits in main, Voldeng, Donohoe
h.	Glenwood	Replace flooring in 6 houses
i.	Independence	Replace dish machine
j.	Woodward	Replace pump station generator
k.	Woodward	Repair reservoir — pumping station
l.	Woodward	Remove doors from 24 cottages
m.	Clarinda	Upgrade motors/ventilation in carpenter shop
n.	Clarinda	Reconstruct trash room
o.	Clarinda	Replace ramps and stairways — main building service area
p.	Eldora	Bypass water line to allow repairs
q.	Eldora	Replace water and steam lines in tunnel
*r.	*Glenwood*	*Building 102 handicap bathrooms, replace floors*
s.	*Independence*	*Reconstruct escapes — Reynolds wings*
t.	*Mount Pleasant*	*Complete electrical redistribution wiring*
u.	*Woodward*	*Fire alarm system — chapel*
v.	*Woodward*	*Fire alarm — Linden court A/C, power plant*
w.	*Eldora*	*Reroof living units 7 and 8*
x.	*Marshalltown*	*Replace brick, seal, waterproof — Heinz hall*
y.	*Marshalltown*	*Exterior foyer — Dack building (south)*
z.	*Toledo*	*Replace domestic hot and cold water lines*
aa.	*Toledo*	*Replace steam and cond. lines in tunnel*
ab.	*Woodward*	*Replace roof—12 patient living units*

6. For major maintenance projects and capital improvements at the mental health institutes and hospital-schools:

..... *$ 1,700,000*

The department of human services shall expend the funds appropriated in this subsection at the following named facilities for the projects designated with similar projects being grouped and funded at the same time:

	FACILITY	*PROJECT*
a.	*Cherokee*	*Monitoring wells for buried fuel tanks*
b.	*Cherokee*	*Test 36 transformers for PCB*
c.	*Clarinda*	*Dispose of PCB transformers*
d.	*Glenwood*	*Building 108 handicapped bathrooms*
e.	*Glenwood*	*Building 101 handicapped ramp and entry*
f.	*Glenwood*	*Class "A" covering of wood floors — 115 Lacey*
g.	*Glenwood*	*Monitoring wells for 7 buried fuel tanks*
h.	*Glenwood*	*Replace flooring in 2 houses*

*Item veto; see message at end of the Act

i.	*Independence*	*Replace underground fuel tanks*
j.	*Independence*	*Test 74 transformers for PCB*
k.	*Independence*	*Replace oil in transformers w/PCB — Witte*
l.	*Mount Pleasant*	*Disposal of stored transformers containing PCB*
m.	*Woodward*	*Replace PCB transformers*
n.	*Cherokee*	*Replace dietary ovens and freezer doors*
o.	*Cherokee*	*Roof, gutter, cornice repair — main center (phase 1)*
p.	*Cherokee*	*Roof, gutter, cornice repair — main wings (phase 1)*
q.	*Cherokee*	*Low pressure steam main to power plant (phase 1)*
r.	*Clarinda*	*Water tower paint and epoxy liner*
s.	*Glenwood*	*Repair wall cracks in building 119 Buckner*
t.	*Glenwood*	*Replace roof and tuckpoint Meyer building 111*
u.	*Glenwood*	*Reroof building 102*
v.	*Woodward*	*Replace roof — Linden court A, B, C, D*
w.	*The four mental health institutes and the two hospital-schools*	*Initiate asbestos removal*
x.	*Cherokee*	*Fire detection alarm system — main*
y.	*Cherokee*	*Enclose fire escapes — Ginsberg*
z.	*Clarinda*	*Sprinkler system — Pine cottage*
aa.	*Independence*	*Fire detection and doors — nurses, Stewart, Reynolds*
ab.	*Independence*	*Widen doors — Reynolds wings, Cromwell*
ac.	*Mount Pleasant*	*Replace windows in 175 patient accessible rooms*
ad.	*Mount Pleasant*	*Sprinkler system in attic of building 18**

7. For capital improvements at the juvenile institutions:

..... $ 1,800,000

The department of human services shall expend the funds appropriated in this subsection at the following named facilities for the projects designated with similar projects being grouped and funded at the same time:

	FACILITY	PROJECT
a.	Eldora	Renovate/update one student housing building
**b.*	*Eldora*	*Facility engineering/design and program analysis*
c.	*Eldora*	*Asbestos removal (phase 1)*
d.	*Eldora*	*Fire detection and alarm — various buildings*
e.	*Eldora*	*Auditorium elevator and school ramp for 504 compliance*
f.	*Toledo*	*Asbestos removal (phase 1)*
g.	*Toledo*	*Update fire alarm systems — campus wide*
h.	*Toledo*	*Vent system upgrade — center kitchen*
i.	*Eldora*	*Test 33 transformers and oil switches for PCB*
j.	*Eldora*	*Remove underground fuel tank*
k.	*Toledo*	*Test 15 electrical transformers for PCB*
l.	*Toledo*	*Replace 4 underground tanks*
m.	*Eldora*	*Repair copper roof deck and spot tuckpoint — gym*
n.	*Toledo*	*Electric system reconstruction — school admin. building*
o.	*Toledo*	*Tuckpoint and waterproof — school admin. building*
p.	*Toledo*	*Reroof Arnold cottage*
q.	*Toledo*	*Roof replacement—Bryant cottage*
r.	*Toledo*	*Roof replacement—Palmer cottage*
s.	*Toledo*	*Repair gym walls*
t.	*Toledo*	*Replace gutters, downspouts — Dugan, Chapel, Roberts*

*Item veto; see message at end of the Act

u.	*Toledo*	*Replace dietary building elevator*
v.	*Toledo*	*Reroof—shop, power plant, dietary buildings*
w.	*Toledo*	*Reconstruct tunnel sections**

8. Notwithstanding section 8.39, funds appropriated in the department for the purposes designated in subsections 1, 2, 3, and 4, are not subject to transfer. However, nothing in this Act prohibits the department from transferring moneys from other sources to be used for the purposes designated in subsections 1, 2, 3, and 4.

9. Notwithstanding section 8.39, funds appropriated in subsections 5, 6, and 7, shall be used for the purposes designated and are not subject to transfer.

10. The provisions of section 8.33 do not apply to the funds appropriated in subsections 5, 6, and 7. The unobligated and unencumbered funds remaining on March 30, 1990, from the funds appropriated in subsections 5, 6, and 7, for the fiscal year beginning July 1, 1988, shall revert to the general fund of the state on March 30, 1990.

Sec. 7. 1988 Iowa Acts, chapter 1276, section 1, subsection 1, is amended to read as follows:

1. For aid to families with dependent children:

..... $ ~~48,328,449~~
47,328,449

Sec. 8. 1988 Iowa Acts, chapter 1276, section 11, is amended to read as follows:

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~~
38,353,000

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. 9. 1988 Iowa Acts, chapter 1276, section 17, unnumbered paragraph 1, is amended to read as follows:

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~~
2,100,000

Sec. 10. 1988 Iowa Acts, chapter 1276, section 21, unnumbered paragraph 1, is amended to read as follows:

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~~
500,000

**Sec. 11. There is appropriated from the general fund of the state to the department of human 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:*

*Item veto; see message at end of the Act

For start-up costs associated with the development of juvenile emergency shelters and group homes for the placement of juveniles who have a high risk of the commission of a crime or a delinquent act and who need placement out-of-home and need specialized programs such as substance abuse or education programs:

..... *$ 1,000,000*

*The provisions of section 8.33 do not apply to the funds appropriated in this section. The unobligated and unencumbered funds remaining on March 30, 1990, from the funds appropriated in this section shall revert to the general fund of the state on March 30, 1990.**

IOWA DEPARTMENT OF PUBLIC HEALTH

Sec. 12. 1988 Iowa Acts, chapter 1277, section 6, is amended to read as follows:

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)~~ one hundred two thousand 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.

DEPARTMENT OF CORRECTIONS

Sec. 13. 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 amount, or so much thereof as is necessary, to be used for the purpose designated:

1. For capital and major maintenance projects at correctional institutions:

..... $ 5,000,000

Notwithstanding section 8.39, funds appropriated in this section shall be used for the purposes designated and are not subject to transfer.

The provisions of section 8.33 do not apply to the funds appropriated in this section. The unobligated and unencumbered funds remaining on March 30, 1990, from the funds appropriated in this section for the fiscal year beginning July 1, 1988, shall revert to the general fund of the state on March 30, 1990.

2. The department of corrections shall expend the funds appropriated in this section in the following priority at the following named facilities for the capital and major maintenance projects designated:

a. CAPITALS:

	FACILITY	PROJECT
(1)	Oakdale	Sprinkler system
(2)	Mitchellville	Water main
(3)	Fort Madison	Farm #1 water system
(4)	Mount Pleasant	Water system
(5)	Anamosa	Fire alarm system
*(6)	*Luster Heights*	*For repairs/upgrade of a sewer lagoon, materials for construction of an industries program building, remodeling/rewiring original dorm, and kitchen sanitation equipment*
(7)	*Fort Madison*	*Water main system*
(8)	*Mount Pleasant*	*Sewer update*
(9)	*All facilities*	*Asbestos removal*
(10)	*Newton*	*Security monitoring*
(11)	*Mitchellville*	*City water hook-up*
(12)	*Rockwell City*	*Individual heating and hot water*

*Item veto; see message at end of the Act

(13)	*Fort Madison*	*Water main replacement*
(14)	*Mitchellville*	*Emergency generator*
(15)	*Mount Pleasant*	*Switchgear and transformers*
(16)	*Mitchellville*	*Freezer*
(17)	*Anamosa*	*Sign shop addition*
(18)	*Fort Madison*	*Fire alarm extension*
(19)	*Rockwell City*	*Surface perimeter road*
(20)	*Fort Madison (John Bennett)*	*Alarm system*
(21)	*Oakdale*	*Water treatment building*
(22)	*Rockwell City*	*Electrical distribution and rewiring and connection to the city sewer system*

b. MAJOR MAINTENANCE:

	FACILITY	*PROJECT*
(1)	*Fort Madison*	*Perimeter tuckpoint*
(2)	*Anamosa*	*Fire escapes*
(3)	*Oakdale*	*Kitchen ventilation*
(4)	*Mount Pleasant*	*Boom truck*
(5)	*Newton*	*Roof repair — dorms*
(6)	*Rockwell City*	*Replace slate roof*
(7)	*Mitchellville*	*Rework fire alarm*
(8)	*Clarinda*	*Water main loop*
(9)	*Fort Madison*	*Tuckpoint CH 18 and 19*
(10)	*Anamosa*	*Fire doors CH 3*
(11)	*Oakdale*	*Precast panel repair*
(12)	*Mount Pleasant*	*Radio conversion*
(13)	*Newton*	*Lock system for dorm*
(14)	*Rockwell City*	*Lock system for dorm*
(15)	*Mitchellville*	*Replace locks*
(16)	*Clarinda*	*Tuckpointing**

Sec. 14. 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 salaries for correctional officers:

..... $ 82,086

a. As a condition, limitation, qualification of the appropriation made in this subsection, $7,711 shall be used to employ two additional correctional officers at the Ft. Madison correctional facility, $23,693 shall be used to employ five additional correctional officers and one additional correctional counselor at the Anamosa correctional facility, $4,415 shall be used to employ one additional correctional counselor at the Oakdale correctional facility, $3,856 shall be used to employ one additional correctional officer at the Newton correctional facility, $7,711 shall be used to employ an additional two correctional officers at the Mt. Pleasant correctional facility, $7,711 shall be used to employ two additional correctional officers at the Clarinda correctional facility, $19,278 shall be used to employ five additional correctional officers at the Mitchellville correctional facility, and $7,711 shall be used to employ two additional correctional officers at the Rockwell City correctional facility.

b. Notwithstanding section 8.39, funds appropriated in this subsection shall be used for the salaries of those correctional officers employed pursuant to paragraph "a" and the funds are not subject to transfer between correctional facilities.

2. For support and miscellaneous purposes of the correctional facilities:

..... $ 673,102

*Item veto; see message at end of the Act

Sec. 15. 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 allocated as follows:

1. For the second judicial district department of correctional services, the following amount, or so much thereof as is necessary, to be used for the OWI program:

..... $ 14,888

2. For the third judicial district department of correctional services, the following amount, or so much thereof as is necessary, to be used for the OWI program:

..... $ 7,000

3. For the sixth judicial district department of correctional services, the following amount, or so much thereof as is necessary, to be used for the OWI program:

..... $ 15,280

JUDICIAL DEPARTMENT

Sec. 16. 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:

1. For adult indigent defense costs:

..... $ 1,523,710

2. For juvenile indigent defense costs:

..... $ 884,089

**3. To automate child support collections, including not more than the following full-time equivalent positions:*

..... *$ 1,800,000*

..... *FTEs 35.37*

*Notwithstanding section 8.39, funds appropriated in subsection 3 of this section shall be used for the purposes designated and are not subject to transfer.**

The provisions of section 8.33 do not apply to the funds appropriated in this section. The unobligated and unencumbered funds remaining on March 30, 1990, from the funds appropriated in this section for the fiscal year beginning July 1, 1988, shall revert to the general fund of the state on March 30, 1990.

Sec. 17. There is appropriated from the general fund of the state to the judicial department for the fiscal period beginning July 1, 1988, and ending March 30, 1990, the following amounts, or so much thereof as is necessary for the purposes designated:

For the development of a computer system for the state's judicial system:

..... $ 3,400,000

The provisions of section 8.33 do not apply to the funds appropriated in this section. The unobligated and unencumbered funds remaining on March 30, 1990, from the funds appropriated in this section shall revert to the general fund of the state on March 30, 1990.

Sec. 18. Notwithstanding any other provision of law, the department of inspections and appeals shall pay any claims for indigent defense and juvenile defense remaining unpaid at the close of fiscal year 1989 from funds appropriated to the department for fiscal year 1990.

STATE BOARD OF REGENTS

Sec. 19. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 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 completion of power plant replacement at the university of northern Iowa:

..... $ 1,100,000

**2. For business school equipment for the university of northern Iowa:*

..... *$ 1,000,000*

3. For asbestos removal at the school for the deaf:

..... *$ 25,000*

*Item veto; see message at end of the Act

4. For remodeling McLean hall at the university of Iowa:
..... *$ 1,275,000*
5. For agronomy equipment at Iowa state university of science and technology:
..... *$ 1,000,000**
6. For fire and environmental safety improvements at the regents' institutions:
a. At the university of Iowa:
..... $ 500,000
b. At the Iowa state university of science and technology:
..... $ 500,000
c. At the university of northern Iowa:
..... $ 250,000

Notwithstanding section 8.39, funds appropriated in this section shall be used for the purposes designated and are not subject to transfer.

The provisions of section 8.33 do not apply to the funds appropriated in this section. The unobligated and unencumbered funds remaining on March 30, 1990, from the funds appropriated in this section for the fiscal year beginning July 1, 1988, shall revert to the general fund of the state on March 30, 1990.

COLLEGE AID COMMISSION

Sec. 20. 1988 Iowa Acts, chapter 1284, section 9, is amended to read as follows:

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~~ eighty-four 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. 21. 1988 Iowa Acts, chapter 1284, section 11, is amended to read as follows:

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~~ twenty-eight point three full-time equivalent positions:
..... $ 2,202,606

2. LOAN CONSOLIDATION SERVICES

For loan consolidation services:
..... $ 200,000

**DEPARTMENT OF CULTURAL AFFAIRS*

Sec. 22. There is appropriated from the general fund of the state to the library division of the department of cultural affairs for the fiscal biennium beginning July 1, 1988, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To prepare for the White House conference on library and information services for the period September 1, 1989, through September 1, 1991:
..... *$ 30,000**

*Item veto; see message at end of the Act

**Sec. 23. 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 amount, or so much thereof as is necessary, to be used for the purposes designated:*

For the replacement of the old IPBN channel 12 transmitter:

..... *$ 500,000*

Notwithstanding section 8.39, funds appropriated under this section shall only be used for the purposes designated and are not subject to transfer.

*Notwithstanding section 8.33, unobligated and unencumbered funds from moneys appropriated in this section remaining on June 30, 1989, shall not revert to the general fund of the state but shall remain available for expenditure during the fiscal year beginning July 1, 1989, for the same purpose.**

IOWA STATE FAIR AUTHORITY

Sec. 24. There is appropriated from the general fund of the state to the Iowa state fair authority 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 the repair of the livestock pavillion, the grandstand, the varied industries building, and the east brick entrance of the horse barn:

..... $ 1,000,000

Notwithstanding section 8.39, funds appropriated in this section shall be used for the purposes designated and are not subject to transfer.

Unencumbered or unobligated funds remaining on March 30, 1990, from funds appropriated for the fiscal year beginning July 1, 1988, shall revert to the general fund on March 30, 1990.

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

**Sec. 25. 1988 Iowa Acts, chapter 1272, section 1, subsection 1, paragraph a, is amended to read as follows:*

a. From the general fund for salaries, support, maintenance, and miscellaneous purposes:

..... *$* ~~968,311~~
984,511*

**Sec. 26. 1988 Iowa Acts, chapter 1272, section 1, subsection 1, is amended by adding the following new paragraph:*

NEW PARAGRAPH *i. Of the amount appropriated from the general fund of the state under paragraph "a" of this subsection, sixteen thousand two hundred dollars shall be allocated for the purchase of a videotape editing console, desktop publishing system, and audio/video recording equipment.**

Sec. 27. 1988 Iowa Acts, chapter 1272, section 1, subsection 2, paragraph a, is amended to read as follows:

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~~
899,770

The general assembly finds it necessary to reduce the appropriation made by this subsection due to the vacant positions and underexpenditures in the international trade bureau.

Sec. 28. 1988 Iowa Acts, chapter 1272, section 1, subsection 4, paragraph a, is amended to read as follows:

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~~
4,036,937

Sec. 29. 1988 Iowa Acts, chapter 1272, section 1, subsection 4, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Of the amount appropriated from the general fund of the state under paragraph "a" of this subsection, one hundred twenty-six thousand two hundred dollars shall

*Item veto; see message at end of the Act

be allocated as follows: four thousand two hundred dollars to the grain warehouse bureau for a deep grain probe; **six thousand dollars to the veterinary medical examiners board for computer equipment;** twelve thousand dollars to the meat and poultry bureau for computer equipment; **fifteen thousand dollars to the brand registration unit for computer equipment;** and eighty-nine thousand dollars to the regulatory division vehicle depreciation fund for the purchase of a large-scale testing unit.

**Sec. 30. 1988 Iowa Acts, chapter 1272, section 1, subsection 5, paragraph a, is amended to read as follows:*

a. From the general fund for salaries, support, maintenance, and miscellaneous purposes:

..... $ ~~596,283~~
617,383**

**Sec. 31. 1988 Iowa Acts, chapter 1272, section 1, subsection 5, is amended by adding the following new paragraph:*

NEW PARAGRAPH *f. Of the amount appropriated from the general fund of the state under paragraph "a" of this subsection, twenty-one thousand one hundred dollars shall be allocated as follows: fourteen thousand seven hundred dollars to the seed and entomology bureau for computer equipment, and six thousand four hundred dollars for the United States department of agriculture certification training for four agricultural products inspectors.**

Sec. 32. Notwithstanding section 8.33, unencumbered and unobligated funds remaining from the appropriations made in sections 25 through 31 of this Act shall not revert to the general fund of the state until September 30, 1989.

DEPARTMENT OF NATURAL RESOURCES

Sec. 33. 1988 Iowa Acts, chapter 1272, section 5, subsection 4, is amended to read as follows:

4. For the payment of assessments to the midwest interstate low-level radioactive waste compact:

..... $ ~~78,000~~
-0-

Sec. 34. 1988 Iowa Acts, chapter 1281, section 6, is amended to read as follows:

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, established in section 93.11, for the fiscal period beginning July 1, 1986, and ending June 30, ~~1989~~ 1990, 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. 35. There is appropriated from the general fund of the state to the Iowa resources enhancement and protection fund for fiscal year beginning July 1, 1988, and ending June 30, 1989, the following amount to be used for the purposes of the fund, if the fund is created by enactment of the Seventy-third General Assembly:

..... $ 5,000,000

DEPARTMENT OF PUBLIC DEFENSE

Sec. 36. 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 construction of the Algona armory:

..... $ 396,000

2. For construction of the Centerville armory:

..... $ 438,000

**Item veto; see message at end of the Act*

3. For construction of the Denison armory:

..... $ 460,000

4. For planning of the Camp Dodge armory:

..... $ 100,000

As a condition, limitation, and qualification of the appropriations made under this section, the amounts appropriated should be used to match federal funds.

Notwithstanding section 8.39, funds appropriated in this section shall be used for the purposes designated and are not subject to transfer.

The provisions of section 8.33 do not apply to the funds appropriated in this section. The unobligated and unencumbered funds remaining on March 30, 1991, from the funds appropriated in this section for the fiscal year beginning July 1, 1988, shall revert to the general fund of the state on March 30, 1991.

**STATE DEPARTMENT OF TRANSPORTATION*

Sec. 37. There is appropriated from the general fund of the state 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 is necessary, to be used for the purposes designated:

For essential air service airport terminal improvements:

..... *$ 500,000*

In selecting projects, the state department of transportation shall give preference to projects that will assist in maintaining and attracting air service. The state department of transportation shall provide funding for as many essential air service communities as possible based on merit and need. Priority shall be given to those airports with projects closest to completion. Those airports that use moneys from this program must complete their projects in the fiscal year beginning July 1, 1989. The state department of transportation shall notify essential air service airports of this program and make tentative selection of projects forty-five days from the effective date of this Act.

*Notwithstanding section 8.33, unobligated and unencumbered funds remaining on November 30, 1989, from the funds appropriated in this section for the fiscal year beginning July 1, 1988, shall revert to the general fund of the state on November 30, 1989.**

DEPARTMENT OF GENERAL SERVICES

Sec. 38. 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 amount, or so much thereof as is necessary, to be used for the purposes designated:

For capitol restoration, **expanded capitol complex space for legislative staff, public meeting rooms, and related legislative purposes, not to include office space for legislators outside of the capitol building, as directed by the legislative council, capitol expansion design, design of a parking ramp in the vicinity of the old historical building, and design of a parking ramp including an office floor located at Penn and Grand:**

..... $ 7,970,000

**As a condition, limitation, and qualification of the appropriation in this section not more than nine hundred seventy thousand dollars shall be used for the design and purchase of property for a parking ramp located at Penn and Grand.*

*As a condition, limitation, and qualification of the appropriation in this section not more than five hundred thousand dollars shall be used for design of a parking ramp located in the vicinity of the old historical building.**

As a condition, limitation, and qualification of the appropriation in this section not more than five million five hundred thousand dollars shall be used for capitol restoration. Of the amount of the appropriation used for capitol restoration, the department may use up to $750,000 to replace transformers in the capitol building.

Notwithstanding section 8.39, funds appropriated in this section shall be used for the purposes designated and are not subject to transfer.

*Item veto; see message at end of the Act

The provisions of section 8.33 do not apply to the funds appropriated in this section. The unobligated and unencumbered funds remaining on June 30, 1990, from the funds appropriated in this section for the fiscal year beginning July 1, 1988, shall revert to the general fund of the state on September 30, 1990.

Sec. 39. 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 amount, or so much thereof as is necessary, to be used for the purposes designated:

For utility and maintenance costs:

..... $ 200,000

Notwithstanding section 8.39, funds appropriated under this section shall only be used for the purposes designated and are not subject to transfer.

**DEPARTMENT OF PERSONNEL*

Sec. 40. 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 site purchase, planning, design, and site preparation to establish a child care center at the capitol complex:

..... *$ 300,000*

1. The department of personnel shall survey the state employees located at the capitol complex to determine interest in on-site child day care services. The survey shall include but is not limited to an assessment of all of the following items:

a. The number and ages of children of employees who express an intent to utilize a child care center established at the capitol complex.

b. The time of day during which child day care services are desired.

c. The work location of interested employees.

d. The potential impact of establishing child day care services at the capitol complex upon private child day care providers.

2. By October 1, 1989, the department shall report the results of the child day care survey to the state employees child care council which is created in the department of personnel. The council shall determine the level of need for a capitol complex child care center and shall monitor the planning to establish a child care center in the capitol complex. The membership of the council shall include representatives of each of the unions representing state employees and the directors of the following departments or the directors' designees: the department of general services, the department of personnel, the department of human services, the state department of transportation, and the Iowa department of public health. The council shall determine its own operating procedures.

3. If the survey of capitol complex employees identifies an intent for twenty or more children to utilize child day care services, the department of personnel shall commence efforts to establish a child care center at the capitol complex, including commencement of the transfer of moneys appropriated in this section to the department of general services in an amount sufficient to purchase and prepare a site, develop a design, and plan for the establishment of a child care center located within the capitol complex with sufficient capacity for the number of children to be provided day care services as determined by the state employees child care council.

*4. Unencumbered or unobligated funds remaining from the appropriation made by this section on June 30, 1990, shall revert to the general fund of the state on September 30, 1990.**

**DEPARTMENT OF HUMAN SERVICES*

Sec. 41. There is appropriated from the general fund of the state to the department of human services 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 outreach, recruitment, and training of new child day care providers:

..... *$ 200,000*

*Item veto; see message at end of the Act

1. Of the funds appropriated in this section up to $25,000 may be used to develop and distribute start-up kits for establishing child day care services. The use of the remaining funds shall include the recruitment of new child day care providers and the training of family and group day care home providers and of child care center administrators and other staff.

*2. Notwithstanding section 8.33, unencumbered or unobligated funds remaining from the appropriation made by this section shall not revert to the general fund until September 30, 1990.**

COUNCIL OF STATE GOVERNMENTS

Sec. 42. There is appropriated from the general fund of the state to the council of state governments 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 the continuation of the state and local legal center:

..... $ 50,000

Sec. 43. Notwithstanding any other provision of law, the director of the department of management shall reduce the monthly installments as outlined in section 262.28 for the fiscal year beginning July 1, 1988, and ending June 30, 1989, for the transfer of funds made under section 11.5A.

*IOWA FINANCE AUTHORITY

Sec. 44.

1. There is appropriated from the general fund of the state to the housing trust fund created pursuant to section 220.100, subsection 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 the purposes designated:

For the programs established in section 220.100, subsection 2:

..... *$ 3,000,000*

2. As nearly as practicable, of the moneys appropriated in subsection 1, the Iowa finance authority should allocate ten percent for the homeless grant program under section 220.100, subsection 2, paragraph "a"; twenty percent for the home maintenance and repair program under section 220.100, subsection 2, paragraph "b"; thirty-five percent for the rental rehabilitation program under section 220.100, subsection 2, paragraph "c"; and thirty-five percent for the home ownership incentive program under section 220.100, subsection 2, paragraph "d". After February 1, 1990, moneys allocated to a program under section 220.100, subsection 2, may be reallocated by the authority to another program under that subsection if the other program has more need. In providing funds under the home maintenance and repair program and the home ownership incentive program, the authority shall, to the extent feasible, make funds available under the programs for purposes of pilot projects for sweat-equity housing cooperatives.

3. Of the moneys appropriated in subsection 1 that are allocated to the homeless grant program, up to thirty percent may be used for grants for operating costs of homeless shelters.

4. As nearly as practicable, of the moneys appropriated in subsection 1 that are allocated to the home maintenance and repair program, the rental rehabilitation program, and the home ownership incentive program, twenty-five percent from each program should be used to assist very low-income families and seventy-five percent from each program should be used to assist lower income families.

5. The assistance provided by the authority under the home ownership incentive program shall include, but not be limited to, the following kinds:

a. Closing costs assistance.

b. Down payment assistance.

c. Home maintenance and repair assistance.

*Item veto; see message at end of the Act

d. Loan processing assistance through a loan endorser review contractor who would act on behalf of the authority in assisting lenders in processing loans that will qualify for government insurance or guarantee or for financing under the authority's mortgage revenue bond program.

e. Mortgage insurance program.

Not more than fifty percent of the assistance provided by the authority under the home ownership incentive program shall be provided under paragraphs "d" and "e".

6. Assistance provided under the home ownership incentive program shall be limited to mortgages under thirty-five thousand dollars, except in those areas of the state where the median price of homes exceeds the state average. In providing the assistance under the home ownership incentive program, the authority shall require substantial seller participation of not less than two percent of the mortgage amount, which participation includes, but is not limited to, home ownership maintenance funding, down payment assistance, payment of closing costs, or rehabilitation costs.

7. The authority, in conjunction with the department of economic development, shall work with the private sector to set up workshops to educate housing sponsors on the housing programs available and to assist housing sponsors in the application process.

*Notwithstanding section 8.33, unencumbered or unobligated funds remaining in the housing trust fund on June 30, 1989, shall not revert to the general fund of the state but shall remain in the housing trust fund and be used for the programs as provided in this section.**

Sec. 45. There is appropriated from the general fund of the state to the revolving fund created pursuant to section 15.287, 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 for which moneys in the fund may be used:

..... $ 5,000,000

The moneys appropriated in this section to the revolving fund, which are allocated under the program to the traditional and new infrastructure categories, shall be used exclusively for assistance to political subdivisions to meet the water needs of those political subdivisions that have suffered as a result of the drought conditions that have existed during the past two years. A political subdivision may apply for assistance under the program on behalf of a benefited water district formed under chapter 357 or on behalf of a rural water district incorporated and organized under chapter 357A. Assistance shall only be available to those political subdivisions which demonstrate a substantial local effort to assist in community development as defined by rules of the department of economic development. Awards of these funds shall be made only to those applicants who include a plan to educate the users on methods to reduce per capita consumption of water by ten percent.

Sec. 46. Section 455G.9, subsection 1, paragraph a, subparagraph (1), subparagraph subdivision (c), as enacted by 1989 Iowa Acts, House File 447, is amended to read as follows:

(c) The owner or operator applying for coverage shall not have claimed bankruptcy any time on or after ~~April 1, 1988~~ July 1, 1987.

Sec. 47. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 2, 1989, except the items which I hereby disapprove and which are designated as section 6, subsection 5, subparagraphs r through ab; section 6, subsection 6 in its entirety; section 6, subsection 7, subparagraphs b through w; section 6, subsection 10 in its entirety; section 11 in its entirety; section 13, subsection 1, unnumbered paragraph 2; section 13, subsection 2, subparagraph a, subsubparagraphs 6 through 22; and section 13, subsection 2, subparagraph b in its entirety; section 16, subsection 3 and unnumbered paragraph 1 in its entirety; section 18 in its entirety; section 19, subsections 2, 3, 4, and 5 in their entirety; sections 22 and 23 in their entirety; sections 25 and 26 in their entirety; that portion of section 29 which is herein bracketed in ink and initialed by me; and sections 30, 31, and 37 in their entirety; that portion of section 38, unnumbered paragraph 2, which is herein bracketed in ink and

*Item veto; see message at end of the Act

initialed by me, and unnumbered paragraphs 3, 4, and 7; and sections 40 and 41 in their entirety; and section 44 in its entirety. My reasons for vetoing these items are 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*

Dear Madam President:

I hereby transmit Senate File 363, an Act relating to and making supplemental appropriations to the auditor of state, department of general services, department of human services, college aid commission, state board of regents, Iowa department of public health, department of commerce, department of corrections, judicial department, department of cultural affairs, Iowa state fair authority, department of agriculture and land stewardship, department of natural resources, department of public defense, state department of transportation, department of personnel, Iowa finance authority, and council of state governments for the remainder of the fiscal year ending June 30, 1989, and providing an effective date.

Senate File 363 appropriates $50.4 million in state general fund money in this fiscal year — which ends in just two months. While many of the projects included in Senate File 363 are worthy and deserve consideration for future funding, I object strongly to the basis upon which this spending bill was passed.

Many of the programs receiving appropriations would not even begin until next fiscal year, a fact recognized repeatedly by the anti-reversion clauses included throughout the bill. This reverse deficit spending is a bad budgeting and accounting practice. And the result is equally bad; income taxpayers would fail to get some tax relief.

Let me explain. Flush with state revenues growing greater than had been anticipated in December, the General Assembly went on a $50 million April spending binge, leaving the state taxpayers with a $9 million hangover next year. By spending so much money yet this fiscal year the state would almost certainly fail to reach a $60 million ending balance on June 30. In fact, current estimates place the ending balance at $41 million. The result: many state income taxpayers will be kicked into higher income tax rates costing them a total of $9 million next tax year. Why? Because a $60 million ending balance is required by law before indexing of income tax rates takes place. Iowa's income taxes are high enough the way it is; we don't need to make them any higher through a spending sleight of hand.

We ought to go through with indexing income tax rates as planned. To do so would provide six times as much tax relief to low income Iowans as those in the upper income levels. Therefore, I reject notions that indexing somehow favors the wealthy — it is, in fact, fair and progressive.

It is for that reason that I am required to veto approximately $20.5 million in spending from Senate File 363. I have been assured by our state budget officials that based on current revenue estimates vetoing this amount of spending should be sufficient to ensure a $60 million balance at the end of this fiscal year.

I am willing to consider in future fiscal years many of the appropriation items I am required to veto, but I am not willing to obligate spending to force a tax increase on Iowa income taxpayers.

Senate File 363 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 6, subsection 5, subparagraphs r through ab. This part of Senate File 363 appropriates $1 million to the Department of Human Services for major maintenance projects at the various institutions. I have authorized sufficient projects to spend up to $517,000 to address the highest priorities of the department for major maintenance at the institutions; further appropriations for this purpose can be considered in appropriate fiscal years.

I am unable to approve the item designated as Section 6, subsection 6 in its entirety. This provision provides an additional $1.7 million in spending for major maintenance projects at the mental health institutes and hospital schools. The $517,000 approved in subsection 5 will provide funds for the most serious of these problems; the needs identified in subsection 6 can be better addressed in future fiscal years.

I am unable to approve the item designated as Section 6, subsection 7, subparagraphs b through w. This action will provide the Department of Human Services with $600,000 to remodel the student housing building at the Eldora Training School which is in desperate need of such renovation. I recommended financing for this project in the lottery, but I am willing to accept this method of funding. The remaining capital improvement items included in subsection 7 can be more appropriately addressed in a future fiscal year.

I am unable to approve the item designated as Section 6, subsection 10 in its entirety. This section of the bill prevents a reversion of unspent funds until March 30 of 1990. Such unspent funds should revert by June 30 of this year in order to ensure a $60 million ending balance. If this section were not item vetoed, all of the projects in these sections would have to be vetoed to assure indexation will occur.

The approved portions of Section 6 will provide DHS with a total of $1.1 million to address some of the most critical major maintenance and capital needs. The remaining portion of the lump sum appropriations will remain unspent, consistent with the Brady Rule which was recognized by the Iowa Attorney General's Office Op. Att'y. Gen. No. 87-6-4 (June 26, 1987) and the Iowa Supreme Court Welden v. Ray, 229 N.W.2d 706, 714 (Iowa 1975).

I am unable to approve the item designated as Section 11 in its entirety. This section provides $1 million of new money to set up emergency juvenile shelters throughout the state. This would appear to be an ongoing commitment of state funds for this purpose; it is inappropriate to start this new program in a supplemental bill with full recognition that the funds would not be able to be spent this fiscal year. Emergency juvenile shelters are a serious problem and can be addressed by the legislature in a more appropriate fiscal year.

I am unable to approve the item designated as Section 13, subsection 1, unnumbered paragraph 2; and Section 13, subsection 2, subparagraph a, subsubparagraphs 6 through 22; and Section 13, subsection 2, subparagraph b, in its entirety. The effect of this item veto will be to provide the Department of Corrections with $1.1 million for essential major maintenance and capital projects. While the department clearly has a significant need for major maintenance and capital renovation, the majority of these funds would not be able to be spent in Fiscal Year 1989 anyway and should be considered in a future fiscal year.

Moreover, some of the essential capital renovation needs in the institutions can be accomplished by adoption of my recommendations to add additional secure prison beds which are critically needed to protect the public safety.

I am unable to approve the item designated as Section 16, subsection 3 and unnumbered paragraph 1 in its entirety. This provision of Senate File 363 provides $1.8 million to the judicial system to automate child support collections. At the present time, the Department of Human Services has a fully computerized child support collection system operating in an acceptable way. However, legislation passed last year requires that child support collections be transferred to the Judicial Department in the coming fiscal year. It would be far wiser for the Department of Human Services and the Judicial Department to work out a transfer of the automated system established at the Department of Human Services for the AFDC cases. To do so would save the state at least $1.8 million and could also avoid jeopardizing approximately $3 million in federal support.

I am unable to approve the item designated as Section 18 in its entirety. This provision of the bill could add to the state's generally accepted accounting principles (GAAP) deficit. Section 18 requires that certain excessive obligations of the state for Fiscal Year 1989 be paid for by the state in Fiscal Year 1990. Pushing such obligations off at the same time the legislature is spending an additional $50 million of state funds in Fiscal Year 1989 to avoid state income tax indexing is uncalled for and cannot be supported. If additional funds are needed to pay indigent defense claims, appropriations transfers or adjustments should be sought.

I am unable to approve the item designated as Section 19, subsections 2, 3, 4 and 5 in their entirety. This portion of Senate File 363 appropriates funds to the Regent institutions for various capital projects. I have recommended a number of these projects be funded as part of our contingency appropriations in Fiscal Year 1990 and continue to believe that they should be considered for such an appropriation.

I have approved subsection 1 of this section which will allow the University of Northern Iowa to complete its construction of a new boiler which was obligated last fiscal year and subsection 6 of this section to provide over $1.2 million for essential fire and environmental safety improvements at the Regent institutions.

The other projects included for spending this year would not reasonably be obligated in Fiscal Year 1989 and should therefore be considered in a future fiscal year.

I am unable to approve the item designated as Sections 22 and 23 in their entirety. This portion of Senate File 363 provides funding to the Department of Cultural Affairs for a transmitter and a library conference. I question the need to appropriate $30,000 of funds to prepare for a library conference; however, if such a need exists the appropriations should be made in the correct fiscal year. The transmitter could also be considered in a future fiscal year.

I am unable to approve that item designated as Sections 25 and 26 in their entirety; the portions of Section 29 so designated; and Sections 30 and 31 in their entirety.

These items provide additional money to the Department of Agriculture for various purposes. Funds for video equipment and desk top publishing computer equipment are vetoed from this bill. If the legislature wants to consider providing such equipment to the Department of Agriculture it should be considered in a future fiscal year.

I am unable to approve that item designated as Section 37 in its entirety. This section of the bill provides $500,000 of general fund money for airport terminal improvements. This fiscal year $250,000 of Road Use Tax Funds are already provided for such improvements. If the legislature wishes to start a new program providing general fund money for airport terminal improvements, it should be considered in a future fiscal year.

I am unable to approve the designated portion of Section 38, unnumbered paragraph 2, and unnumbered paragraphs 3, 4 and 7. This item in Senate File 363 provides $7.9 million of funds to the Department of General Services for various capitol complex projects.

Specifically, $5.5 million is provided to continue the restoration of the capitol building. Indeed, $900,000 of those funds have already been obligated. And therefore, the $5.5 million for the capitol building restoration is approved by my action. However, the $2.4 million of funds appropriated to design a new legislative office building and to design two new parking ramps cannot be approved. Planning and design money for this purpose had been appropriated last year and these additional funds cannot be spent this fiscal year, in any event. Moreover, I cannot approve the construction of a new legislative office building and other facilities on the capitol complex at this time.

I am unable to approve the items designated as Sections 40 and 41 in their entirety.

These sections of Senate File 363 appropriate funds to the Department of Personnel and the Department of Human Services to construct a child care center on the capitol complex and to recruit child care providers. The state has, in the recently concluded collective bargaining negotiations, authorized pre-tax benefits for child care for all state employees. I believe that is the most appropriate way to give state employees who are parents of children a choice providing their children with appropriate care. Moreover, this appropriation and funds to recruit child care providers can be more appropriately considered in a future fiscal year.

I am unable to approve the item designated as Section 44 in its entirety.

This section of the bill appropriates $3 million to the Iowa Finance Authority for various housing programs. I am generally supportive of these housing programs and have recommended their funding through lottery appropriations in Fiscal Year 1990. Indeed, the drafts of the lottery bill that my office is aware of have included substantial funds for these housing programs. In addition, Section 45 of this bill provides an additional $1.5 million to the Iowa Finance Authority for housing purposes. In all, as much as $5 million could be available to the Iowa Finance Authority for housing in Fiscal Year 1990 compared with $1.5 million this year. As a result, the $3 million appropriation provided for in this supplemental bill is not necessary at this time.

In short, Senate File 363 includes over $50 million of additional spending this fiscal year. Much of this spending cannot be reasonably obligated or utilized during the two months that remain in our state fiscal year. However, the legislature clearly attempted to appropriate the funds at this time to ensure that the state's ending balance would fall below the $60 million needed to trigger indexing of income tax rates. I cannot support that effort to increase income taxes for Iowans by approximately $9 million for the next tax year.

I have, with these item vetoes, attempted to recognize some of the key priorities of this administration and the General Assembly. However, the $20.4 million of spending which is eliminated from this bill is necessary in order to secure income tax indexing for the next year.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 363 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 308

ECONOMIC DEVELOPMENT APPROPRIATIONS

S.F. 520

AN ACT relating to and making appropriations to the department of economic development.

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, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. General administration

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 826,570

..... FTEs 23.0

2. For tourism and promotion programs, including salaries and support for not more than the following full-time equivalent positions:

..... $ 951,406

..... FTEs 15.97

As a condition, limitation, and qualification of the appropriation made by this subsection, the appropriation shall not be used for advertising for in-state and out-of-state tourism marketing.

As a condition, limitation, and qualification of this appropriation, the department shall develop and initiate a program to provide cassette tape-recorded explanations of regional points of interest and tourist attractions to be made available without charge at state welcome centers. The department may charge a reasonable deposit to ensure that the tape is returned to a state welcome center or rest stop, or other location as specified by the department.

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:

..... $ 2,785,000

As a condition, limitation, and qualification of this appropriation, 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. The department shall, to the fullest extent possible, match funds expended for advertising contracts on a dollar-for-dollar basis with contributions from other sources.

As a condition, limitation, and qualification of this appropriation, the department shall develop and initiate a program to provide cassette tape-recorded explanations of regional points of interest and tourist attractions, to be made available without charge at state welcome centers. The department may charge a reasonable deposit to ensure that the tape is returned to a state welcome center or rest stop, or other location as specified by the department.

As a condition, limitation, and qualification of this appropriation, the department shall expend not more than $100,000 for a study on state historical sites. The department shall cooperate with the state historical society in determining the most appropriate sites for the study. The study shall examine and make recommendations on how best to develop, promote, and advertise state historical sites. The study shall also make recommendations on how best to utilize state historical sites in the state's tourism advertising and promotion. The department shall report to the general assembly the findings of the study by February 1, 1991.

4. For national marketing programs, including salaries and support for not more than the following full-time equivalent positions:

..... $ 744,614

..... FTEs 13.75

*Item veto; see message at end of the Act

As a condition, limitation, and qualification of the appropriation made by this subsection, the appropriation shall not be used for contracting for marketing and advertising contracts for out-of-state national marketing programs.

5. For the operation and maintenance of the film office, including salaries and support for not more than the following full-time equivalent positions:

..... $ 151,851
..... FTEs 2.0

6. For contracting exclusively for marketing and advertising contracts for out-of-state national marketing programs for electronic media and printed materials:

..... $ 3,000,000

As a condition, limitation, and qualification of this appropriation, 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. The department shall, to the fullest extent possible, match funds expended for advertising contracts on a dollar-for-dollar basis with contributions from other sources.

7. International trade programs

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 409,509
..... FTEs 6.0

The department shall 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.

The department shall review the feasibility of locating a staff person within the office of the United States department of commerce for coordination of development of international trade programs.

The department of economic development shall identify and report to the general assembly by November 1, 1990, the amount spent and full-time equivalent positions used by the department for the promotion of agricultural products in the domestic and international market during the fiscal period beginning July 1, 1989, and ending June 30, 1990.

8. Export trade activities

For 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, by providing for the lease/sublease of showcase space in existing world trade centers, by providing temporary office space for foreign buyers, international prospects, and potential reverse investors, and by providing other promotional and assistance activities, including salaries and support for not more than the following full-time equivalent positions:

..... $ 400,000
..... FTEs 0.25

As a condition, limitation, and qualification, any official Iowa trade delegation led by the governor which receives financial or other support from the appropriation in this subsection shall be represented by a bipartisan delegation of the executive council or their designees. Notwithstanding section 8.39, funds appropriated by this subsection shall not be subject to transfer.

9. For the operation and maintenance of the European trade office, including salaries and support for not more than the following full-time equivalent positions:

..... $ 223,350
..... FTEs 1.5

10. For the operation and maintenance of the Asian trade office, including salaries and support for not more than the following full-time equivalent positions:

..... $ 199,416
..... FTEs 2.0

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*Item veto; see message at end of the Act

11. For the operation and maintenance of the Japanese trade office, including salaries and support for not more than the following full-time equivalent positions:

..... $ 300,709
..... FTEs 2.0

12. Agricultural product advisory council

For support, maintenance, and miscellaneous purposes:

..... $ 4,885

13. For developing and implementing programs that assist the growth and development of small business by implementing programs to provide information, technical assistance, and support to new businesses and maintain regular ongoing contact with existing businesses and industries to assist in problem resolution and to offer general assistance and support, including salaries and support for not more than the following full-time equivalent positions:

..... $ 145,815
..... FTEs 2.0

14. For the small business advisory council to serve as an advocate for small businesses by providing advice and counsel and by making recommendations to the economic development board, the department of economic development, and the general assembly on small business issues:

..... $ 5,000

15. For the provision of services and assistance to encourage and stimulate development and growth of small businesses owned and operated by women and minorities and by providing direct assistance to targeted small businesses, maintaining a directory of certified targeted small businesses, and coordinating with state purchasing officials and contract compliance officers for operation of a set-aside program, including salaries and support for not more than the following full-time equivalent positions:

..... $ 44,901
..... FTEs 1.0

16. For the provision of services and assistance to existing industries, community training on the importance of retaining existing industry, and the promotion of the expansion of activities for businesses already located in this state, including salaries and support for not more than the following full-time equivalent positions:

..... $ 123,677
..... FTEs 2.0

17. For community progress programs, including salaries and support for not more than the following full-time equivalent positions:

..... $ 455,124
..... FTEs 8.0

18. For the displaced homemakers program, including salaries and support for not more than the following full-time equivalent positions:

..... $ 500,000
..... FTEs 0.75

Notwithstanding section 8.39, funds appropriated by this subsection shall not be subject to transfer. **Notwithstanding section 8.33, funds appropriated under 1988 Iowa Acts, chapter 1273, section 1, subsection 16, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, shall not revert to the general fund of the state but shall remain available for expenditure in the fiscal year beginning July 1, 1989, and ending June 30, 1990.**

19. Mississippi river parkway commission

For support, maintenance, and miscellaneous purposes:

..... $ 19,535

20. Community development block grant administration and related federal housing and urban development grant administration

*Item veto; see message at end of the Act

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 275,000
..... FTEs 14.0

21. Job training partnership Act: dislocated workers

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 480,000
..... FTEs 28.5

The department may use up to but no more than $100,000 of the funds appropriated in this subsection for the administration of the Iowa new jobs training program.

Notwithstanding section 8.33, funds appropriated under 1988 Iowa Acts, chapter 1273, section 2, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, shall not revert to the general fund of the state but shall remain available for expenditure in the fiscal year beginning July 1, 1989, and ending June 30, 1990.

22. Iowa youth corps and youth services administration

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions to develop and administer employment opportunities for youth:

..... $ 290,164
..... FTEs 2.0

23. 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 services for the homeless and for the construction, rehabilitation, or expansion of group home shelter for the homeless:

..... $ 100,000

Notwithstanding section 8.39, funds appropriated by this subsection shall not be subject to transfer.

24. For the sister state program:

..... $ 20,000

Funds appropriated for the sister state program shall be matched on a dollar-for-dollar basis by private sources. In-kind expenditures from the private sector may be considered as a portion of the dollar-for-dollar match. The department shall secure the necessary private participation from groups and organizations most appropriate for this program.

Sec. 2. Notwithstanding sections 15.246, 15.247, and section 28.120, subsections 5 and 6, there is appropriated from the Iowa community development loan fund to the department of economic development for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. Iowa youth corps and youth services administration

..... $ 109,836

2. Self-employment loan program

..... $ 140,430

Notwithstanding section 8.39, funds appropriated by this subsection shall not be subject to transfer.

3. Targeted small business financial assistance program

..... $ 500,000

Notwithstanding section 8.39, funds appropriated by this subsection shall not be subject to transfer.

4. Self-employment loan case management

..... $ 84,000

Notwithstanding section 8.39, funds appropriated by this subsection shall not be subject to transfer.

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*Item veto; see message at end of the Act

5. Financing rural economic development
..... $ 165,362
Notwithstanding section 8.39, funds appropriated by this subsection shall not be subject to transfer.

6. For the purchase of POW/MIA flags to be flown on all public buildings for public agencies that apply for the flags:
..... $ 10,000

Sec. 3. It is the intent of the general assembly that for purposes of the traditional and new infrastructure categories for which funds may be available under the revolving fund created pursuant to section 15.287 references to a rural water district incorporated and organized under chapter 357A shall also include those rural water districts or entities incorporated under chapter 504A.

Sec. 4. All federal grants to and federal receipts of the agencies appropriated under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants and receipts unless otherwise provided by the general assembly.

Approved May 3, 1989, except the items which I hereby disapprove and which are designated as section 1, subsection 2, unnumbered paragraph 2; that portion of section 1, subsection 8, unnumbered paragraph 2, which is herein bracketed in ink and initialed by me; that portion of section 1, subsection 18, unnumbered paragraph 2, which is herein bracketed in ink and initialed by me; and section 1, subsection 21, unnumbered paragraph 3. My reasons for vetoing these items are 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*

Dear Madam President:

I hereby transmit Senate File 520, an Act relating to and making appropriations to the Department of Economic Development.

Senate File 520 is, hereby, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 1, subsection 2, unnumbered paragraph 2. This provision in Senate File 520 would prevent any of the funds appropriated in subsection 2 for tourism promotion from being used for tourism advertising. However, the legislature included $215,000 in this particular line item for that very purpose. In order to meet our commitment to provide a total of $3 million for tourism marketing in the coming fiscal year, the $215,000 included in subsection 2 will be needed. To allow that to occur and to correct this oversight, I must eliminate that language included in Section 1.

I am unable to approve the designated portion of Section 1, subsection 8, unnumbered paragraph 2. This provision in Senate File 520 stipulates that any official trade mission led by the governor must include representatives of the executive council. Frankly, as a matter of course, we have invited the secretary of agriculture to participate in trade missions when agricultural products are being promoted. The purpose of trade missions has not been and should not be made political; instead, the purpose should be to further the sale of Iowa-made products and to encourage reverse investment into our state. We have been most successful at the efforts we have made to date in that regard and we plan to continue those efforts.

The funds the General Assembly have provided to the Department of Economic Development will greatly assist Iowa in its export activities. Should a trade mission require the participation from a member of the executive council in an area of their particular interest and expertise, the General Assembly can be assured that the member will be invited. To require their participation regardless of their expertise or interest would simply be a waste of the taxpayers' funds.

I am unable to approve the designated portion of Section 1, subsection 18, unnumbered paragraph 2 and the item designated as Section 1, subsection 21, unnumbered paragraph 3. These provisions in Senate File 520 prevent any unspent funds appropriated to the displaced homemakers and dislocated workers programs from reverting to the state's general fund. Apparently, this anti-reversion language was inadvertently left in the legislation from my original budget bill draft. However, the final legislative action significantly increased the funding available for both of these programs, as compared to my original draft, thus making it unnecessary to include language allowing a carryover of the funds. If additional funds are needed to be provided in future fiscal years, the legislature can provide those appropriations at that time.

Senate File 520 is generally a good bill that supports our efforts to diversify the economy and to market and promote Iowa. I applaud the legislature for taking this responsible action to further the state's economic development efforts.

For the above reasons, I hereby respectfully disapprove this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 520 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 309

APPROPRIATIONS FOR MERGED AREA SCHOOLS AND THE ETHANOL TRUCK PROJECT, AND OTHER ALLOCATIONS

S.F. 369

AN ACT making a supplemental appropriation to complete the GAAP implementation schedule for the merged area schools' general operations and to continue the ethanol truck project, and requiring the release and allocation of previously appropriated funds, requiring reimbursement for the auditor of state, and providing an effective date.

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

Section 1. There is appropriated from the general fund of the state 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, for the purposes designated:

For recognizing additional liabilities necessary to complete the GAAP implementation schedule required by 1986 Iowa Acts, chapter 1245, section 2046, for the merged area schools' general operations:

..... $ 12,000,000

The funds appropriated in this section shall be allocated to each area school as follows:

1.	Merged Area I	$ 556,520
2.	Merged Area II	$ 691,112
3.	Merged Area III	$ 648,040
4.	Merged Area IV	$ 318,356
5.	Merged Area V	$ 722,663
6.	Merged Area VI	$ 722,562
7.	Merged Area VII	$ 959,513
8.	Merged Area IX	$ 987,051
9.	Merged Area X	$ 1,580,166
10.	Merged Area XI	$ 1,527,996
11.	Merged Area XII	$ 717,928
12.	Merged Area XIII	$ 745,086
13.	Merged Area XIV	$ 315,738
14.	Merged Area XV	$ 936,603
15.	Merged Area XVI	$ 570,666

Sec. 2. 1988 Iowa Acts, chapter 1284, section 34, subsection 1, is amended to read as follows:

1. For state financial aid to merged areas the amount of ~~twenty-three~~ eleven 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~~ 512,711
b.	Merged Area II	$ ~~1,327,820~~ 636,708
c.	Merged Area III	$ ~~1,245,067~~ 597,027
d.	Merged Area IV	$ ~~611,651~~ 293,295
e.	Merged Area V	$ ~~1,388,438~~ 665,775
f.	Merged Area VI	$ ~~1,388,244~~ 665,682

g. Merged Area VII ..... $ ~~1,843,493~~
883,980

h. Merged Area IX ..... $ ~~1,896,400~~
909,349

i. Merged Area X ..... $ ~~3,035,941~~
1,455,775

j. Merged Area XI ..... $ ~~2,935,708~~
1,407,712

k. Merged Area XII ..... $ ~~1,379,340~~
661,412

l. Merged Area XIII ..... $ ~~1,431,518~~
686,432

m. Merged Area XIV ..... $ ~~606,620~~
290,882

n. Merged Area XV ..... $ ~~1,799,477~~
862,874

o. Merged Area XVI ..... $ ~~1,096,408~~
525,742

Sec. 3. 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 is necessary, for the purposes designated:

For continuation of the ethanol truck project at the university of Iowa:
..... $ 15,000

Sec. 4. The funds appropriated under 1988 Iowa Acts, chapter 1284, section 53, subsection 1, as a result of the certification by the governor to the department of revenue and finance as provided in that subsection 1 shall be released to the state board of regents and allocated to the university of northern Iowa for purposes of that subsection 1, on the effective date of this Act.

Sec. 5. The auditor of state shall be reimbursed for performing examinations of the department of commerce, the Iowa public employees' retirement system, and federal financial assistance, as defined in Pub. L. No. 98-502, during the fiscal year beginning July 1, 1988, and ending June 30, 1989.

Sec. 6. Section 8.31, unnumbered paragraph 3, Code 1989, is amended to read as follows:

Allotments of appropriations made for equipment, land, permanent improvements, and other capital projects may, however, be allotted in one amount by major classes or projects for which they are expendable without regard to quarterly periods. For fiscal years beginning on or after July 1, 1989, allotments of appropriations for equipment, land, permanent improvements, and other capital projects, except where contracts have been entered into with regard to the acquisition or project prior to July 1, 1989, shall not be allotted in one amount but shall be allotted at quarterly periods as provided in this section.

Sec. 7. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 8, 1989

CHAPTER 310

FEDERAL BLOCK GRANT APPROPRIATIONS

S.F. 521

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 * MENTAL HEALTH SERVICES APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the fiscal year beginning October 1, 1989, the following amount:

..... $ 2,839,000

Funds appropriated by this section are the anticipated funds to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title IX, Subtitle A, and Pub. L. No. 97-414 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 $30,121 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 shall be used to provide services and programs for severely emotionally disturbed children and adolescents, and fifty-five percent shall be used to develop and provide community mental health services and programs not available on October 1, 1988. New services developed between October 1, 1984, and October 1, 1988, with alcohol, drug abuse, and mental health services block grant funds may be treated as new services.

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. There is appropriated from the fund created by section 8.41 to the Iowa department of public health, under Pub. L. No. 100-690 for the federal fiscal year beginning October 1, 1989, the following amount:

..... $ 1,970,000

Funds appropriated by this section provide for the alcohol and drug abuse treatment 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.

5. An amount not exceeding five percent of the funds appropriated in subsection 4 shall be used by the Iowa department of public health for administrative expenses.

6. Ten percent of the funds appropriated in subsections 1 and 4 shall be used to provide alcohol and drug abuse services to women.

7. After deducting the funds allocated in subsections 1, 2, 5, and 6, the remaining funds appropriated in subsections 1 and 4 shall be allocated according to the following percentages

*"AND" probably intended

to supplement appropriations for the following programs within the Iowa department of public health:

a. Drug abuse treatment programs ..... 38.89 percent

Of the amount appropriated under this paragraph, at least $373,095 must be used for intravenous drug abusers unless a waiver is granted from the federal government.

b. Alcohol abuse treatment 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 for the federal fiscal year beginning October 1, 1989, the following amount:

..... $ 6,060,256

The funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title XXI, Subtitle D, as amended, which provides for the maternal and child health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding $53,260 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, $208,950 shall be set aside for the statewide perinatal care program.

Thirty-seven percent of the remaining funds appropriated in subsection 1 shall be contracted 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. Any change in program services for mobile and regional health speciality services shall require prior approval by the Iowa department of public health. 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 $150,000 of the remaining funds allocated in subsection 2, unnumbered paragraph 1, 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, 1989, 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 subsection 2 of this section.

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 for the federal fiscal year beginning October 1, 1989, the following amount:

..... $ 1,003,000

Funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title IX, Subtitle A, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding $5,630 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 $94,670 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 by Pub. L. No. 97-35, Title IX, Subtitle A, shall be allocated to the rape prevention program.

4. Pursuant to Pub. L. No. 97-35, Title IX, Subtitle A, 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 by Pub. L. No. 97-35, Title XXI, Subtitle D, as amended, 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, chronic disease services, 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 $90,000 shall be used for the monitoring of the fluoridation program and for start-up fluoridation grants to public water systems.

Sec. 4. DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 1989, the following amount:

..... $ 1,553,000

Funds appropriated by this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under Pub. L. No. 100-690 which provides for the drug control and system improvement grant program. 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 ten 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. 5. 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 for the federal fiscal year beginning October 1, 1989, the following amount:

..... $ 3,583,880

Funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title VI, Subtitle B, 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 subsection 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 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. 6. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of economic development for the federal fiscal year beginning October 1, 1989, the following amount:

..... $ 24,087,783

The funds appropriated by this subsection shall not 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 subsection are the funds anticipated to be received from the federal government for the designated federal fiscal years under Pub. L. No. 97-35, Title III, Subtitle A, 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, 1990, 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 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 $991,000 for the federal fiscal year beginning October 1, 1989, 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 $495,500 for the federal fiscal year beginning October 1, 1989, of funds appropriated in subsection 1 and a matching contribution from the state equal to $495,500 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. 7. 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, 1989, and ending June 30, 1990, the following:

..... $ 5,390,490

Funds appropriated by this subsection are the funds anticipated to be received from the federal government under Pub. L. No. 97-35, Title V, Subtitle D, chapter 2, 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 $1,078,098, shall be used by the department to meet the educational needs of students at risk, to acquire instructional and educational materials, for innovative programs to carry out schoolwide improvements, for programs for training and professional development, for programs to enhance personal excellence of students, and for other innovative projects. However, not more than $269,525 shall be used by the department for state administrative expenses.

3. Eighty percent of the funds appropriated in subsection 1 shall be allocated by the department to local educational agencies in this state, as local educational agency is defined in Pub. L. No. 97-35, Title V, Subtitle D. The amount allocated under this subsection shall be allocated to local educational agencies according to the following percentages and enrollments:

a. Seventy-five percent shall be allocated on the basis of enrollments in public and approved nonpublic schools.

b. Twenty percent shall be allocated on the basis of the number of disadvantaged children in local educational agencies whose incidence ratio for disadvantaged children is above the state average incidence ratio.

c. Five percent shall be allocated on the basis of the number of limited English speaking children whose language imposes a barrier to learning.

Sec. 8. Funds appropriated in section 7 of this Act shall not be used to aid schools or programs that illegally discriminate in employment or educational programs on the basis of sex, race, color, national origin, or disability.

Sec. 9. 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 for the federal fiscal year beginning October 1, 1989, the following amount:

..... $ 25,737,407

The funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year 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 subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding $2,892,000 or ten 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 $290,000 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, 1990, 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. 10. SOCIAL SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 1989, the following amount:

..... $ 30,650,765

Funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title XXIII, Subtitle C, as codified in 42 U.S.C. sections 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 $1,768,549 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, 1989. 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, 1989, for the following programs within the department of human services:

a. Field operations:

..... $ 12,107,052

b. Home-based services:

..... $ 140,994

c. Foster care:

..... $ 4,490,337

d. Child care assistance:

..... $ 1,308,788

e. Local administrative costs and other local services:

..... $ 10,712,442

f. Volunteers:

..... $ 122,603

Sec. 11. SOCIAL SERVICES BLOCK GRANT PLAN. The department of human services during each state 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. 12. 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. 13. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. Except for section 7 of this Act, if the funds received from the federal government for the block grants specified in this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, other than for the rape prevention program under section 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 appropriate chairpersons and ranking members of subcommittees of those committees shall be notified of the proposed action.

b. The notice shall include the proposed allocations, and information on the reasons why particular percentages or amounts of funds are allocated to the individual programs, the departments and programs affected, and other information deemed useful. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

Sec. 14. PROCEDURE FOR INCREASED FEDERAL FUNDS.

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 2, 3, and 4, and section 7, 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 9 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 5 of this Act, one hundred percent of the excess is allocated to the community services block grant program.

5. If funds received from the federal government in the form of block grants exceed the amounts appropriated in section 10, subsection 1, of this Act, one hundred percent of the excess amount is allocated to counties for local purchase of services.

Sec. 15. 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, 1989, 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 1989 federal fiscal year as modified by the 1989 Session of the Seventy-third Iowa General Assembly for the state fiscal year beginning July 1, 1989, compared to the total federal funds received in the 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, 1989, but had anticipated applying for funds during the fiscal year ending September 30, 1990, 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 1989 federal fiscal year state funds appropriated to the program by the general assembly to match the federal funds shall be reduced by the same proportion of the reduction in federal funds for the program. State funds released by the reduction shall be deposited in a special fund in the state treasury and are available for appropriation by the general assembly. The governor shall notify the chairpersons and ranking members of the senate and house committees on appropriations, the legislative fiscal director, and the appropriate chairpersons and ranking members of the subcommittees of those committees before making the allocation of federal funds or any proportional reduction of state funds under this section. The notice shall state the amount of federal funds to be allocated to each program, the amount of federal funds received by the program during the 1989 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 1989 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 1989 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 May 11, 1989

CHAPTER 311

APPROPRIATIONS AND AMENDMENTS RELATING TO AGRICULTURE AND NATURAL RESOURCES

H.F. 778

AN ACT relating to and making appropriations to the department of agriculture and land stewardship, to the department of natural resources, to an environmental fund, providing for environmental protection, the acquisition and use of land, and the control of certain vegetation, providing for the repeal of fees, and providing effective dates.

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, 1989, and ending June 30, 1990, 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:
..... $ 1,191,977

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:
..... $ 93,003

d. From the commercial feed fund to be transferred to the administration division:
..... $ 51,100

e. The department of agriculture and land stewardship shall establish annual subscription fees for the regular and periodic publications of the department. Fees collected from subscribers shall be deposited in the general fund of the state.

f. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:
..... FTEs 43.24

g. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $55,459 shall be allocated from the appropriation to reimburse the auditor of state for costs related to performing the annual audit of the department. However, if for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the auditor of state is appropriated additional moneys from the general fund for reimbursement of costs related to performing the audit, the amount under this paragraph and paragraph "a" shall be reduced by the amount of the additional appropriation.

h. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $50,000 shall be allocated from the appropriation to the statistics bureau for the purpose of conducting the horticultural census.

i. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $50,000 shall be allocated from the appropriation to the state 4-H foundation to foster the development of Iowa's youth and to encourage them to study the subject of agriculture.

j. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $16,200 shall be used by the administrative division for purposes of purchasing a videotape editing console, a desktop publishing system, and audio/video recording equipment.

2. FARM COMMODITY DIVISION

a. From the general fund for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:
..... $ 1,308,381
..... FTEs 26.00

b. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $346,379 shall be allocated from the appropriation to

the horticulture division for the continuation of the agricultural diversification program as enacted by 1986 Iowa Acts, chapter 1246, section 501, subsection 1, paragraph "e".

*c. *As a condition, limitation, and qualification of the appropriation from the general fund under this section, an amount of not more than $50,000 that was appropriated by 1988 Iowa Acts, chapter 1272, section 1, to the farm commodity division for the year beginning July 1, 1988, and ending June 30, 1989, shall not revert to the general fund pursuant to section 8.33, but shall be available for expenditure in the fiscal year beginning July 1, 1989, and ending June 30, 1990. The amount shall be used by the department for the support of two information specialist positions within the administrative division.*

*d. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $280,000 shall be used by the department of agriculture and land stewardship to establish and fund the position of agricultural trade specialist in each of the state's three foreign trade offices.**

3. FARMERS' MARKET COUPON PROGRAM

From the general fund for salaries, support, maintenance, and miscellaneous purposes, to be used by the department to continue and expand the farmers' market coupon program by providing federal special supplemental food program recipients with coupons redeemable at farmers' markets, and for the following full-time equivalent positions:

..... $ 198,333
..... FTEs 2.50

4. REGULATORY DIVISION

a. From the general fund for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $ 4,062,648
..... FTEs 149.20

b. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $11,250 shall be allocated from the appropriation for the support of the assistant attorney general assigned to the grain warehouse bureau. However, if for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the attorney general is appropriated moneys from the general fund for reimbursement of costs related to supporting the assistant attorney general the amount under this paragraph and paragraph "a" shall be reduced by the amount of the additional appropriation.

As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $6,000 shall be used by the regulatory division for purchase of computer equipment for the veterinary medical examiners board, and $15,000 shall be used for the purchase of computer equipment for the brand registration unit.

5. LABORATORY DIVISION

a. From the general fund for salaries, support, maintenance, and miscellaneous purposes:

..... $ 799,671

b. From the commercial feed fund to be transferred to the laboratory division:

..... $ 810,903

c. From the pesticide fund to be transferred to the laboratory division:

..... $ 756,802

d. From the fertilizer fund to be transferred to the laboratory division:

..... $ 802,871

e. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $150,000 shall be allocated from the appropriation for the training of commercial pesticide applicators.

As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $14,700 shall be used by the laboratory division for the purchase of computer equipment for the seed and entomology bureau, and $6,400 shall be used for United States department certification training for four agriculture product inspectors.

f. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:

..... FTEs 90.00

*Item veto; see message at end of the Act

6. SOIL CONSERVATION DIVISION

a. From the general fund for salaries, support, maintenance, assistance to soil conservation districts, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,742,210
..... FTEs 175.78

b. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $303,436 shall be allocated from the appropriation to be used to conduct soil surveys in conjunction with federal, state, and local agencies in Iowa.

c. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a" of this subsection, $150,000 shall be allocated from the appropriation as follows: $100,000 shall be used to support field office programs to develop long-range, natural resource management plans; and $50,000 shall be used to support district commissioners if matched on a dollar-for-dollar basis by counties for the payment of meeting dues and travel for the district commissioners' staff.

d. To provide financial incentives for soil conservation practices in accordance with the provisions of paragraph "e" of this subsection:

..... $ 6,789,972

e. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "d" of this subsection, the following requirements apply to the funds appropriated by paragraph "d":

(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 15 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.

f. The provisions of section 8.33 shall not apply to the funds appropriated by paragraph "d". Unencumbered or unobligated funds remaining on June 30, 1993, from funds appropriated for the fiscal year beginning July 1, 1989, shall revert to the general fund on September 30, 1993.

Sec. 2. There is appropriated from the funds available under section 99D.13 to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as necessary, to be used for the salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions for the administration of section 99D.22:

..... $ 157,281
..... FTEs 4.0

As a condition, limitation, and qualification of the appropriation under this section, $39,748 shall be allocated from the appropriation for the salary and support of a livestock inspector.

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. For the fiscal year beginning July 1, 1988, and ending June 30, 1989, and for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the increased fee revenues resulting to the fertilizer fund and to the pesticide fund during each fiscal year, from the increases in fees and expansion of coverage of fee requirements, are appropriated for that fiscal year to the department of agriculture and land stewardship for the administration and implementation of chapters 200 and 206, Code 1989.

Sec. 5. MULTIFLORA ROSE.

There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for purposes relating to the control or eradicating the multiflora rose:

..... $ 62,400

1. As a condition, limitation, and qualification of the appropriation from the general fund under this section, $37,400 from the appropriation shall be transferred to the state board of regents for the use of the department of plant pathology at Iowa state university of science and technology for purposes related to researching the multiflora rose virus.

2. a. As a condition, limitation, and qualification of the appropriation from the general fund under this section, $25,000 shall be used from the appropriation by the department of agriculture and land stewardship for the purpose of partially reimbursing agricultural landowners or tenants for the cost of herbicide for controlling or eradicating the multiflora rose which has severely infested their agricultural land. Not more than five percent of the funds appropriated under this paragraph shall be used for administrative expenses.

b. A county board of supervisors desiring a share of the amount appropriated under paragraph "a" of this subsection shall, in conjunction with the county weed commissioner and the county soil conservation district commissioners, develop a plan to combat severe infestations of multiflora rose on privately owned land within the county. The plan shall be based upon partial reimbursement of individual landowner's costs for the purchase of herbicide from both state and county appropriations; however, the share of costs reimbursed by state funds shall not exceed one-fourth. The plan shall be submitted to the secretary of agriculture for approval or recommendations for modification.

c. A landowner or tenant whose agricultural land is severely infested by multiflora rose may apply to the soil conservation district commissioners of the county for partial reimbursement, according to the approved plan, for the cost of herbicide for controlling or eradicating the multiflora rose on the agricultural land. The county weed commissioner shall assist the soil conservation district commissioners in investigating the application and determining if the infestation is severe. The soil conservation district commissioners shall review and approve each application for partial cost reimbursement if the infestation is severe on the applicant's agricultural land. If the soil conservation district commissioners find the amount of reimbursement claimed to be excessive, the district commissioners may approve a lesser amount. The reasons for disapproval of an application or reduction of the amount of reimbursement shall be sent in writing to the applicant. The amount of reimbursement certified by the secretary shall be paid by warrant issued by the director of revenue and finance.

*Item veto; see message at end of the Act

d. Federal lands and federal land tenants are not eligible for reimbursement under this subsection.

Sec. 6. 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, 1989, and ending June 30, 1990, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	12,850,534
..... FTEs	973.10

*b. *As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $30,000 shall be allocated from the appropriation for the position of environmental specialist II for the development of preserves management plans.**

c. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $78,000 shall be allocated from the appropriation for the purchase of materials including railroad ties, seed, stone, and other materials, for erosion control and repair of damaged trails in state parks.

d. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $51,226 shall be allocated from the appropriation for general maintenance in state parks.

e. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $30,000 shall be allocated for the purchase of computer equipment in forestry division field offices.

f. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $50,000 shall be allocated from the appropriation for the salary and support of a forestry coordinator and the development of promotional materials for the forest renewal program.

g. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $37,500 shall be allocated from the appropriation for the salary and support of an environmental engineer II to implement the state flood plain mapping program and other responsibilities as determined by the director.

h. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $23,832 shall be allocated from the appropriation to reimburse the auditor of state for the cost of the annual audit of the department. However, if for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the auditor of state is appropriated additional moneys from the general fund for reimbursement of costs related to performing the audit, the amount under this paragraph and paragraph "a" shall be reduced by the amount of the additional appropriation.

i. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, not more than the following amounts from the appropriation shall be expended and not more than the following full-time equivalent positions shall be authorized for the purposes designated:

(1) Office of director

..... $	59,817
..... FTEs	5.95

(2) Administrative services division

..... $	1,441,376
..... FTEs	126.15

(3) Coordination and information division

..... $	808,340
..... FTEs	41.45

(4) Energy and geological resources division

..... $	1,216,580
..... FTEs	59.12

*Item veto; see message at end of the Act

(5) Environmental protection division

..... $ 2,175,061

..... FTEs 147.50

(6) Forests and forestry division

..... $ 1,441,438

..... FTEs 54.64

(7) Parks and preserves division

..... $ 5,199,572

..... FTEs 206.05

The amounts specified under this lettered paragraph do not include the amounts allocated in paragraphs "j" through "m" of this subsection.

If an amount is expended in excess of the amount designated for any purpose, including any division specified under this lettered paragraph, the department shall notify the legislative fiscal bureau, the chairpersons of the standing appropriations committees of the senate and house of representatives, and the chairpersons of the agriculture and natural resources appropriations subcommittee pursuant to section 8.39.

j. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $250,000 shall be allocated from the appropriation to restore and repair the dam on the Cedar river in the city of Nashua.

k. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $50,000 shall be allocated from the appropriation to contract for a study to investigate the feasibility of expanding and modernizing the public water supply system in Winterset, in order to increase the supply of water to serve the increasing demand of the city and to serve surrounding communities. The department shall report the findings and recommendations of the study to the governor and general assembly not later than February 1, 1990.

l. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $50,000 shall be allocated from the appropriation to contract with an Iowa-based consulting firm to investigate the feasibility of creating a destination center at a public lake area not less than eleven thousand acres in size. The department shall report the findings and recommendations of the study to the governor and general assembly not later than February 1, 1990.

m. As a condition, limitation, and qualification of the appropriation under paragraph "a" of this subsection, $300,000 shall be allocated from the appropriation for grants to counties for the purpose of conducting programs for properly closing abandoned rural water supply wells to supplement funds appropriated under section 455E.11, subsection 2, paragraph "b", subparagraph (3), subparagraph subdivision (b).

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, and for not more than the following full-time equivalent positions:

..... $ 200,000

..... FTEs 18.68

4. For the salary and support for not more than the following full-time equivalent positions to maintain and manage the Loess Hills area as a state forest:

..... $ 105,000

..... FTEs 2.0

Sec. 7. There is appropriated from the state fish and game protection fund to the department of natural resources for the fiscal year beginning July 1, 1989, and ending June 30, 1990, 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 $2,840,078 during the fiscal year beginning on July 1, 1989, and ending June 30, 1990, which shall be available from the state fish and game protection fund for administrative support:

..... $ 16,425,088

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. As a condition, limitation, and qualification of the appropriations under this section, funds remaining in the fish and game protection fund during the fiscal year beginning July 1, 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, 1989. 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. 8. 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, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For maintenance and development of boating facilities and access to public waters:
..... $ 400,000

2. For deposit in the state fish and game protection fund for the administration and enforcement of navigation laws and boat safety:
..... $ 150,000

As a condition, limitation, and qualification of the appropriations made under this section, the balance of the amount computed as provided in section 324.84 for the fiscal year beginning July 1, 1989, and ending June 30, 1990, 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, 1990, shall revert to the fund from which appropriated September 30, 1992.

Sec. 9. IOWA RESOURCES ENHANCEMENT AND PROTECTION FUND.

1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1989, and ending June 30, 1990, to the Iowa resources enhancement and protection fund, the amount of $2,000,000 to be used as provided in chapter 455A.

2. For each fiscal year of the fiscal period beginning July 1, 1990, and ending June 30, 2000, there is appropriated from the general fund, to the Iowa resources enhancement and protection fund, the amount of $20,000,000 to be used as provided in chapter 455A.

Section 8.33 does not apply to moneys appropriated under this section. Notwithstanding section 453.7, interest or earnings on moneys appropriated under this section shall be credited to the Iowa resources enhancement and protection fund.

3. This section shall become effective only if House File 769 is enacted by the Seventy-third General Assembly, 1989 Session.

4. County boards of supervisors of Jones, Lyon, Jasper, or Buena Vista counties may each enter into an agreement with the department of natural resources to restore and repair low-head dams within their counties. The department shall use moneys appropriated to the county conservation account of the Iowa resources enhancement and protection fund under section 455A.19, subsection 1, paragraph "b", subparagraph (3), as provided in 1989 Iowa Acts, House

File 769. Under an agreement, Jones county is eligible to receive $50,000, Lyon county is eligible to receive $50,000, Jasper county is eligible to receive $25,000, and Buena Vista is eligible to receive $25,000.

Under the agreement, moneys allocated to each county under this section shall be repaid to the county conservation account from moneys which would otherwise be allocated to them under section 455A.19, subsection 1, paragraph "b", subparagraphs (1) and (2), as provided in 1989 Iowa Acts, House File 769.

5. The Code editor is directed to codify subsection 2, if House File 769 is enacted by the Seventy-third General Assembly. The Code editor is authorized to include subsection 1 within chapter 455A as provided in House File 769 or any other chapter or section where provisions of House File 769 are codified.

Sec. 10. Moneys appropriated to the Iowa resource enhancement and protection fund for the year beginning July 1, 1988, and ending June 30, 1989, pursuant to Senate File 363 as enacted by the Seventy-third General Assembly, 1989 Session, shall not revert to the general fund pursuant to section 8.33, but shall remain in the fund to be used in the year beginning July 1, 1989, and ending June 30, 1990, as provided in House File 769.

This section shall become effective only if House File 769 is enacted by the Seventy-third General Assembly, 1989 Session.

Sec. 11. The department of natural resources shall conduct a study of the disposal of municipal sewage sludge ash. The department shall report findings and recommendations of the study to the general assembly not later than March 1, 1990. Persons shall delay transporting municipal sewage sludge ash on highways beyond a fifty mile radius from the point of incineration, until the report is made.

Sec. 12. BRUSHY CREEK CONSTRUCTION — LAND ACQUISITION.

1. The department of natural resources shall award the necessary contracts to commence, as of May 1, 1990, the construction of a dam and related structures to create an artificial lake of approximately six hundred ninety acres in the Brushy Creek state recreation area. The department shall complete the necessary plans for the construction and development of the dam and water impoundment as soon as possible.

2. During the development of the necessary plans for the Brushy Creek dam and water impoundment, the department shall commence the acquisition of approximately one thousand seven hundred fifty acres of additional land south and west of the Brushy Creek state recreation area. The acquisition may be accomplished by means which include purchase, easement, lease-purchase, lease, gift, life estates, or other means. The acquisition shall be completed not later than July 1, 1994. The department shall before February 1 of each year, until the acquisition is completed, report to the chairpersons of the committees on appropriations in the senate and house of representatives, and the chairpersons of the agriculture and natural resources appropriations subcommittee.

The land shall be similar to the natural topography of the Brushy Creek stream valley and shall be developed and managed for multiple use recreation with special emphasis on equestrian activities, hiking, cross-country skiing, hunting, stream fishing, and wildlife enhancement. The construction of recreational facilities and amenities on the newly acquired land shall have equal priority with other facilities constructed at the recreational area and shall include trails, camping sites, shower and restroom facilities, roadways, and parking lots. Two equestrian campgrounds shall be established. One campground shall be in the northern area and one campground shall be in the southern area of the Brushy Creek recreation area.

3. In the implementation of any development plan for the Brushy Creek recreation area, including land adjacent to the area which is acquired by the state, the department shall provide for reforestation, habitat improvement, and wetland enhancement. Areas dedicated for reforestation, habitat improvement, or wetland enhancement shall be appropriately located and equal to a size capable of benefiting forest, upland, and wildlife species and of improving the aesthetic value of the area.

Sec. 13. LEGISLATIVE STUDIES REQUESTED.

1. The legislative council is requested to conduct a comprehensive study of the current and future needs for artificial and natural lakes and water recreation in this state. The study should include a review of existing natural and artificial lakes, water quality considerations, restoration and management needs of the existing lakes for the next twenty years, development needs of the existing lakes to provide for optimum public use, and the need for additional artificial lakes. The legislative council is requested to report findings and recommendations of the study to the governor and general assembly not later than January 1, 1991.

2. The legislative council is requested to conduct a comprehensive study of the current and future needs for state parks, forest, and recreation areas other than lakes and related water recreational areas in this state. The study should include a review of existing state parks and recreation areas, the restoration and management needs of the public parks, forests, and recreation areas, the development needs of the parks, forests, and recreation areas to provide optimum public use, and the need for the acquisition and development of additional parks, forests, and recreation areas. The legislative council is requested to report findings and recommendations of the study not later than January 1, 1991. The department shall not further implement any program or plan relating to the reorganization of state parks, including the plan entitled "A Management Plan for Iowa State Parks", until after findings and recommendations contained in the study provided for in this subsection are reported to the governor and general assembly. The department of natural resources shall consider the findings and recommendations before implementing a program or plan relating to the reorganization. This subsection shall not prohibit the department from employing, assigning, or transferring an employee necessary to carry out routine operations under chapter 455A.

Sec. 14. FUNDING FOR BRUSHY CREEK LAKE PROJECT. Notwithstanding the limitations imposed on the expenditure of funds for open spaces projects under section 455A.19, subsection 1, paragraph "a", as provided in House File 769, if enacted by the Seventy-third General Assembly, 1989 Session, or under sections 12 and 13 of this Act, the department shall have the authority to use any funds allocated to the open spaces account for the construction of a dam to create an artificial lake and for the acquisition of additional land south and west of the Brushy Creek state recreation area.

Sec. 15. 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, pursuant to section 1, subsection 6, paragraph "e", subparagraph (2) of this Act.

Sec. 16. Notwithstanding section 17A.2, subsection 7, paragraph "g", the department shall by rule establish prices of plant material grown at the state forest nurseries to cover all expenses 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. 17.* *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.

*Item veto; see message at end of the Act

Sec. 18. The department of natural resources shall provide the legislative fiscal bureau information and financial data by cost center, on at least a monthly basis, relating to the indirect cost accounting procedure, the amount of funding from each funding source for each cost center, and the internal budget system used by the department. The information shall include but is not limited to financial data covering the department's budget by cost center and funding source prior to the start of the fiscal year, and to the department's actual expenditures by cost center and funding source after the accounting system has been closed for that fiscal year.

Sec. 19. All federal grants to and the federal receipts, not otherwise appropriated, of the agencies appropriated funds under this Act are appropriated for the purposes set forth in the federal grants or receipts, unless otherwise provided by the general assembly.

Sec. 20. 1986 Iowa Acts, chapter 1246, section 505, subsection 7, unnumbered paragraph 3, is amended to read as follows:

The department is authorized to utilize from funds appropriated for payments to governing bodies responsible for publicly owned sewage treatment facilities but which are unexpended an amount not to exceed four hundred ninety-three thousand (493,000) dollars for the state share of the AIDEX superfund cleanup. Any funds remaining in the AIDEX superfund account once the final site cleanup work, excluding the ongoing monitoring of the site, has been completed shall revert to the general fund of the state. ~~The moneys used for the state share of the AIDEX superfund cleanup shall be repaid not later than June 30, 1989.~~ It is the intent of the general assembly that the withdrawal of funds from moneys available for publicly owned sewage treatment facilities shall not be used for any other purpose in future years and the department of natural resources shall report to the general assembly not later than January 1, 1987 on methods to increase funds for the state superfund to meet future needs in this state.

Sec. 21. 1987 Iowa Acts, chapter 233, section 204, subsection 5, is amended to read as follows:

5. It is the intention of the general assembly in adopting the appropriation under subsection 1 and this subsection to cease funding for the department's implementation of the federal Resource Conservation and Recovery Act permit program for hazardous waste facilities in this state. Section 455B.411, subsections 6, 9, and 10, section 455B.412, subsections 2 through 4, and sections 455B.413 through 455B.421 are suspended and do not apply as they pertain to that permit program, but are not suspended and do apply as they pertain to abandoned and uncontrolled sites, used oil, and site licensing under chapter 455B, division IV, part 6. The suspension provided by this subsection begins July 1, 1987 and ends June 30, ~~1989~~ 1990.

Sec. 22. Section 22.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 26. Financial information, which if released would give advantage to competitors and serve no public purpose, relating to commercial operations conducted or intended to be conducted by a person submitting records containing the information to the agricultural diversification bureau of the department of agriculture and land stewardship for the purpose of obtaining assistance in business planning.

Sec. 23. Section 172C.4, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. Agricultural land acquired for research or experimental purposes. Agricultural land is used for research or experimental purposes if any of the following apply:

a. Research and experimental activities are undertaken on the agricultural land and commercial sales of products produced from farming the agricultural land do not occur or are incidental to the research or experimental purposes of the corporation. Commercial sales are incidental to the research or experimental purposes of the corporation when such sales are less than twenty-five percent of the gross sales of the primary product of the research.

b. The agricultural land is used for the primary purpose of testing, developing, or producing seeds or plants for sale or resale to farmers as seed stock. Grain which is not sold as seed stock is an incidental sale and must be less than twenty-five percent of the gross sales of the primary product of the research and experimental activities.

c. The agricultural land is used by a corporation, including any trade or business which is under common control, as provided in 26 U.S.C. § 414 for the primary purpose of testing, developing, or producing animals for sale or resale to farmers as breeding stock. However, after the effective date of this Act, to qualify under this paragraph, the following conditions must be satisfied:

(1) The corporation must not hold the agricultural land other than as a lessee. The term of the lease must be for not more than twelve years. The corporation shall not renew a lease. The corporation shall not enter into a lease under this paragraph, if the corporation has ever entered into another lease under this paragraph "c", whether or not the lease is in effect. However, this subparagraph does not apply to a domestic corporation organized under chapter 504 or 504A.

(2) A term or condition of sale, including resale, of breeding stock must not relate to the direct or indirect control by the corporation of the breeding stock or breeding stock progeny subsequent to the sale.

(3) The number of acres of agricultural land held by the corporation must not exceed six hundred forty acres.

(4) The corporation must deliver a copy of the lease to the secretary of state. The secretary of state shall notify the lessee of receipt of the copy of the lease. However, this subparagraph does not apply to a domestic corporation organized under chapter 504 or 504A.

Culls and test animals may be sold under this paragraph "c". For a three-year period beginning on the date that the corporation acquires an interest in the agricultural land, the gross sales for any year shall not be greater than five hundred thousand dollars. After the three-year period ends, the gross sales for any year shall not be greater than twenty-five percent of the gross sales for that year of the breeding stock, or five hundred thousand dollars, whichever is less.

Sec. 24. NEW SECTION. 172C.6 LESSEES CONDUCTING RESEARCH OR EXPERIMENTS.

Lessees of agricultural land under section 172C.4, subsection 2, paragraph "c", for research or experimental purposes, shall file a report 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. The report shall contain the following information for the last year:

1. The name and principal place of business of the lessee.
2. The location of the agricultural land used for research or experimental purposes.
3. The date that the lease became effective.
4. The name and address of each person purchasing breeding stock produced on the agricultural land.
5. The number or volume of breeding stock purchased by each person purchasing breeding stock produced on the agricultural land.

Sec. 25. Section 173.16, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In order to efficiently administer facilities and events on the state fairgrounds, and to promote Iowa's conservation ethic, the Iowa state fair board shall handle or dispose of waste generated on the state fairgrounds under supervision of the waste management authority established under section 455B.483.

Sec. 26. NEW SECTION. 314.23 ENVIRONMENTAL PROTECTION.

It is declared to be in the general public welfare of Iowa and a highway purpose that highway maintenance, construction, reconstruction, and repair shall protect and preserve, by not causing unnecessary destruction, the natural or historic heritage of the state. In order to provide for the protection and preservation, the following shall be accomplished in the design, construction, reconstruction, relocation, repair, or maintenance of roads, streets, and highways:

1. WOODLANDS. Woodland removed shall be replaced by plantings as close as possible to the initial site, or by acquisition of an equal amount of woodland in the general vicinity for public ownership and preservation, or by other mitigation deemed to be comparable to the

woodland removed, including, but not limited to, the improvement, development, or preservation of woodland under public ownership.

2. WETLANDS. Wetland removed shall be replaced by acquisition of wetland, in the same general vicinity if possible, for public ownership and preservation, or by other mitigation deemed to be comparable to the wetland removed, including, but not limited to, the improvement, development, or preservation of wetland under public ownership.

3. PUBLIC PARKS. Highways, streets, and roads constructed on or through publicly owned lands comprising parks, preserves, or recreation areas, shall be located and designed, in consultation with the public entity owning the land, so as to blend aesthetically with the areas and to minimize noise. When land is taken from the areas for highway construction and, if, in consultation with the public entity owning the land, mitigation is deemed necessary, the land shall be replaced by an equal or greater amount for public use, or by other mitigation, undertaken in consultation with the public entity owning the land, and deemed to be appropriate to the amount of land taken, including, but not limited to, the improvement, development, or preservation of the areas.

4. PRIME AGRICULTURAL LANDS. Topsoil removed may be utilized for landscaping and other necessary construction. Excess topsoil shall be made available to the former landowner or other landowners whose land was purchased for the construction or others, and if not acquired by one of these parties, it may be disposed.

Sec. 27. NEW SECTION. 455A.8 BRUSHY CREEK RECREATION AREA TRAILS ADVISORY BOARD.

1. The Brushy Creek recreation trails advisory board shall be organized within the parks and preserves division of the department and shall be composed of nine members including the following: the director of the department or the director's designee who shall serve as a nonvoting ex officio member, the park ranger responsible for the Brushy Creek recreation area, a member of the state advisory board for preserves established under chapter 111B, a person appointed by the governor, and six persons appointed by the legislative council. Each person appointed by the governor or legislative council must actively participate in recreational trail activities such as hiking, an equestrian sport, or a winter sport at the Brushy Creek recreation area. The voting members shall elect a chairperson at the board's first meeting each year.

2. Each member of the board shall serve three years, and shall be eligible for reappointment. However, the park ranger responsible for Brushy Creek shall be replaced by the ranger's successor. The person representing the state advisory board for preserves shall serve at the pleasure of the board. The members, other than the director or the director's designee and the park ranger, are entitled to actual expenses incurred in performance of the duties of the board. A majority of members constitutes a quorum, and the affirmative vote of a majority present is necessary for any action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all rights and perform all duties of the board. The board shall meet as required, but at least twice a year. The board shall meet upon call of the chairperson, or upon written request of three members of the board. Written notice of the time and place of the meeting shall be given to each member.

3. The board shall advise the department and the natural resource commission regarding issues and recommendations relating to the development and maintenance of trails and related activities at or adjacent to the Brushy Creek recreation area.

Sec. 28. Section 455E.11, subsection 2, paragraph b, subparagraph (3), subparagraph subdivision (b), Code 1989, is amended to read as follows:

(b) Two percent is appropriated annually to the department of natural resources for the purpose of administering grants to counties and conducting oversight of county-based programs relative to the testing of private water supply wells and the proper closure of private abandoned wells. Not more than ~~twenty-three~~ seventeen and one-half percent of the moneys is appropriated annually to the department of natural resources for grants to counties for the

purpose of conducting programs of private, rural water supply testing, not more than six percent of the moneys is appropriated annually to the state hygienic laboratory to assist in well testing, and not more than ~~twelve~~ seventeen and one-half percent of the moneys is appropriated annually to the department of natural resources for grants to counties for the purpose of conducting programs for properly closing abandoned, rural water supply wells.

Sec. 29. Section 511.8, subsection 10, paragraph b, Code 1989, is amended to read as follows:

b. Any real estate acquired through foreclosure, or in settlement or satisfaction of any indebtedness. Any company or association may improve real estate so acquired or remodel existing improvements and exchange such real estate for other real estate or securities, and real estate acquired by such exchange may be improved or the improvements remodeled. ~~Any farm real estate acquired under this paragraph shall be sold within five years from the date of acquisition unless the commissioner of insurance shall extend the time for such period or periods as seem warranted by the circumstances.~~

Sec. 30. NEW SECTION. 511.8A AGRICULTURAL LAND.

Agricultural land, as defined in section 172C.1, acquired as provided in section 511.8, subsection 10, paragraph "b", by a life insurance company or association incorporated by or organized under the laws of this or any other state, shall be sold or otherwise disposed of by the company or association within five years after title is vested in the company or association. A life insurance company or association is a corporation for purposes of chapter 172C.

Sec. 31. Section 567.3, subsection 3, paragraph d, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

d. Agricultural land acquired for research or experimental purposes. Agricultural land is used for research or experimental purposes if any of the following apply:

(1) Research and experimental activities are undertaken on the agricultural land and commercial sales of products produced from farming the agricultural land do not occur or are incidental to the research or experimental purposes of the corporation. Commercial sales are incidental to the research or experimental purposes of the corporation when such sales are less than twenty-five percent of the gross sales of the primary product of the research.

(2) The agricultural land is used for the primary purpose of testing, developing, or producing seeds or plants for sale or resale to farmers as seed stock. Grain which is not sold as seed stock is an incidental sale and must be less than twenty-five percent of the gross sales of the primary product of the research and experimental activities.

(3) Until July 1, 2001, the agricultural land is used for the primary purpose of testing, developing, or producing animals for sale or resale to farmers as breeding stock. However, after the effective date of this Act, to qualify under this paragraph, the following conditions must be satisfied:

(a) The nonresident alien, foreign business, or foreign government or an agent, trustee, or fiduciary of the alien, business, or government must not hold the agricultural land other than as a lessee. The term of the lease must be for not more than twelve years. A lessee shall not renew a lease entered into under this subparagraph (3). The lessee shall not enter into a lease under this paragraph, if another lease under this paragraph has been entered into by the lessee.

(b) A term or condition of sale, including resale, of seed stock or breeding stock must not relate to the direct or indirect control by the lessee of the breeding stock or breeding stock progeny subsequent to the sale.

(c) The number of acres of agricultural land held by the lessee must not exceed six hundred forty acres.

(d) The lessee must deliver a copy of the lease to the secretary of state. The secretary of state shall notify the lessee of receipt of the copy of the lease.

(4) Culls and test animals may be sold under subparagraph (3). For a three-year period beginning on the date that the lease takes effect, the gross sales for any year shall not be greater than five hundred thousand dollars. After the three-year period ends, the gross sales for any year shall not be greater than twenty-five percent of the gross sales for that year of the breeding stock, or five hundred thousand dollars, whichever is less. As used in subparagraph (3),

"lessee" means a nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary acting on behalf of the nonresident alien, foreign business, or foreign government, or any other trade or business which is under the lessee's common control as provided in 26 U.S.C. § 414.

(5) Effective July 1, 2001, subparagraph (3) shall not be effective. However, a lessee may continue for the duration of the period of the lease to lease the agricultural land under subparagraph (3) if the lease was entered into prior to July 1, 2001.

(6) Effective July 1, 2001, a nonresident alien, foreign business, or foreign government or an agent, trustee, or fiduciary of the alien, business, or government shall not, except as provided in subparagraph (5), acquire or hold agricultural land used for the primary purpose of testing, developing, or producing animals.

Sec. 32. NEW SECTION. 567.8A LESSEES CONDUCTING RESEARCH OR EXPERIMENTS.

Lessees of agricultural land under section 567.3, subsection 3, paragraph "d", subparagraph (3), for research or experimental purposes, shall file a report 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. The report shall contain the following information for the last year:

1. The name and principal place of business of the lessee.
2. The location of the agricultural land used for research or experimental purposes.
3. The date that the lease became effective.
4. The name and address of each person purchasing breeding stock produced on the agricultural land.
5. The number or volume of breeding stock purchased by each person purchasing breeding stock produced on the agricultural land.

Sec. 33. Section 567.3, subsection 3, paragraph d, subparagraph (5), as enacted in this Act, is amended by striking the subparagraph. This section takes effect July 1, 2013.

Sec. 34. During the fiscal year for which funds are appropriated by section 6 of this Act, the department of natural resources shall not require the installation or use of equipment to control the emission of dust or other particulate matter on or by facilities for storage of grain which are located within the ambient air quality attainment areas for suspended particulates.

Sec. 35. REPEAL.

1. Section 111.85, Code 1989, is repealed.
2. The county recorder shall continue to remit to the commission all fees collected pursuant to section 111.85 which were paid before the effective date of this section.
3. On and after July 1, 1989, moneys collected pursuant to section 111.85, including interest or earnings on investments or time deposits from the money within the state park, forest, and recreation area facilities improvement trust fund shall be used as follows:

a. The moneys shall be transferred to the management account in the Iowa resources enhancement and protection fund, if House File 769 is enacted by the Seventy-third General Assembly, 1989 Session.

b. The moneys shall be used by the department solely for renovation, replacement, and improvement of facilities otherwise acquired in state parks, forests, and recreation areas, if House File 769 is not enacted by the Seventy-third General Assembly, 1989 Session.

c. The moneys shall not be subject to a rebate or return to persons who have paid moneys pursuant to section 111.85.

Sec. 36. Sections 10 and 35 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 37. Sections 4 and 20 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 13, 1989, except the items which I hereby disapprove and which are designated as section 1, subsection 2, letter c; section 1, subsection 2, letter d; sections 3 and 17 in their entirety; and section 6, subsection 1, paragraph b. 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 House File 778, an Act relating to and making appropriations to the department of agriculture and land stewardship, to the department of natural resources, to an environmental fund, providing for environmental protection, the acquisition and use of land, and the control of certain vegetation, providing for the repeal of fees and providing effective dates.

I am pleased that Iowa's strong economy and my plans to trim excessive legislative spending in other areas allows me to approve the $20 million per year standing appropriation for the Iowa Resources Enhancement and Protection Fund without the imposition of new taxes or fees. With the signing of this bill, Iowa takes a major step forward in the protection and enhancement of our natural resources.

With this major commitment of resources to our park system, I am pleased to approve the repeal of the Park User Fee, effective immediately, so that Iowans will no longer be charged a fee to use our state parks.

House File 778 is, therefore, approved with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 1, subsection 2, letter c. This portion of House File 778 appropriates an additional $50,000 to the farm commodity division of the Department of Agriculture and Land Stewardship for the support of two information specialist positions within the administrative division. The additional positions are funded with appropriations slated for reversion in Fiscal Year 1989. Budget restraints dictate that this item, which is in excess of my budget recommendation, be disapproved. The focus should be on directing available resources to directly enhance the environment rather than adding additional administrative staff.

I am unable to approve the item designated Section 1, subsection 2, letter d. This section appropriates $280,000 to be used by the Department of Agriculture and Land Stewardship to establish and fund the positions of agricultural trade specialists in each of the state's three foreign trade offices. These offices are staffed by representatives of the Department of Economic Development and this expenditure would be a duplicate effort. The offices currently work closely with Iowa's agricultural marketing programs, as evidenced by several recent successful marketing promotions for Iowa quality beef and pork.

Moreover, these offices cannot be run effectively if the staff answers to two bosses — the Department of Economic Development and the Department of Agriculture and Land Stewardship. Indeed, the approach embodied in this bill could cause confusion among our customers, making it counterproductive to our international marketing efforts.

A plan is being developed to ensure better coordination between the Department of Economic Development and the Department of Agriculture and Land Stewardship for overseas agricultural marketing. Further action should await the results of that study.

I am unable to approve Sections 3 and 17 in their entirety. These sections would require the Department of Agriculture and Land Stewardship and the Department of Natural Resources to notify the chairpersons and ranking members of the Agriculture and Natural Resources Appropriations Subcommittee prior to the proposed transfer of funds. Such notice is to be given at least two weeks prior to the transfer of funds. Very similar language is in the Iowa Code, Chapter 8.39 and this section would be redundant and unnecessary.

I am unable to approve Section 6, subsection 1, paragraph b. This paragraph appropriates $30,000 for the additional position of environmental specialist II for the development of preserves management plans. This task can be handled by the Department of Natural Resources within the existing budget.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 778 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 312

APPROPRIATIONS FOR ENERGY CONSERVATION AND ENVIRONMENTAL PROTECTION

H.F. 789

AN ACT relating to or making appropriations from the petroleum overcharge funds for purposes related to energy conservation.

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

Section 1. There is appropriated 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 the fiscal biennium beginning July 1, 1989, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, 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 the office of hearings and appeals second-stage settlement fund, and supplemented by the Exxon fund for a total appropriation not to exceed:

.....$ 3,000,000

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:

.....$ 3,300,000

b. For the state energy conservation program, from the Exxon fund:

.....$ 118,500

c. For completion of the energy audits of public schools, from the Exxon fund:

.....$ 300,000

d. For the energy extension service program, including $70,000 to be used to match an equal amount of other public or private funds for the residential energy extension program at the Iowa state university of science and technology, from the Exxon fund:

.....$ 119,700

e. For the development of a comprehensive energy management program for local governments, for the installation of cost-effective energy management improvements with matching moneys of $550,000 from the energy research and development fund, from the Exxon fund:

.....$ 200,000

f. For the use of the waste management authority in implementing a solid waste disposal grant program which reflects the groundwater protection Act's preferred option of reducing the volume of waste being landfilled by demonstrating composting technologies using biodegradable plastic bags and yard waste. The program shall establish a minimum of one project at a large solid waste disposal project and a minimum of two projects at small solid waste disposal projects from the Stripper Well fund:

.....$ 200,000

g. For the implementation of a competitive grant program to provide weatherization assistance to low-income nonprofit housing organizations, from the Exxon fund:

.....$ 300,000

h. For the implementation of a competitive grant program to provide weatherization assistance for energy conservation resources to group residences operated by nonprofit organizations serving low-income persons, from the Exxon fund:
.....$ 200,000

**i. For the continuation of energy conservation measures to group residences operated by nonprofit organizations serving low-income persons and for the continuation of the partnership in low-income residential retrofit program, from the Exxon fund:*
.....*$ 103,000**

j. For the establishment and implementation of not less than five model farm demonstration project areas, in geographically distinct portions of the state. The projects shall be located in southeast, south-central, southwest, northwest, and north-central portions of the state. The projects shall be designed to enhance the profitability and decrease the environmental impacts of row crop production, and to develop on-farm demonstration and education programs involving farms concentrated in a project area, such as the Big Spring demonstration project does in northeast Iowa. An advisory group shall assist the energy and geological resources division of the department of natural resources in the project design and implementation, with representation consisting of the directors of the soil conservation division of the department of agriculture and land stewardship, and the cooperative extension service. From the Stripper Well fund:
.....$ 600,000

k. For the development of the energy planning data base aspects of the natural resource geographic information system required by section 455E.8, subsection 6, in conjunction with the department of transportation, from the Exxon and Stripper Well funds:
.....$ 500,000

Sec. 2. Of the $1,000,000 appropriated to the department of natural resources for energy conservation grants and contracts to be used to fund cost-effective and environmentally sound energy conservation and renewable resource projects which meet the guidelines of one or more of the five energy programs specified in Pub. L. No. 97-377, § 155, 96 Stat. 1830, 1919 (1982), pursuant to 1987 Iowa Acts, chapter 230, section 1, from the Exxon account, $103,000 shall revert to the energy conservation trust.

Sec. 3. There is appropriated an amount up to five percent, but not to exceed $300,000, of the allowable petroleum overcharge money appropriated for the fiscal year beginning July 1, 1989, and ending June 30, 1990, to be used for administration of the petroleum overcharge programs.

Sec. 4. The energy fund disbursement council created in section 93.11, subsection 3, is authorized to extend reversion dates, if necessary, for prior appropriations of petroleum overcharge funds in Iowa Acts 1986 and 1987.

Sec. 5. Section 93.14, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The energy fund disbursement council created in section 93.11, subsection 3, will oversee and approve the expenditure of funds in the energy research and development fund.

Sec. 6. 1986 Iowa Acts, chapter 1249, section 4, unnumbered paragraph 1, as amended by 1987 Iowa Acts, chapter 230, section 8, and 1988 Iowa Acts, chapter 1281, section 6, is amended to read as follows:

There is appropriated from the funds available in the energy conservation trust, established in section 93.11, for the fiscal period beginning July 1, 1986, and ending June 30, ~~1989~~ 1990,

*Item veto; see message at end of the Act

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:

Approved May 31, 1989, except the items which I hereby disapprove and which are designated as section 1, subsection 2, paragraph i, and section 2 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the secretary of the senate, this same date a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Madam Secretary:

I hereby transmit House File 789, an Act relating to or making appropriations from the petroleum overcharge funds for purposes related to energy conservation.

House File 789 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 1, subsection 2, paragraph i; and Section 2, in its entirety. These provisions in House File 789 first deappropriate $103,000 from the highly successful partnership in low-income residential retrofit program and then reappropriate it to the same program. This inconsistency was apparently inadvertent and legislators we have consulted with have requested this item veto to avoid causing confusion in the operation of the retrofit program. My disapproval of both of these sections will allow the current low-income retrofit program to continue without interruption.

House File 789 continues several very worthwhile energy conservation programs and provides important funding for at least five model farm demonstration projects similar to the Big Spring project in Northeast Iowa. These projects will give Iowans from throughout the state an opportunity to examine the effect of fertilizers, pesticides and insecticides on the quality of our groundwater. These projects will also help document the importance of improved managment of the application of these chemicals on our water quality.

Another important provision in House File 789 appropriates $200,000 for a solid waste grant program to demonstrate composting technologies using biodegradable plastic bags and yard waste. At least one project at a large solid waste disposal project and at least two projects at small solid waste disposal projects are to be funded. This research is a positive step toward enhancing the use of biodegradable plastic products as part of our solid waste control strategy.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 789 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 313

APPROPRIATIONS RELATING TO AGRICULTURE AND DROUGHT ASSISTANCE
H.F. 795

AN ACT relating to drought assistance, making appropriations, providing for testing, and providing effective dates.

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 to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For administration, including salaries, support, maintenance, and miscellaneous purposes, for the hay hotline, for climatological services, and for laboratory analysis, testing, and sampling, including sampling of dairy products, related to aflatoxin contamination, and for the purchase of additional equipment to support climatological services.

..... $ 100,000

As a condition, limitation, and qualification of the appropriation made under this section, the appropriation shall be used to support the following full-time equivalent positions:

1. For the hay hotline:

..... FTEs 2.0

2. For climatological services:

..... FTEs 0.5

3. For laboratory analysis, testing, and sampling related to aflatoxin contamination:

..... FTEs 6.0

It is the intent of the general assembly that the department administer an effective program for detecting aflatoxin in milk. The department shall establish a response level for aflatoxin in milk which is one-half the federal food and drug administration action level. The department shall implement a systematic program of testing raw milk for aflatoxin. If any sample tested exceeds the response level, the department shall, through an aggressive program of follow-through testing, identify the source of the contaminant for remediation. Notwithstanding section 192.13, test results below the response level shall be disclosed only to persons authorized by the department.

The full-time equivalent positions specified under this section shall be temporary positions as specified by the department. However, the positions shall terminate not later than June 30, 1990.

Sec. 2. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY.

1. The Iowa state university of science and technology extension service shall act as the central clearinghouse in each county for drought-related information, which shall serve as the agency in the county designated to coordinate drought-related activities.

2. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For Iowa state university of science and technology extension service to administer a rural concern drought hotline, to carry out the provisions in subsection 1, to implement a forage testing program for purposes of analyzing the impact of the drought on foraging, and to develop a library of drought samples.

..... $ 150,000

Sec. 3. DEPARTMENT OF NATURAL RESOURCES. The department of natural resources shall implement a statewide water conservation education program.

Sec. 4. STATE DEPARTMENT OF TRANSPORTATION. The state department of transportation shall cease all spraying of residual pesticides, as defined in section 206.2, along roadsides, including ditches along roadsides, in order to preserve, from pesticide contamination of the food chain, vegetation in the areas which may be utilized as animal feed. However, this section does not prohibit the use of pesticides necessary to control noxious weeds, as defined in section 317.1.

Sec. 5. REPORTING. The department of agriculture and land stewardship and Iowa state university of science and technology shall not later than January 15, 1990, report to the appropriations committees in the senate and house of representatives and to the appropriation subcommittee on agriculture and natural resources information relating to expenditures of moneys appropriated to the departments under this Act, including a review of activities supported by the appropriations.

Sec. 6. REVERSION. Moneys appropriated under this Act which are not expended by June 30, 1990, shall revert to the general fund of the state as provided in section 8.33.

Sec. 7. EFFECTIVE DATES.

1. The department of agriculture and land stewardship and Iowa state university of science and technology shall not expend moneys appropriated or implement provisions under sections 1 and 2 of this Act until at least fifteen counties are subject to a proclamation of a disaster emergency due to a drought which is issued by the governor.
2. The department of natural resources shall not implement a statewide water conservation education program under section 3 of this Act until at least fifteen counties are subject to a proclamation of a disaster emergency due to a drought which is issued by the governor.
3. Provisions contained in this Act which prohibit the spraying of pesticides shall not be effective on or after January 1, 1990.
4. Section 4 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 1, 1989

CHAPTER 314

IOWA PLAN FUND APPROPRIATIONS

H.F. 785

AN ACT relating to and making appropriations from the Iowa plan fund and providing an effective date.

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

Section 1. Section 99E.32, subsection 1, paragraphs a and b, Code 1989, 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 four million six hundred twenty-five thousand dollars and in the fiscal year beginning July 1, 1989 the first ~~three million seven hundred fifty thousand~~ four million four hundred thirty-five thousand dollars to the jobs now capitals account.

b. 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~~ four million six hundred fifty thousand 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, nineteen million eight thousand dollars, and ~~seven million nine hundred thousand~~ twenty-eight million eight hundred four 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, seven million dollars, and ~~eleven million two hundred fifty thousand~~ seven million seven hundred twenty-one thousand dollars, respectively, to the education and agriculture research and development account.

Sec. 2. Section 99E.32, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Notwithstanding paragraph "c", after the allotments have been made for the fiscal year beginning July 1, 1988, under paragraphs "a" and "b", the total excess is allotted to the surplus account.

Sec. 3. Section 99E.32, subsection 2, paragraph a, subparagraph (9), unnumbered paragraph 1, Code 1989, is amended to read as follows:

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:

Sec. 4. Section 99E.32, subsection 3, Code 1989, 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 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~~ the sum of eight million dollars for the fiscal year beginning July 1, 1989, for deposit in an Iowa resources enhancement and protection fund and allocated pursuant to 1989 Iowa Acts, House File 769, if enacted.

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. For the fiscal year beginning July 1, 1989, the amount appropriated is one million five hundred thousand dollars.

c. 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. 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. For the fiscal year beginning July 1, 1989, the amount appropriated is six hundred fifty thousand dollars.

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. For the fiscal year beginning July 1, 1989, the amount appropriated is three million three hundred ninety-three 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 in the fiscal year beginning July 1, 1988, only, 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. For the fiscal year beginning July 1, 1989, the amount appropriated is one million five hundred forty-five thousand dollars. *Of the amount appropriated for the fiscal year beginning July 1, 1989, only, sixty-five thousand dollars shall be awarded to each of the fifteen regional coordinating councils for annual salaries, support, and maintenance of the satellite centers.* Of the amount appropriated for the fiscal year beginning July 1, 1989, the department may employ three full-time equivalent positions for community outreach programs.

(2) Federal procurement offices, one hundred thousand dollars. For the fiscal year beginning July 1, 1988, the amount appropriated is one hundred thousand dollars. For the fiscal year beginning July 1, 1989, the amount appropriated is eighty 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. For the fiscal year beginning July 1, 1989, the amount appropriated is three hundred forty-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. For the fiscal year beginning July 1, 1989, the amount appropriated is one hundred thousand dollars.

(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. For the fiscal year beginning July 1, 1989, the amount appropriated is two hundred fifty thousand dollars.

(6) Rural incubators or technical assistance centers, one hundred fifty thousand dollars is appropriated for the fiscal year beginning July 1, 1988. The funds shall be used for ~~the establishment of~~ incubators or technical assistance centers 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 or center'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 or center is succeeding in becoming self-sufficient. The local community,

*Item veto; see message at end of the Act

university, or college is required to provide a twenty-five percent match of the state's grant. For the fiscal year beginning July 1, 1989, the amount appropriated is six hundred thousand dollars.

(7) For rural development programs, the sum of eighty thousand dollars is appropriated for the fiscal year beginning July 1, 1988. For the fiscal year beginning July 1, 1989, the amount appropriated is one hundred seventy-five thousand dollars.

(8) For council of governments assistance, the sum of three hundred thousand dollars is appropriated for the fiscal year beginning July 1, 1989. The funds shall be used to provide technical assistance to the political subdivisions of the state and to coordinate the delivery of local services of the council of governments.

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, eight hundred thousand dollars for purposes of administration of the Iowa conservation corps, established in section 15.225. Of the amount appropriated for the fiscal year beginning July 1, 1988, 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 years beginning July 1, 1987 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 1988 Iowa Acts, chapter 1131, is enacted, the amount appropriated 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, 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. For the fiscal year beginning July 1, 1989, the amount appropriated is four hundred fifty thousand dollars which is to be used for funding of existing partnerships or for starting new ones.

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. For the fiscal year beginning July 1, 1989, there is appropriated to the department of economic development for labor management councils the sum of two hundred thousand dollars.

l. For the fiscal ~~year~~ years beginning July 1, 1988, and July 1, 1989, to the Iowa department of economic development the sum of seven hundred thousand dollars and seven hundred thousand dollars, respectively, 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. Of the amount appropriated for the fiscal year beginning July 1, 1989, twenty-five thousand dollars, or so much as is necessary, is appropriated to the department of agriculture and land stewardship to provide a grant to the heartland heritage center project for the development of living history farms near Des Moines. As a condition of the grant, the department of agriculture and land stewardship shall have representation on all boards dealing with the planning, development, design, and administration of the living history farms development.

m. (1) For the fiscal ~~year~~ years beginning July 1, 1988, and July 1, 1989, to the department of agriculture and land stewardship the sum of one hundred thousand dollars and two hundred

fifty thousand dollars, respectively, 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, or December 30, 1989, as applicable.

(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, or December 30, 1991, as applicable. 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 1988 Iowa Acts, chapter 1217.

(2) Four million six hundred fifty thousand dollars to the business development finance corporation assistance fund established under 1988 Iowa Acts, chapter 1207.

(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. For the fiscal year beginning July 1, 1989, the sum of two million six hundred fifty thousand dollars is appropriated to the business development finance corporation assistance fund established under section 28.148.

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 in 1988 Iowa Acts, chapter 1189, section 5, the sum of five hundred thousand dollars for purposes of the fund.

q. For the fiscal ~~year~~ years beginning July 1, 1988, and July 1, 1989, to the department of education the sum of seven hundred fifty thousand dollars and seven hundred fifty thousand dollars, respectively, for the purposes and under the conditions specified in section 99E.31, subsection 5, paragraph "c".

r. For the fiscal year beginning July 1, 1989, to the Iowa state university of science and technology for funding the small business development centers the sum of one million three hundred thousand dollars.

s. For the fiscal year beginning July 1, 1989, to the Iowa finance authority, the sum of one million three hundred ninety-five thousand dollars for the housing trust fund as specified in section 220.100 to be used for purposes of section 220.100, subsection 2, paragraphs "b" and "c".

t. For the fiscal year beginning July 1, 1989, to the Iowa finance authority, the sum of one hundred thousand dollars for the operations, construction, or repairs of homeless assistance shelters.

u. (1) For the fiscal year beginning July 1, 1989, to the Iowa finance authority, the sum of two million dollars for the housing assistance program to provide mortgage and finance assistance to individuals for the purchase or acquisition of homes. Of this amount one hundred thousand dollars shall be used to finance the purchase or acquisition, in communities with a population of less than five thousand, of modular homes, as defined in section 135D.1, and manufactured homes as defined in 42 U.S.C. § 5403.

(2) Funds provided under subparagraph (1) shall not be restricted to first-time home buyers but shall be for lower income and very low income families as defined in section 220.1. The assistance provided shall include at least one of the following kinds and may include others whether listed or not:

(a) Closing costs assistance.

(b) Down payment assistance.

(c) Home maintenance and repair assistance.

(d) Loan processing assistance through a loan endorser review contractor who would act on behalf of the authority in assisting lenders in processing loans that will qualify for government insurance or guarantee or for financing under the authority's mortgage revenue bond program.

(e) Mortgage insurance program.

Not more than fifty percent of the assistance provided by the authority shall be provided under subparagraph subdivisions (d) and (e).

(3) Assistance provided under subparagraph (1) shall be limited to mortgages under thirty-five thousand dollars, except in those areas of the state where the median price of homes exceeds the state average. In providing the assistance, the authority shall require substantial seller participation of not less than two percent of the mortgage amount, which participation includes, but is not limited to, home ownership maintenance funding, down payment assistance, payment of closing costs, or rehabilitation costs.

v. For the fiscal year beginning July 1, 1989, to the arts division of the department of cultural affairs, the sum of one hundred twenty thousand dollars for the town square program.

w. For the fiscal year beginning July 1, 1989, to the arts division of the department of cultural affairs, the sum of one hundred thousand dollars for the artists endowment program.

x. For the fiscal year beginning July 1, 1989, to the department of cultural affairs, the sum of two hundred seventy thousand dollars for the preservation, exhibition, or development of historic resources by the department.

y. For the fiscal year beginning July 1, 1989, to the department of economic development for the sister state program the sum of eighty thousand dollars. Funds appropriated for the sister state program shall be matched on a dollar-for-dollar basis by private sources. In-kind expenditures from the private sector may be considered as a portion of the dollar-for-dollar match. The department shall secure the necessary private participation from groups and organizations most appropriate for this program.

z. For the fiscal year beginning July 1, 1989, to the department of economic development the sum of two hundred ninety-six thousand dollars for a rural main street program for communities with a population under five thousand.

aa. For the fiscal year beginning July 1, 1989, to the department of economic development, the sum of four hundred thousand dollars for a rural enterprise fund for seed money for local community development organizations established for an area for the purpose of providing for economic and business development projects. The availability of the seed money, and the type of projects are similar to those envisioned in paragraph "o" of this subsection.

ab. For the fiscal year beginning July 1, 1989, the sum of two million dollars to the department of economic development to establish a retraining program for existing Iowa businesses and employees to upgrade and modernize the skills of the employees.

ac. To the revolving loan account of the area school job training fund established under section 280C.6, the sum of one million dollars for the fiscal year beginning July 1, 1989.

ad. For the fiscal year beginning July 1, 1989, to the department of economic development, the sum of one hundred fifty thousand dollars for a productivity enhancement program which will focus on transferring state-of-the-art manufacturing techniques to rural manufacturers.

ae. To the department of human services the sum of two hundred fifty thousand dollars, or so much thereof as is necessary, for grants of financial aid, made pursuant to section 232.142, subsection 3, for purposes of establishing, improving, operating, and maintaining approved county and multicounty juvenile detention homes. The department shall encourage the recipients of the grants to serve the needs of juveniles in multicounty areas.

Sec. 5. Section 99E.32, subsection 4, Code 1989, 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 years beginning July 1, 1987, ~~and~~ July 1, 1988, and July 1, 1989, 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".

(1) For the fiscal year beginning July 1, 1986, the amount appropriated is ten million seven hundred fifty thousand dollars.

(2) 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.

(3) 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 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.

(4) For the fiscal year beginning July 1, 1989, the amount appropriated is six million four hundred thousand dollars. 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~~ operate the university and private industry research and development consortium at each of the state board of regents universities established 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~~. The department of economic development and the consortiums shall coordinate activities relating to purposes of chapter 262B. *Of the amount appropriated in this subparagraph, sixty *thousand dollars* ~~being~~ is *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~~ identify development trends.* Of the amount appropriated in this subparagraph, five hundred

*Item veto; see message at end of the Act

thousand dollars is allocated to the University of Northern Iowa for the decision-making science institute; one hundred thousand dollars is 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 professional developers of Iowa; one hundred thousand dollars is allocated to the decision-making science institute for the emerging business opportunities analysis; six hundred fifty thousand dollars is allocated to the international network on trade fund of the INTERNET foundation, established in 1989 Iowa Acts, House File 686, which shall transfer four hundred thousand dollars of its allocation to the Wallace technology transfer foundation of Iowa established in 1989 Iowa Acts, House File 686; and three hundred thousand dollars, to be allocated equally, for support of the Iowa technology innovation centers at the University of Iowa and the Iowa State University of science and technology and the applied technology program at the University of Northern Iowa.

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 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 years beginning July 1, 1987, and July 1, 1988. For the fiscal ~~year~~ years beginning July 1, 1988, and July 1, 1989, no amount is appropriated.

d. For the fiscal year beginning July 1, 1987 only to the Iowa peace institute, the sum of two hundred fifty thousand dollars 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 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.

f. For the fiscal year beginning July 1, 1989, to the department of economic development, the sum of two hundred twenty-one thousand dollars for the University of Iowa and two hundred fifty thousand dollars for the Iowa State University of science and technology for the operation and maintenance of the university related research parks.

g. For the fiscal year beginning July 1, 1989, to the Iowa cooperative extension service in agriculture and home economics at the Iowa State University of science and technology, the sum of three hundred thousand dollars to begin a three-year intensive effort of technology transfer for the livestock industry.

h. For the fiscal year beginning July 1, 1989, to the department of economic development the sum of five hundred thousand dollars for the energy-related activities of the amorphous semiconductor project at Iowa State University of science and technology.

Sec. 6. Section 99E.32, subsection 5, paragraphs a, b, and j, Code 1989, 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, and July 1, 1987, ~~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 commissioner 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. For the fiscal year beginning July 1, 1989, there is appropriated to the department of public safety the sum of four hundred ten thousand dollars for four remote automated fingerprint information system (AFIS) terminals.

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; and 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. 7. Section 99E.32, subsection 5, Code 1989, is amended by adding the following new lettered paragraphs:

NEW PARAGRAPH. p. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1989, to the Iowa state fair board the sum of four hundred thousand dollars to provide facilities to house booths, displays, and other promotional activities for local tourism groups and organizations.

NEW PARAGRAPH. q. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1989, to the department of cultural affairs the sum of one million dollars to be deposited in the historical resource revolving fund to be used for the historical resource development program under section 303.16.

NEW PARAGRAPH. r. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1989, to the American Gothic House trust account the sum of one hundred thousand dollars for the acquisition and maintenance of Gothic House in Eldon.

NEW PARAGRAPH. s. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1989, to the Iowa department

of public health the sum of two hundred fifty thousand dollars to finance research in the area of electromagnohydrodynamics ventricular assist devices of the Iowa center for applied sciences, a nonprofit corporation established under the laws of Iowa. The department of public health may enter into an agreement with the Iowa product development corporation to provide technical assistance and oversight for this project.

NEW PARAGRAPH. t. (1) There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1989, to a special fund to be created in the office of the treasurer of state the sum of one million five hundred thousand dollars to be used for the acquisition of emergency medical services equipment as provided in this paragraph.

(2) The moneys in the special fund created pursuant to subparagraph (1) shall be allocated to each county based upon the apportionment of funds as follows:

(a) Fifty percent of the funds is apportioned based upon the area of a county to the total area of all counties.

(b) Twenty-five percent of the funds is apportioned based upon the population of the county to the total population of all counties.

(c) Twenty-five percent of the funds is apportioned based upon the rural population of the county to the total rural population of all counties.

(3) Each county EMS association shall propose a plan for spending the county's allocation and submit the plan to the regional EMS council for its review and comment. The regional EMS council shall review the plan and shall approve, modify, or deny it. If a request is denied the county EMS association may submit a new proposal. Upon approval of the regional EMS council, the treasurer of state shall remit the amount approved to each county treasurer. Each county treasurer shall disburse the funds to the award recipients. Each one dollar awarded to a county shall require a one-dollar match by the county or EMS provider. The Iowa department of public health shall provide assistance to the regional EMS council in reviewing the proposals and shall assist the office of the treasurer of state in implementing this paragraph.

(4) For purposes of this paragraph, unless the context otherwise requires:

(a) "Area", "county EMS association", "EMS provider", "regional EMS council", and "rural population" mean the same as defined in 641 IAC, ch. 130.

(b) "Emergency medical services equipment" means defibrillators, nondisposable essential ambulance equipment, as defined by the American college of surgeons, communications pagers, radios, and base repeaters. "Emergency medical services equipment" does not include ambulances, automotive parts, or buildings.

(5) Notwithstanding section 8.33 or any other provision of law, funds appropriated by this paragraph which are unobligated or unencumbered on June 30, 1989, shall not revert to any fund but shall remain in the special account until fully awarded to the appropriate counties.

*NEW PARAGRAPH. *u. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1989, to a special events fund, the sum of one hundred thousand dollars to be used as one-time funding to assist in the start-up, promotion, continued operation, and organization of local tourism, recreational, or cultural special events. Not more than twenty thousand dollars shall be awarded for any event. Special events are those events of a nature that occur not more than twice a year and include, but are not limited to, hot air balloon races, fishing tournaments, car racing meets, ethnic or seasonal festivals, and concerts. Preference shall be given to national events. In awarding grants priority shall be given to those events where state funds will be matched on at least a one-to-one basis with electronic or other media advertising being provided to the event.**

NEW PARAGRAPH. v. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1989, to the Iowa department of transportation the sum of one hundred twenty-five thousand dollars, with eighty percent of the appropriation being credited to the city of Ventura and twenty percent of the appropriation being credited to the city of Clear Lake, for the completion of the road improvement connecting East Lake drive and North Shore drive.

*Item veto; see message at end of the Act

NEW PARAGRAPH. w. (1) There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1989, to the department of human rights the sum of five hundred thousand dollars for the community-based recreational and educational grant program.

(2) Of the amount appropriated under subparagraph (1), four hundred thousand dollars shall be used as follows:

(a) To provide state funds to encourage and supplement recreational and educational activities for low-income youth grades K-12 by filling existing gaps and permitting expansion in the current system of community-based recreational and educational programs; establishing a comprehensive network of services that are continuous and year-round that focus on recreation and personal development education for low-income youth grades K-12; and providing recreational/educational programs for youth from families with incomes no more than twenty percent above the state poverty level.

(b) To be eligible for state funds under this subparagraph the applicant must be a nonprofit organization whose mission includes providing services for low-income youth grades K-12; the activities must be those not currently offered by the organization, or if currently offered is demonstrably underfunded; and the activities must be free of charge to all youth who meet the income requirements. A nominal fee, at cost, may be assessed to youth who do not meet the stated income requirements. Grants will be awarded based on the organization's demonstrated ability to provide organized recreational or educational programs or a combination of both.

(c) Eligible activities include, but are not limited to, the following:

(i) Recreation: arts and crafts, such as pottery, sewing, painting; swimming teams; bowling leagues; tumbling/gymnastics; and volleyball, softball, basketball, and tennis.

(ii) Education: Drama clubs; dance lessons/troupes; music lessons, such as piano, voice; computer literacy; cultural enrichment reading; creative writing; and employment skills.

(3) Of the amount appropriated under subparagraph (1), one hundred thousand dollars shall be used for exemplary social and community-organized projects whose services are primarily targeted to minority populations in the state.

NEW PARAGRAPH. x. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1989, to the Terrace Hill commission the sum of fifty thousand dollars for landscaping, painting, equipment, repairs, renovations and furnishings at Terrace Hill.

Sec. 8. Section 99E.32, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 9. There is appropriated to the agencies named for the fiscal year beginning July 1, 1988, and ending June 30, 1989, the remaining moneys in the surplus account after repayment to the permanent school fund in accordance with section 280C.8, to be used for the purposes designated:

a. To the Iowa state university of science and technology for biodegradable plastics research, the sum of three hundred ninety-eight thousand dollars. As a condition, limitation, and qualification of the appropriation made in this paragraph, one-third of the funds appropriated in this paragraph shall be used for researching the health and environmental impacts of biodegradable plastics.

b. To the state university of Iowa for biodegradable plastics research, the sum of one hundred eighty-three thousand dollars.

c. To the university of northern Iowa for polymer and elastomer recycling research, the sum of one hundred thirty-one thousand dollars.

d. To the department of agriculture and land stewardship:

(1) For development of biodegradable plastics standards, the sum of seventy-five thousand dollars.

*(2) *For marketing of biodegradable plastics, the sum of seventy-five thousand dollars.**

e. To the department of natural resources for the purposes of holding toxic waste cleanup days during the fall of 1989:

..... $ 400,000

*Item veto; see message at end of the Act

To the extent practical, the department shall hold at least one of the toxic cleanup days in each state congressional district.

f. To the department of public safety or successor drug enforcement agency for promoting, equipping, and staffing a "Drug Tip Hotline":

..... $ 50,000

Notwithstanding section 8.39, funds appropriated under this paragraph are not subject to transfer.

g. To the department of public safety for not more than the following full-time equivalent positions for the purpose of enforcing 1989 Iowa Acts, Senate File 124:

..... $ 300,000

..... FTEs 16.0

h. To the state racing and gaming commission for not more than the following full-time equivalent positions for regulation activities required pursuant to 1989 Iowa Acts, Senate File 124:

..... $ 100,000

..... FTEs 4.25

Sec. 9. NEW SECTION. 220.107 INFRASTRUCTURE LOAN PROGRAM.

The authority may issue its bonds or notes for the purpose of pooling obligations of two or more cities, counties, or sanitary districts for the purpose of financing infrastructure as defined by sections 15.284 and 15.285. Sections 220.103 through 220.106 shall apply with respect to the issuance of these bonds or notes or the disposition of proceeds of these bonds or notes.

Sec. 10. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 3, 1989, except the items which I hereby disapprove and which are designated as that portion of section 4, subsection 3, lettered paragraph d, numbered paragraph 1 which is herein bracketed in ink and initialed by me; that portion of section 5, subsection 4, lettered paragraph b, numbered paragraph 4 which is herein bracketed in ink and initialed by me; section 7, paragraph u in its entirety; section 8, subsection 9, lettered paragraph d, numbered paragraph 2 in its entirety. 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 House File 785, an Act relating to and making appropriations from the Iowa plan fund and providing an effective date.

House File 785 includes funding for many important economic development related programs. I am particularly pleased that this bill makes new efforts to provide assistance to retrain our workers; provide better housing for our citizens; dedicate research at our universities for economic development purposes; and provide important assistance to new and existing businesses that are creating jobs in our state. These are important priorities for lottery funding that should be maintained.

However, the appropriations made in this bill exceed the anticipated net receipts from the lottery by $188,284. As a result, some item vetoes are necessary in order to ensure that each program will have a reasonable chance of being funded with the anticipated lottery revenues.

House File 785 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 4, subsection 3d, subparagraph 1. This provision in House File 785 requires that the Department of Economic Development provide $65,000 to each of the 15 regional coordinating councils for salaries, support and maintenance of the satellite centers. This is a substantial increase in current funding levels for some centers and such an increase should not be made without any corresponding improvement on the accountability and coordination of the economic development service delivery system. Our economic development delivery system is in serious need of coordination and focus — the current system has so many players as to cause confusion among the communities that are in real need of accessing economic development services. I have no objections to increasing the funding for satellite centers and regional councils of government. However, I must insist that it be done in such a way as to improve the coordination and focus of these service delivery entities with the direction of the Department of Economic Development.

The result of this veto will be to give the Department of Economic Development the flexibility to allocate these funds on the basis of the overall economic development service delivery plan.

I am unable to approve the designated portion of Section 5, subsection 4, lettered paragraph b, numbered paragraph 4. This provision in the lottery appropriation bill provides $60,000 of the funds allocated for economic development research consortia to be used by the department to identify new development trends. However, this appropriation for trends analysis is an unnecessary duplication of efforts made separately this session to conduct the research on new trends through the Wallace Technology Transfer Foundation. The purpose of that foundation is to work with the private sector to identify products or research opportunities that have the greatest market potential. We should not dilute or duplicate those efforts by setting up separate mechanisms within the department. Moreover, we already have the capability within both the department and the Department of Management to identify such trends through the Futures Agenda process.

I am unable to approve the item designated as Section 7, paragraph u, in its entirety. This provision in the bill establishes a new appropriation of $100,000 to provide grants to communities to start-up special events. Currently, the community cultural grants program is dedicated to providing assistance for similar purposes. Moreover, such a special events fund should be structured as a revolving fund with low interest loans provided to local communities for this purpose. The drafting of this appropriation is faulty in that no department is clearly given the authority to administer the program. As a result, the idea for a special events fund should await a recommendation next year for a revolving loan fund that can be appropriately administered.

I am unable to approve the item designated as Section 8, subsection 9, lettered paragraph d, numbered paragraph 2, in its entirety. This provision in House File 785 appropriates $75,000 to the Department of Agriculture and Land Stewardship for the purposes of marketing biodegradable plastics. I fully support efforts to conduct research, develop standards and market

biodegradable plastics. I believe that biodegradable plastics have a great deal of potential to improve both the agricultural economy in our state as well as the environmental quality of the country. However, the marketing of biodegradable plastics would be best handled by the Department of Economic Development. In fact, the department has already begun marketing and promotion activities in this area. To provide funding to the Department of Agriculture and Land Stewardship for this purpose would be a duplication of effort and could confuse the targets of our marketing program.

Generally, we have attempted to focus the marketing of value-added agricultural products in the Department of Economic Development while commodity marketing is centered in the Department of Agriculture and Land Stewardship. A study will soon be jointly conducted by both departments to review this division of marketing responsibilities. The Department of Agriculture and Land Stewardship should not get more actively involved in the promotion of these value-added products until that study is completed and appropriate recommendations are adopted.

In short, this veto of $235,000 of excessive spending from House File 785 will bring the total level of appropriations within the level of anticipated receipts. As a result, we should be able to expect that each program remaining in this bill will be fully funded. Our economic development efforts should be significantly enhanced, as a result.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 785 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 315

APPROPRIATIONS AND PROVISIONS RELATING TO STATE EXECUTIVE AGENCIES AND NATIONAL ORGANIZATIONS

S.F. 517

AN ACT relating to and making appropriations to various state agencies including certain state 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, restricting the expenditure of moneys from the disaster aid contingent fund, revising provisions relating to life cycle cost analyses of public facilities, transferring moneys in the Iowa economic emergency fund to the general fund of the state, and providing an effective date.

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

Section 1. There is appropriated from the general fund of the state to the office of the secretary of state for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,608,849

..... FTEs 47.0

**For salaries, support, maintenance, and miscellaneous purposes for a pilot project to provide county recorders on-line computer access to records maintained by the secretary of state, and for not more than the following full-time equivalent positions:*

..... $ 53,475

..... FTEs 1.0

The secretary of state shall report to the legislative fiscal bureau and the co-chairpersons and ranking minority members of the administration appropriations subcommittee at six-month intervals concerning the costs and the benefits of the project, including reductions in the time required to provide business services. Such reports shall continue throughout the duration of the project.

For the purchase of computer hardware and software to begin computerization of election results for reporting on election night:

*..... $ 28,900**

Sec. 2. There is appropriated from the general fund of the state to the office of the governor for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and miscellaneous purposes for the general office of the governor, and for not more than the following full-time equivalent positions:

..... $ 826,218

..... FTEs 15.0

2. For the governor's expenses connected with office:

..... $ 5,434

3. For salaries, support, maintenance, and miscellaneous purposes for the governor's quarters at Terrace Hill, and for not more than the following full-time equivalent positions:

..... $ 93,420

..... FTEs 3.0

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,

*Item veto; see message at end of the Act

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 chapters 21 and 22 and the members shall be so informed:

..... $ 8,009

5. For salaries, support, maintenance, and miscellaneous purposes for the office of administrative rules coordinator, and for not more than the following full-time equivalent positions:

..... $ 93,332

..... FTEs 2.0

6. For payment of Iowa's membership in the national governors' conference:

..... $ 73,120

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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes including the lieutenant governor's compensation and expenses as provided in section 2.10, subsection 2, including service as a member of the legislative council and per diem and expenses incurred while performing duties of the lieutenant governor when the general assembly is not in session, and for not more than the following full-time equivalent positions:

..... $ 124,586

..... FTEs 2.5

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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 703,083

..... FTEs 27.0

Of the amount appropriated by this section, $24,162 shall be used for salary and support for one full-time equivalent position designated as accountant/auditor I.

Sec. 5. There is appropriated from the general fund of the state to the executive council for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 40,129

..... FTEs 1.12

Sec. 6. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1989, and ending June 30, 1990, 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:

..... $ 67,455

2. COMMISSION ON UNIFORM STATE LAWS

For support of the commission and expenses of the members:

..... $ 15,500

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, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	493,201
	FTEs	16.0

2. COMMUNICATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	397,589
	FTEs	9.0

3. DIRECTOR'S OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	99,125
	FTEs	2.0

4. MATERIALS MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	85,468
	FTEs	3.3

5. PROPERTY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	3,711,052
	FTEs	146.0

6. PRINTING AND MAIL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	445,439
	FTEs	22.5

7. RECORDS MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	388,326
	FTEs	13.5

8. INFORMATION SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	5,652,186
	FTEs	157.3

9. The department of general services shall not change the appropriations for the purposes designated in subsections 1 through 8 from the amounts appropriated under those subsections 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.

Savings achieved in providing telecommunications services shall be used by the department of general services to increase efficiencies in the provision of those services.

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, 1989, and ending June 30, 1990, 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 twenty-four month period. The department of general services shall report quarterly to the co-chairpersons and ranking minority members of the administration appropriations subcommittee concerning the savings generated as a result of implementation of these projects.

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:

..... $ 440,929

Sec. 9. Notwithstanding section 18.12, subsection 11, Code 1989, the excess funds in the rental space account shall not be deposited in the general fund of the state on June 30, 1989, and these funds are appropriated to the designated departments for the fiscal year beginning July 1, 1989, and ending June 30, 1990, in the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the department of personnel, for salaries and support for not more than the following full-time equivalent positions for safety officers to evaluate unsafe work sites and provide training in worker safety:

..... $ 63,097
..... FTEs 2.0

2. For the department of general services, for service maintenance contracts for the new historical building:

..... $ 100,000

3. For the department of personnel, for travel expenses for personnel officers who provide service to institutions under the jurisdiction of the department of human services and the department of corrections for the department of personnel:

..... $ 30,000

4. For the property management division of the department of general services, and for not more than the following full-time equivalent positions, to provide building maintenance in the capitol complex:

..... $ 80,000
..... FTEs 4.0

5. For the records management division of the department of general services, for supplies and for salary and support, and for not more than the following full-time equivalent position, for microfilming services:

..... $ 19,000
..... FTEs 1.0

Sec. 10. There is appropriated from the revolving funds designated to the department of general services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, 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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 795,172
..... FTEs 29.0

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, 1989, and ending June 30, 1990, which are legally payable from this fund.

3. From the centralized purchasing permanent revolving fund established by section 18.9 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 519,414
..... FTEs 15.0

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, 1989, and ending June 30, 1990, which are legally payable from this fund.

5. From the vehicle dispatcher revolving fund established by section 18.119 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 458,582
..... FTEs 15.0

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, 1989, and ending June 30, 1990, which are legally payable from this fund.

Sec. 11. Any capitol complex new construction appropriation shall commence in the administration appropriations subcommittee, even if consideration of the matter necessitates reconvening the subcommittee after its other work is completed.

Sec. 12. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,628,203
..... FTEs 99.25

As a condition, limitation, and qualification of this appropriation, the department of personnel shall report quarterly to the co-chairpersons and ranking minority members of the administration appropriations subcommittee concerning the number of vacancies in existing full-time equivalent positions and the average time taken to fill the vacancies. The reports shall include quarterly and annual averages organized according to state agency and general occupational category as established by the federal equal employment opportunity commission. All departments and agencies of the state shall cooperate with the department in the preparation of the reports.

Sec. 13. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salary annualization:

..... $ 50,000

Sec. 14. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, to pay the costs of administration of federal old age benefit and Iowa old age survivors insurance programs, and for not more than the following full-time equivalent positions:

..... $ 109,141
..... FTEs 2.5

Sec. 15. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system:

..... $ 2,402,913

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. 16. The Iowa public employees' retirement system shall conduct a study of the public retirement systems established in this state and shall provide a preliminary report to the general assembly, which report shall be transmitted to the chief clerk of the house of representatives and the secretary of the senate no later than February 1990. The study shall include the judicial retirement system; the Iowa department of public safety peace officers' retirement, accident, and disability system; and retirement systems for local police officers and fire fighters established under chapter 411. The report to the general assembly shall include an analysis of the findings of the Iowa public employees' retirement system concerning the financial condition of the existing systems, including but not limited to membership status, benefits paid, average age of members, annual compensation average, rate of contribution necessary to make the systems actuarially sound, and the actual rate of return against the expected rate of return. The Iowa public employees' retirement system may use the most recent actuarial valuations conducted under sections 97A.5, subsection 11; 97B.61; 411.5, subsections 12 through 14; and 602.9116 in completing its studies. If the Iowa public employees' retirement system requires an additional actuarial valuation of a local retirement system established pursuant to chapter 411 and the valuation is paid for by the local system, the conduct of the additional actuarial valuation shall constitute compliance with the next requirement for a valuation under section 411.5 for that system. The Iowa public employees' retirement system shall develop recommendations concerning the findings of the study.

There is appropriated from the Iowa public employees' retirement system fund an amount sufficient to pay the costs of the study. The Iowa public employees' retirement system shall determine the portion of the cost of the study to be allocated to each public retirement system and shall notify the governing board of each such system. Each governing board shall reimburse the Iowa public employees' retirement system fund for its share of the cost from moneys available to the governing board, including but not limited to moneys from the respective retirement funds. The governing boards of all public retirement systems in this state shall cooperate with the Iowa public employees' retirement system in providing information concerning their systems. As used in this paragraph, "governing board" means the body or officer responsible for administration of the public retirement system.

Sec. 17. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions used for the purposes designated in subsections 1 through 11:

..... FTEs 612.77

1. PROCESSING

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 3,785,607

2. ACCOUNTING FUNCTION

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 846,434

3. OPERATIONS, SYSTEMS, AND STATISTICS
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 1,691,575

4. LOCAL GOVERNMENT SERVICES
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 1,274,329

5. OFFICE REVIEW
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 2,101,218

6. IN-STATE FIELD AUDIT
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 2,966,555

7. OUT-OF-STATE FIELD AUDIT
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 1,085,212

8. TAXPAYER SERVICES
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 1,027,195

9. COLLECTIONS
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 2,706,890

10. ADMINISTRATION
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 727,520

11. TAX POLICY AND APPEALS
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 1,100,713

12. The department of revenue and finance shall not change the appropriations for the purposes designated in subsections 1 through 11 from the amounts appropriated under those subsections 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.

Notwithstanding any other provisions, not more than $1,000,000 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 revenue and finance to hire or retain not more than 33 full-time equivalent positions to conduct audits and investigations and initiate tax collection proceedings and enforcements, provided the director determines that the effect of the use of the funds for this purpose will result in collecting an additional three dollars in tax collections for every dollar expended in fiscal year 1990. The director shall report at least quarterly to the fiscal committee of the legislative council, the legislative fiscal bureau, and the co-chairpersons and ranking minority members of the administration appropriations subcommittee, concerning 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 of revenue and finance shall report quarterly to the co-chairpersons and ranking minority members of the administration appropriations subcommittee, concerning progress in the implementation of generally accepted accounting principles, including determination of reporting entities, fund classifications, modification of the Iowa financial accounting system, progress on preparing a comprehensive annual financial report, and the most current estimate of the general fund balance based on current generally accepted accounting principles.

Sec. 18. There is appropriated from the motor vehicle fuel tax fund created by section 324.77 to the department of revenue and finance for the fiscal year beginning July 1, 1989, and

ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for administration and enforcement of the provisions of chapter 324 and the motor vehicle use tax program:

..... $ 1,023,958

Sec. 19. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 7,409,914
..... FTEs 141.35

Sec. 20. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,608,078
..... FTEs 33.0

As a condition, limitation, and qualification of this appropriation, no more than $1,462,648 from all revenue sources, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than the above listed full-time equivalent positions and not more than $201,430 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.

**As a condition, limitation, and qualification of this appropriation, each state department hiring to fill a newly created full-time equivalent position shall fill the position within eight weeks of the approval of the enacting legislation or, if the position is not filled, shall report to the co-chairpersons and ranking minority members of the administration appropriations subcommittee the reason the position was not filled, the anticipated date of filling the position, and the anticipated savings in personal services due to the length of time the position was not filled. The department of management shall assist and cooperate in carrying out this requirement.*

The department of management shall report to the co-chairpersons and ranking minority members of the administration appropriations subcommittee on every significant transfer between object classes of accounts.

*As a condition, limitation, and qualification of this appropriation, the department of management shall cause the targeted small business program to operate in its normal manner. It is the intent of the general assembly that as a condition, limitation, and qualification of this appropriation, the department of management shall compile the necessary data so that the Iowa targeted small business program will continue in compliance with the conditions of the United States supreme court decision in City of Richmond v. J. A. Croson Co.** It is the intent of the general assembly that the department of management have authority to develop guidelines for state agencies to operate the targeted small business program to best achieve its goals in conformity with City of Richmond v. J. A. Croson Co., pending completion of a study and further legislative action. The department may, if necessary, suspend the operation of a particular preference until April 1, 1990, if it concludes that the suspension is mandated by federal law.

Sec. 21. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

*Item veto; see message at end of the Act

COUNCIL OF STATE GOVERNMENTS
For support of the membership assessment:
..... $ 58,600

Sec. 22. There is appropriated from the general fund of the state to the office of state-federal relations for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:
For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 200,629
..... FTEs 3.0

Sec. 23. 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, 1989, and ending June 30, 1990.

Sec. 24. For purposes of this Act and any other appropriations statute enacted by the Seventy-third General Assembly, 1989 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 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. 25. Section 19.29, Code 1989, 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 the council when the duty may, without neglect of their usual duties, be performed by the members, or by their regular employees, but, subject to this limitation, the council may incur the necessary expense to perform or cause to be performed any legal duty imposed on 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. 26. Section 19.34, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 3. The executive council shall resolve any disputes transmitted to it by the department of natural resources, the state building code commissioner, or both, arising under section 470.7.

Sec. 27. Section 29C.20, subsection 1, Code 1989, is amended by adding the following new unnumbered paragraph:
NEW UNNUMBERED PARAGRAPH. When a state department or agency requests that moneys from the contingent fund be expended to repair, rebuild, or restore state property injured, destroyed, or lost by fire, storm, theft, or unavoidable cause, the executive council shall consider the original source of the funds for acquisition of the property before authorizing the expenditure. If the original source was other than the general fund of the state, the department or agency shall be directed to utilize moneys from the original source if possible. The executive council shall not authorize the repairing, rebuilding, or restoring of the property from the disaster aid contingent fund if it determines that moneys from the original source are available to finance the project.

Sec. 28. Section 470.7, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Within thirty days of receipt of the response of the public agency affected, the department, the commissioner, or both, shall notify in writing the public agency affected of the department's, the commissioner's or both's, agreement or disagreement with the response. In the event of a disagreement, the department, the commissioner, or both, shall at the same time transmit the notification of disagreement with response and related papers to the executive council for resolution pursuant to section 19.34.

Sec. 29. The operational requirements and the optimum life cycle cost of the renovation facility design of the old historical building shall include utilization to the maximum extent practicable of state-of-the-art energy efficiency equipment, systems, and procedures and energy conservation measures and strategies. In addition, the operational requirements and the optimum life cycle cost of the renovation facility design of the old historical building shall include utilization of all equipment, systems, and procedures reasonably necessary to measure over the life of the renovation the energy savings resulting from the renovation and the energy savings, if any, attributable to future modifications made during the life of the renovation.

Sec. 30. For purposes of section 470.4, the operational requirements and the optimum life cycle cost of the facility design of the proposed capitol annex office building shall include utilization to the maximum extent practicable of state-of-the-art energy efficiency equipment, systems, and procedures and energy conservation measures and strategies. In addition, the operational requirements and the optimum life cycle cost of the facility design of the proposed capitol annex office building shall include utilization of all equipment, systems, and procedures reasonably necessary to measure over the life of the facility the energy savings resulting from the implementation of the state-of-the-art energy efficiency and energy conservation requirements and the energy savings, if any, attributable to future modifications made during the life of the facility.*

Sec. 31. A county recorder who participates in a pilot project established by the secretary of state to provide the county recorder with direct access to uniform commercial code records is deemed to be a filing officer for the purpose of section 554.9407, subsection 2, except that the county recorder is not authorized to issue a certificate.*

Sec. 32. 1988 Iowa Acts, chapter 1275, section 14, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Of the total amount appropriated by this section, $135,000, or so much thereof as is necessary, is allocated for the purpose of analyzing the Iowa public employees' retirement system data processing system and formulating plans for future development. Notwithstanding section 8.33, funds allocated under this paragraph which are not obligated or expended on June 30, 1989, shall not revert to the Iowa public employees' retirement system fund but shall remain available for the designated purposes during the fiscal year beginning on July 1, 1989, and ending on June 30, 1990.

Sec. 33. All federal grants to and the federal receipts of agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 34. REPEAL. 1986 Iowa Acts, chapter 1096, section 12, is repealed.

Sec. 35. EFFECTIVE DATE. Sections 9 and 32 of this Act and this section, being deemed of immediate importance, take effect upon enactment.

*Item veto; see message at end of the Act

Approved June 5, 1989, except those items which I hereby disapprove and which are designated as section 1, unnumbered paragraphs 3 and 4, and section 31 in its entirety; section 1, unnumbered paragraph 5; section 20, unnumbered paragraphs 4 and 5; that portion of section 20, unnumbered paragraph 6 which is herein bracketed in ink and initialed by me; and section 30 in its entirety. 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 517, an Act relating to and making appropriations to various state agencies including certain state 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, restricting the expenditure of moneys from the disaster aid contingent fund, revising provisions relating to life cycle cost analyses of public facilities, transferring moneys in the Iowa economic emergency fund to the general fund of the state, and providing an effective date.

Senate File 517 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 1, unnumbered paragraphs 3 and 4, and Section 31, in its entirety, which would establish a pilot project to provide county recorders on-line computer access to records maintained by the Secretary of State. Private enterprise is currently serving Iowans with access to these records without the use of taxpayers funds and, indeed, the private payroll contributes to the state's economy. As long as private enterprise is willing to provide this service, we should resist this unnecessary expansion of government.

I am unable to approve the item designated as Section 1, unnumbered paragraph 5, which calls for the purchase of computer hardware and software to begin computerization of election results for reporting on election night. Iowa's news media does an excellent job of gathering and reporting election results at no cost to the state and we should encourage this private enterprise to continue to do so, rather than add an unnecessary burden on Iowa's taxpayers.

I am unable to approve the item designated as Section 20, unnumbered paragraphs 4 and 5. This provision requires each state department to fill every newly created position within eight weeks of the approval of the legislation. In many cases, this requirement is impractical and inappropriate. This form of legislative micro-management clearly intrudes on executive branch management responsibilities.

Paragraph 5 of Section 20 requires that every specific accounts transfer be reported to the General Assembly. The reporting requirements are not clearly defined and are burdensome.

I am unable to approve the designated portion of unnumbered paragraph 6 in Section 20. This provision requires the Department of Management to maintain the targeted small business set-aside program despite a Supreme Court decision to the contrary. Moreover, this provision requires the department to collect data to prove that the state discriminates against such business. Such a function of state government lacks credibility. This item veto will allow the department to operate the targeted small business program, consistent with the U.S. Supreme Court decision.

I am unable to approve the item designated as Section 30 in its entirety. This section details standards for a proposed Capitol Annex office building. There is no need for such standards — no such building is to be built.

I am unable to approve the item designated as Section 31, in its entirety. With the veto of the pilot program for the county recorder direct access program, this section is unnecessary.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 517 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 316

CORRECTIONS, COURTS, AND JUSTICE DEPARTMENT
APPROPRIATIONS AND PROVISIONS
H.F. 772

AN ACT relating to and making appropriations to the justice system.

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, 1989, and ending June 30, 1990, 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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,527,362
..... FTEs 158.5

2. Prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 94,996
..... FTEs 2.0

3. Preparation of a new domestic abuse manual and updating of the desk manual for prosecutors:

..... $ 15,000

4. Prosecuting intern program; however, counties participating in the prosecuting intern program shall match funds appropriated by this subsection:

..... $ 44,955

5. 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, 1989, and ending June 30, 1990, an amount not exceeding $95,000 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.

6. 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, 1989, and ending June 30, 1990, an amount not exceeding $50,000 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.

7. For the farm mediation service program:

..... $ 200,000

8. For the legal assistance for farmers program:

..... $ 200,000

9. The balance of the fund created under section 321J.17 may be used to provide salary and support of not more than 10.5 FTE positions, of which 4.5 FTE positions shall be utilized in the department of public safety for the operation and administration of the missing persons clearinghouse and domestic abuse registry, and to provide maintenance for the victim compensation functions of the department of justice.

The department of justice shall reimburse the department of public safety, from amounts deposited in the fund created under section 321J.17, in an amount of not more than $167,028, for the operation and administration of the missing persons clearinghouse and domestic abuse registry.

The enactment of this subsection and the appropriation of $240,000 of the total amount appropriated in subsection 1, are contingent upon the enactment of 1989 Iowa Acts, House File 700.

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, 1989 and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,620,912
..... FTEs 31.0

The office of consumer advocate may expend additional funds, including funds for outside consultants, if those additional expenditures are actual expenses which exceed the funds budgeted for utilities investigations and directly result from investigations of utilities. Before the office expends or encumbers an amount in excess of the funds budgeted for investigations, 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 investigation expenses exceed the funds budgeted by the general assembly to the office of consumer advocate and that the office does not have other funds from which investigation expenses can be paid. Upon approval of the director of the department of management, the office may expend and encumber funds for excess investigation expenses. The amounts necessary to fund the excess investigation expenses shall be collected from those utilities being investigated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 3. There is appropriated from the general fund of the state to the board of parole for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 752,285
..... FTEs 19.0

As a condition, limitation, and qualification of this appropriation the board of parole shall create an automated docket and shall also automate the board's risk assessment model.

As an additional condition, limitation, and qualification of the appropriation the board of parole shall employ an additional statistical research analyst to assist with the application of the risk assessment model in the parole decision-making process. The board of parole shall also require the board's administrative staff to begin cross-training of the staff to assure that each individual on that staff is familiar with all tasks performed by the staff.

It is the intent of the general assembly that the department of corrections and the board of parole shall review, and implement as necessary, the findings and recommendations contained in the final report prepared by the consultant and presented to the corrections system review task force which was established by 1988 Iowa Acts, chapter 1271, as they relate to the department of corrections and the board of parole. The board shall report to the justice system appropriations subcommittee during the 1990 legislative session, at the request of the subcommittee, steps taken to implement any of those recommendations, or the reasons for failing to implement such recommendations.

Sec. 4. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1989, and ending June 30, 1990, 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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	18,460,504
..... FTEs	479.5

As a condition, limitation, and qualification of this appropriation, the facility shall employ two hundred ninety-four correctional officers. The additional correctional officers may be used to provide security for any increased activity of the inmate work detail program.

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	13,286,645
..... FTEs	325.0

As a condition, limitation, and qualification of this appropriation, the facility shall employ one hundred ninety-three correctional officers and a part-time chaplain of a minority race, and an additional counselor. The additional correctional officers may be used to provide security for any increased activity of the inmate work detail program.

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.

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	9,141,174
..... FTEs	246.5

As a condition, limitation, and qualification of this appropriation, the facility shall employ one hundred twenty-six correctional officers, and an additional counselor. The additional correctional officers may be used to provide security for any increased activity of the inmate work detail program.

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	2,401,032
..... FTEs	57.5

As a condition, limitation, and qualification of this appropriation, the facility shall employ twenty correctional officers. The additional correctional officers may be used to provide security for any increased activity of the inmate work detail program.

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	10,118,391
..... FTEs	259.28

As a condition, limitation, and qualification of this appropriation, the facility shall employ one hundred forty-one correctional officers, and a full-time protestant chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities. The additional correctional officers may be used to provide security for any increased activity of the inmate work detail program.

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	2,476,622
..... FTEs	67.0

As a condition, limitation, and qualification of this appropriation, the facility shall employ thirty-nine correctional officers. The additional correctional officers may be used to provide security for any increased activity of the inmate work detail program.

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	3,740,697
.....	FTEs	105.65

As a condition, limitation, and qualification of this appropriation, the facility shall employ sixty-two correctional officers. The additional correctional officers may be used to provide security for any increased activity of the inmate work detail program.

h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	3,143,574
.....	FTEs	86.5

As a condition, limitation, and qualification of this appropriation, the facility shall employ forty-nine correctional officers. The additional correctional officers may be used to provide security for any increased activity of the inmate work detail program.

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, 1990, 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 fifty 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 fifty dollars.

Sec. 5. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For general administration, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,973,714
.....	FTEs	40.52

As a condition, limitation, and qualification of this appropriation, $50,000 of the amounts appropriated in this subsection shall be used for a contractual agreement with a criminal justice research firm to develop valid criteria for the purpose of improving the community-based corrections risk/needs assessment classification model. The department shall implement a revised, standardized risk/needs assessment classification model and case management guidelines by March 1, 1990. The department shall promulgate rules for the implementation and monitoring of the risk/needs classification model. The department shall monitor the use of the classification model by the judicial district departments and has the authority to override a district department's decision regarding classification of community-based clients. The department shall notify a district department of the reasons for the override. The department shall

provide three full-time equivalent positions to provide research and technical assistance to the criminal justice research firm during the development of the revised community-based corrections risk/needs assessment model. These positions shall be responsible for providing training services to the districts for implementing the revised model and shall monitor the districts' implementation and use of the revised model.

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.

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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions at the correctional training center at Mt. Pleasant:

..... $ 294,917

..... FTEs 6.22

Sec. 6. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For capital, major maintenance, and security needs at the state's correctional institutions:

..... $ 2,000,000

Sec. 7. There is appropriated from the general fund of the state to the community-based correctional division of the department of corrections for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

*1. *For an education pilot project to implement the computer training system for community-based correctional program clients in the first and fifth judicial districts:*

..... *$ 450,000*

As a condition, limitation, and qualification of the appropriation made under this subsection, the department of corrections shall determine which computer training system meets the needs of the correctional program clients to the greatest extent, and shall use such system in the pilot project.

Upon request by the department of corrections, the department of general services shall provide technical assistance related to the evaluation, selection, and use of computer hardware to be used in the pilot project.

Upon request by the department of corrections, the department of education shall provide technical assistance related to the evaluation, selection, and use of computer software and other educational material to be used in the pilot project.

*Funds appropriated under this subsection are not subject to reversion under section 8.33.**

2. For job training and development grant programs to award grants under contract to nonprofit organizations for community-based correctional clients:

..... $ 400,000

As a condition, limitation, and qualification of the appropriation under this subsection, $200,000 shall be used for a client development and job training pilot project, **$120,000 shall be used for contracting for services in the eighth judicial district, and $80,000 shall be used for contracting for services in the seventh judicial district. Job training grant programs must be*

*Item veto; see message at end of the Act

*designed and administered so that the programs are not in direct competition with other federal Job Training Partnership Act programs in order to be eligible for these grants.**

3. For an offender reorientation project in the fifth judicial district:

..... $ 100,000

**4. For an alternative sentencing project in the third judicial district, to provide judges and the parole board with alternatives to returning parole or probation violators to prison:*

..... *$ 200,000*

*Violators who may be included in the project include class "C" and class "D" felons and persons convicted of an aggravated misdemeanor. Alternatives under the project could include, but are not limited to, local jail or community service sentencing.**

5. For costs associated with the design of prison expansion:

..... $ 250,000

6. To provide for financial arrangements for and to begin construction of a $8,332,880 expansion in prison capacity in the manner provided in this subsection:

..... $ 1,100,000

a. Construction of an additional one hundred bed **minimum security** facility at Newton for parole and probation violators of which twenty-five beds are to be specifically used for substance abuse treatment programs for clients of the state adult corrections system and twenty-five beds are to be specifically used for work release inmates.

b. Construction of a one hundred twenty bed medium security dormitory style facility at the Oakdale corrections campus along with the upgrading of the kitchen, dining room space, and records management at the campus.

c. Replacement of the existing thirty community corrections residential bed facility with a new seventy-five community corrections residential bed facility at Cedar Rapids.

d. The addition of thirty-six additional community corrections residential beds as determined by the department of corrections. However, these beds shall not be added until the department has notified and provided an explanation for the placement of the beds to the members of the corrections system review task force created by the legislative council pursuant to 1988 Iowa Acts, chapter 1271, section 14.

e. Renovation of sixty-five and the addition of twenty dormitory-style minimum security beds at farm three at the Fort Madison correctional facility.

f. For a total designed capacity of seventy-one **minimum security** beds at the Luster Heights facility by renovation of eighteen and the addition of seventeen minimum security beds.

Sec. 8.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be allocated as follows:

a. For the first judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 3,667,398

The district department shall continue the intensive supervision program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "a", and as a condition, limitation, and qualification of this appropriation $53,680 shall be used for a sex offender treatment program to be established within the district.

b. For the second judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 2,950,616

The district department shall continue the sex offender program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "b", and as a condition, limitation, and qualification of this appropriation $62,256 shall be used to expand the sex offender program established within the district and $22,388 shall be used to expand the OWI program in the district established pursuant to 1986 Iowa Acts, chapter 1246, section 402.

c. For the third judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 1,675,891

*Item veto; see message at end of the Act

The district department shall continue the sex offender program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "c", and as a condition, limitation, and qualification of this appropriation $21,000 shall be used to expand the sex offender program established within the district and $7,000 shall be used to expand the OWI program in the district established pursuant to 1986 Iowa Acts, chapter 1246, section 402.

d. For the fourth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 1,661,335

The district department shall continue the sex offender program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "d", and as a condition, limitation, and qualification of this appropriation $60,800 shall be used to expand the sex offender program and provide intensive supervision and treatment programs for sex offenders and an intensive supervision program for high-risk clients.

e. For the fifth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 4,968,233

The district department shall continue the intensive supervision program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "e", and as a condition, limitation, and qualification of this appropriation $20,000 shall be used for the rental of electronic monitoring equipment.

f. For the sixth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 3,699,180

The district department shall continue the intensive supervision program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "f", and as a condition, limitation, and qualification of this appropriation $35,823 shall be used for the establishment of a sex offender program within the district and $15,280 shall be used to expand the OWI program in the district established pursuant to 1986* Acts, chapter 1246, section 402.

g. For the seventh judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 3,147,932

The district department shall continue the intensive supervision program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "g", and as a condition, limitation, and qualification of this appropriation $41,435 shall be used for the expansion of intensive supervision programs, the establishment of an intensive supervision program for sex offenders and other high-risk clients, and a sex offender treatment program within the district.

In addition, as a condition, limitation, and qualification of this appropriation $70,000 shall be used for job development programs.

h. For the eighth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 1,582,702

The district department shall continue the intensive supervision program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "h", and as a condition, limitation, and qualification of this appropriation $40,000 shall be used for the establishment of a sex offender program within the district.

i. For the department of corrections for the assistance and support of each judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 88,465

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.

*Iowa probably intended

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 of corrections shall use the department of management's budget system in developing the budget information for the eight district departments of correctional services, and each of the district departments shall be treated as a separate budget unit with each program modality classified as a separate organization code.

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. 9. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For the third judicial district department of correctional services:

..... $ 126,375

As a condition, limitation, and qualification of this appropriation, $76,375 shall be used for the operating costs of ten new OWI program beds within the district, and $50,000 shall be used for the operating costs of fifteen new community corrections residential beds within the district.

Sec. 10. There is appropriated from the general fund of the state to the department of corrections for the period beginning January 1, 1990, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For operating costs and twenty-one additional positions for staffing and support for eighty-five minimum security beds at farm three at the Fort Madison correctional facility, contingent upon the renovation of sixty-five and the addition of twenty dormitory-style beds at farm three as provided in this Act:

..... $ 465,059

Sec. 11. Notwithstanding any contrary provision of law, the department shall establish a pilot program within the third judicial district for the diversion of OWI offenders. The department of corrections shall develop standardized assessment criteria for the assignment of offenders to a facility established pursuant to section 246.513. The offender shall be assigned by the director to a facility pursuant to section 321J.2, subsection 2, paragraph "c". If the person cannot be assigned to a facility established pursuant to section 246.513 due to insufficient bed space, the person shall be released from custody upon the person's own recognizance, bond, or supervision by the judicial district department of correctional services until space is available. If an offender fails to satisfactorily perform in a treatment program conducted in the residential facility operated by the judicial district department of correctional services, the offender shall be assigned to the Iowa medical classification facility at Oakdale for classification. The offender shall be assigned to an institution following classification.*

Sec. 12. The corrections system review task force created by the legislative council pursuant to 1988 Iowa Acts, chapter 1271, section 14, shall request the consultant working with the task force in establishing the ten-year corrections master plan to evaluate the effects of the provisions of this Act on the state's corrections system while assisting the task force in developing the ten-year corrections master plan.

Sec. 13. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following

*Item veto; see message at end of the Act

amount, or so much thereof as is necessary, to provide for the financing of and to begin construction of forty-four additional residential community corrections beds in the first judicial district:

..... $ 200,000

Sec. 14. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1989, and ending June 30, 1990, 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:

..... $ 63,717,370

As a condition, limitation, and qualification of this appropriation, $71,497 shall be used for expansion of the court-appointed special advocate program, $136,965 shall be used for the appointment of two district associate judges in lieu of magistrates pursuant to section 602.6302, $114,000 shall be used for an addition of a district associate judge to serve Johnson county, $50,000 shall be used for the addition of two juvenile court officers, $68,327 shall be used for the addition of two court reporters, $14,784 shall be used for the addition of two half-time juvenile court specialists, $184,000 shall be used to reimburse the auditor of state for expenses incurred in completing audits of the offices of the clerks of the district court during the fiscal year beginning July 1, 1989, and funds shall be used to employ a personnel management specialist, an internal auditor, and a screening attorney.

Of the funds appropriated under this subsection, not more than $1,600,000 may be transferred into the revolving fund established pursuant to section 602.1302, subsection 3, to be used for the payment of jury and witness fees and mileage.

2. For the juvenile victim restitution program:

..... $ 100,000

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.

3. For the receipt and disbursement of child support payments as provided in chapter 252B:

..... $ 730,379

4. Notwithstanding the apportionments made pursuant to section 602.6401, one magistrate shall be apportioned as follows:

a. The number of magistrates apportioned to Johnson county is reduced from four to three. The terms of all magistrates in Johnson county, appointed in April 1989, shall expire July 31, 1989. In June 1989, the magistrate nominating commission shall appoint three magistrates for Johnson county.

b. One additional magistrate is apportioned to judicial election district 8A for allocation, by order of the chief judge of the judicial district, upon an affirmative vote of the judges in the judicial election district, to a county in which the administration of justice would best be served by an additional magistrate. A copy of the order allocating the magistrate shall be delivered to the chairperson of the appropriate county magistrate appointing commission no later than May 31, 1989. A copy of the order shall also be sent to the state court administrator.

**Sec. 15.* *It is the intent of the general assembly that a new automated child support system be developed and staffed under the Iowa court information system and funds appropriated in 1989 Iowa Acts, Senate File 363, section 17, shall be used by the judicial department to begin implementation of 1988 Iowa Acts, chapter 1218, section 15. The judicial department shall report to the general assembly by January 1, 1990, on the total estimated cost of implementation of this system for the fiscal year beginning July 1, 1989, and ending June 30, 1990, and shall request a supplemental appropriation for the amounts needed to meet these costs. The*

*Item veto; see message at end of the Act

*department of human services and the judicial department shall report each month to the legislative fiscal bureau concerning the progress of the implementation of the system, and shall identify any problems that may adversely affect the implementation.**

Sec. 16. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the implementation of the pilot program of mandatory mediation of contested issues of child custody and visitation established pursuant to House File 20, if enacted by the Seventy-third General Assembly, 1989 Session:

..... $ 20,000

The department shall establish the program at the dispute resolution center in Linn county.

Sec. 17. Funds appropriated for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the judicial department for the costs of adult indigent defense and costs of juvenile proceedings including attorney and witness fees, which remain on June 30, 1989, after the payment of all claims submitted on or before June 30, 1989, for the fiscal year beginning July 1, 1988, and pursuant to 1988 Iowa Acts, chapter 1161, section 20, shall be transferred to the department of inspections and appeals to be used for the costs of adult indigent defense and costs of juvenile proceedings, and shall not be subject to reversion pursuant to section 8.33. Any claims received by the judicial department after June 30, 1989, for adult indigent defense or juvenile proceedings shall be forwarded to the department of inspections and appeals for payment.

Sec. 18. The department of corrections, judicial district departments of correctional services, board of parole, and the judicial department shall develop an automated data system for use in the sharing of information between the department of corrections, judicial district departments of correctional services, board of parole, and the judicial department. The information to be shared shall concern any individual who may, as the result of an arrest or infraction of any law, be subject to the jurisdiction of the department of corrections, judicial district departments of correctional services, or board of parole.

Sec. 19. Section 602.1301, subsection 2, paragraph a, Code 1989, 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 the format specified by the director of management and used by all departments and establishments in transmitting to the director estimates of their expenditure requirements pursuant to section 8.23, except the estimates of expenditure requirements shall be based upon one hundred percent of funding for the current fiscal year accounted for by program, and using the same line item definitions of expenditures as used for the current fiscal year's budget request, and the remainder of the estimate of expenditure requirements prioritized by program. 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. 20. NEW SECTION. 905.13 COMPLIANCE WITH BUILDING CODES.

The department of corrections and the district departments of correctional services shall comply with local building regulations and zoning ordinances in the construction, reconstruction, alteration, conversion, repair, and use of buildings owned and operated by the department as part of a community-based correctional program.

Sec. 21. NEW SECTION. 248A.7 RIGHTS NOT RESTORABLE.

Notwithstanding any other provision of this chapter, a person who has been convicted of a forcible felony, a felony violation of chapter 204 involving a firearm, or a felony violation

*Item veto; see message at end of the Act

of chapter 724 shall not have the person's rights of citizenship restored to the extent of allowing the person to receive, transport, or possess firearms.

Sec. 22. Section 356.15, Code 1989, is amended to read as follows:

356.15 EXPENSES.

All charges and expenses for the safekeeping and maintenance of prisoners shall be allowed by the board of supervisors, except those committed or detained by the authority of the courts of the United States, in which cases the United States must pay such expenses to the county, and those committed for violation of a city ordinance, in which case the city shall pay expenses to the county. If a parole or probation violator is committed to a county jail pursuant to section 908.9 or 908.11, the county shall be reimbursed by the department of corrections in accordance with section 906.18. If the violator is granted work release from the county jail, the violator is liable to the county for the cost of the violator's board as provided in section 356.30. However, the state shall reimburse the county for the balance of the cost of confining the violator.*

Sec. 23. Section 905.1, subsection 2, Code 1989, is amended to read as follows:

2. "Community-based correctional program" means correctional programs and services designed to supervise and assist individuals who are charged with or have been convicted of a felony, an aggravated misdemeanor or a serious misdemeanor, or who are on probation or parole in lieu of or as a result of a sentence of incarceration imposed upon conviction of any of these offenses, or who have been confined in a county jail as a result of revocation of probation or parole for conviction and sentence of a class "C" or "D" felony or aggravated misdemeanor, *or who are contracted to the district department for supervision and housing while on work release.**

Sec. 24. Section 906.9, Code 1989, is amended to read as follows:

906.9 CLOTHING, TRANSPORTATION, AND MONEY.

When an inmate is discharged, paroled, or *placed on work release,* ~~or placed in a community-based correctional program under section 246.513,~~ *the warden or superintendent shall furnish the inmate, at state expense, appropriate clothing and transportation to the place in this state indicated in the inmate's discharge, parole,* or *work release plan,* ~~or community-based corrections assignment.~~ *When an inmate is discharged, paroled,* or *placed on work release,* ~~or placed in a community-based correctional program under section 246.513,~~ *the warden or superintendent shall provide the inmate, at state expense, money in accordance with the following schedule:*

1. Upon discharge or parole, one hundred dollars.

2. Upon being placed on work release, fifty dollars.

3. Upon going from an educational work release to parole or discharge, fifty dollars.

~~4. Upon being placed in a community-based correctional program under section 246.513, fifty dollars.~~

Those inmates receiving payment under subsection 2, or *3,* ~~or~~ 4 *shall not be eligible for payment under subsection 1 unless they are returned to the institution. The warden or superintendent shall maintain an account of all funds expended pursuant to this section.**

Sec. 25. NEW SECTION. *906.18 CONFINEMENT OF PAROLE AND PROBATION VIOLATORS BY COUNTIES — REIMBURSEMENT.*

1. A county may enter into a chapter 28E agreement with the department of corrections for the confinement of parole and probation violators pursuant to section 908.9 or 908.11, and the agreement may contain provisions relating to reimbursement to the county for confining the violators, and any other terms the contracting parties deem appropriate.

2. The department of corrections and counties may commence negotiation and execution of the chapter 28E agreements provided in subsection 1 on or after July 1, 1989.

*3. Parole and probation violators may be confined in county jails pursuant to sections 908.9 and 908.11 commencing January 1, 1990.**

*Item veto; see message at end of the Act

Sec. 26. Section 908.9, Code 1989, is amended to read as follows:

908.9 DISPOSITION OF VIOLATOR.

1. *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.*

2. Notwithstanding subsection 1, if the parole of a parole violator, originally committed to the department for conviction of a class "C" or "D" felony, or aggravated misdemeanor, is revoked, the parole revocation officer or board panel shall determine whether the violator is to remain in the custody of the director of the department of corrections under the terms of the parolee's original commitment, or is to be confined in a county jail, for a maximum period of one year, as part of the violator's subsequent plan of parole or work release. A violator shall be confined in a county jail only if the violator is placed on work release, educational work release, or in a community-based correctional program and the county and the department of corrections have entered into a chapter 28E agreement pursuant to section 906.18. A violator assigned to county jail confinement pursuant to this subsection shall be transported directly to the assigned county jail, and shall remain under the jurisdiction of the board of parole and under the supervision and direction of the judicial district department of correctional services. For purposes of this subsection, a violator, who has been committed to the custody of the director of the department of corrections upon the imposition of consecutive sentences for serious misdemeanor violations and the consecutive sentences exceed a total of one year, shall be considered to have been convicted of an aggravated misdemeanor.

3. Notwithstanding subsections 2 and 4, if a parolee's parole is subject to revocation, the parolee's parole officer may recommend, and the parole revocation officer or board panel may consider, as an alternative to revocation of the parolee's parole, placing the parolee in the minimum security facility at Newton, subject to available bed space, as part of the parolee's revised plan of parole. The parolee shall be placed directly in the Newton facility without reclassification at the Iowa medical classification facility at Oakdale.

4. *If the parole of a parole violator is not revoked, the 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 parole revocation officer or board panel determines proper.**

*Sec. 27. NEW SECTION. *908.9A CUSTODY OF PAROLE OR PROBATION VIOLATOR.*

*A parole or probation violator confined to a county jail pursuant to section 908.9 or 908.11 shall remain committed to the custody of the director of the department of corrections.**

Sec. 28. Section 908.11, Code 1989, is amended to read as follows:

908.11 VIOLATION OF PROBATION.

A probation officer or the judicial district department of correctional services having probable cause to believe that any person released on probation has violated the conditions of probation shall proceed by arrest or summons as in the case of a parole violation. The functions of the liaison officer and the board of parole shall be performed by the judge or magistrate who placed the alleged violator on probation if that judge or magistrate is available, otherwise by another judge or magistrate who would have had jurisdiction to try the original offense. If the probation officer proceeds by arrest, any magistrate may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing if it is not convenient for the judge who placed the alleged violator on probation to do so. The initial appearance, probable cause hearing, and probation revocation hearing, or any of them, may at the discretion of the court be merged into a single hearing when it appears that the alleged violator will not be prejudiced thereby. If the violation is established, the court may continue the probation with or without an alteration of the conditions of probation. If the defendant is an adult the court may hold the defendant in contempt of court and sentence the defendant to a jail term while continuing the probation, or may revoke the probation and require the defendant to serve the sentence imposed or any lesser sentence, and, if imposition of sentence was deferred, may impose any sentence which might originally have been imposed. If the defendant was originally committed to the custody of the department of corrections, the

*Item veto; see message at end of the Act

defendant's sentence was suspended or deferred, and the defendant has been placed on probation for violation of a class "C" or "D" felony or an aggravated misdemeanor, and a violation of probation has been established, the court may revoke probation and, as an alternative to serving the sentence originally imposed, require the defendant to serve a maximum term of imprisonment of one year in a county jail if the defendant is eligible for work release, educational work release, or a community-based correctional program and the county and the department of corrections have entered into a chapter 28E agreement pursuant to section 906.18. A probation violator confined in a county jail pursuant to this section shall remain under the supervision and direction of the violator's probation officer. For purposes of this section, a person who receives consecutive sentences for serious misdemeanor violations, which sentences are not suspended and exceed a total of one year, shall be considered to have committed an aggravated misdemeanor.*

Sec. 29. All federal grants to and the federal receipts of the agencies to whom funds are appropriated under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 30. Section 14, subsection 4, of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 5, 1989, except the items which I hereby disapprove and which are designated as section 7, subsection 1 in its entirety; that portion of section 7, subsection 2, unlettered paragraph number 2 which is herein bracketed in ink and initialed by me; section 7, subsection 4 in its entirety; that portion of section 7, subsection 6, lettered paragraph a, which is herein bracketed in ink and initialed by me; that portion of section 7, subsection 6, lettered paragraph f, which is herein bracketed in ink and initialed by me; section 11 in its entirety; section 15 in its entirety; and sections 22, 23, 24, 25, 26, 27 and 28 in their entirety. 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 House File 772, an Act relating to and making appropriations to the justice system.

House File 772 takes a step in the right direction toward providing more secure prison beds, but it does not go far enough. More secure beds are needed. Current projections indicate that our presently overcrowded institutions could reach a danger point before the additional beds included in this bill become a reality. Occupancy currently is approximately at 300 more than design capacity and by the time these beds come on line, that figure may well reach 600. The 120 secure beds included in this bill is a start and the Department of Corrections plans to boost that number as a result of the item vetoes I am making in this bill. But, much more will have to be done and that issue will face the 1990 legislature.

House File 772 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 7, subsection 1, in its entirety. This provision establishes a new pilot project for computer training in the first and fifth community-based corrections districts only. The Department of Corrections is studying the education delivery system for inmates in our prison system and will submit a report with recommendations to this office and the legislature for consideration next year. Enacting a pilot project prior to the completion of this study is imprudent. Moreover, programs in this subsection apply only to two districts. The department and my office plan to develop recommendations to address the education issue statewide next year.

I am unable to approve the designated portion of Section 7, subsection 2, unlettered paragraph number 2. This action will authorize $200,000 of state funds for a statewide job development program for prisoners. I cannot approve those funds which are limited for use to just two judicial districts. A statewide job training and development grant program for community-based correctional clients can reduce recidivism rates and these funds should be supplemented with federal Job Training Partnership Act funds.

I am unable to approve the item designated as Section 7, subsection 4, in its entirety. This subsection would fund a dramatic change in sentencing policy in the third judicial district. Specifically, class D or C felons could be placed in less secure community or local jail settings. Such alternatives could pose real threats to public safety. Moreover, allowing disparate sentencing policies among the eight judicial districts would not be fair or wise public safety policy.

I am unable to approve the designated portion of Section 7, subsection 6, lettered paragraph a, which defines the one hundred bed facility at Newton as "minimum security". The General Assembly separately provided an addition $2 million to upgrade security in our prison system. The General Assembly included only 120 medium security beds in this bill despite the fact that a need for over 300 more secure beds now exists. We would hope to use a portion of the $2 million appropriation to beef up the security at the Newton facility to better meet our current needs.

I am unable to approve the designated portion of Section 7, subsection 6, lettered paragraph f, which refers to "minimum security" beds at the Luster Heights facility. The rationale for this item veto is the same as that used for the veto of the language relating to the Newton facility.

I am unable to approve the item designated as Section 11, in its entirety. This section of House File 772 would allow convicted third time OWI offenders to be released into the community on their own recognizance. I cannot sign legislation which would allow these offenders to be on the streets without receiving the medical evaluation and treatment prior to assignment in a community facility as required by current law. To do otherwise, could seriously threaten the public safety of Iowans; we need to keep these offenders off the roads.

I am unable to approve Section 15, in its entirety. This section requires the judicial department to use their court information system to handle the child support recovery operations to be transferred from the Department of Human Services. The most cost-effective way to assume these operations would be to use the computer system and equipment currently in place in the Department of Human Services. That system has been debugged and is now working acceptably. To abandon the system established in DHS would be a waste of state resources and could cause the state to reimburse the federal government for funds used to establish the DHS program. The Department of Management and DHS staff stands ready to work with the court to assure a smooth transition.

I am unable to approve the items designated as Sections 22, 23, 24, 25, 26, 27, and 28, in their entirety. These sections set up alternative sentencing procedures for parole and probation violators without properly going through the classification system at Oakdale. Such a change in policy should not be made without thorough policy and legal study. Indeed, such a policy could cost the state more and could adversely affect the goals of our prisoner classification system. Much greater study is needed on this concept.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 772 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 317

APPROPRIATIONS AND PROVISIONS RELATING TO LAW ENFORCEMENT, PUBLIC DEFENSE, PUBLIC SAFETY, AND TRANSPORTATION

S.F. 531

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, state aviation fund, and abstract fee fund, providing for an exemption from reversion for certain funds, providing for the preservation of natural areas and historic sites in road design, construction, and maintenance, altering the fee for duplicate or replacement motor vehicle licenses and nonoperator's identification cards, extending the effective period of the temporary authority for the operation of certain commercial vehicles, mandating reports of certain agency purchases, providing for the issuance of special Pearl Harbor registration plates, requiring the state and its political subdivisions, under certain circumstances, to pay compensation to owners of off-premises advertising devices, and providing effective dates and retroactive application.

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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

.....	$	856,592
.....	FTEs	27.7

Sec. 2. Notwithstanding section 80B.11, subsection 5, during the fiscal year beginning July 1, 1989, 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.

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.

Sec. 3. 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, 1989, to the Iowa law enforcement academy for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For repair of dormitory room showers:

.....	$	19,600

Sec. 4. The Iowa law enforcement academy is projected to raise at least an additional $271,786 in receipts and federal funds.

DEPARTMENT OF PUBLIC DEFENSE

Sec. 5. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. MILITARY DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	3,251,065
.....	FTEs	144.26

Notwithstanding section 29A.33, the 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, 1989, and ending June 30, 1990. 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.

b. For heating and electrical system maintenance and repairs and roof upgrades:

..... $ 79,500

2. DISASTER SERVICES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 251,975

..... FTEs 11.0

b. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for the administration of enhanced 911 service under chapter 477B:

..... $ 43,586

..... FTEs 1.0

3. VETERANS AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 106,330

..... FTEs 3.16

4. WAR ORPHANS

For the war orphans educational aid fund:

..... $ 15,185

Sec. 6. The department of public defense is projected to raise at least an additional $3,481,065 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, 1989, and ending June 30, 1990, 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, and for not more than the following full-time equivalent positions:

..... $ 2,007,730

..... FTEs 45.0

As a condition, limitation, and qualification of this appropriation, no more than $1,484,151 from all revenue sources, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than the above full-time equivalent positions and not more than $1,175,334 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. For purposes relating to radio communications, and not more than the following full-time equivalent positions:

..... $ 2,997,067

..... FTEs 78.5

As a condition, limitation, and qualification of this appropriation, no more than $2,433,470 from all revenue sources, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than the above full-time equivalent positions and not more than $576,347 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.

3. For the division of criminal investigation and bureau of identification 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, and for not more than the following full-time equivalent positions:

..... $ 4,275,553
..... FTEs 111.00

As a condition, limitation, and qualification of this appropriation, no more than $4,585,503 from all revenue sources, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than the above full-time equivalent positions and not more than $777,408 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.

4. 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, and for not more than the following full-time equivalent positions:

..... $ 1,208,154
..... FTEs 23.0

As a condition, limitation, and qualification of this appropriation, no more than $1,011,434 from all revenue sources, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than the above full-time equivalent positions and not more than $201,720 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.

5. 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, and for not more than the following full-time equivalent positions:

..... $ 1,421,998
..... FTEs 33.0

As a condition, limitation, and qualification of this appropriation, no more than $1,359,924 from all revenue sources, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than the above full-time equivalent positions and not more than $203,174 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. The department of public safety shall establish, for accounting purposes, a separate organizational unit to provide budget information on funds appropriated for responsibilities relating to leaking underground storage tanks.

6. For the capitol security division, and for not more than the following full-time equivalent positions:

..... $ 1,107,345
..... FTEs 36.0

As a condition, limitation, and qualification of this appropriation, no more than $1,053,570 from all revenue sources, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than the above full-time equivalent positions and not more than $54,775 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. Notwithstanding sections 99D.17 and 99D.18, there is appropriated from funds paid to the state racing commission pursuant to section 99D.14, to the department of public safety

for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes of 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, and for not more than the following full-time equivalent positions:

..... $ 255,317
..... FTEs 5.0

As a condition, limitation, and qualification of this appropriation, no more than $217,082 from all revenue sources, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than the above full-time equivalent positions and not more than $38,235 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.

The unfunded liability of the peace officers' retirement, accident, and disability system, as of July 1, 1989, is not a liability of funds paid to the state racing commission under section 99D.14.

Sec. 9. 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, 1989, to the department of public safety for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For undercover purchases by the division of narcotics and local law enforcement agencies:
..... $ 200,000
2. For the continued purchase of the automated fingerprint information system (AFIS):
..... $ 270,000

Sec. 10. 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, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions:

..... $ 22,020,979
..... FTEs 450.5

1. As a condition, limitation, and qualification of this appropriation, no more than $18,224,899 from all revenue sources, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than the above full-time equivalent positions and not more than $4,570,319 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 at least 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 section of this Act but prior to June 30, 1990, 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:

..... $ 360,000

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. However, this paragraph does not require that mobile vehicle repeater radios be placed solely in new motor vehicles.

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:

..... $ 65,000

Sec. 11. 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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 850,000

Sec. 12. The department of public safety is projected to raise at least an additional $1,823,202 in receipts and federal funds.

STATE DEPARTMENT OF TRANSPORTATION

Sec. 13. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

a. Administrative services:

..... $ 3,299,676
..... FTEs 47.0

b. General counsel:

..... $ 157,655
..... FTEs 1.0

c. Planning and research:

	$	309,800
	FTEs	9.0

d. Aeronautics and public transit:

	$	214,090
	FTEs	5.0

e. Motor vehicles:

	$	16,268,407
	FTEs	531.0

f. Rail and water:

	$	622,213
	FTEs	15.0

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. 14. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation:

	$	35,080

Sec. 15. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

a. Administrative services:

	$	20,197,853
	FTEs	290.0

b. General counsel:

	$	995,345
	FTEs	7.0

c. Planning and research:

	$	5,886,200
	FTEs	162.0

d. Aeronautics and public transit:

	$	214,090
	FTEs	5.0

e. Highways:

	$	124,381,000
	FTEs	2,870.0

f. Motor vehicles:

	$	590,593
	FTEs	19.0

g. Rail and water:

	$	263,787
	FTEs	7.0

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

As a condition, limitation, and qualification of this appropriation, no more than $2,475,000 from the highway materials and equipment revolving fund, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than ninety-two full-time equivalent positions.

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. 16. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation:

..... $ 666,540

Sec. 17. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the expansion of Fairfield materials laboratory:

..... $ 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, 1991, from funds appropriated for the fiscal year beginning July 1, 1989, shall revert to the fund from which appropriated on September 30, 1991.

2. For the replacement of obsolete field facilities in the cities of West Union, Osage, Mount Pleasant, and Oskaloosa:

..... $ 2,941,000

The provisions of section 8.33 do not apply to the funds appropriated by this subsection. Unencumbered or unobligated funds remaining on June 30, 1993, from funds appropriated for the fiscal year beginning July 1, 1989, shall revert to the fund from which appropriated on September 30, 1993.

Sec. 18. There is appropriated from the road use tax fund to the department of transportation for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the construction of scale facilities at Brandon:

..... $ 84,000

2. For the paving of the scale lot at the new Brandon facility:

..... $ 225,000

The funds appropriated by this section shall not be used for an inspection shelter at the Brandon location.

The provisions of section 8.33 do not apply to the funds appropriated by this section. Unencumbered or unobligated funds remaining on June 30, 1993, from funds appropriated for the fiscal year beginning July 1, 1989, shall revert to the fund from which appropriated on September 30, 1993.

Sec. 19. There is appropriated from the state aviation fund to the state department of transportation for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 373,820

..... FTEs 9.0

2. For terminal improvements at essential air service airports:

..... $ 250,000

In selecting projects, the state department of transportation shall give preference to projects that will assist in maintaining and attracting air service. The department shall provide funding for as many essential air service communities as possible. From funds appropriated in this section, the state department of transportation may award dollar-for-dollar matching grants up to $10,000 per essential air service airport to implement marketing, advertising, and public relations programs to increase passenger traffic by educating the public on the value of essential air service airports. From funds appropriated in this section, the state department of transportation may also award dollar-for-dollar matching grants up to $10,000 for nonprofit community cultural programs and activities at essential air service airports.

**Sec. 20. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:*

For essential air service airport terminal improvements:

..... *$ 250,000*

In selecting projects, the state department of transportation shall give preference to projects that will assist in maintaining and attracting air service. The state department of transportation shall provide funding for as many essential air service communities as possible based on merit and need. Priority shall be given to those airports with projects closest to completion. Those airports that use moneys from this program must complete their projects in the fiscal year beginning July 1, 1990. The state department of transportation shall notify essential air service airports of this program and make tentative selection of projects forty-five days from the effective date of this Act.

*Notwithstanding section 8.33, unobligated and unencumbered funds remaining on November 30, 1990, from the funds appropriated in this section for the fiscal year beginning July 1, 1989, shall revert to the general fund of the state on November 30, 1990.**

**Sec. 21. 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 Iowa air link transportation commission for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as may be necessary, to be used for the purposes designated:*

For the Iowa air link transportation commission:

..... *$ 300,000*

Not more than twenty percent of the moneys appropriated may be used for the operation of the commission and the hiring of a consultant. The commission shall prepare a request for proposals for a contract that will be let for an Iowa-based company to provide for passenger air service that would at a minimum tie together Iowa's ten largest metropolitan areas. The commission shall consider reasonable air fares and consistent and reliable time schedules in awarding a contract. The commission may consider allowing an Iowa-based company to transport passengers to major air transportation hubs that are located in states contiguous to Iowa.

*Moneys appropriated to the Iowa air link transportation commission under this section shall be replaced by crediting the appropriated amount to the road use tax fund from the state aviation fund after moneys otherwise appropriated under this Act from the state aviation fund are provided.**

Sec. 22. There is appropriated from the railroad assistance fund created under section 327H.18 to the state department of transportation for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For completing the rehabilitation of the Altoona-Pella rail branch line:

..... $ 70,000

*Item veto; see message at end of the Act

Notwithstanding section 8.33, unobligated and unencumbered funds remaining on June 30, 1992, from the funds appropriated in this section for the fiscal year beginning July 1, 1989, shall revert to the railroad assistance fund on June 30, 1992.

CODE CHANGES

Sec. 23. Section 80.18, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The department may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's employees damaged or destroyed during the employee's tour of duty. However, the reimbursement shall not exceed ~~seventy-five~~ one hundred fifty dollars for each item. The department shall establish rules in accordance with chapter 17A to carry out the purpose of this paragraph.

Sec. 24. Section 306C.16, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Compensation required by section 306C.15 or 306C.24 shall be paid for the following:

Sec. 25. NEW SECTION. 306C.24 COMPENSATION FOR SIGN REMOVAL.

1. DEFINITION. As used in this section, "off-premises advertising device" means an advertising device which does not qualify as an "on-premises sign" under rules adopted by the department pursuant to chapter 17A.

2. JUST COMPENSATION REQUIRED. Political subdivisions of this state shall not remove, take, alter, or cause to be removed, taken, or altered a lawfully erected off-premises advertising device without paying just compensation in cash to the owner of the advertising device and to the owner of the real property on which the advertising device is located, as provided in section 306C.16. The department shall not remove, take, alter or cause to be removed, taken, or altered a lawfully erected off-premises advertising device subject to control under chapter 306B or 306C without paying just compensation when required under 23 U.S.C. § 131(g) to the owner of the advertising device and to the owner of the real property on which the advertising device is located, as provided in section 306C.16. For the department, the sole intent of this section is to comply with 23 U.S.C. § 131(g) and it is not the intent of this section to, in any manner, relinquish any powers of the department relating to the control and removal of advertising devices under police power.

3. EXCEPTIONS. This section does not apply to the removal, taking, or altering of an off-premises advertising device under any of the following conditions:

a. The device is unlawfully erected or is being maintained in violation of the provisions of section 306C.13, subsection 8, or section 306C.18.

b. The device has been abandoned or not used for a period of at least six months.

4. DEPARTMENT AUTHORIZATION. If required by 23 U.S.C. § 131(g), the department may acquire through purchase or condemnation and shall pay just compensation as provided in section 306C.16 for off-premises advertising devices removed after the effective date of this section of this Act through amortization by an ordinance of a political subdivision enacted prior to the effective date of this Act. Notwithstanding the requirements of section 306C.14, the department may first pay just compensation from the highway beautification fund and then claim reimbursement for the federal share of the payment from the federal government.

5. SAVINGS CLAUSE. If any provision of this section which relates to the department is inconsistent or conflicts with, or is not required by, 23 U.S.C. § 131 to avoid the loss of federal funds, the provision shall be suspended but only to the extent necessary to eliminate the inconsistency, conflict, or requirement. If any part of this section is found to be invalid or unconstitutional, such judgment shall not affect the validity of the section as a whole or any provision or part of the section not found to be invalid or unconstitutional.

Sec. 26.* *Section 312.2A, subsection 1, Code 1989, is amended by striking the subsection.

**Sec. 27.* *Section 312.2A, subsection 2, Code 1989, is amended to read as follows:*

2. The treasurer of state, before making the allotments provided for in section 312.2, shall credit for the fiscal ~~year~~ period beginning July 1, 1988, and ending June 30, ~~1989~~ 1990, to the state department of transportation one hundred thousand dollars from the road use tax fund

*Item veto; see message at end of the Act

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 and 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. Moneys credited under this section shall not be used for the acquisition of property through condemnation.*

Sec. 28. Section 314.21, subsection 3, Code 1989, as created under 1989 Iowa Acts, House File 723, section 5, is amended by striking the subsection and inserting in lieu thereof the following:

3. a. Moneys allocated to the state under subsection 1 shall be expended as follows:

(1) Fifty thousand dollars annually to the department for the services of the integrated roadside vegetation management coordinator and support.

(2) One hundred thousand dollars annually for education programs, research and demonstration projects, and vegetation inventories and strategies, under section 314.22, subsections 5, 6, and 8.

(3) All remaining moneys for the gateways program under section 314.22, subsection 7.

b. Moneys allocated to the counties under subsection 1 shall be expended as follows:

(1) For the fiscal period beginning July 1, 1989, and ending June 30, 1991, fifty thousand dollars in each fiscal year to the university of northern Iowa to maintain the position of the state roadside specialist and to continue its integrated roadside vegetation management pilot program providing research, education, training, and technical assistance.

(2) All remaining money for grants or loans under subsection 2, paragraph "a".

c. Moneys allocated to the cities shall be expended for grants or loans under subsection 2, paragraph "a".

Sec. 29. NEW SECTION. 314.22 GREEN SPACE PROVIDED.

The department shall use the property owned by it in the city of Council Bluffs which is bounded by Broadway, Seventh street, Kanesville boulevard, and Sixth street, exclusively for green space, and, if sold by the department, the department shall sell the property with the restricted covenant that the property shall be used exclusively for green space or else revert to the department.

Sec. 30. NEW SECTION. 314.24 NATURAL AND HISTORIC PRESERVATION.

Cities, counties, and the department shall to the extent practicable preserve and protect the natural and historic heritage of the state in the design, construction, reconstruction, relocation, repair, or maintenance of roads, streets, or highways. Destruction or damage to natural areas, including but not limited to prime agricultural land, parks, preserves, woodlands, wetlands, recreation areas, greenbelts, historical sites, or archaeological sites shall be avoided, if reasonable alternatives are available for the location of roads, streets, or highways at no significantly greater cost. In implementing this section, cities, counties, and the department shall make a diligent effort to identify and examine the comparative cost of utilizing alternative locations for roads, streets, or highways.

Sec. 31. Section 321.34, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12. PEARL HARBOR PLATES. Effective January 1, 1990, the owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck or pickup who was at Pearl Harbor, Hawaii, as a member of the armed services of the United States on December 7, 1941, may, upon written application to the department, order special registration plates which shall bear the notation "PEARL HARBOR VETERAN". The special plates shall bear the identification "DEC 7" followed by a two digit 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. Upon receipt of the special registration plates, the applicant shall surrender the regular registration plates to the county treasurer. The fee

*Item veto; see message at end of the Act

for the issuance of the special registration plates is twenty-five dollars which shall be in addition to the regular annual registration fee. The county treasurer shall validate the special registration plates in the same manner as regular registration plates are validated under this section with no additional registration fee being required other than the regular annual registration fee.

Sec. 32. Section 321.190, subsection 1, unnumbered paragraph 3, Code 1989, is amended to read as follows:

The fee for a nonoperator's identification card shall be five dollars and the card shall be valid for the purpose of identification for a period of four years from the date of issuance. ~~A fee of five dollars shall be charged for the voluntary replacement of an identification card.~~

Sec. 33. Section 321.195, Code 1989, is amended to read as follows:

321.195 DUPLICATE CERTIFICATES, MOTOR VEHICLE LICENSES, AND NONOPERATOR'S IDENTIFICATION CARDS.

In the event that ~~an instruction permit, operator's, chauffeur's license, motorized bicycle~~ a motor vehicle license, nonoperator's identification card, or extension certificate issued under the provisions of this chapter is lost or destroyed, the person to whom the same was issued may upon payment of a fee of ~~two~~ three dollars for ~~an operator's or chauffeur's~~ a motor vehicle license or nonoperator's identification card, or one dollar for an extension certificate, ~~or motorized bicycle license,~~ obtain a duplicate, or substitute thereof, upon furnishing proof satisfactory to the department that ~~such permit,~~ the motor vehicle license, nonoperator's identification card, or extension certificate has been lost or destroyed. A fee of one dollar shall be charged for the voluntary replacement of ~~an instruction permit or an operator's or chauffeur's~~ a motor vehicle license or nonoperator's identification card.

Sec. 34. Section 321.211, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Upon suspending the license of ~~any~~ a person as authorized, the department shall immediately notify the licensee in writing and upon the licensee's request shall afford the licensee an opportunity for a hearing before the director or the director's authorized agent as early as practical within ~~not to exceed~~ thirty days after receipt of the request in the county in which the licensee resides unless the department and the licensee agree that ~~such~~ the hearing may be held in some other county. Upon ~~such~~ hearing the director or the director's authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon ~~such~~ hearing the department shall either rescind its order of suspension or for good cause may extend the suspension of ~~such~~ the license or revoke ~~such~~ the license. There is appropriated each year from the road use tax fund to the department one hundred ~~seven~~ twenty-five thousand dollars or so much thereof as may be necessary to be used to pay the cost of notice and personal delivery of service, if necessary to meet the notice requirement of this section. The department shall ~~promulgate~~ adopt rules governing the payment of the cost of personal delivery of service. The reinstatement fees collected under section 321.191 shall be deposited in the road use tax fund in ~~a~~ the manner provided in section 321.192, as reimbursement for the costs of notice under this section.

Sec. 35. Section 321A.3, subsection 1, Code 1989, 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 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~~ one million three hundred fifty thousand dollars collected and shall credit to the general fund all additional moneys collected.

Sec. 36. Section 321A.3A, subsection 2, Code 1989, is amended to read as follows:

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 1988 Iowa Acts, chapter 1278, section 9, until the moneys have been repaid in full~~ monthly to the state department of transportation moneys sufficient in amount to pay the costs of purchasing motor vehicle licenses, as defined in section 321.1, subsection 77.

Sec. 37. Section 321J.17, Code 1989, is amended to read as follows:

321J.17 CIVIL PENALTY – SEPARATE FUND – REINSTATEMENT.

When the department revokes a person's motor vehicle license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of one hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in a separate fund dedicated to and used for the purposes of chapter 912 and section 709.10, and for the operation of a missing person clearinghouse and domestic abuse registry by the department of public safety. ~~Any~~ Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year ~~exceeding fifty thousand dollars~~ shall not revert to the general fund of the state. A temporary restricted license shall not be issued or a motor vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 38. Section 326.11, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The director may issue temporary written authorization to carriers for vehicles acquired by a fleet owner and added to the fleet owner's prorate fleet after the beginning of the registration year. The temporary authority shall permit the operation of a commercial vehicle until permanent identification is issued, except that the temporary authority shall expire after ~~forty-five~~ ninety days.

**Sec. 39. Section 327C.38, Code 1989, is amended to read as follows:*

327C.38 ANNUAL REPORTS FROM COMPANIES.

The department shall require annual reports from all common carriers subject to ~~the provisions of~~ chapter 327D, ~~and~~ except railroad corporations as defined in section 327D.2, which shall submit a copy of its reports to the department of revenue and finance and shall submit reports to the department of transportation specifying its mileage operated, both for all tracks and intrastate tracks, changes in mileage within the state, and freight density, as defined by the department. The department shall *prescribe the manner in which specific answers to all questions upon which it may need information shall be made.**

**Sec. 40.* NEW SECTION. *330.25 IOWA AIR LINK TRANSPORTATION COMMISSION.*

There is established an Iowa air link transportation commission. The commission shall be composed of fifteen members. Of the fifteen members, five shall be appointed by the governor, subject to confirmation by the senate in accordance with section 2.32, three of whom shall be selected from names submitted by the airport commissions of the ten largest airports in Iowa; five shall be appointed by the speaker of the house of representatives in consultation with the minority leader of the house; five shall be appointed by the majority leader of the senate in consultation with the minority leader of the senate. Each set of five appointments shall be bipartisan and gender balanced insofar as possible in accordance with sections 69.16 and 69.16A.

*The members of the commission shall be appointed for terms of four years beginning and ending as provided in section 69.19; however, the initial appointees of the governor shall serve a term of two years. Vacancies in the membership shall be filled for the unexpired term in the same manner as the original appointment. Members shall serve without compensation except that members shall be reimbursed for their actual and necessary expenses from funds appropriated to the commission.**

*Item veto; see message at end of the Act

MISCELLANEOUS PROVISIONS

Sec. 41. 1988 Iowa Acts, chapter 1278, section 19, is amended to read as follows:

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~~ period beginning July 1, 1988, and ending June 30, ~~1989~~ 1990, 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. 42. 1987 Iowa Acts, chapter 232, section 10, subsection 6, unnumbered paragraph 2, as enacted by 1988 Iowa Acts, chapter 1278, section 44, is amended to read as follows:

Section 8.33 does not apply to the funds appropriated by this subsection. However, unencumbered or unobligated funds remaining on June 30, ~~1989~~ 1990, 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~~ 1990.

Sec. 43. If because of any court decision, the abstract fee fund, its programs and functions are in jeopardy, the state department of transportation may request the executive council to charge to the road use tax fund the costs of purchasing motor vehicle licenses, as defined in section 321.1, subsection 77, and the department of public safety, division of criminal investigation and bureau of identification may request the executive council to charge to the general fund of the state the moneys appropriated to the division from the abstract fee fund under this Act. There is appropriated from the road use tax fund and the general fund of the state the moneys charged under this section. The state department of transportation and the department of public safety, division of criminal investigation and bureau of identification, shall provide a detailed accounting of the charges if this change in the method of funding is implemented.

Sec. 44. *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. 45. *Each department of state government receiving appropriations under this Act, when making purchases of $25,000 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, the chairs, vice chairs, and ranking members of the department's respective joint appropriations subcommittee, and the caucus staff of each party in each house of the general assembly at the time the bids are let.

Sec. 46. The department of public safety shall notify the legislative fiscal bureau, department of management, the chairs, vice chairs, and ranking members of the joint transportation and safety appropriation subcommittee, on any request for, approval of, or notification of award of federal funds or of any loss of federal funds. The notification shall include the name of the funding grant, planned expenditures, and estimated amount which will be received. The department shall also prepare a report at the end of each fiscal year detailing the amount received, amount expended, and carry over balance on all nonappropriated receipts, including federal funds, received during that fiscal year.

Sec. 47. All federal grants to and the federal receipts of the agencies which are appropriated funds under this Act, unless otherwise appropriated, are appropriated for the purposes set forth in the federal grants and receipts unless otherwise provided by the general assembly.

Sec. 48. Sections 3, 9, 37, and 42, and this section take effect June 30, 1989.

*Item veto; see message at end of the Act

Sec. 49. Section 29 of this Act and this section, being deemed of immediate importance, take effect upon enactment. Section 29 applies retroactively to January 1, 1989.

Approved June 5, 1989, except those items which I hereby disapprove and which are designated as section 20 in its entirety; section 21 and section 40 in their entirety; sections 26 and 27 in their entirety; section 39 in its entirety; and sections 44 and 45 in their entirety. 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 531, 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, state aviation fund, and abstract fee fund, providing for an exemption from reversion for certain funds, providing for the preservation of natural areas and historic sites in road design, construction, and maintenance, altering the fee for duplicate or replacement motor vehicle licenses and nonoperator's identification cards, extending the effective period of the temporary authority for the operation of certain commercial vehicles, mandating reports of certain agency purchases, providing for the issuance of special Pearl Harbor registration plates, requiring the state and its political subdivisions, under certain circumstances, to pay compensation to owners of off-premises advertising devices, and providing effective dates and retroactive application.

Senate File 531 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 20, in its entirety. This provision appropriates $250,000 from the general fund for airport terminal improvements. This new appropriation cannot be approved, given the level of excessive state spending in Fiscal Year 1990. Moreover, this appropriation duplicates a similar provision included in Section 19 of this bill.

I am unable to approve the items designated as Section 21 and Section 40, in their entirety. These sections of the bill appropriate $300,000 from the state aviation fund to a new Iowa Air Link Transportation Commission. Diverting these funds from the aviation fund would drastically reduce the effort of the DOT in improving runways in communities throughout the state. As a result, I cannot approve of this further diversion of funds.

Moreover, a study is underway by the Department of Economic Development and the Department of Transportation to develop a comprehensive plan for the air transportation system in the state of Iowa. Such a plan is critically needed to further the economic development of Iowa. Any new air program should await the results of that comprehensive study.

Finally, we should not be creating separate commissions to handle each mode of transportation. The DOT is rightly charged as handling all modes of transportation and this separate commission established in this bill would adversely affect our efforts to establish a comprehensive transportation policy in the state.

I am unable to approve the items designated as Sections 26 and 27, in their entirety. These items establish restrictions which could prevent the completion of the Cedar Valley Nature Trail project. DOT and the Iowa Natural Heritage Foundation are working very closely to complete this trail. The other trails mentioned in these sections will be reviewed by the DOT in the trails program that they are administering, therefore, these sections should not be included in Senate File 531.

I am unable to approve the item designated as Section 39, in its entirety. This item is not necessary to be codified because the Iowa Regional and Short Line Railroad Association and the Department of Transportation have agreed to develop annual reporting criteria.

I am unable to approve the items designated as Sections 44 and 45, in their entirety. These sections of the bill prohibit appropriation transfers and set up excessive reporting requirements for purchases. The current reporting and transfer criteria and practices serve the legislature and the citizens of Iowa appropriately. This proposed criteria infringes on the executive branch's managerial authority.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 531 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 318

HUMAN SERVICES APPROPRIATIONS AND OTHER PROVISIONS

S.F. 541

AN ACT relating to human services and making appropriations to the department of human services, other properly related matters, providing for retroactive applicability, and providing an effective date.

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

DIVISION I

Section 1. AID TO FAMILIES WITH DEPENDENT CHILDREN. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For aid to families with dependent children:

..... $ 44,726,207

1. The department may fund the cash bonus program from unspent funds under this appropriation. The department shall develop a methodology with the involvement of the legislative fiscal bureau to evaluate the cash bonus program and include a comparison between characteristics of participants in the program and recipients who do not participate. The evaluation shall assess the period of time between commencement of the program and October 1, 1989, and shall be submitted to the legislative fiscal bureau on or before November 30, 1989.

2. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall continue to contract for services in developing and monitoring a waiver program with a consortium of other states to facilitate providing assistance in self-employment to aid to dependent children families. Of the funds appropriated under this section, up to $115,761 shall be used to provide technical assistance for aid to dependent children families seeking self-employment. The technical assistance may be provided through the department 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.

3. As a condition, qualification, and limitation of the funds appropriated in this section if funds are appropriated by the federal government for the purposes of this subsection, the department shall apply to the federal government for a demonstration waiver to develop a project to provide employment training to child support obligors where the obligees are recipients of aid to dependent children under chapter 239.

4. As a condition, qualification, and limitation of the funds appropriated in this section, the department may submit an application to the federal government for a waiver to develop a pilot project of part-time employment available to recipients of aid to dependent children on a voluntary basis. The department shall explore the potential for receiving assistance in preparing the waiver application from outside sources and the potential for receiving federal approval of the waiver. The department shall report to the general assembly on or before January 1, 1990, regarding its efforts to obtain the waiver and providing justification for its actions. The waiver application shall contain all of the following provisions:

a. Eligibility is limited to a recipient who is a single-parent head of household whose youngest child is less than three years of age. However, a recipient who is accepted as an eligible participant may continue to participate in the pilot project until the recipient's youngest child is six years of age.

b. Child care services shall be provided for a participant's minor dependents during the time the participant is working.

c. In determining a participant's eligibility for aid to dependent children under chapter 239, the department shall disregard income in the amount prescribed under the rule adopted pursuant to section 239.5, subsection 2, 441 Iowa administrative code, rule 41.7(2)(c)(2).

d. The pilot project shall be offered at several sites around the state.

e. The disregard of the participant's income shall continue so long as the participant continues to participate in the pilot project developed under this subsection.

5. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall expend up to $120,000 to conduct a study to determine a new standard of need for eligibility purposes under the aid to dependent children program. The department shall also study the following characteristics of current recipients or former recipients of aid to dependent children:

a. Demographic characteristics.

b. The employment history of current recipients.

c. The employment history of persons who become ineligible for assistance due to earned income.

d. Characteristics of recipients who receive assistance for more than five years, in five-year increments, and of recipients who receive assistance for five years or less.

6. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall submit an application to the federal government for a waiver to apply the provisions of the self-employment investment demonstration project statewide, provided training is available to a recipient through a recognized self-employment training program.

7. As a condition, qualification, and limitation of the funds appropriated in this section, the schedule of basic needs under the aid to dependent children program for the fiscal year beginning July 1, 1989, is established for one person at $176, for two persons at $347, for three persons at $410, for four persons at $476, for five persons at $527, for six persons at $587, for seven persons at $644, for eight persons at $703, for nine persons at $761, for ten persons at $831, and for each additional person at $83.

Sec. 2. MEDICAL ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For medical assistance, including reimbursement for abortion services, which shall be available under the medical assistance program only for those abortions which are medically necessary:

..... $ 183,060,700

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.

2. Of the funds appropriated in this section, not more than $200,000 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. The department may implement mandatory enrollment of eligible clients into licensed health maintenance organizations where appropriate and consistent with federal guidelines. **However, a client in a voluntary county shall not be enrolled in a health maintenance organization unless the client has submitted a signed statement expressing the client's desire to enroll in the health maintenance organization. Clients shall continue to be eligible for the mental health services provided through community mental health centers without obtaining a referral from the health maintenance organization and the cost of the mental health services shall be billed directly to the medical assistance program.** The department shall track any savings realized by the use of the health maintenance organizations and shall annually

*Item veto; see message at end of the Act

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, to the legislative fiscal bureau regarding cost savings.

4. As a condition, qualification, and limitation of the funds appropriated in this section, the department, in cooperation with the Iowa department of public health and the department of elder affairs, shall seek federal approval of a home and community-based waiver under Title XIX of the federal Social Security Act to provide cost-effective alternative services for elderly persons who meet criteria for placement in a medical institution.

5. Notwithstanding section 8.39, the department may transfer funds appropriated under this section to a separate account established in the division of community services for expenditures required to provide case management services pursuant to section 23 of this Act, pending final settlement of the expenditures. Funds received by the division of community services in settlement of the expenditures shall be used to replace the transferred funds and are available for the purposes for which the funds were appropriated under this section.

6. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall provide to an area education agency the verified federal Medicaid number of a child who is eligible for medical assistance under chapter 249A and requires special education services if a special education service for which the child is eligible is provided under a federally funded health care program. If it is permitted under federal confidentiality provisions, an area education agency may view the department's records pertaining to the child or the child's parent or guardian.

7. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall continue medical assistance to pregnant women and infants under provisions in effect on March 1, 1989, and shall establish presumptive and continuing eligibility for pregnant women. A signed statement from a maternal health center, family planning agency, physician's office, or other physician-directed qualifying provider as specified under the federal Social Security Act, § 1902, shall serve as verification of pregnancy for the purpose of establishing eligibility for pregnant women under the medical assistance program.

8. Of the funds appropriated in this section, $55,000 is set aside for the net additional expense to the state for hospice services which, effective January 1, 1990, shall be included as an eligible service under the medical assistance program.

9. As a condition, qualification, and limitation of the funds appropriated in this section, effective July 1, 1989, a person, regardless of the source of the person's payment, shall be evaluated prior to admission to an intermediate care facility or a skilled nursing facility to determine whether the person has mental retardation, mental illness, or a related condition. If the evaluation identifies the existence or suspected existence of one of the conditions, the person shall not be admitted to the facility unless the Iowa foundation for medical care, at the direction of the division of mental health, mental retardation, and developmental disabilities, determines that the person was appropriately evaluated and the facility is able to fulfill the person's service needs as identified by the evaluation.

10. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall seek federal approval of a home and community-based waiver under Title XIX of the federal Social Security Act to provide cost-effective alternative services to persons with acquired immune deficiency syndrome who meet criteria for placement in a medical institution.

11. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall continue developing policies and procedures to implement a physician case management program for selected medical assistance recipients. The program shall be continued for a period of at least twenty-four months subsequent to the date of implementation and if necessary the department may seek approval for extension of any federal waiver related to this program.

12. Of the funds appropriated in this section, up to $18,000 may be used for funding of the three full-time equivalent positions assigned to the bureau of medical assistance under the appropriation for general administration in this Act. Quarterly, the department shall provide the chairpersons and ranking members of the legislative fiscal committee, the members of the

joint appropriations subcommittee on human services, and the legislative fiscal bureau with an accounting of the three positions including their cost to the state and the amount of recovery obtained for the state in reduced medical assistance expenditures.

13. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall report at least quarterly to the chairpersons and ranking members of the legislative fiscal committee, the members of the joint appropriations subcommittee on human services, and the legislative fiscal bureau regarding medical assistance expenditures. The report shall show actual expenditures according to eligibility groups and service definition and the original expenditure estimates on which the budget was based. Upon request, the department shall provide members of the general assembly with detailed monthly reports regarding expenditures for the medical assistance program and the aid to dependent children program.

14. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall reimburse an ambulance service for transporting a medical assistance recipient from a location other than a medical institution to a hospital regardless of a determination of medical necessity. However, the department shall develop methods to reduce recipient usage of ambulance services for reasons other than medical necessity, including notification of recipients who have received ambulance services that were not considered to be a medical necessity and ambulance services that have provided such services.

Sec. 3. MEDICAL CONTRACTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For medical contracts:

..... $ 4,164,800

As a condition, qualification, and limitation of the funds appropriated in this section, up to $50,000 shall be used to expand the drug utilization review program, up to $82,500 shall be used for presumptive eligibility for pregnant women, and up to $98,600 shall be used for physician case management.

Sec. 4. STATE SUPPLEMENTARY ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For state supplementary assistance:

..... $ 17,212,888

1. As a condition, qualification, and limitation of the funds appropriated in this section, the department, in cooperation with representatives of advocate organizations, consumers, county government, and provider organizations shall study methods of increasing the flexibility of the state supplementary assistance program by developing new options for promoting and enhancing independent living in less restrictive environments. The new options studied shall include but are not limited to a review of semi-independent living and cooperative housing projects in terms of appropriate care and cost. The department shall report the results of the study to the general assembly by January 1, 1990. Not more than $30,000 shall be expended on costs related to the study.

*2. *As a condition, qualification, and limitation of the funds appropriated in this section, $110,000 is allocated to provide supplemental payments to providers of services to persons with mental retardation, a developmental disability, or mental illness who are considered to be "difficult to serve". Providers shall be paid in accordance with criteria established by the department in cooperation with representatives of advocate organizations, consumers, county government, and provider organizations. The department shall report to the chairpersons and ranking members of the fiscal committee of the legislative council, the members of the joint appropriations subcommittee on human services, and the legislative fiscal bureau regarding progress in implementing the provision of the supplemental payments. The reports shall be submitted in 1990 on January 1, March 1, and June 1.**

*Item veto; see message at end of the Act

3. 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. 5. AID TO INDIANS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For aid to Indians under section 252.43:

..... $ 36,365

The tribal council shall not use more than ten percent of the funds for administration purposes.

DIVISION II

Sec. 6. CHILD DAY CARE ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For child day care assistance:

1. For grants to public agencies and private nonprofit organizations which provide child day care and dependent adult care resource and referral programs:

..... $ 250,000

2. For protective child care assistance:

..... $ 2,308,295

3. For state child day care assistance:

..... $ 3,986,108

a. Notwithstanding section 237A.13, twenty-five percent of the funds not otherwise allocated in this subsection shall be allocated to counties according to a formula based upon the number of children in a county whose family income is equal to or less than one hundred fifty percent of federal office of management and budget poverty guidelines. Seventy-five percent of the funds not otherwise allocated in this subsection shall be allocated to counties based upon the department's estimate of a county's expenditures for child day care assistance during the fiscal year which ended June 30, 1989. The funds allocated to a county shall not be less than the county's allocation of funding for state child day care assistance in the fiscal year which ended June 30, 1989. However, the department may transfer funds which are not used by a county to a county in which there is a demonstrated need.

b. Nothing in this subsection shall be construed or is intended as, or shall imply a grant of entitlement for services to persons who are eligible for assistance due to an income level which is equal to or less than one hundred fifty percent of the federal office of management and budget poverty guidelines for families. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated under this section.

c. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall review the reimbursement schedule used for reimbursement of satellite child day care homes.

4. For transitional child care assistance:

..... $ 2,600,000

a. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall work with the legislative fiscal bureau to develop a means to measure the effect of transitional child care assistance upon the number of aid to dependent children recipients and upon the economic status of the persons who receive the assistance.

b. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall implement an advertising and marketing program which covers each county in the state and is designed to inform eligible persons and service providers regarding transitional child care assistance. The advertising shall employ electronic and print media and may utilize direct mail.

5. For grants to fund costs relating to child day care, start-up, fire safety, equipment, and training:

..... $ 606,125

As a condition, qualification, and limitation of the funds appropriated in this section, the department shall adopt rules to implement this subsection, including a provision that the maximum amount granted to a grantee is $10,000.

6. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall adopt rules relating to the purchase of child day care services which authorize payment for up to four days per month for days an individual child is not in attendance at the child day care facility.

7. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall notify the chairpersons and ranking members of the legislative fiscal committee and the members of the joint appropriations subcommittee on human services regarding any changes made to the allocations of funds in this section.

8. Funds appropriated under this section may be used for reimbursement of a child day care program established by a school pursuant to section 279.49.

Sec. 7. FAMILY DEVELOPMENT AND SELF-SUFFICIENCY GRANT PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the family development and self-sufficiency grant program as provided under sections 217.11 and 217.12:

..... $ 890,000

Grants have been awarded on a three-year basis, subject to annual renewal, and the funds appropriated under this section shall be for support for the second twelve-month period a grant is in effect. The family development and self-sufficiency council shall allocate any funds appropriated in addition to the funds required to support the second twelve-month period for existing grants to increase the amounts of existing grants, to fund a grant application received during the initial year of the program which was not funded but which would provide service in a rural setting in the state, and to fund a new project designed as a county government and private sector initiative providing substantial county and private sector financial support. The council shall seek letters of intent for the project designed as a county government and private sector initiative and select a county to work with in the development of a program. The council shall ensure that the selected program utilizes state funds to supplement and not supplant funds available under the federal Job Training Partnership Act (JTPA) or other existing work and training programs, that the local JTPA program and other local programs are active participants in the selected program, and that the selected program does not duplicate programs that exist within the JTPA service delivery area in which the selected program is located. In awarding any additional moneys, the council shall give attention to ensuring that the funded projects reflect geographic, urban, rural, and ethnic representation. Any grant renewal, grant addition, or new grant shall be awarded on or before January 1, 1990. The council shall report by January 15, 1990, to the chairpersons and ranking members of the legislative fiscal committee, the members of the joint appropriations subcommittee on human services, and the legislative fiscal bureau regarding the distribution of the grant awards. No more than five percent of the funds appropriated under this section shall be used for administration of the program. Any federal financial participation received by the department for the family development and self-sufficiency grant program shall be used for the purposes designated under the appropriation for aid to dependent children.

Sec. 8. WORK AND TRAINING PROGRAMS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the work incentive and JOBS programs:

..... $ 1,930,636

*a. *As a condition, qualification, and limitation of the funds appropriated in this section, the department shall operate the work incentive program or the job opportunities and basic skills training (JOBS) program pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485, Title II, in counties in which the work incentive program was operated on July 1, 1988. The major emphases of the program shall be to improve employment skills and maximize participation in the individual education and training plan program or a similar JOBS program component while concentrating efforts on involving persons, who have a history of being difficult to employ, in long-term training and education activities. The individual education and training plan program shall continue to be operated by the department as a special need when the JOBS program is implemented. The department, in cooperation with recipients of aid to dependent children, human services advocates, and other interested parties, shall establish conciliation procedures for the JOBS program and shall implement the procedures concurrently with the program. The procedures shall be designed to ensure that the JOBS program goals are enhanced and that a dispute is resolved before a sanction is applied.*

*b. The department may implement the JOBS program for public assistance recipients in additional counties which were not served by the work incentive program on July 1, 1988, following receipt of recommendations from an affected county as to the most appropriate agency to operate the program in the county. The program may then be operated directly by the department or through a contract with the department of employment services and the Iowa department of economic development.**

c. Notwithstanding any provisions to the contrary under chapters 239 and 249C, the department is authorized to implement the job opportunities and basic skills training program pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485, Title II, as provided under this subsection and to implement the grant diversion program as provided under 441 Iowa administrative code, ch. 91, in a county to increase job opportunities for recipients of aid to dependent children.

d. Notwithstanding any provisions of law to the contrary, beginning October 1, 1989, the department may implement preeligibility fraud detection for the aid to dependent children program in accordance with the federal Family Support Act of 1988, Pub. L. No. 100-485, § 605.

e. Notwithstanding section 239.21, beginning April 1, 1990, the department shall implement the extended child care program in accordance with the federal Family Support Act of 1988, Pub. L. No. 100-485, Title III, § 302.

**f. Except as otherwise mandated by federal law, a recipient under the aid to dependent children program pursuant to chapter 239 who has a child less than three years of age shall not be required to participate in the JOBS program but shall be given priority if the recipient participates voluntarily. A parent who is less than eighteen years of age and has not completed high school or has not received a graduate equivalency diploma may be required to participate in activity leading to high school completion or a graduate equivalency diploma provided the department determines that the parent is able to successfully complete the activity and the parent is not participating in any other activity related to employment, training for employment, or life skills development designed to lead to greater self-sufficiency. Other persons who are not mandatory participants under the JOBS program shall not be required to participate. An eligible person shall not be required to participate for good cause if the person shows that the person's failure or refusal to participate is reasonable under the circumstances.*

g. The department may exceed the full-time equivalent position limit established for community services and may transfer funds necessary for staff and support to operate the work incentive program and JOBS program in accordance with this subsection.

*h. As a condition, qualification, and limitation of the funds appropriated in this section, in implementing the JOBS program, the department shall ensure that each participant receives a formal assessment and that an employability plan is completed with each participant. The employability plan shall contain an employment goal and the support services and the specific work or training activities necessary to attain the goal, with job search requirements imposed only if consistent with the participant's employability plan.**

*Item veto; see message at end of the Act

2. For the food stamp employment and training program:

..... $ 159,053

Sec. 9. CHILD SUPPORT RECOVERY. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For child support recoveries, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 956,174

..... FTEs 165.00

1. The director of human services, within the limitations of the funds appropriated in this section, or funds transferred from the aid to dependent children program for this purpose, may establish new positions and add additional employees to the child support recovery unit when the director determines that both the current and additional employees together can reasonably be expected to recover for the aid to 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 joint appropriations subcommittee on human services the ratio of the total amount of administrative costs for child support recoveries to the total amount of the child support recoveries.

2. The department may enter a cooperative agreement with the judicial department to establish and fund a pilot project of expedited child support orders and modifications. The department may transfer funds appropriated under this section for purposes of implementing the pilot project.

3. The department shall develop and implement a public information and awareness plan to inform and educate responsible parents of the obligation to support their dependent children and of methods used to enforce the obligation, to provide information to custodial parents of services available through the child support recovery unit, and to inform parents of procedures to be followed to modify a child support obligation. The department shall invite participation in the development of the plan from public and private agencies, schools, and other organizations with an interest in child support, public information, and education. The department shall utilize existing public and private resource entities to implement the plan.

4. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall review existing policies and procedures relating to paternity establishment and develop new procedures as necessary to fully inform a putative father of the implications of voluntarily stipulating to paternity. The procedures shall include the issuance of notices to putative fathers regarding their rights and responsibilities if paternity is legally established, the degree of accuracy of blood testing procedures in determining paternity, rights in requesting or submitting to blood testing, and other legal choices available to putative fathers in the paternity establishment process, including the right to counsel and advice. The department shall involve interested groups and organizations in the development of the procedures.

Sec. 10. COLLECTION SERVICES CENTER. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the collection services center, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 285,246

..... FTEs 28.00

DIVISION III

Sec. 11. JUVENILE INSTITUTIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the operation of the state training school and the Iowa juvenile home, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

1. For the Iowa juvenile home at Toledo:

..... $ 3,985,480

..... FTEs 123.5

2. For the state training school at Eldora:

..... $ 6,953,834

..... FTEs 224.0

3. By October 1, 1989, the department of human services and the judicial department shall set population goals for the number of juveniles which may be placed at one time at the state training school at Eldora and at the Iowa juvenile home at Toledo and shall develop a plan to achieve the goals, including the identification of additional placement services required to achieve the goals.

4. The department shall develop a procedure to determine if a juvenile who is ordered to be placed in a state juvenile institution would be more appropriately placed in a program which offers specific services related to the juvenile's substance abuse, mental health, developmental disability, or mental retardation. If the department determines that a more appropriate placement should be made, the department shall seek to obtain a modification of the court order to effect such placement.

5. It is the intent of the general assembly that the state training school be used for long-term placement of juveniles; that the length of time which a juvenile is placed at the state training school be based upon the juvenile's educational and training needs and the degree of threat to society caused by the child's presence outside of secure custody.

Sec. 12. FOSTER CARE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For foster care:

..... $ 42,813,962

1. Of the funds appropriated under this section, up to $564,000 may be used by the department to provide enhanced funding of services to family foster homes to avert placement of children in group care facilities and at least $450,000 shall be used to provide enhanced funding of services to group care facilities to avert placement of children in more expensive, less appropriate, or out-of-state facilities.

2. The department may use funds appropriated under this section to develop supplemental per diem or performance-based contracts with private group care providers for programs serving children who would otherwise be placed in a state juvenile institution or an out-of-state program. The department shall give priority to serving children whose placement at the state training school or the Iowa juvenile home would cause the state juvenile institution to exceed the population goal established under section 11 of this Act.

3. The department may transfer a portion of the funds appropriated under this section to provide subsidized adoption services or to purchase adoption services, if funds allocated under this section for adoption services are insufficient.

4. The department and state court administrator shall work together in implementing an agreement which enables the state to receive funding for eligible cases under the federal Social Security Act, Title IV-E.

5. No more than thirty percent of children placed in foster care funded under the federal Social Security Act, Title IV-E, shall be placed in foster care for a period of more than twenty-four months.

6. Of the funds appropriated under this section, $165,000 is allocated for the foster home insurance fund. Notwithstanding section 237.13, the department may use funds appropriated under this section to purchase liability insurance for licensed foster parents in lieu of providing payment for claims filed against the foster home insurance fund, if comparable coverage can be obtained through private insurance. **Notwithstanding section 8.33, funds remaining in the foster home insurance fund shall not revert to the general fund on June 30, 1990, but shall remain available in the following fiscal year for the purposes designated.**

7. As a condition, qualification, and limitation of the funds appropriated under this section, $30,000 may be used by the department to contract for the development of a methodology to purchase foster care services based upon the difficulty of caring for a child and the level of services needed by the child.

8. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall continue the demonstration program to decategorize child welfare services in the two counties in which the program has commenced. The department shall implement the demonstration program in Dubuque and Pottawattamie counties, which have submitted letters of intent, if the department, the boards of supervisors in the counties, and the affected judicial districts agree to implement the program. The schedule for implementing the demonstration program in the two additional counties shall provide that the program be implemented on or after June 30, 1990. The department shall establish for the demonstration project counties a child welfare fund 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 of services, juvenile institutional care, mental health institute care, state hospital-school care, juvenile detention, department-direct services, and juvenile justice county-based reimbursable services and notwithstanding any other provision of law, the fund shall be considered encumbered. With the approval of the department, a demonstration project county may elect to transfer to the child welfare fund other child welfare funding provided for treatment services to youth under Title XIX of the federal Social Security Act, including funding for psychiatric hospital services. Notwithstanding other service funding provisions in law, the department shall establish the fund by transferring funds from the budgets affected, except for the funds appropriated for the state mental health institutes, the state hospital-schools, the state training school, and the Iowa juvenile home which shall remain on account for the county at these institutions. The department and each demonstration project county shall quarterly determine if the county will not draw down the amounts from the county's accounts at the state institutions. **If there is an overall surplus in the county's accounts for the quarter, the department shall transfer an amount equal to the surplus to the county's child welfare fund from the state foster care appropriation.** 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 demonstration project county boards of supervisors and judicial districts to provide training for the project, and shall use technical assistance provided by the national conference of state legislatures and the center for the study of social policy. It is the intent of the general assembly that the demonstration program be designed to operate in a county for a three-year period. **If a demonstration project county experiences increases in demand for services funded from the county's child welfare fund beyond projected need despite efforts by the county to maintain expenditures within the funds available, the conditions shall be evaluated by the statewide decategorization committee. If the committee determines that a deficit will occur, the department shall request a supplemental appropriation in the amount of the fund's projected deficit.**

9. The department of human services, the judicial department, the department of education, and representatives of service providers shall continue the committee on children with special service needs. 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.

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*Item veto; see message at end of the Act

10. As a condition, qualification, and limitation of the appropriation made under this section, $30,000 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. The contracts shall make maximum use of any matching resources available from the universities with which the department contracts.

11. Of the funds appropriated in this section, $30,000 is allocated to provide special needs grants to families with a family member at home who is developmentally disabled. Grants must be used by a family to defray special costs of caring for the family member to prevent out-of-home placement of the family member. The grants may be administered by a private nonprofit agency provided that no administrative costs are received by the agency. Regular reports regarding coordination of the special needs grants with the family support subsidy program shall be provided to the legislative fiscal bureau.

12. Of the funds appropriated in this section, $175,000 is allocated to provide funding for a grant to a private group foster care agency to complete construction of a new group care facility. Notwithstanding section 18.6, the funding shall be provided to a private group foster care agency which received a grant of $300,000 to begin construction from the department of economic development.

13. 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.

Sec. 13. CHILD PROTECTIVE SYSTEM IMPROVEMENTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For improvements in the state system for child protection:

1. For improvements in decategorization counties:

..... $ 100,000

Of the funds appropriated by this subsection, $65,000 is allocated to Polk county and $35,000 is allocated to Scott county to develop program innovations consistent with the recommendations contained in the Kempe National Center Report entitled "Study of Four Problem Areas in the Protection of Children in Iowa—1988" and the counties' efforts in decategorization of child welfare funding.

2. For general administration of the department to improve staff training efforts:

..... $ 420,000

3. For funding of a new program manager position to oversee termination of parental rights and permanency planning efforts, and to fund one full-time equivalent position specializing in termination of parental rights cases on a pilot project basis in one district of the department on the condition that regular reports regarding the district's program efforts shall be provided to the legislative fiscal bureau:

..... $ 75,000

4. For use by the department in updating manuals, automating procedures, developing outcome-oriented evaluation systems, and to fund a full-time equivalent position to promote innovative treatment programs, write grants to obtain federal and private funding, and promote public and private efforts to treat and prevent child abuse:

..... $ 75,000

5. For personnel, assigned by the attorney general, to provide additional services with an emphasis on termination of parental rights cases within one district of the department:

..... $ 75,000

6. For transfer to the foster care review board to provide a connecting link with the news media and the public regarding the foster care system and existing foster care cases:

..... $ 10,000

7. For the establishment of a state multidisciplinary team to assist with difficult cases within the foster care system and with respect to child protective investigation and initial case planning and to develop and coordinate local multidisciplinary teams:

..... $ 75,000

8. For additional child abuse prevention grants:

..... $ 100,000

Sec. 14. HOME-BASED SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For home-based services on the condition that family planning services are funded, provided that if the department amends the allocation to a program funded under this section, then the department shall promptly notify the legislative fiscal bureau of the change:

..... $ 8,333,382

Of the funds appropriated in this section, $1,892,800 shall be used for family preservation and reunification services pilot projects. A portion of the funds shall be used to maintain service levels in existing family preservation projects and to expand the projects to provide post-placement reunification services to families participating in the projects. A portion of the funds shall be used to contract for the purchase of family preservation services in up to three additional districts of the department in which the services are not being offered. Following review by the statewide family preservation and decategorization committee, the department may directly provide services in one of the three additional districts. A limited amount of the funds may be used to provide other resources required for a family participating in a project to stay together or to be reunified. Not more than $50,000 shall be used to provide training for pilot project employees. The payment system for the project shall not be based upon units of time, but may be based upon the cost to serve a family, including adjustments according to the provider's performance and the outcome of the services provided to each family. It is the intent of the general assembly that the three-year evaluation of this initiative be continued to assess impact and cost-effectiveness and that the department seek additional assistance from the division of criminal and juvenile justice planning of the department of human rights in evaluating both this initiative and the decategorization projects. The department shall continue to develop both the family preservation and the decategorization projects in consultation with professionals in the child welfare field and using outside technical assistance from the national conference of state legislatures and the center for the study of social policy. The department shall use the family preservation and decategorization committee to assist in selecting additional projects.

Sec. 15. COMMUNITY-BASED PROGRAMS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For community-based programs on the condition that the prevention grants relating to adolescent pregnancy under subsection 2 of this section are funded:

..... $ 2,307,907

1. As a condition, qualification, and limitation of the funds appropriated by this section, up to $13,500 shall be used by the department as the entitled aid from the state under section 232.142, subsection 3, for the cost of the establishment, improvement, operation, and maintenance of approved county or multicounty juvenile homes.

2. Of the funds appropriated under this section, $500,000 shall be used for adolescent pregnancy prevention grants. At least seventy-five percent of the funds shall be used for programs which incorporate family planning and pregnancy prevention services as the major component of the program. The department shall not expend more than seven percent of the funds for administrative costs. The department shall adopt rules to implement this subsection. A grant

may be awarded to a public school corporation, an adolescent services provider, or a nonprofit organization which is involved in adolescent issues. Grants shall be awarded for a one-year period and targeted to provide services primarily in the seven counties with the greatest incidence of adolescent pregnancy. Preference in awarding grants shall be given to projects which utilize a variety of community resources and agencies.

a. As used in this subsection, "adolescent" means a person who is less than eighteen years of age or a person who is attending an accredited high school and pursuing a course of study which will lead to a high school diploma or its equivalent. The department shall establish guidelines which permit a grant recipient to continue providing services to a person who receives services under the grant as an adolescent and becomes eighteen years of age or older.

b. A grant shall only be awarded to a project which provides one or more of the following services:

(1) Workshops and information programs for adolescents and parents of adolescents to improve communication between children and parents regarding human sexuality issues.

(2) Development and distribution of informational material designed to discourage adolescent sexual activity and to encourage male and female adolescents to assume responsibility for their sexual activity and parenting.

(3) Early pregnancy detection, prenatal services including chlamydia testing, and counseling regarding decision-making options for pregnant adolescents.

(4) Case management and child care services provided to male and female adolescent parents.

c. Additional services may be offered by a grantee pursuant to a purchase of service contract with the department including any of the following: child day care services; child development and parenting instruction; services to support high school completion, job training, and job placement; prevention of additional pregnancies during adolescence; and other personal services.

3. As a condition, qualification, and limitation of the funds appropriated by this section, $350,686 shall be used by the department for child abuse prevention grants.

Sec. 16. BLOCK GRANT SUPPLEMENTATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For supplementation of federal social services block grant funds and for allocation to the various counties for the purchase of local services:

..... $ 3,852,357

1. 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, 1989, 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.

2. As a condition, qualification, and limitation of the funds appropriated in this section, the department, in cooperation with representatives of advocate organizations, consumers, county government, and provider organizations, shall consider methods for increasing the flexibility of the social services block grant purchase of local services allocation by developing new options to promote greater integration into the community of clients who receive services under the grant. The new options to be considered for inclusion under the social services block grant purchase of local services allocation shall include but are not limited to supported work training and supported employment. The department may implement the recommendations during the fiscal year which begins on July 1, 1989.

3. As a condition, qualification, and limitation of the funds appropriated in this section, the state shall adopt rules for standards applied to intermediate care facilities for the mentally retarded which provide for facility standards which are equal to the federal facility standards for this type of facility.

Sec. 17. JUVENILE JUSTICE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For juvenile justice reimbursement to counties under section 232.141, subsection 2:

..... $ 4,713,200

Sec. 18. IOWA VETERANS HOME. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For operation of the Iowa veterans home, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 27,029,775
..... FTEs 832.16

The department may use the gifts accepted by the director 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.

DIVISION IV

Sec. 19. MENTAL HEALTH INSTITUTES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the state mental health institutes for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

1. State mental health institute at Cherokee:

..... $ 13,178,065
..... FTEs 379.4

2. State mental health institute at Clarinda:

..... $ 7,052,997
..... FTEs 194.11

3. State mental health institute at Independence:

..... $ 13,914,096
..... FTEs 417.22

4. State mental health institute at Mount Pleasant:

..... $ 7,640,971
..... FTEs 200.49

5. For staff and support relating to fulfilling requirements ordered for certification standards:

..... $ 200,000

6. As a condition, qualification, and limitation of the funds appropriated in subsections 1 and 3, the department shall track the sources of referrals to the secure ward for children developed at the state mental health institute at Independence and of children placed in a secure ward with adults at the state mental health institute at Cherokee. The department shall develop an admission criteria to restrict the number of children who can be placed in a secure ward and collect data on the characteristics of the children placed in the ward including classification of illness. A report shall be submitted to the legislative fiscal bureau on or before January 15, 1990, regarding the data collected during the period beginning July 1, 1989, and ending December 31, 1989. The department shall adopt rules pursuant to chapter 17A which take effect October 1, 1989, and prohibit the placement of a child in a secure ward with adults in the state mental health institute at Independence.

Sec. 20. HOSPITAL-SCHOOLS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the state hospital-schools, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

1. State hospital-school at Glenwood:

..... $ 36,120,355

..... FTEs 1,190.5

2. State hospital-school at Woodward:

..... $ 28,760,958

..... FTEs 946.5

As a condition, qualification, and limitation of the funds appropriated in this section, one unit of a state hospital-school which is open on June 30, 1989, shall be closed during the fiscal year which begins July 1, 1989.

Sec. 21. MENTAL HEALTH AND RETARDATION SERVICES FUND. There is appropriated from the general fund of the state to the state community mental health and mental retardation services fund established in section 225C.7 for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary:

..... $ 3,205,000

Sec. 22. FAMILY SUPPORT SUBSIDY PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the family support subsidy program:

..... $ 400,000

For the fiscal year beginning July 1, 1989, the governor's planning council for developmental disabilities shall conduct the evaluation of the family support subsidy program required of the department pursuant to section 225C.42.

Sec. 23. ENHANCED MENTAL HEALTH — MENTAL RETARDATION — DEVELOPMENTAL DISABILITIES SERVICES. There is appropriated from the general fund of the state to the state candidate services fund for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary to be used by the department of human services for the purposes designated:

..... $ 4,779,600

1. The enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee is continued, as established under 1988 Iowa Acts, chapter 1276, section 14, subsection 1, for the fiscal year which begins July 1, 1989, and ends June 30, 1990. The committee shall complete all of the following responsibilities:

a. Take action on whether to include behavior management as a candidate service in an amendment to the state Title XIX plan, 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 nonfederal share of the cost of the service.

b. Explore and make recommendations regarding the submission of a request for 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. 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. Behavior management services shall be included in the state Title XIX 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. a. The county of legal settlement shall be billed for fifty percent of the nonfederal share of the cost of case management provided to adults, **rehabilitation services,** day treatment, and partial hospitalization provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness.

b. If the department has contracted with a county or a consortium of counties to be the provider of case management services, the department is responsible for any costs included within the unit rate for case management services which are disallowed for reimbursement pursuant to Title XIX of the federal Social Security Act by the federal health care financing administration. The department shall use funds appropriated under this section to credit a county for the county's share of any amounts overpaid due to the disallowed costs. If certain costs are disallowed due to requirements or preferences of a particular county in the provision of case management services the county shall receive no credit for the amount of the costs. This subsection is retroactive to April 1, 1989.

4. A county is responsible to continue to expend at least the agreed upon amount expended for candidate services in the fiscal year which ended June 30, 1987, for the fiscal year beginning July 1, 1989, for services to persons with mental retardation, a developmental disability, or chronic mental illness. If a county does not expend the agreed upon amount in the fiscal year, the balance not expended 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 encumbered shall not revert to the general fund on September 30, 1990, but shall be deposited in the state community mental health and mental retardation services fund for use in the fiscal year beginning July 1, 1990. It is the intent of the general assembly that the funds deposited in the state community mental health and mental retardation services fund for this purpose shall be used in addition to moneys appropriated in the fiscal year beginning July 1, 1989, for this purpose.*

*Item veto; see message at end of the Act

*b. Notwithstanding section 8.39, funds appropriated to the department for the state hospital-schools by section 20 of this Act and to the state mental health institutes by section 19 of this Act shall not be subject to transfer, except to the state candidate services fund after January 1, 1990, 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 expended 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 fiscal year beginning July 1, 1989, by each county for the candidate services, including the amount the county contributes under subsection 3. If the expenditures in the fiscal year beginning July 1, 1989, exceed the base year expenditures for candidate services, then the county shall receive from the funds appropriated under this section the least amount of the following:

a. The difference between the total expenditures for the candidate services in the fiscal year beginning July 1, 1989, and the base year expenditures.

b. The amount expended by the county under subsection 3.

c. The amount by which total expenditures for persons with mental retardation, a developmental disability, or chronic mental illness for the fiscal year beginning July 1, 1989, less any carryover amount from the fiscal year which began July 1, 1988, exceed the maintenance of effort expenditures under subsection 4.

7. Notwithstanding section 225C.20, 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 if the subcontract meets the same standards. A mental health, mental retardation, and developmental disabilities coordinating board may change the provider of individual case management services at any time. If the current or proposed contract is with the department, the coordinating board shall provide written notification of a proposed change to the department on or before August 15 and written notification of an approved change on or before October 15 in the fiscal year which precedes the fiscal year in which the change will take effect.

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. Where the department contracts with a county or consortium of counties to provide case management services, the state shall appear and defend the department's employees and agents acting in an official capacity on the department's behalf and the state shall indemnify the employees and agents for acts within the scope of their employment. The state's duties to defend and indemnify shall not apply if the conduct upon which any claim is based constitutes a willful and wanton act or omission or malfeasance in office.

*Item veto; see message at end of the Act

DIVISION V

Sec. 24. COMMUNITY SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for community services:

For field operations, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 37,807,767
..... FTEs 2,228.50

1. As a condition, qualification, and limitation of the funds appropriated in this section, 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.

2. Staff who are designated as "Title XIX case management staff" are considered to be in addition to the limit for full-time equivalent positions and the funds appropriated for field operations. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall report quarterly to the chairpersons and ranking members of the legislative fiscal committee of the legislative council, the members of the joint appropriations subcommittee on human services, and the legislative fiscal bureau regarding the total number of Title XIX case management staff positions filled, including the number of positions which were filled by persons who were already employed by the department in another capacity.

3. As a condition, qualification, and limitation of the funds appropriated in this section, upon the request of a county, the department shall work with the county to develop a funding plan for persons with mental retardation, a developmental disability, or chronic mental illness who are not eligible to receive case management provided under the medical assistance program and are receiving service management. With an agreed upon funding plan, the department is authorized to combine state funds that would otherwise be expended on service management with county funds to upgrade services provided to the persons from service management to case management. Staff required to implement this subsection are not subject to the limitations on full-time equivalent positions and funds appropriated for community services.

4. As a condition, qualification, and limitation of the funds appropriated in this section, if the division of community services staffing level meets the funded full-time equivalent position limit authorized under this section and a district identifies a critical position vacancy or a position with a caseweight factor greater than one hundred twenty percent of the budgeted caseweight factor for the position, the director of human services may exceed the full-time equivalent position limit authorized under this section in the amount necessary to fill the critical position vacancy or to reduce the caseweight factor to the budgeted level. For purposes of this subsection, "critical position vacancy" includes a clerical position in an office limited to a single clerical staff position. The budgeted caseweight factor for the fiscal year beginning July 1, 1989, and ending June 30, 1990, is 155 for income maintenance workers and 151 for social workers. The department shall report monthly to the legislative fiscal bureau regarding caseweight factor computations in each district, the statewide average caseweight factor, the existence of a critical vacancy in any district, and action taken by the department to address any critical position vacancy problem or excess caseweight factor.

Sec. 25. GENERAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For general administration, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 8,339,096
..... FTEs 329.45

1. Full-time equivalent positions which are funded entirely with federal, public, or 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 in this section, one full-time equivalent position shall be filled by a housing specialist who is assigned to attract additional federal funding to increase low-income housing and to work with local governments and private agencies in developing additional housing for persons who are part of special populations, including but not limited to the mentally ill. The department of human services' housing specialist shall coordinate efforts with the Iowa finance authority and the housing specialist in the Iowa department of elder affairs. The department shall review the duties and program for a similar housing specialist position in the state of Oregon.

3. As a condition, qualification, and limitation of the funds appropriated in this section, three full-time equivalent positions shall be filled by staff assigned to the bureau of medical assistance to develop policies to improve medical assistance cost containment and increase the amount of federal reimbursement to the state. Other duties shall include but are not limited to improving oversight of health care, implementation of nursing home reform, reducing overutilization of health care services by specific individuals, reducing usage of services identified as high variation procedures, and developing proposals to seek federal reimbursement for services currently available but not reimbursed in the state, including hospice services.

4. As a condition, qualification, and limitation of the funds appropriated in this section, if a state institution administered by the department is to be closed or reduced in size, prior to the closing or reduction the department shall initiate and coordinate efforts in cooperation with the department of economic development to develop new jobs in the area in which the state institution is located.

5. Of the funds appropriated in this section, $50,000 is allocated for the lease-purchase of teleconferencing equipment and as a condition, qualification, and limitation of the funds appropriated in this section, the funds allocated by this subsection shall only be used for the purpose stated in this subsection, shall revert to the general fund if not used for the purpose stated, and shall not be subject to transfer for any other purpose. If additional funds are needed for the lease-purchase of teleconferencing equipment, the department may use other funds appropriated in this section.

6. Of the funds appropriated in this section, $25,000 is allocated for salary and support of an additional full-time equivalent position assigned to the department of public safety to process criminal history background checks for service providers related to the department of human services.

Sec. 26. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For development and coordination of volunteer services:

..... $ 81,758

Sec. 27. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. For the fiscal year beginning July 1, 1989, the following providers shall have their medical assistance reimbursement rates increased by two and twenty-five hundredths percent over the rates in effect on June 30, 1985: optometrists, opticians, physicians, pharmacists, podiatrists, dentists, chiropractors, physical therapists, certified nurse midwives, ambulance services, independent laboratories, area education agencies, clinics, audiologists, rehabilitation agencies, community mental health centers, family planning clinics, psychologists, screening centers, hearing aid dealers, orthopedic shoe dealers, ambulatory surgery centers, and genetic counseling clinics. However, the material costs of drugs, optometric products, and durable medical products and supplies which are reimbursed at the acquisition cost shall not be limited to

an increase of two and twenty-five hundredths percent. Maternal health centers shall be reimbursed at the maximum rate permitted under the medical assistance program. However, reimbursement rates for office visits for all medical assistance providers and for all obstetric services shall be increased by four percent over the rates in effect on June 30, 1989.

a. Reimbursement rates to hospitals and skilled nursing facilities shall be increased by two and twenty-five hundredths percent over the rates in effect on June 30, 1989.

b. Reimbursement rates for rural health clinics shall be increased in accordance with increases under the federal Medicare program.

c. Home health agencies certified for the medical assistance program shall be reimbursed for their current federal Medicare audited costs.

d. For the fiscal year beginning July 1, 1989, the basis for establishing the maximum medical assistance reimbursement rate for intermediate care facilities shall be the seventy-fourth percentile of all facility per diem rates as calculated from the June 30, 1989, unaudited compilation of cost and statistical data.

2. For the fiscal year beginning July 1, 1989, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall be $18.51. The flat reimbursement rate for facilities electing not to file cost reports shall be $13.23. For the fiscal year beginning July 1, 1989, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall be increased by four percent.

3. For services provided by social service providers reimbursed by the department between July 1, 1989, and June 30, 1990, rates shall be increased automatically by four percent over the unreduced rates in effect on June 30, 1989, except for family foster care provider rates which shall be increased by an average of four percent. Rates for foster group care and shelter care services shall not exceed $70.86 per day. The reimbursement rate increase for providers whose cost reimbursement is below the maximum rate on July 1, 1989, shall be the maximum increase provided to providers whose cost reimbursement is at the maximum rate on July 1, 1989. This automatic increase is intended to be an exception to policy for the fiscal year beginning July 1, 1989, and ending June 30, 1990, and is not intended to eliminate regular submission of cost reports.

4. For providers reimbursed under subsection 3 of this section, reimbursement rate increases may be applied to the maximum reimbursement rate a program has received in any of the last five fiscal years, provided that if the program utilizes a reimbursement rate for a year other than the fiscal year beginning July 1, 1988, the program can justify to the department that the costs associated with that reimbursement rate pertain to the fiscal year beginning July 1, 1989.

Sec. 28. 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. 29. WAIVER EXPENSE REPORTED. The department of human services shall report to the chairpersons and ranking members of the legislative fiscal committee, the members of the joint appropriations subcommittee on human services, and the legislative fiscal bureau regarding the amount of administrative costs relating to each waiver application submitted to the federal government during the fiscal year beginning July 1, 1989. The reports shall be submitted in 1990 on January 1, March 1, and June 1.

Sec. 30. RULES. The department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the sections of this Act enumerated in this section. Rules adopted pursuant to sections 1, 2, 4, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 19, 23, and 27 of this Act shall become effective immediately

upon filing, unless a later effective date is specified in the rules. The rules shall also be published as notice of intended action as provided in section 17A.4.

Sec. 31. 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. 32. FULL-TIME EQUIVALENT LIMIT NOTIFICATION. The Iowa veterans home, the state mental health institutes, and 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 cochairpersons and ranking members of the joint human services appropriations subcommittee of the appropriations committees of the house and senate and 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. 33. Notwithstanding 1988 Iowa Acts, chapter 1276, section 8, subsection 2, the Iowa juvenile home is not required 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 until the juvenile home is able to reduce the juvenile home's population to seventy-two, which will provide a living unit for the evaluation program.

Sec. 34. NURSING HOME REFORM REQUIREMENTS. The department of human services with the assistance of the department of inspections and appeals shall submit to the fiscal committee of the legislative council and to the members of the joint appropriations subcommittee on human services on or before September 1, 1989, proposed administrative rules for compliance with federal standards for nursing facilities pursuant to the federal Omnibus Budget Reconciliation Act of 1987. If a standard in a rule proposed by the department of human services or the department of inspections and appeals exceeds a federal standard under the federal Omnibus Budget Reconciliation Act of 1987 for nursing facilities or the corresponding regulation adopted by the federal health care financing administration, the department of human services or the department of inspections and appeals shall provide the rationale for exceeding the federal standard or the corresponding regulation. When submitted, the proposed administrative rules shall be accompanied by a detailed analysis prepared by the department of human services of the cost to implement each standard including an estimate of the additional cost of a standard which exceeds a federal standard or the corresponding regulation for nursing facilities.

Sec. 35. STAFFING STUDY REQUESTED. The legislative council is requested to establish an interim study committee to assess staffing of the nine state institutions operated by the department of human services. The study committee shall develop specific recommendations regarding staffing patterns and personnel practices at each of the state institutions for action by the general assembly and the department of human services.

1. In appointing the membership of the study committee, the legislative council shall consider appointing experts in private sector management and staffing analysis, representatives of large private service providers, hospital administrators, and employees of state institutions operated by the department of human services.

2. The study committee shall review proposals developed by interested parties, including the staffing study of the American federation of state, county, and municipal employees union presented to the human services appropriations subcommittee during the 1989 session. The study committee shall interview staff at all levels of the various institutions, including members of the American federation of state, county, and municipal employees and Iowa united professionals unions, department of human services central office staff, and employees of the department of management and the department of personnel.

3. It is the intent of the general assembly that the legislative council authorize not more than twenty-five thousand dollars to be used to retain private consulting services to assist the study committee. The legislative fiscal bureau shall provide primary staff support to the study committee.

Sec. 36. APPLICABILITY. Section 23, subsection 3, of this Act is retroactively applicable to April 1, 1989.

Sec. 37. EFFECTIVE DATE. Section 23, subsection 1, and section 33 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved June 5, 1989, except the items which I hereby disapprove and which are designated as that portion of section 2, subsection 3 which is herein bracketed in ink and initialed by me; section 4, subsection 2 in its entirety; section 8, subsections a, b, f, g, and h; that portion of section 12, subsection 6 which is herein bracketed in ink and initialed by me; that portion of section 12, subsection 8 which is herein bracketed in ink and initialed by me; the portions of section 23, subsection 2 and subsection 3a which are herein bracketed in ink and initialed by me; and section 23, subsections 5a and 5b in their entirety. 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 541, an Act relating to human services and making appropriations to the department of human services, other properly related matters, providing for retroactive applicability, and providing an effective date.

Senate File 541 provides substantial additional funding for human services programs. A state appropriations increase of approximately ten percent or approximately $39 million is provided to the department for Fiscal Year 1990. This substantial increase in funds is used to provide for a four percent increase in AFDC benefits and four percent and 2.25 percent reimbursement increases for social services and Medicaid providers, respectively. Increases for child care, welfare reform, foster care reform and aid to the elderly are also included in the bill. I believe these adjustments are appropriate and I am signing them into law.

However, given the fiscal constraints of the state, particularly in Fiscal Year 1991, I cannot approve every new program that has been authorized in this legislation. Moreover, funding included in this bill to provide further expansion of the Medicaid program is subject to receipt of federal approval. Such approval has not yet been received and is unlikely to be received for some time. In short, funding to ensure a balanced budget in Fiscal Year 1991 must be eliminated from this bill and can be eliminated without adversely impacting current recipients of critical human services in our state.

Senate File 541 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 2, subsection 3. This provision would hamstring the state's ability to contain costs in the Medicaid program. Currently, the state is moving toward use of contract purchases or HMOs in order to obtain volume discounts for services provided through the Medicaid program. This method of contracting for services is one of the most significant tools needed to contain health care costs. Unfortunately, the language included in this subsection of Senate File 541 would strictly limit the ability of the department to use health maintenance organizations for Medicaid and would also prevent the inclusion of all covered services in the Medicaid program in a contract with an HMO. These restrictions would have the impact of further driving up Medicaid costs and cannot be approved.

I am unable to approve the item designated as Section 4, subsection 2, in its entirety. This provision appropriates $110,000 and establishes a new program to provide supplemental payments to providers who care for disabled persons considered difficult to serve. There has not been sufficient study done to review the cost effectiveness of such a program. Moreover, I have signed into law a substantial increase in the family support subsidy program which is used by families to care for MH/MR/DD individuals in their homes rather than in institutions. We should carefully monitor the cost effectiveness of that program prior to starting new programs to provide additional funding for similar purposes.

I am unable to approve the items designated as Section 8, subsections a, b, f, g and h. These provisions in Senate File 541 run contrary to the recommendations of the welfare reform council. The council recommends that the training portions of our Project Promise welfare reform model and the federal JOBS program be administered through the Department of Employment Services and the Department of Economic Development. Focusing the training programs in the agencies that administer the remainder of the state's training efforts would provide for a cost effective and comprehensive method of ensuring that welfare recipients receive the training they need to become independent and self-sufficient.

The items vetoed in Senate File 541 would set up a duplicative training structure: the Department of Human Services would continue to operate the individual education and training program and the WIN program in counties where such programs were in operation on July 1, 1988; counties not previously served by the WIN program would have their training programs run by the IDED and DES. Such a duplicative structure would likely cause confusion and would

limit the state's ability to provide for a comprehensive and cost effective job training program for individuals who are working to get off welfare.

I understand the concern of some to provide for a smooth transition of the administration of the job training programs from DHS to IDED and DES job training programs. This is particularly important given the fact that federal law requires that these programs be in operation by July 1 of this year. As a result, I have directed our welfare reform council and, most specifically, the effected agencies, to work closely to structure a transition program over the next six months that will minimize the disruption for individuals who receive training services under our welfare reform program and for those who provide such services. The department heads have assured me that a smooth transition can be accomplished.

In addition, I have item vetoed language which would hamper our ability to move individuals from a state of dependency to independence. Specifically, provisions in this bill limit the requirements that all individuals on welfare participate in a job training and education program. The department has filed rules requiring participation in education and training programs. I believe that training and education are absolutely critical to ensuring long-term employability for individuals on welfare. Therefore, we should not be taking actions in this bill to restrict the training and education requirements of the Project Promise program.

I am unable to approve the designated portion of Section 12, subsection 6. This provision would prevent the reversion of unused funds in the foster care home insurance program from reverting to the general fund of the state. Such antireversion language is fiscally unsound and prevents an annual review of the cost effectiveness of the program.

I am unable to approve the designated portion of Section 12, subsection 8. This subsection of the bill continues the decategorization pilot project for foster care and expands it into two additional counties. The decategorization project allows foster care recipients to receive services different from those for which the state now pays. However, the program has been designed to be cost neutral. However, the item vetoed provisions in this bill would allow for a transfer of funds from the state's foster care appropriation to a county's child welfare fund. In addition, provisions in this subsection would require the department to request a supplemental appropriation to pick up additional costs that may be incurred as a result of this program. These provisions violate the budget neutrality principals of the decategorization project by threatening the state's general fund with demands beyond the appropriated funding levels. I have approved an additional $100,000 appropriation to expand this project into two additional counties; but I cannot approve any effort to increase the obligation to the state's general fund beyond that amount.

I am unable to approve the designated portions of Section 23, subsection 2 and subsection 3a; and subsections 5a and b, in their entirety. These provisions in Senate File 541 would authorize the expenditure of an additional $1.3 million in Fiscal Year 1990 to expand the Medicaid program to include rehabilitation services. In addition, these provisions would require that any funds not spent for enhanced mental health, mental retardation, developmental disabilities services be automatically transferred to the mental health and mental retardation fund. It would also prohibit the transfer of any unencumbered funds from the mental health institutes and the hospital-schools to any place but the enhanced services fund.

The Department of Human Services has submitted a waiver request to the federal Department of Health and Human Services to include rehabilitation services in our Medicaid program. That initial request was withdrawn due to concerns that it would be denied and the department is now in the process of modifying the plan. Even with the revisions, we are not assured that the plan will be approved when it is resubmitted. And, it is very likely that should such federal approval be forthcoming, these services would not be available to individuals in Iowa until some time next year. Therefore, it would appear to be unnecessary to set aside $1.3 million this fiscal year for such services.

Instead, I am asking the Department of Human Services to carefully revise its proposed plan to include rehabilitation services in our Medicaid program and to resubmit the plan.

If federal approval is granted, I am willing to work with the department, the General Assembly, and the counties to review ways in which those services can be appropriately funded. Until that time, I cannot approve provisions which prohibit the reversion of those unused funds to the state.

In sum, Senate File 541 provides substantial additional funds to programs to assist the elderly; provide child care to needy families; expand the Medicaid program for those who are most in need of health care in our state; and reform our foster care system. This bill also provides increases in the reimbursement levels for AFDC and human services providers. All those provisions have been signed into law.

However, I have vetoed language which could reduce the effectiveness of our welfare reform program or provide an unnecessary burden on our state's general fund at this time.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1986 to the Constitution of the State of Iowa. All other items in Senate File 541 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, Governor

CHAPTER 319

APPROPRIATIONS AND OTHER PROVISIONS RELATING TO EDUCATIONAL AND CULTURAL PROGRAMS

H.F. 774

AN ACT relating to the funding of, operation of, and appropriation of moneys to agencies, institutions, commissions, departments, and boards responsible for educational and cultural programs of this state, providing for the imposition of a tax, and providing effective dates.

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, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 351,323
..... FTEs 9.0

As a condition, limitation, and qualification of the appropriation in this subsection, one of the full-time equivalent positions employed by the administration division shall be assigned marketing duties relating to the divisions and agencies of the department of cultural affairs.

As a condition, limitation, and qualification of the appropriation in this subsection, the administration division shall expend moneys to cultivate and promote Iowa's major cultural resources by working with the Iowa humanities board to sponsor a major three-day conference and a comprehensive guide to cultural resources for dissemination throughout the state.

2. ARTS DIVISION

For salaries, support, maintenance, miscellaneous purposes, including funds to match federal grants, and for not more than the following full-time equivalent positions:

..... $ 925,280
..... FTEs 12.0

As a condition, limitation, and qualification of the appropriation in this subsection, the arts division shall expend moneys to implement a program for basic arts education, increase the artists-in-school residency program, increase the operational support grants for arts organizations, and provide funds for rural arts organizations. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated in this subsection to be used as matching funds for federal grant moneys administered by the arts division and remaining on June 30, 1990, shall not revert to the general fund of the state, but shall remain available for expenditure by the arts division for those purposes for the fiscal year beginning July 1, 1990.

As a condition, limitation, and qualification of the appropriation in this subsection, not more than ten percent of difference between the moneys appropriated in this subsection and the moneys appropriated in 1988 Iowa Acts, chapter 1284, section 1, subsection 2, shall be expended by the arts division for administrative costs.

3. HISTORICAL DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,455,253
..... FTEs 67.0

As a condition, limitation, and qualification of the appropriation in this subsection, the historical division shall expend moneys to provide moneys for the Italian-American cultural center located in Des Moines and for remedial conservation and preservation of collections of the historical division, including newspapers, and the establishment of a video history library collection.

b. For the payment of interest owed on moneys borrowed from the permanent school fund under section 303.18:

..... $ 94,000

4. LIBRARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,977,406

..... FTEs 40.5

As a condition, limitation, and qualification of the appropriation in this subsection, the library division shall expend moneys for office equipment, to fund a statewide open access program, **for collections development,** and for the interlibrary loan service as recommended in the blue ribbon task force on library cooperation and technology final report. The library division shall not allocate moneys to a local library for collections development, unless the local library is participating in the statewide local access program. The library division shall also expend funds to comply with a federal audit report issued February 23, 1988.

5. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,860,000

..... FTEs 103.0

As a condition, limitation, and qualification of the appropriation in this subsection, the public broadcasting division shall expend moneys on **instructional schedule guide books and teachers' guide materials,** repairs, and deferred maintenance required for safety provisions.

6. TERRACE HILL COMMISSION

For salaries, support, maintenance, miscellaneous purposes, for the operation of Terrace Hill and for conducting tours, and for not more than the following full-time equivalent positions:

..... $ 200,000

..... FTEs 5.25

7. REGIONAL LIBRARY SYSTEM

For state aid:

..... $ 1,539,785

As a condition, limitation, and qualification of the appropriation in this subsection, the regional library system shall expend moneys **to provide access to special collections,** for additional interlibrary loan services, and for additional reference services.

8. IOWA PEACE INSTITUTE

For allocation to the Iowa peace institute established in chapter 38:

..... $ 250,000

As a condition, limitation, and qualification of the appropriation in this subsection, the Iowa peace institute shall expend the moneys appropriated in this subsection for programs which have a direct benefit to the state of Iowa, which have goals and objectives, and for which measurable results have been developed. The Iowa peace institute shall cooperate with public and private institutions of higher education to minimize duplication of programs.

Sec. 2. As a condition, limitation, and qualification of funds appropriated in section 1, subsection 3, of this Act, the historical division shall 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, 1989, and ending June 30, 1990, 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

*Item veto; see message at end of the Act

principal and interest due on moneys loaned to the historical division under section 303.18. Moneys credited under this section are in addition to funds appropriated in section 1, subsection 3, paragraph "b", of this Act.

Sec. 4. 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. 5. Notwithstanding 1986 Iowa Acts, chapter 1246, section 2, 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, 1989, shall not revert to the general fund, but shall remain available for expenditure for the purposes specified until June 30, 1991.

Sec. 6. Notwithstanding section 8.33, moneys appropriated in 1988 Iowa Acts, chapter 1284, section 1, subsection 8, that remain unobligated and unencumbered on June 30, 1989, shall not revert to the general fund of the state, but shall remain available for expenditure for the purpose specified until June 30, 1990.

DIVISION II
COLLEGE AID COMMISSION

Sec. 7. There is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as may be necessary, to be used by the following agency for the purposes designated:

COLLEGE AID COMMISSION

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 302,852

..... FTEs 6.24

As a condition, limitation, and qualification of the appropriation in this section, the college aid commission shall determine the number of Iowa resident students who have demonstrated superior academic achievement either by graduating from high school ranked in the top ten percent of the class academically or by earning composite scores on either the American college testing program examination or the scholastic aptitude test of the college entrance examination board that ranked in the top fifteen percent of the Iowa residents taking the applicable examination at the same time, and determine the number of those students who are attending institutions of higher education in this state. The college aid commission shall report the results of its information to the general assembly meeting in 1990.

As a condition, limitation, and qualification of the moneys appropriated in this section, the college aid commission shall establish a committee to conduct a study to determine whether there is a shortage of trained health care practitioners, particularly in rural areas. The committee shall collect statements from affected professional health care organizations and health care practitioner training and education institutions, review the need for health care practitioners in certain areas of the state, the salary ranges for health care practitioners in those areas, and the impact of shortages of health care practitioners on access to health care in the areas of the state where there are shortages. The committee shall also develop strategies for alleviating the shortage of health care practitioners. The members of the committee shall include representatives from associations which represent the interests of health care practitioners, the Iowa department of public health, the department of human services, and other organizations, associations, or entities concerned about the shortage of health care practitioners. Staff assistance for the committee shall be provided by the Iowa department of public health. The committee shall report the results of the study to the college aid commission and the joint education appropriations subcommittee not later than December 15, 1989.

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*Item veto; see message at end of the Act

2. STUDENT AID PROGRAMS

For **payments for students for the education savings program if an education savings program is enacted by the general assembly, for** the teacher loan payment program in section 261.45, for the occupational therapists loan program in section 261.46, for the nursing loan program if a nursing loan program is enacted by the general assembly, and for the national guard loan program if a national guard loan program is enacted by the general assembly:

..... $ 700,000

As a condition, limitation, and qualification of the appropriation in this subsection, the college aid commission shall develop plans for administering the work for college program established in section 261.88. The college aid commission shall define a methodology for selecting participants, shall identify appropriate employment opportunities, and shall report its plans to the education appropriations subcommittee not later than January 15, 1990.

3. IOWA MINORITY ACADEMIC GRANTS FOR ECONOMIC SUCCESS PROGRAM

For the Iowa minority academic grants for economic success program for grants to independent colleges and universities:

..... $ 50,000

Sec. 8. There is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. UNIVERSITY OF OSTEOPATHIC MEDICINE AND HEALTH SCIENCES

a. For grants to Iowa students attending the university of osteopathic medicine and health sciences under the grant program pursuant to section 261.18:

..... $ 426,000

b. For the university of osteopathic medicine and health sciences for the admission and education of Iowa students in each of the four years of classes in the university of osteopathic medicine and health sciences pursuant to section 261.19:

..... $ 374,000

2. In addition to the requirements of section 261.19, the allocation of funds appropriated by this section is subject to the condition that one-half of the funds appropriated for the fiscal year beginning July 1, 1989, shall not be released until delivery to the legislative fiscal bureau of the June 30, 1989, financial audits, conducted by an independent third party, of the university of osteopathic medicine and health sciences.

Sec. 9. Notwithstanding section 261.85, from moneys appropriated to the college aid commission in section 261.85 for the work-study program, for the fiscal year commencing July 1, 1989, and ending June 30, 1990, the college aid commission shall retain $100,000 for allocation to pilot projects for the Iowa heritage corps created in section 261.81A.

Sec. 10. There is appropriated from the loan reserve account to the college aid commission for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as may be necessary, to be used for the operating costs of the Stafford loan program:

OPERATING COSTS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,515,438
..... FTEs 31.23

DIVISION III
DEPARTMENT OF EDUCATION

Sec. 11. 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, or so much thereof as may be necessary, to be used for the purposes designated:

*Item veto; see message at end of the Act

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,821,426

..... FTEs 126.85

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.

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall expend moneys to provide funds for the employment resources center administered by the first and fifth judicial districts' departments of correctional services to assist clients. The department of education shall assist the first and fifth judicial districts' departments 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 December 15, 1989.

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education, in cooperation with the department of corrections, shall study the feasibility of providing educational programs to residents of institutions of the department of corrections, with consideration given to integration of the programs with programs of the merged area schools. A report containing the recommendations for establishing programs and a funding mechanism shall be presented to the joint education appropriations subcommittee and to the general assembly not later than December 15, 1989.

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall conduct a survey of each school district to determine the curriculum included in the general science courses being offered by the school district in grades nine through twelve and the department shall determine from the survey whether ecological and environmental issues are being included as a part of the curriculum. The department shall report the results of its study, together with recommendations for integrating ecological and environmental issues into the general science curriculum, to the joint education appropriations subcommittee not later than December 15, 1989.

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall develop and establish a conflict resolution program to assist teachers and administrators in the management of disputes between students. The department shall establish at least one pilot project in a district within the state. The department shall notify all districts of the development of the program and make its selection on the basis of interest and ability to implement the program. In developing the conflict resolution program and pilot projects, the department shall consult with the Iowa peace institute office of dispute resolution, representatives of the national association for mediation in education, and other persons and groups with expertise and experience in the area of conflict resolution. The department shall summarize the results of the conflict resolution program and submit the summary, along with any recommendations relating to statewide implementation of conflict resolution programs, in a report to the general assembly by January 1, 1991.

As a condition, limitation, and qualification of the appropriation in this subsection, the department shall expend moneys for an autism specialist who will work with the autism resource team at the child health specialty clinic at the university of Iowa. The autism specialist shall provide ongoing, comprehensive educational and technical services for autistic individuals and their families.

As a condition, limitation, and qualification of the moneys appropriated in this subsection, the department of education shall instruct the area schools to notify the department of economic development that fees paid by the area schools pursuant to section 15.255, and 1989 Iowa Acts, House File 706, section 1, if House File 706 is enacted by the general assembly, for the fiscal year beginning July 1, 1989, shall not be expended during that fiscal year, but shall remain on deposit in the jobs now account within the Iowa plan fund for economic development until the general assembly has considered the results of the study of chapter 280B conducted under section 29 of this Act and takes action to allow the expenditure of the fees.

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall create an evaluation system reporting on educational excellence program phase III activities under chapter 294A. Issues to be addressed in the system shall include, but are not limited to, an analysis of the expenditures of phase III funds including the types of activities and specific additional work assignments for which teachers are receiving supplemental pay, information about the subject areas and educational levels involved in the phase III activities, a description of types of significant staff development efforts being conducted under phase III and the providers of the staff development, a description of the different types of approved performance-based pay plans, descriptive information on teachers receiving phase III funds, and other information the department deems pertinent. A report on the evaluation system and the results of the evaluation of phase III programs for the fiscal year beginning July 1, 1989, shall be submitted to the general assembly by January 1, 1991. The department of education shall disseminate information to all school districts and area education agencies relating to innovative phase III programs. The information shall be provided at no cost to the school districts and the area education agencies.

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall ensure that media services at an area education agency are provided by a separate media services division in the area education agency and the cost of providing media services is paid from moneys provided specifically for media services under the state school foundation formula. The media services division shall be directed by an administrator who has received a degree from an institution of higher education with an emphasis on school library and media services and who reports directly to the area education agency administrator. The media services divisions of the area education agencies shall cooperate with the library services delivery system in this state.

2. SPECIAL PROGRAMS AND PROJECTS

a. For enhancing the preparation, teaching experiences, and induction of educators, and for assisting educators in the use of technology for instructional and administrative purposes: ..... $ 500,000

The department shall expend the moneys appropriated in this paragraph for the following programs:

(1) Provide a plan for a support system for beginning teachers that is a collaborative effort involving local schools, area education agencies, professional associations, and approved teacher preparation programs in institutions of higher education in this state.

(2) Fund a grant program enabling school districts to be actively involved in the student teaching process.

(3) Continue funding 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.

(4) Develop and begin implementation of a program plan for administrative staff development for school corporation administrators. The plan shall include program goals, specific activities for meeting those goals, and an implementation process and delivery system, with consideration given to existing staff development efforts by area education agencies, school districts, institutions of higher education, and any federally funded projects established to develop leadership in educational administration. Incentives for encouraging administrators to participate in the program shall be identified.

Program goals for administrative staff development shall include but not be limited to training in the following areas: Instructional leadership and the management of change, assisting

**Item veto; see message at end of the Act

teachers with the implementation of new teaching models and instructional strategies and the enhancement of the role of teachers in the planning and development of those models and strategies, encouraging and assisting women and minorities to enter educational administration, and improving performance evaluation for instructional personnel.

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 employees of the department in fulfilling the requirements of this subparagraph.

(5) Provide funding for grants for pilot projects under section 256.23.

(6) In consultation with school administrators and teachers, develop plans for the establishment of a data base that would be electronically accessible to school corporations, and determine the information the data base will contain, including statewide school statistical data, school personnel information, information about approved phase III programs, student records, and department of education publications and information.

(7) Fund pilot or demonstration projects that will encourage school administrators and teachers to use electronic technology in classroom instruction and for school administration purposes. The projects may include the use of electronic technology by students for research or informational purposes, the development of personnel accounting systems, maintenance of student records, assistance in identification of at-risk students, use for innovative teaching techniques for at-risk students, and other uses to enhance student learning.

(8) Establish a technology consultant position with duties that include developing and coordinating a statewide technology plan for education, providing assistance to school corporations to develop technology plans, assisting in the development of long-range plans for the use of technology in school classrooms in the future, and coordinating and administering projects provided under subparagraph (7).

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 employees of the department in fulfilling the requirements of this subparagraph.

Notwithstanding section 8.33, moneys appropriated in this paragraph shall not revert to the general fund of the state but shall remain available for expenditure for the purposes specified until June 30, 1991.

b. For development, in conjunction with the university of northern Iowa, of a networking system that translates effective teaching methods through the use of a computer conferencing system to form information exchange networks:

..... $ 90,000

c. To provide leadership and support to early childhood education programs:

..... $ 50,000

..... FTEs 1

As a condition, limitation, and qualification of the appropriation in this paragraph, the early childhood consultant employed by the department under this paragraph shall provide leadership and coordination for community planning models; develop curriculum guides and materials; provide training for area education agency early childhood consultants, teachers, and administrators; and plan program evaluation techniques and reporting systems.

d. For programs and grants for educational technology under section 256.33:

..... $ 150,000

As a condition, limitation, and qualification of moneys appropriated in this paragraph, at least fifty percent of the moneys shall be used for programs for elementary or secondary education, or both.

3. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 916,447

..... FTEs 44.0

4. VOCATIONAL EDUCATION AID

For vocational education aid to secondary schools:

..... $ 3,666,360

Funds appropriated by this subsection shall be used for aid to school districts for development and the conducting 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. YOUTH LEADERSHIP GRANT PROGRAM

For grants to youth leadership programs:

..... $ 30,000

Funds appropriated by this subsection shall be used to emphasize and support youth leadership skills for students participating in Iowa activities and students representing Iowa in regional and national activities.

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 and for not more than the following full-time equivalent positions:

..... $ 3,146,215
..... FTEs 16.0

7. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends a nonpublic school as authorized by section 301.1. The funding is limited to $10 per pupil and shall not exceed the comparable services offered to resident public school pupils:

..... $ 368,413

8. PROFESSIONAL TEACHING PRACTICES COMMISSION

For the use of the commission to carry out chapter 272A, including salaries and support, and for not more than the following full-time equivalent positions:

..... $ 65,962
..... FTEs 1.20

9. IOWA ACADEMY OF SCIENCE

For support and maintenance:

..... $ 50,000

As a condition, limitation, and qualification of the appropriation in this subsection, no more than twenty percent of the funds appropriated in this subsection shall be used for administrative purposes or for publication of the Iowa academy of science journal and the remainder shall be expended for grants for research projects and studies awarded by the Iowa academy of science.

As a condition, limitation, and qualification of the appropriation in this subsection, the Iowa academy of science shall permit all grant recipients to publish the results of the recipients' research projects and studies in the Iowa academy of science journal at no cost to the recipient.

As a condition, limitation, and qualification of the appropriation in this subsection, the Iowa academy of science annually shall submit a report of its activities, including a report of its expenditures, accounting for the moneys expended for administrative purposes and the moneys expended for grants, income from all sources, and the current asset and liability base, for each fiscal year beginning with the fiscal year commencing July 1, 1988, to the legislative fiscal bureau not later than December 15 of the following fiscal year.

10. LITERACY STUDY. The department of education shall solicit gifts and grants from the federal government and private nonprofit foundations to award a contract for a study of the literacy of young adults in Iowa to an independent testing corporation located in this state. The specifications for the study shall be substantially similar to the specifications used for the national assessment of education progress study of the literacy of young adults in the United States conducted by the educational testing service.

11. VOCATIONAL REHABILITATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	2,930,690
	FTEs	314.5

b. For matching funds for programs to enable severely physically or mentally disabled persons to function more independently, including salaries and support and for not more than the following full-time equivalent positions:

	$	17,715
	FTEs	1.5

c. CAREER INFORMATION SYSTEM OF IOWA

For the purpose of providing educational information to students in public and nonpublic schools:

	$	84,000

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall review the effectiveness of the program funded in this subsection and report to the joint education appropriations subcommittee not later than December 15, 1989.

12. MERGED AREA SCHOOLS

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 $73,695,728 to be allocated as follows:

a.	Merged Area I	$	3,377,042
b.	Merged Area II	$	4,270,844
c.	Merged Area III	$	3,969,647
d.	Merged Area IV	$	1,990,251
e.	Merged Area V	$	4,260,615
f.	Merged Area VI	$	4,348,984
g.	Merged Area VII	$	5,930,368
h.	Merged Area IX	$	6,046,022
i.	Merged Area X	$	9,621,155
j.	Merged Area XI	$	9,768,509
k.	Merged Area XII	$	4,445,006
l.	Merged Area XIII	$	4,484,324
m.	Merged Area XIV	$	1,921,503
n.	Merged Area XV	$	5,816,633
o.	Merged Area XVI	$	3,444,825

As a condition, limitation, and qualification of the appropriation in this subsection, the merged area schools shall expend from moneys appropriated in this subsection, a minimum of $1,580,479 for additional salary increases for certificated, nonadministrative faculty members of the merged area schools and $419,521 for additional salary increases for classified and clerical employees of the merged area schools.

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 $828,012 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. 12. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For state financial aid to merged areas the amount of $13,579,598, to be accrued as income and used for expenditures incurred by the area schools during the fiscal year beginning July 1, 1989, and ending June 30, 1990, to be allocated to each area school as follows:

a.	Merged Area I	$	611,887
b.	Merged Area II	$	795,008
c.	Merged Area III	$	739,949
d.	Merged Area IV	$	377,297
e.	Merged Area V	$	745,291
f.	Merged Area VI	$	782,118
g.	Merged Area VII	$	1,105,991
h.	Merged Area IX	$	1,099,495
i.	Merged Area X	$	1,744,567
j.	Merged Area XI	$	1,875,037
k.	Merged Area XII	$	835,261
l.	Merged Area XIII	$	797,531
m.	Merged Area XIV	$	353,975
n.	Merged Area XV	$	1,097,051
o.	Merged Area XVI	$	619,140

2. Funds appropriated by subsection 1 shall be allocated pursuant to this section and paid on or about August 15, 1990.

Sec. 13. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1990, and ending June 30, 1991, to be used for the purposes designated:

1. For general financial aid to merged areas in lieu of property tax replacement payments under section 427A.13, the amount of $354,840, to be accrued as income and used for expenditures incurred by the area schools during the fiscal year beginning July 1, 1989, and ending June 30, 1990, to be allocated to each area as follows:

a.	Merged Area I	$	27,922
b.	Merged Area II	$	21,671
c.	Merged Area III	$	14,525
d.	Merged Area IV	$	9,924
e.	Merged Area V	$	25,732
f.	Merged Area VI	$	14,792
g.	Merged Area VII	$	24,807
h.	Merged Area IX	$	29,615
i.	Merged Area X	$	41,649
j.	Merged Area XI	$	61,056
k.	Merged Area XII	$	19,800
l.	Merged Area XIII	$	17,559

m. Merged Area XIV ..... $ 8,925
n. Merged Area XV ..... $ 23,582
o. Merged Area XVI ..... $ 13,281

2. Funds appropriated in subsection 1 shall be allocated pursuant to this section and paid on or about August 15, 1990.

Sec. 14. Moneys allocated to area schools under section 11, subsections 12 and 13, of this Act, for expenditures incurred during the fiscal year beginning July 1, 1989, and ending June 30, 1990, 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 12 and 13 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. 15. Notwithstanding 1988 Iowa Acts, chapter 1284, section 34, the department of education is directed to reduce the total of the moneys appropriated in 1988 Iowa Acts, chapter 1284, section 34, subsections 1 and 2, by $119,312 and to adjust the amounts allocated the merged areas in which there was a change in the assessed valuation of taxable property in the merged areas from January 1, 1986, to January 1, 1987, accordingly.

Sec. 16. 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, 1989, and ending June 30, 1990, the following amount, or so much thereof as may be necessary to be used for the purpose designated:

For the educational excellence program:

..... $ 92,007,985

Sec. 17. Notwithstanding the allocation of phase III moneys under section 294A.14, for the fiscal year beginning July 1, 1989, prior to the allocation to school districts and area education agencies, $50,000 of the moneys appropriated for phase III shall be retained by the department of education to be used to develop the phase III evaluation and reporting system required under section 11, subsection 1, of this Act.

Sec. 18. 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 amount, or so much thereof as may be necessary, to be used for child development grants under 1988 Iowa Acts, chapter 1130:

..... $ 1,175,700

Section 256A.3, subsection 6, relating to funds appropriated for child development purposes applies to the moneys appropriated in this section.

As a condition, limitation, and qualification of the appropriation in this section, the funds shall be used to renew grants awarded under this program during the fiscal year commencing July 1, 1988. Grants shall be awarded not later than January 1, 1990.

DIVISION IV
STATE BOARD OF REGENTS

Sec. 19. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. OFFICE OF STATE BOARD OF REGENTS

a. For salaries, support, maintenance, miscellaneous purposes, during the fiscal year beginning July 1, 1989, and ending June 30, 1990, but not for expenditures for relocation or rental of office space at a location removed from the capitol complex, and for not more than the following full-time equivalent positions:

..... $ 1,050,546
..... FTEs 19.63

As a condition, limitation, and qualification of funds appropriated in this paragraph, the state board of regents shall establish 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.

As a condition, limitation, and qualification of funds appropriated in this paragraph, the state board of regents shall direct its institutions of higher education to collaborate in categorizing research concerning this state's capabilities in reducing global warming and reducing ozone depletion and to make recommendations to the joint appropriations subcommittee on education no later than December 15, 1989, outlining future collaborative research efforts that the institutions can conduct for these purposes.

As a condition, limitation, and qualification of the funds appropriated in this paragraph, the state board of regents shall prepare the regulatory flexibility analysis required in section 17A.31 for rules proposed or adopted under chapter 23A.

The office of the state board of regents shall update the study that was initiated in 1988 of 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 solicit input for the study from the state student association composed of students from the three institutions. Each institution shall develop alternatives for providing assistance for child care and present a report listing those alternatives to the general assembly not later than December 15, 1989. Each institution shall provide one or more of those alternatives for assistance for child care no later than the regular fall semester in 1990.

**As a condition, limitation, and qualification of the funds appropriated in this paragraph, the state board of regents shall not take action on requests for proposals, accept bids, or expend funds for the acquisition of a financial information system without the approval of the joint education appropriations subcommittee. The board shall provide the results of the request for proposal study, being conducted for the board, relating to the acquisition of a financial information system, to the joint education appropriations subcommittee and the legislative fiscal bureau. The board shall provide to the joint education appropriations subcommittee and the legislative fiscal bureau a comparison as to the compatibility with the Iowa financial accounting system, and the advantages and disadvantages of each bid for a financial information system for the board.*

As a condition, limitation, and qualification of the appropriation in this subsection, the state board of regents shall prepare and submit budgets for the fiscal year beginning July 1, 1990, for the Iowa school for the deaf; the Iowa braille and sight-saving school; the university of Iowa hospital-school; the university of Iowa hygienic laboratory; Iowa state university cooperative extension service; and the laboratory school at the university of northern Iowa using a zero-based budget procedure. The state board of regents shall submit no fewer than fifteen separate decision packages that will bring the budget for a department or program up to the level of funding provided for the fiscal year beginning July 1, 1989. Each decision package shall be listed in priority order and shall include the purpose or objective of the department or program; a description of actions, costs, and benefits; performance measures; and alternative means of accomplishing the objectives. The department of management and the legislative fiscal bureau shall jointly establish forms, procedures, and the degree of detail to be used for the decision packages.

*As a condition, limitation, and qualification of the moneys appropriated in this paragraph, the state board of regents shall not use reimbursements from the institutions under the control of the state board of regents for funding the office of the state board of regents.**

*Item veto; see message at end of the Act

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 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:

..... $ 18,946,283

c. For funds for assisting a nonprofit corporation to create a tristate graduate center under section 262.9, subsection 20:

..... $ 40,000

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory

(1) For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 149,732,881

..... FTEs 4,345.69

From moneys appropriated in this subparagraph, $900,000 shall be used to improve undergraduate education at the state university of Iowa.

As a condition, limitation, and qualification of moneys appropriated in this subparagraph, from moneys available to the state university of Iowa, $550,000 shall be expended for teaching excellence awards to teaching faculty members and teaching assistants.

Of the $550,000 available for teaching excellence awards, $50,000 shall be awarded to faculty members and teaching assistants who have been recognized for exceptional teaching. An exceptional teaching recognition award is for a one-year period and is in addition to the faculty member or teaching assistant's salary. Not later than December 15, 1989, the state board of regents shall report the names of recipients of teaching excellence awards and the amounts of the awards granted to the joint education appropriations subcommittee and to the legislative fiscal bureau.

(2) Agricultural health and safety pilot programs:

..... FTEs 1.28

b. Faculty salary increases

For increases in faculty salaries for the fiscal year beginning July 1, 1989, and ending June 30, 1990*, *that are in addition to the total faculty salaries paid during the fiscal year beginning July 1, 1988**:

..... $ 3,311,000

If the receipts from tuition, student fees and charges and institutional income at the institution for the fiscal year are less than or exceed the receipts estimated by the institution, the institution may request that the moneys appropriated in this paragraph be adjusted by the joint education appropriations committee and the general assembly meeting in 1990.

c. Minority and women educators enhancement program

From the moneys appropriated in paragraph "a", $80,000 shall be used for implementing the minority and women educators enhancement program.

Notwithstanding section 8.33, as a condition, limitation, and qualification of the appropriation in this paragraph, unobligated and unencumbered funds from the appropriation remaining on June 30, 1990, shall not revert to the general fund of the state but shall remain available for expenditure during the fiscal year beginning July 1, 1990, for the same purpose or for other minority recruitment programs.

d. College-bound voucher program

From the moneys appropriated in paragraph "a", $110,000 shall be used for implementing the college-bound voucher program.

e. Iowa minority academic grants for economic success program

From the moneys appropriated in paragraph "a", $200,000 shall be used for the Iowa minority academic grants for economic success program.

It is the intent of the general assembly that moneys will be appropriated for the program

*Item veto; see message at end of the Act

for the fiscal year beginning July 1, 1990, in an amount equal to two times the amount specified in this paragraph.

f. Student aid increases

For increases in general student financial aid for the fiscal year beginning July 1, 1989, and ending June 30, 1990:

..... $ 798,000

g. University hospitals

(1) For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions for medical and surgical treatment of indigent patients as provided in chapter 255:

..... $ 26,827,131
..... FTEs 5,180.64

(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, and for not more than the following full-time equivalent positions:

..... $ 1,601,805
..... FTEs 175.42

(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, and for not more than the following full-time equivalent positions:

..... $ 362,242
..... FTEs 12.61

h. As a condition, limitation, and qualification of the appropriation made in paragraph "g", subparagraph (1), the county quotas for indigent patients for the fiscal year commencing July 1, 1989, shall not be lower than the county quotas for the fiscal year commencing July 1, 1988. 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. Transportation shall be provided at no charge to a patient who is certified for medical assistance under chapter 249A.

i. As a condition, limitation, and qualification of the appropriation made in paragraph "g", subparagraph (1), funds appropriated in that subparagraph shall not be allocated to the university hospitals until the superintendent has filed with the department of revenue and finance 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.

j. As a condition, limitation, and qualification of the appropriation made in paragraph "g", 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.

k. Psychiatric hospital

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions and for the care, treatment, and maintenance of committed and voluntary public patients:

..... $ 6,271,551
..... FTEs 282.92

l. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,681,766
..... FTEs 108.86

m. Hospital-school

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,859,012
..... FTEs 186.9

n. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,701,938
..... FTEs 66.1

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 120,656,526
..... FTEs 3,708.0

From moneys appropriated in this paragraph, $200,000 shall be used to improve undergraduate education at Iowa state university of science and technology.

As a condition, limitation, and qualification of moneys appropriated in this paragraph, from moneys available to Iowa state university, $550,000 shall be expended for teaching excellence awards to teaching faculty members and teaching assistants.

Of the $550,000 available for teaching excellence awards, $50,000 shall be awarded to faculty members and teaching assistants who have been recognized for exceptional teaching. An exceptional teaching recognition award is for a one-year period and is in addition to the faculty member or teaching assistant's salary. Not later than December 15, 1989, the state board of regents shall report the names of recipients of teaching excellence awards and the amounts of the awards granted to the joint education appropriations subcommittee and to the legislative fiscal bureau.

b. Faculty salary increases

For increases in faculty salaries for the fiscal year beginning July 1, 1989, and ending June 30, 1990*, *that are in addition to the total faculty salaries paid during the fiscal year beginning July 1, 1988**:

..... $ 3,950,000

If the receipts from tuition, student fees and charges and institutional income at the institution for the fiscal year are less than or exceed the receipts estimated by the institution, the institution may request that the moneys appropriated in this paragraph be adjusted by the joint education appropriations committee and the general assembly meeting in 1990.

c. Minority and women educators enhancement program

From the moneys appropriated in paragraph "a", $80,000 shall be used for implementing the minority and women educators enhancement program.

Notwithstanding section 8.33, as a condition, limitation, and qualification of the appropriation in this paragraph, unobligated and unencumbered funds from the appropriation

*Item veto; see message at end of the Act

remaining on June 30, 1990, shall not revert to the general fund of the state but shall remain available for expenditure during the fiscal year beginning July 1, 1990, for the same purpose or for other minority recruitment programs.

d. College-bound voucher program

From the moneys appropriated in paragraph "a", $110,000 shall be used for implementing the college-bound voucher program.

e. Iowa minority academic grants for economic success program

From the moneys appropriated in paragraph "a", $200,000 shall be used for the Iowa minority academic grants for economic success program.

It is the intent of the general assembly that moneys will be appropriated for the program for the fiscal year beginning July 1, 1990, in an amount equal to two times the amount specified in this paragraph.

f. Student aid increases

For increases in general student financial aid for the fiscal year beginning July 1, 1989, and ending June 30, 1990:

..... $ 547,000

g. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 16,073,598
..... FTEs 419.0

h. Leopold center

For agricultural research grants awarded under section 266.39B:

..... $ 600,000

i. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 14,485,806
..... FTEs 480.0

j. Fire service education, including salaries and support, and for not more than the following full-time equivalent positions:

..... $ 410,000
..... FTEs 11.0

4. UNIVERSITY OF NORTHERN IOWA

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 48,765,750
..... FTEs 1,347.25

From moneys in this paragraph, $600,000 shall be used to improve undergraduate education at the university of northern Iowa.

As a condition, limitation, and qualification of moneys appropriated in this paragraph, from moneys available to the university of northern Iowa, $275,000 shall be expended for teaching excellence awards to teaching faculty members and teaching assistants.

Teaching excellence awards shall be granted to faculty members and teaching assistants for excellence in the quality of classroom instruction. An award shall be built into the faculty member's or teaching assistant's base salary. Moneys appropriated for teaching excellence awards shall not result in a negative impact upon a collective bargaining agreement between an employee organization and the university. Not later than December 15, 1989, the state board of regents shall report the names of recipients of teaching excellence awards and the amounts of the awards granted to the joint education appropriations subcommittee and to the legislative fiscal bureau.

b. Faculty salary increases

For increases in faculty salaries for the fiscal year beginning July 1, 1989, and ending June 30, 1990*, *that are in addition to the total faculty salaries paid during the fiscal year beginning July 1, 1988**:

..... $ 617,000

If the receipts from tuition, student fees and charges and institutional income at the institution for the fiscal year are less than or exceed the receipts estimated by the institution, the institution may request that the moneys appropriated in this paragraph be adjusted by the joint education appropriations committee and the general assembly meeting in 1990.

c. Minority and women educators enhancement program

From the moneys appropriated in paragraph "a", $40,000 shall be used for implementing the minority and women educators enhancement program.

Notwithstanding section 8.33, as a condition, limitation, and qualification of the appropriation in this paragraph, unobligated and unencumbered funds from the appropriation remaining on June 30, 1990, shall not revert to the general fund of the state but shall remain available for expenditure during the fiscal year beginning July 1, 1990, for the same purpose or for other minority recruitment programs.

d. College-bound voucher program

From the moneys appropriated in paragraph "a", $80,000 shall be used for implementing the college-bound voucher program.

e. Iowa minority academic grants for economic success program

From the moneys appropriated in paragraph "a", $100,000 shall be used for the Iowa minority academic grants for economic success program.

It is the intent of the general assembly that moneys will be appropriated for the program for the fiscal year beginning July 1, 1990, in an amount equal to two times the amount specified in this paragraph.

f. Student aid increases

For increases in general student financial aid for the fiscal year beginning July 1, 1989, and ending June 30, 1990:

..... $ 214,000

g. For the center for early developmental education:

..... $ 400,000

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,375,212

..... FTEs 133.27

As a condition, qualification, and limitation of the appropriation in this subsection, the state school for the deaf shall conduct a planning study for construction of a new recreation facility for the state school for the deaf. The recreation facility shall be located in Council Bluffs.

6. IOWA BRAILLE AND SIGHT-SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,976,814

..... FTEs 92.45

Sec. 20. Moneys appropriated in section 19, subsection 2, paragraph "a", subparagraph (1); section 19, subsection 3, paragraph "a"; and section 19, subsection 4, paragraph "a", and designated for the minority and women educators enhancement program under paragraph "c" of those subsections shall be used solely for the purposes for which they have been designated and not for general university purposes.

Sec. 21. Moneys appropriated in section 19, subsection 2, paragraph "a", subparagraph (1); section 19, subsection 3, paragraph "a"; and section 19, subsection 4, paragraph "a", and designated for the Iowa minority academic grants for economic success program under paragraph

*Item veto; see message at end of the Act

"e" of those subsections shall be used solely for the purposes for which they have been designated and not for general university purposes.

**Sec. 22. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 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 library automation at the university of Iowa:

..... $ *400,000*

2. For library automation at Iowa state university:

..... $ *325,000*

3. For library automation at the university of northern Iowa:

..... $ *325,000*

*4. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated in this section remaining on June 30, 1989, shall not revert to the general fund of the state, but shall remain available for expenditure until June 30, 1990.**

Sec. 23. Moneys appropriated to each university in section 22 of this Act shall be added to the moneys appropriated in section 19, subsection 2, paragraph "a", subsection 3, paragraph "a", and subsection 4, paragraph "a", for the purposes of determining each university's general university budget base for appropriations for the fiscal year beginning July 1, 1990.

Sec. 24. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated in 1988 Iowa Acts, chapter 1284, section 52, subsection 1, paragraph "b", shall not revert to the general fund of the state on June 30, 1989, but shall be available for expenditure for the purposes listed in section 19, subsection 1, paragraph "b", of this Act during the fiscal year beginning July 1, 1989, and ending June 30, 1990.

Sec. 25. As a condition, limitation, and qualification of the appropriations made in section 19, subsection 2, paragraph "a", subparagraph (1); section 19, subsection 3, paragraph "a"; and section 19, subsection 4, paragraph "a", 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. 26. As a condition, limitation, and qualification of the appropriations made to the state board of regents and regents' institutions under this Act, for the fiscal years beginning July 1, 1989, and July 1, 1990, 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. 27. It is the intent of the general assembly to appropriate $4,000,000 to the university of Iowa driving simulation center for the fiscal period commencing July 1, 1990, and ending June 30, 1994, if funds from federal and private sources are available for expenditure by the center for that time period and appropriate documentation of those funding sources is provided to and approved by the general assembly.

Sec. 28. The legislative fiscal bureau, with the cooperation of the state board of regents, shall examine the cost of retiring the self-liquidating bonds that have been issued for the construction of utilities at the university of Iowa and Iowa state university of science and technology and to study the impact that the payments to retire the bonds have had and will have on the moneys available for educational purposes at each of the two institutions of higher education. The legislative fiscal bureau shall report the results of the study to the joint appropriations subcommittee on education not later than December 15, 1989.

Sec. 29. The legislative council is requested to establish an interim study committee to conduct a comprehensive study of the Iowa industrial new jobs training Act in chapter 280B and the manner in which projects have been approved and program services provided by the

*Item veto; see message at end of the Act

merged area schools. The study shall be conducted by the legislative fiscal committee and the co-chairpersons and ranking members of the joint education appropriations subcommittee.

The study shall include but not be limited to analyses of the appropriateness of projects, purposes of the expenditures for program services and for administrative costs, adequacy of recordkeeping, defaults on payments by type of employer and actions taken by area schools to minimize defaults, and numbers of jobs actually created.

The study committee shall develop recommendations to be submitted to the legislative council and the general assembly meeting in 1990.

Sec. 30. Notwithstanding section 442.10, the amounts deducted from the portions of school district budgets that fund special education support services in an area education agency under section 442.10, for each of the fiscal years beginning July 1, 1988, and July 1, 1989, in an amount not exceeding $500,000 for each fiscal year, shall not be deposited in the general fund of the state, but shall be paid to area education agencies that have fewer than three and one-half public school pupils per square mile, to be expended for special education support services of the area education agencies for the fiscal years beginning July 1, 1989, and July 1, 1990. If the total amount deducted from the area education agencies under section 442.10 for the school year beginning July 1, 1988, or July 1, 1989, to be deposited in the general fund of the state, is less than five hundred thousand dollars, there is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1989, and for the fiscal year beginning July 1, 1990, the difference between the total amount deducted for the previous fiscal year that would otherwise have been deposited in the general fund of the state, and five hundred thousand dollars, to be paid to area education agencies that have fewer than three and one-half public school pupils per square mile.

DIVISION V

Sec. 31. Section 18.133, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 3. "Public agency" means a state agency, a school corporation, a city library, a regional library as provided in chapter 303B, and a county library as provided in chapter 358B.

NEW SUBSECTION. 4. "Private agency" means accredited nonpublic schools and nonprofit institutions of higher education eligible for tuition grants.

Sec. 32. Section 18.134, Code 1989, is amended to read as follows:

18.134 ~~LIMITATION OF COMMUNICATIONS~~ POWERS – FACILITIES – LEASES.

1. The department of general services may purchase, lease-purchase, lease, and improve property, equipment, and services for telecommunications for public and private agencies, including the broadcast and narrowcast systems, and may dispose of property and equipment when not necessary for its purposes. ~~The~~ However, the department of general services shall not provide or resell communications services to entities other than ~~state~~ public and private agencies. The public or private agency shall not provide communication services of the network to another entity at a cost greater than that charged to the agency pursuant to section 18.136, subsections 10 and 11. The department may arrange for joint use of available services and facilities, and may enter into leases and agreements with private and public agencies with respect to a state communications system, and public agencies are authorized to enter into leases and agreements with respect to the system for their use and operation. Rentals and other amounts due under the agreements or leases entered into pursuant to this section by a state agency are payable from funds annually appropriated by the general assembly or from other funds legally available. Other public agencies may pay the rental costs and other amounts due under an agreement or lease from their annual budgeted funds or other funds legally available or to become available. This section comprises a complete and independent authorization and procedure for a public agency, with the approval of the department, to enter into a lease or agreement and related security enhancement arrangements and this section is not a qualification of any other powers which a public agency may possess and the authorizations and powers granted under this section are not subject to the terms, requirements, or limitations of any

*Item veto; see message at end of the Act

other provisions of law. All moneys received by the department from agreements and leases entered into pursuant to this section with private and public agencies shall be deposited in the state communications network fund.

It is the intent of the general assembly that rental and other costs due under agreements and leases entered into pursuant to this section by state agencies be replaced by supplemental appropriations to the state agencies.

2. A political subdivision receiving communications services from the state as of April 1, 1986, may continue to do so but communications services shall not be provided or resold to additional political subdivisions other than a school corporation, a city library, a regional library as provided in chapter 303B, and a county library as provided in chapter 358B. The rates charged to the political subdivision shall be the same as the rates charged to state agencies.

Sec. 33. NEW SECTION. 18.136 STATE COMMUNICATIONS NETWORK.

1. Moneys in the state communications network fund are appropriated to the Iowa public broadcasting board for purposes of providing financing for the procurement, operation, and maintenance of a state communications network with sufficient capacity to serve the video, data, and voice requirements of state agencies and the educational telecommunications system. The state communications network consists of Part I, Part II, and Part III of the system.

2. For purposes of this section, unless the context otherwise requires:

a. "Part I of the system" means the communications connections between central switching and the regional switching centers for the remainder of the network.

b. "Part II of the system" means the communications connections between the regional switching centers and the secondary switching centers.

c. "Part III of the system" means the communications connection between the secondary switching centers and the agencies defined in section 18.133, subsections 3 and 4.

3. The financing for the procurement costs for the entirety of Part I of the system, and the video, data, and voice capacity for state agencies for Part II and Part III of the system, shall be provided by the state. The financing for the procurement costs for Part II of the systems shall be provided eighty percent from the state and twenty percent from the area schools for the areas in which Part II of the system is located. The basis for the state match is eighty percent of a single interactive video and interactive audio for Parts I and II of the system, and such data and voice capacity as is necessary. The financing for the procurement and maintenance costs for Part III of the systems shall be provided eighty percent from the state and twenty percent from the local school boards of the areas which receive transmissions from the system. The local school boards may meet all or part of the match requirements of Part III of the system through a cooperative arrangement with area schools. The basis for the state match is eighty percent of a single interactive audio and one-way video for Part III of the system, and such data and voice capacity as is necessary. The local school boards and area schools may meet the match requirements for Part II and Part III of the system from funds they have already spent for their systems, from funds available in the school budget, or from funds received from other nonstate sources. In the case of existing systems, in order to upgrade facilities to the specifications of the state communications network, the local school boards and area schools, in lieu of a cash match, may meet the match requirements from funds they have already spent for their systems provided that the state match does not exceed the lesser of eighty percent of the total cost of the upgraded system or eighty percent of the replacement cost of the system. The communications equipment used as a match shall not subsequently be used as a match by another educational entity or for another part of the system. A local school board may request the school budget review committee to adjust the allowable growth for the school district so that the resulting increase in budget could be used for the match. A local school board may also elect not to become part of the system. Such election shall be made on an annual basis. State matching funds shall not be provided for Part III of the system until Part I and Part II of the system have been completed.

4. The department of general services shall develop the requests for proposals that are needed for a state communications network with sufficient capacity to serve the video, data, and voice requirements of state agencies and the educational telecommunications applications required

by the Iowa public broadcasting board. The department shall develop a request for proposals for each of the systems that will make up the network. The department may develop a request for proposals for each definitive component of Part I, Part II, and Part III of the system or the department may provide in the request for proposals for each such system that separate contracts may be entered into for each definitive component covered by the request for proposals. The requests for proposals may be for the purchase, lease-purchase, or lease of the component parts of the system, may require maintenance costs to be identified, and the resulting contract may provide for maintenance for parts of the system. The master contract may provide for electronic classrooms, satellite equipment, receiving equipment, studio and production equipment, and other associated equipment as required.

5. Prior to the awarding of a contract under this section, the department shall notify the legislative council and the department of management of the department's intent to award a contract and of the cost to the state. The department of management and the legislative council shall determine if the anticipated financial resources of the state are adequate to fund the expenditure during the fiscal years covered by the contract, and if so, the department of management shall certify the determination to the department. Upon certification, the department may enter into the contract.

6. The department of general services shall be responsible for the network system design and shall be responsible for the implementation of each component of the network as it is incorporated into the network system. The final design selected shall optimize the routing for all users in order to assure maximum utilization by all agencies of the state. Efficiencies achieved in the implementation of the network shall be used to fund further implementation and enhancement of the network, and shall be considered part of the operational cost of the network. The department shall be responsible for all management, operations, control switching, diagnostics, and maintenance functions of Part I and Part II of the system operations, except as designated in subsection 7. The performance of these duties are intended to provide optimal utilization of the facilities, and the assurance that future growth requirements will be provided for, and that sufficient network capacity will be available to meet the needs of all users. The telecommunications information management council, created by executive order of the governor, shall provide general oversight for these functions.

7. The Iowa public broadcasting board retains sole authority over the educational telecommunications applications of Part I of the system, and its authority shall include management and operational control, programming, budget, personnel, scheduling, and program switching of educational material carried by Part I of the system. The Iowa public broadcasting board, through its narrowcast system advisory committee, retains coordination authority over the educational telecommunications applications of Part II and Part III of the system. Area schools are responsible for scheduling and switching of educational materials carried by Part II and Part III of the system within their respective areas. Such responsibility may be accomplished by a chapter 28E agreement with the department of general services.

8. The procurement and maintenance of electronic equipment including, but not limited to, master receiver antenna systems, studio and production equipment, and broadcast system components shall be provided for under department of general services' contracts. The Iowa public broadcasting board and other educational entities within the state have the option to use their existing or replacement resources and agreements in the operation and maintenance of these systems.

9. In addition to the other evaluation criteria specified in the request for proposals issued pursuant to this section, the department of general services, in evaluating proposals, shall base up to two percent of the total possible points on the public benefit that can be derived from a given proposal due to the increased private telecommunications capacity available to Iowa citizens located in rural Iowa. For purposes of this subsection, an area of the state is considered rural if it is not part of a federally designated standard metropolitan statistical area.

10. The fees charged for use of the network shall be based on the ongoing operational costs of the network only.

11. The Iowa public broadcasting board, in consultation with its narrowcast system advisory committee, shall determine the fee to be charged per course or credit hour by the originating institution, and the fees shall be substantially the same for comparable courses.

12. Access to the network shall be offered on an equal basis to public and private agencies under subsection 7 if the private agency contributes an amount toward the match requirement comparable to its share of use for the part of the system in which it participates.

13. Notwithstanding chapter 476, the provisions of chapter 476 shall not apply to a public utility in furnishing a telecommunications service or facility to the department of general services for the state communications network.

Sec. 34. NEW SECTION. 18.137 STATE COMMUNICATIONS NETWORK FUND.

There is created in the office of the treasurer of state a temporary fund to be known as the state communications network fund. There is appropriated, contingent upon the certification from the department of management of financial resources adequate to fund the expenditure, to the state communications network fund for each fiscal year of the fiscal period beginning July 1, 1989, and ending June 30, 1994, the sum of ten million dollars from funds in the general fund of the state not otherwise appropriated. Any moneys remaining in the fund on June 30 of a fiscal year, of moneys appropriated from the general fund of the state for that fiscal year, shall revert to the general fund of the state, except that those funds needed to provide the state matching funds pursuant to section 18.136 shall not revert, notwithstanding section 8.33. There shall also be deposited into the state communications network fund proceeds from bonds issued for purposes of projects authorized pursuant to section 18.136, matching funds received from the area schools and the local school boards, funds received from leases pursuant to section 18.134, and other moneys by law credited to or designated by a person for deposit into the fund.

The Iowa public broadcasting board shall use the net increase in the federal match awarded to the Iowa public broadcasting board as a result of this appropriation in order to meet the needs of the educational telecommunications system. These funds shall be deposited in a separate account within the state communications network fund, and shall be administered by the Iowa public broadcasting board for purposes of the fund.

**Sec. 35. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:*

For initial implementation stages of the network and for not more than four full-time equivalent positions for the purpose of assisting in the request for proposal:

..... *$ 250,000**

Sec. 36. Section 38.5, Code 1989, is amended to read as follows:

38.5 ~~GIFTS — GRANTS~~ FUNDING.

The institute may accept grants, gifts, and bequests, including but not limited to appropriations, federal funds, and other funding available for carrying out the purposes of the institute. The institute is a department for purposes of chapter 8.

Sec. 37. NEW SECTION. 74.9 PAYMENT IN CASE OF DEFAULT.

In the event a school corporation which has issued anticipatory warrants fails to pay principal or interest of its anticipatory warrants when due, upon certification by the trustee or the paying agent designated pursuant to section 76.10 to the director of the department of revenue and finance, the director of the department of revenue and finance shall withhold and directly apply, from any state appropriation to which the school corporation is entitled, so much as is certified to the trustee or the paying agent to the payment of the principal and interest on the anticipatory warrants of the school corporation then due. The obligation of the director of revenue and finance to withhold and directly apply moneys from any state appropriation to which the school corporation is entitled does not create any moral or legal obligations of the state to pay, when due, the principal and interest on the anticipatory warrants of a school corporation. All appropriations for school corporations shall be subject to the provisions of this section.

*Item veto; see message at end of the Act

Sec. 38. Section 255.24, unnumbered paragraph 2, Code 1989, is amended to read as follows:

All purchases of materials, appliances, instruments and supplies by ~~said~~ the university hospital, in cases where more than one hundred dollars is to be expended, and where the prices of the commodity or commodities to be purchased are subject to competition, shall be upon open competitive quotations, and all contracts therefor shall be subject to the provisions of chapter 72. However, purchases may be made through a hospital group purchasing organization provided that university hospitals is a member of the organization and the group purchasing organization selects the items to be offered to members through a competitive bidding process.

Sec. 39. Section 256.11, subsection 1, Code 1989, is amended to read as follows:

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~~ Except as otherwise provided in this subsection, 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.

Sec. 40. Section 256.11, subsection 1, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the board of directors of a school district contracts for the operation of a prekindergarten program, the program shall be under the oversight of an appropriately certificated teacher. If the program contracted with was in existence on the effective date of this Act, oversight of the program shall be provided by the district. If the program contracted with was not in existence on the effective date of this Act, the director of the program shall be a certificated teacher and the director shall provide program oversight. Any director of a program contracted with by a school district under this section who is not a certificated teacher is required to register with the department of education.

Sec. 41. NEW SECTION. 256.33 EDUCATIONAL TECHNOLOGY ASSISTANCE.

The department shall consort with school districts, area education agencies, merged area schools, and colleges and universities to provide assistance to them in the use of educational technology for instruction purposes. The department shall consult with the advisory committee on the operation of the narrowcast system, established in section 303.77, the advisory committee on telecommunications, established in section 256.7, subsection 9, and other users of educational technology on the development and operation of programs under this section.

If moneys are appropriated by the general assembly for a fiscal year for purposes provided in this section, the programs funded by the department may include but not be limited to:

1. The development and delivery of in-service training, including summer institutes and workshops for individuals employed by elementary, secondary, and higher education corporations and institutions who are using educational technology for instructional purposes. The in-service programs shall include the use of hardware as well as effective methods of delivery and maintenance of a learning environment.

2. Research projects on ways to improve instruction at all educational levels using educational technology.

3. Demonstration projects which model effective uses of educational technology.

4. Establishment of a clearinghouse for information and research concerning practices relating to and uses of educational technology.

5. Development of curricula that could be used by approved teacher preparation institutions to prepare teachers to use educational technology in the classroom.

6. Pursuit of additional funding from public and private sources for the functions listed in this section.

Priority shall be given to programs integrating telecommunications into the classroom. That department may award grants to school corporations and higher education institutions to perform the functions listed in this section.

Sec. 42. Section 261.9, subsection 5, paragraph c, Code 1989, is amended by striking the paragraph.

Sec. 43. Section 261.12, subsection 1, paragraph b, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

b. For the fiscal year beginning July 1, 1989, and for each following fiscal year, two thousand five hundred dollars.

Sec. 44. Section 261.17, subsection 3, Code 1989, is amended to read as follows:

3. The amount of a vocational-technical tuition grant shall not exceed the lesser of ~~four~~ five hundred ~~fifty~~ dollars per year or the amount of the student's established financial need.

Sec. 45. Section 261.18, Code 1989, is amended to read as follows:

261.18 ~~SUBVENTION~~ OSTEOPATHIC GRANT PROGRAM.

1. There is established ~~a subvention~~ an osteopathic grant program for resident students who are enrolled in the university of osteopathic medicine and health sciences of Des Moines, Iowa. The ~~subvention~~ osteopathic grant program shall be administered by the commission in the manner provided in this section ~~and section 261.19~~. The commission shall initiate an affirmative action program to ensure equal opportunity for participation by women, men, and minority students in the program provided for in this section ~~and section 261.19~~.

2. In making a final determination of who is a resident of Iowa, the commission shall adopt rules for the academic year commencing in 1976 and for each academic year thereafter consistent with those followed for determining Iowa resident students in section 261.15 and the rules shall be subject to ~~the provisions of~~ chapter 17A.

3. Of the funds appropriated for the ~~subvention~~ osteopathic grant program, the commission shall provide a three thousand ~~dollars of subvention~~ dollar grant to ~~the university of osteopathic medicine and health sciences for~~ each Iowa resident student, ~~to be credited against the tuition charged for the Iowa student by the university of osteopathic medicine and health sciences, and the remaining funds shall be allocated to the university of osteopathic medicine and health sciences~~ enrolled in the university of osteopathic medicine and health sciences. If insufficient funds are available to pay the entire amount of the grant to each eligible student, the amount of the grant shall be prorated.

Sec. 46. Section 261.19, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

261.19 PAYMENT OF SUBVENTION.

A subvention program for the university of osteopathic medicine and health sciences is established. The subvention program shall provide funds to the university for Iowa resident students. The total amount of moneys appropriated to the college aid commission for the subvention program shall be paid to the university if the university certifies to the college aid commission not later than September 15 and January 15 of each fiscal year that at least twenty percent of the total students enrolled are Iowa residents. The certification shall contain the number, names, and addresses of all students enrolled, by class, and shall indicate which students are resident students.

The college aid commission shall determine a subvention amount per resident student by dividing the funds appropriated for this section by a number equal to the total of twenty percent of the total students enrolled. If fewer than twenty percent of the total number of students enrolled are Iowa residents, the college aid commission shall deduct from the funds appropriated an amount equal to the subvention amount per resident student multiplied by the number of students required to equal twenty percent of the total students enrolled.

The commission shall compute the amount of moneys to be paid to the university and transmit the funds to the university of osteopathic medicine and health sciences within ten days following receipt of the certification.

Sec. 47. Section 261.25, subsections 1, 2, and 3, Code 1989, are 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-eight~~ thirty million ~~eight~~ six hundred ~~ninety-four~~ eighty-two thousand ~~seven~~ five hundred ~~sixty-five~~ five dollars for tuition grants.

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

3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~six~~ seven hundred ~~seventy-two~~ fifty thousand ~~four hundred seventy-two~~ dollars for vocational-technical tuition grants.

Sec. 48. Section 261.25, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. For the fiscal year beginning July 1, 1989, and in succeeding years, 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 nontraditional 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, members of the joint education appropriations subcommittee, the governor, and the legislative fiscal bureau by December 15 of each year.

Sec. 49. Section 261.54, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

Repayment of ~~the~~ a loan made under the science and mathematics loan program prior to July 1, 1988, shall begin one year after the recipient completes the educational program for which tuition and fees ~~are~~ were received except as otherwise provided in this section. If a recipient submits evidence to the commission that the recipient was employed as a teacher of one or more science or mathematics courses or as an elementary teacher teaching science and mathematics in a public school district or nonpublic school in this state or at the Iowa braille and sight-saving school or the Iowa school for the deaf during that year, fifty percent of the amount of the loan is canceled. If the recipient continues employment as a teacher of science or mathematics courses or as an elementary teacher teaching science and mathematics during the next succeeding school year and submits evidence to the commission of the continuation of teaching employment, the recipient is not required to commence repayment during that school year and at the end of that school year the remaining fifty percent of the loan is canceled.

There is created a science and mathematics loan repayment fund for deposit of payments made by recipients. Payments made by recipients of the loans shall be used to supplement moneys appropriated to the guaranteed loan payment program. Any funds remaining on June 30 of a fiscal year shall be transferred ~~on each June 30~~ from the fund created in this section to the general fund of the state.

Sec. 50. Section 261.81, Code 1989, 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, and the part-time or full-time summer employment of students registered for classes at Iowa postsecondary institutions during the succeeding school year, 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 or the commission 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, the department of natural resources, the department of agriculture and land stewardship, or the department of corrections, or is part of the Iowa heritage corps established in section 261.81A. ~~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 or affect existing contracts for services. Moneys used by an institution for the work-study program shall supplement and not supplant jobs and existing financial aid programs provided for students through the institution.

Sec. 51. NEW SECTION. 261.81A IOWA HERITAGE CORPS.

An Iowa heritage corps is created. The objectives of the corps are to promote public appreciation of Iowa's natural and cultural heritage, promote the economic development of Iowa tourism, and provide meaningful and productive service and research opportunities for students enrolled in public and private colleges and universities in the state. The corps shall provide opportunities in the areas of historical and cultural preservation and education, community improvement, public policy research, and tourism. The corps shall provide participants with an opportunity to explore careers, gain work experience and college credit, and to contribute to the general welfare of their communities and state.

The commission shall solicit participation in the Iowa heritage corps and cooperate with museums, historical organizations, public and nonprofit agencies, and community development organizations in the development of pilot projects for internship positions to be included in the work-study program under section 261.81 and shall allocate moneys to participating museums, organizations, and agencies for the employment of the students under a pilot project. The internships shall include programs which increase public awareness of, and appreciation for, Iowa's natural and cultural heritage. A public or private person using interns under the corps for a pilot project shall contribute to the eligible postsecondary institution in which the intern is enrolled the cost of tuition for credits earned by the intern and all costs for materials, supplies, travel, and other work-related expenses of the project.

Sec. 52. Section 261.82, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Allocate work-study moneys appropriated to the commission to museums, historical organizations, public and nonprofit agencies, and community development organizations for pilot projects for internships for the Iowa heritage corps.

DIVISION VI

Sec. 53. NEW SECTION. 261.101 LEGISLATIVE INTENT.

The general assembly finds that the failure of many young Iowans to complete their education limits their opportunity for a life of fulfillment and hinders the state's efforts to provide a well-trained work force for business and industry in Iowa. The general assembly also declares that it is the policy of this state to apply positive measures to ensure that equal opportunities exist for minority persons to pursue their educational goals. Therefore, the "Iowa Minority Academic Grants for Economic Success" program is established to provide additional funding to the state board of regents' institutions and accredited private institutions in order to encourage resident minority students to remain in Iowa, to attend colleges and universities in Iowa, and to assure that a limited family income will not be a barrier for a minority person to pursue a postsecondary education.

Sec. 54. NEW SECTION. 261.102 DEFINITIONS.

1. "Accredited private institution" means an institution of higher education as defined in section 261.9, subsection 5.

2. "Commission" means the college aid commission.

3. "Financial need" means the difference between the student's financial resources, including resources available from the student's parents and the student, as determined by a completed parents' financial statement and including any noncampus-administered federal or state grants and scholarships, and the student's estimated expenses while attending the institution. A

student shall accept all available federal and state grants and scholarships before being considered eligible for grants under the Iowa minority academic grants for economic success program. Financial need shall be reconsidered on at least an annual basis.

4. "Full-time student" means an individual who is enrolled at an accredited private institution or board of regents' university for at least twelve semester hours or the trimester or quarter equivalent.

5. "Minority person" means an individual who is black, Hispanic, Asian, or a Pacific islander, American Indian, or an Alaskan native American.

6. "Part-time student" means an individual who is enrolled at an accredited private institution or board of regents' university in a course of study including at least three semester hours or the trimester or quarter equivalent of three semester hours.

7. "Program" means the Iowa minority academic grants for economic success program established in this division.

Sec. 55. NEW SECTION. 261.103 PROGRAM QUALIFICATIONS.

1. A grant under the program may be awarded to any minority person who is a resident of Iowa, who is accepted for admission or is attending a board of regents' university or an accredited private institution, and who demonstrates financial need. Applicants who receive vouchers under section 262.92 shall be given priority in receiving grants under the program, but an applicant shall not be denied a grant because the applicant does not hold vouchers under the program in section 262.92. During the fiscal year commencing July 1, 1989, and ending June 30, 1990, grants shall be awarded to minority persons who are residents of Iowa. However, if after funds appropriated are distributed to all eligible resident minority persons, funds remain unexpended, those funds may be used to provide grants under the program to nonresident minority persons. For the fiscal year commencing July 1, 1990, and in subsequent years, grants shall be awarded to all minority persons, with priority to be given to those minority persons who are residents of Iowa.

2. Full-time students may receive grants for not more than eight semesters of undergraduate study or the trimester or quarter equivalent of eight semesters of undergraduate study. Part-time students may receive grants for not more than sixteen semesters of undergraduate study or the trimester or quarter equivalent of sixteen semesters of undergraduate study.

3. The amount of the grant shall not exceed a student's yearly financial need or three thousand five hundred dollars, whichever is less. If the student is attending or seeking to enroll in an accredited private institution, fifty percent of the amount of the grant shall be provided by the accredited private institution and fifty percent shall be provided by the commission from state funds appropriated for that purpose.

4. Grants shall be awarded on an annual basis and shall be credited by the institution against the student's tuition, fees, room, and board, at the beginning of each semester, trimester, or quarter in equal installments upon certification by the institution that the student is admitted and attending the institution.

5. If a student receiving a grant under the program discontinues attendance before the end of any academic period, but after receiving payment of grant moneys for the academic period, the entire amount of any refund due the student, up to the amount of any payments made by the state, shall be remitted by the private institution to the commission.

Sec. 56. NEW SECTION. 261.104 POWERS OF THE COMMISSION.

In administering the program for the private institution, the commission shall:

1. Provide application forms to students enrolled and attending or seeking to enroll and attend accredited private institutions.

2. Develop and provide confidential financial statement forms to the parents or guardians of students applying for grants under this program.

3. Approve and award grants to private institutions under the program.

4. Adopt rules for determining financial need and residency for the purpose of awarding grants to qualified students, and any other rules necessary for the administration of the program.

5. Report annually to the governor and the general assembly on the progress and implementation of the program.

6. Require postsecondary institutions that receive moneys from students awarded grants under the program to furnish any information necessary for the implementation or administration of the program.

7. Solicit and receive private contributions and federal grants available for purposes of the program.

8. Maintain records on the recipients of vouchers under section 262.92 and adopt rules to provide for the giving of priority to students holding vouchers under that section.

9. Administer funds appropriated for the Iowa minority academic grants for economic success program to carry out the duties of the commission.

10. Provide for the proration of funds among qualified applicants if funds available are insufficient to pay all approved grants.

Sec. 57. NEW SECTION. 261.105 DUTIES OF APPLICANT.

An applicant for a grant under the program shall:

1. Complete and file an application for a grant on forms provided by the commission or regents' institutions.

2. Submit the financial information required for evaluation of the applicant's financial need for a grant.

3. Comply with rules and information requests of the commission or regents' institutions made in relation to the program.

Sec. 58. Section 261.85, Code 1989, 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~~ three million ~~six hundred fifty thousand~~ dollars for the work-study program.

From moneys appropriated in this section, one million five hundred thousand dollars shall be allocated to institutions of higher education under the state board of regents and merged area schools and the remaining 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.

Sec. 59. Section 262.9, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 20. Assist a nonprofit organization located in Sioux City in the creation of a tristate graduate center, comparable to the quad cities graduate center, located in the quad cities in Iowa. The purpose of the Sioux City graduate center shall be to create graduate education opportunities for students living in northwest Iowa.

NEW SUBSECTION. 21. Direct the administration of the Iowa minority academic grants for economic success program as established in section 261.101 for the institutions under its control.

**Sec. 60. Section 262.12, Code 1989, is amended to read as follows:*

262.12 COMMITTEES AND ADMINISTRATIVE OFFICES UNDER BOARD.

The board of regents shall also have and exercise all the powers necessary and convenient for the effective administration of its office and of the institutions under its control, and to this end may create such committees, offices and agencies from its own members or others, and employ persons to staff the same, fix their compensation and tenure and delegate thereto, or to the administrative officers and faculty of the institutions under its control, such part of the authority and duties vested by statute in the board, and shall formulate and establish such rules, outline such policies and prescribe such procedures therefor, all as may be desired or determined by the board as recorded in their minutes. However, the powers of the board of regents, and rules, policies, and procedures, shall not include a power to or a provision for the funding of the board of regents' board office by reimbursements from the institutions under its control.*

*Item veto; see message at end of the Act

Sec. 61. NEW SECTION. 262.81 LEGISLATIVE INTENT.

The general assembly recognizes that educational programs designed to enhance the interrelation and cooperation among cultural, racial, and ethnic groups in society require the contribution and active participation of all ethnic and racial groups. The general assembly also recognizes that failure to include minority representation at the faculty level at the state universities contributes to cultural, racial, and ethnic isolation of minority students and does not reflect the realities of a multicultural and diverse society. Therefore, the "Regents' Minority and Women Educators Enhancement" program is established to assist in the recruitment and retention of faculty that more adequately represents the diverse cultural, racial, and ethnic makeup of society and to improve the education of all students.

Sec. 62. NEW SECTION. 262.82 REGENTS' MINORITY AND WOMEN EDUCATORS ENHANCEMENT PROGRAM.

The board of regents shall establish a program to recruit minority educators to faculty positions in the universities under the board's control. The program shall include, but is not limited to, the creation of faculty positions in all areas of academic pursuit.

The board of regents shall also establish a program to create faculty opportunities for women educators at the universities under the board's control. The program shall include, but is not limited to, the creation of faculty positions in targeted shortage areas. The board of regents shall also develop and implement, in consultation with appropriate faculty representatives, tenure, promotion, and hiring policies that recognize the unique needs of faculty members who are principal caregivers to dependents.

As used in this section, "minority educator" means an educator who is a minority person as defined in section 261.102.

Sec. 63. NEW SECTION. 262.91 LEGISLATIVE INTENT.

The general assembly recognizes that universities must provide an environment that enables all students to have an equal opportunity to succeed. The general assembly also recognizes that, because of inequalities in educational preparation, economic factors, and social circumstances, not all young Iowans have the same degree of access to Iowa's higher education system. The general assembly further acknowledges that an early intervention system using public school districts, community agencies, and other state institutions can be useful in preparing young students to succeed in college. Therefore, the "College-bound" program is established to ensure that the state's universities and students' local communities become involved early in a student's life by promoting and informing students about the opportunities in higher education, so that lack of adequate personal resources is not a barrier to attending college for young Iowans.

Sec. 64. NEW SECTION. 262.92 COLLEGE-BOUND PROGRAM.

1. The board of regents shall establish or contract to establish college-bound programs to provide Iowa minority students with information and experiences relating to opportunities offered at the regents' universities. Programs developed may include, but are not limited to, the following elements:

a. Reinforcement of efforts to attract undergraduate students from age groups currently served by traditional methods of outreach which use high school and community college services.

b. Extension of traditional student recruitment methods which are designed to encourage minority students in grades seven through twelve to pursue postsecondary academic courses of study.

c. Identification, at each of the regents' universities, of courses of study to be targeted for the recruitment of minority students.

d. Offerings at the regents' universities of innovative programs, which are experience oriented, for families with minority children.

2. The board of regents shall establish a voucher program for students in grades seven through twelve. Vouchers may be obtained by any qualified secondary student at any regents' university upon completion of a college-bound program provided under subsection 1. Students may receive one voucher for each program. One or more vouchers entitle a student to

priority over other persons applying for grants under the Iowa minority academic grants for economic success program established in section 261.101. Vouchers shall be submitted with the grant application within one year after a student graduates from high school at any higher education institution which offers grants under the Iowa minority academic grants for economic success program. Vouchers earned can only be used by the person who participated in the college-bound voucher program and are not transferable. Vouchers issued by a university under this program shall be signed by the president of the university.

3. The board of regents shall adopt rules to establish program guidelines for the universities under the board's control and for the administration and coordination of program efforts. Rules adopted shall include methods of recording data relating to voucher recipients and making the data available to the college aid commission.

Sec. 65. NEW SECTION. 262.93 REPORTS TO GENERAL ASSEMBLY.

The college aid commission and the state board of regents each shall submit, by January 1 of each year, a report on the progress and implementation of the programs which they administer under sections 261.102 through 261.105, 262.82, and 262.92. The reports shall include, but are not limited to, the numbers of students participating in the programs and allocation of funds appropriated for the programs.

Sec. 66. DEPARTMENT OF EDUCATION STUDY. The department of education, in cooperation with the college aid commission, shall conduct a study of Iowa minority students' postsecondary educational needs and develop recommendations for programs, or additions to existing programs, which are designed to meet the needs of those students not currently served by existing recruitment, educational, and grant programs. The recommendations shall be submitted in a report to the general assembly which convenes in January of 1990.

Sec. 67. NEW SECTION. 263.8B INTEREST EARNINGS. If the interest earned on moneys accumulated by campus organizations at the university of Iowa is not available for expenditure by those respective campus organizations, the university of Iowa shall allocate that interest to campus improvements that are of benefit to students and have been accepted by the student government or to the student financial aid office to be used for the work-study program.

Sec. 68. NEW SECTION. 263A.13 HOSPITAL REPORTS TO GENERAL ASSEMBLY.

The university of Iowa hospitals and clinics shall compile and transmit to the general assembly the following information by December 15 of each fiscal year:

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.

**Sec. 69. Section 265.6, Code 1989, is amended to read as follows:*

265.6 STATE AID APPLICABLE.

If the state board of regents has established a laboratory school, ~~it~~ the school *shall* count each pupil enrolled in the school and shall *receive state aid pursuant to chapters 281 and 442 for each pupil enrolled in the laboratory school,* as a result of open enrollment under section 282.18, *in the same amount as the public school district in which the pupil resides would receive aid for that pupil and shall transmit the amount received to the institution of higher education at which the laboratory school has been established. If the board of a school district terminates a contract with the state board of regents for attendance of pupils in a laboratory school, the school district shall inform the* ~~state comptroller~~ department of management *of the number of these pupils who are enrolled in the district on the* ~~second~~ third *Friday of the following September. The* ~~state comptroller~~ department of management *shall pay to the school*

*Item veto; see message at end of the Act

*district, from funds appropriated in section 442.26, an amount equal to the amount of state aid paid for each pupil in that school district for that school year in payments made as provided in section 442.26. However, payments shall not be made for pupils for which an advance is received by the district under section 442.28.**

Sec. 70. NEW SECTION. 266.20 INTEREST EARNINGS.

If the interest earned on moneys accumulated by campus organizations at the Iowa state university of science and technology is not available for expenditure by those respective campus organizations, the Iowa state university of science and technology shall allocate that interest to campus improvements that are of benefit to students and have been accepted by the student government or to the student financial aid office to be used for the work-study program.

Sec. 71. NEW SECTION. 266.39A AGRICULTURAL RESEARCH.

Iowa state university of science and technology shall conduct continuing agricultural research to provide information about environmental and social impacts of agricultural research on the small or family farm and information about population trends and impact of the trends on Iowa agriculture, in addition to research that may include the categories specified in section 266.39B, subsection 2. The research shall include an agricultural land tenure study conducted every five years to determine the ownership of farmland, by county, and to analyze the ownership trends, using the categories of land ownership defined in chapter 172C.

Sec. 72. NEW SECTION. 266.39B RESEARCH GRANTS.

1. A comprehensive agricultural research program is established at the Leopold center for sustainable agriculture at Iowa state university of science and technology to provide financial assistance for agricultural research within Iowa. The Leopold center shall establish a grant program for projects designated by the general assembly and other projects deemed necessary for the betterment of agriculture within the state. All funds from the program shall be available to public and private entities in Iowa on a competitive grant basis. Approved research proposals shall meet all of the following criteria:

a. The research shall assist Iowa in maintaining productive soil, viable communities, and farms with incomes sufficient to support a family.

b. The research shall enhance the profitability of farmers.

c. The research shall lead to farming which enhances and preserves Iowa's environment.

2. The research grants shall include:

a. Long-term and basic research with preference given to projects which have no traditional funding sources or require a long period of time to produce positive or negative results.

b. Emergency response research with preference given to projects which relate to issues expected to address problems occurring within the next five years, which relate to problems that could have substantial social and economic costs, or which offer research opportunities that may be lost if a delay occurs.

c. Grants available for matching federal or private funds for projects which are a necessary component of other grants or will produce the highest ratio of outside funds to state funds.

d. Crop and livestock research relating to the growth, processing, or marketing of agricultural output, the enhancement of the quality of crops, the lowering of the costs of production, or the avoidance of contamination to food, water, or soil.

e. Alternative crop research to enhance the opportunity for self-employment, to promote site-appropriate crops, to assist the state in becoming more self-sufficient in food and energy resources, to grow, process, and market new crops, or to develop the infrastructure to support new crops.

f. Research dissemination which will expand the knowledge of potential producers, or will collect, create, or disseminate agricultural knowledge, which will encourage the exchange of agriculturally related information among researchers, or which will provide access to farmers to information resources related to agriculture.

g. Agriculture health and safety research to identify, investigate, and increase awareness of agriculture safety problems, develop practical solutions to agriculture safety problems,

*Item veto; see message at end of the Act

develop ways to increase awareness and use of safety practices and devices, to improve medical professionals' ability to diagnose farm-related problems, or to reduce the accident and mortality rate in the agricultural industry.

Sec. 73. NEW SECTION. 268.3 INTEREST EARNINGS.

If the interest earned on moneys accumulated by campus organizations at the university of northern Iowa is not available for expenditure by those respective campus organizations, the university of northern Iowa shall allocate that interest to campus improvements that are of benefit to students and have been accepted by the student government or to the student financial aid office to be used for the work-study program.

Sec. 74. Section 282.19, Code 1989, is amended to read as follows:

282.19 CHILD LIVING IN FOSTER CARE FACILITY.

A child who is living in a licensed child foster care facility as defined in section 237.1, ~~in this state~~ or in a facility that provides residential treatment as "facility" is defined in section 125.2, which is located in a school district other than the school district in which the child resided before receiving foster care may enroll in and attend an accredited school in the school district in which the child is living. The instructional costs for students who do not require special education shall be paid as provided in section 282.31, subsection 1, paragraph "b" or for students who require special education shall be paid as provided in section 282.31, subsections 2 or 3.

Sec. 75. Section 294A.19, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. School districts and area education agencies shall not charge other school districts or area education agencies for plans or information about innovative phase III plans that they have developed.

**Sec. 76.* NEW SECTION. *298.14 BUILDING REPLACEMENT PROPERTY TAX.*

*In order to protect the health, safety, and well-being of the public school children in this state, the director of the department of education shall order closed temporary portable classrooms that have been in use by school districts in excess of twelve years if the school district has not approved the schoolhouse tax under section 278.1, subsection 7, has defeated at least one proposal to issue general obligation bonds under section 298.18 since July 1, 1979, and consists of more than five hundred square miles. The board of directors of a school district for which the temporary buildings have been ordered closed by the director of the department of education, shall certify for levy, for a period not exceeding ten years, a building replacement property tax of not exceeding sixty-seven and one-half cents per thousand dollars of assessed valuation in the school district. The proceeds of the building replacement property tax shall be used for construction or remodeling of school buildings to replace the classrooms provided by the temporary portable buildings.**

Sec. 77. Section 302.1A, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

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~~ eight hundred ~~fifty~~ seventy-five thousand dollars. The value of in-kind contributions shall be based upon the fair market value of the contribution determined for income tax purposes.

Sec. 78. Section 302.1A, subsection 3, Code 1989, is amended to read as follows:

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

*Item veto; see message at end of the Act

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~~ eight hundred ~~fifty~~ seventy-five thousand dollars. ~~The~~ Within fifteen days following certification by the state university of Iowa, 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.

Sec. 79. Section 303.16, subsection 7, Code 1989, is amended to read as follows:

7. The department may use ~~twenty-five thousand dollars~~ ten percent of the amount appropriated to the department, but in no event more than seventy-five thousand dollars for administration of the grant and loan program.

Sec. 80. Section 524.107, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsections 1 and 2, an organization formed for educational purposes in association with an accredited school which engages in the receipt of deposits of no more than twenty dollars per depositor, may use the words "educational bank", the use of which is otherwise restricted in subsection 2, and such an educational bank is not a bank within the meaning or scope of regulation of this chapter.

Sec. 81. 1989 Iowa Acts, Senate File 59, section 1, unnumbered paragraphs 2, 3, 4, 9, 10, 11, and 12, are amended to read as follows:

By September 15 of the preceding school year the parent or guardian shall informally notify the district of residence, and not later than November 1 of the preceding school year, the parent or guardian shall send notification to the district of residence and to the department of education on forms prescribed by the department of education that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. The parent or guardian shall describe the reason that exists for enrollment in the receiving district that is not present in the district of residence. The board of the district of residence shall transmit a copy of the form to the receiving school district within five days after its receipt. During the 1990-1991 school year, if the board of the district of residence determines that transmission of the request will result in a loss of greater than five percent of the district's certified enrollment for ~~that~~ the previous year, the board of the district of residence may deny the request for the 1990-1991 school year. During the 1991-1992 school year, if the board of the district of residence determines that transmission of the request will result in a loss of greater than ten percent of the district's certified enrollment for the previous year, the board of the district of residence may deny the request for the 1991-1992 school year. If, however, a failure to transmit a request will result in enrollment of students from the same nuclear family in different school districts, the request shall be transmitted to the receiving district for enrollment. The board of each school district shall adopt a policy relating to the order in which requests for enrollment in other districts shall be considered. The board of the receiving school district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil. In all districts involved with volunteer or court-ordered desegregation, minority and nonminority student ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to volunteer or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan. If, however, a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests. A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either

uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal under section 290.1.

Each district shall provide notification to the parent or guardian relating to the transmission or denial of the request. A district of residence shall provide for notification of transmission or denial to a parent or guardian within three days of board action on the request. A receiving district shall provide notification to a parent or guardian, within fifteen days of receipt of the request, of whether the child will be enrolled in that district or whether the request is to be denied.

A request under this section is for a period of not less than four years unless the pupil will graduate, the pupil's family moves to another school district, or the parent or guardian petitions the receiving district for permission to enroll the child in a different district, which may include the district of residence, within the four-year period. If the parent or guardian requests permission of the receiving district to enroll the child in a different district within the four-year period, the receiving district school board may transmit a copy of the request to the other school district within five days of the receipt of the request. The new receiving district shall enroll the pupil in a school in the district unless there is insufficient classroom space in the district or unless enrollment of the pupil would adversely affect court ordered or voluntary desegregation orders affecting a district. A denial of a request to change district enrollment within the four-year period shall be subject to appeal under section 290.1.

The board of directors of the district of residence shall pay to the receiving district the lower district cost per pupil of the two districts, plus any moneys received for the pupil as a result of non-English speaking weighting under section 442.4, subsection 6, for each school year. The district of residence shall also transmit the phase III moneys allocated to the district for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer. ~~However, if the district of residence has outstanding obligations on school bonds, has entered into a rental or lease arrangement under section 279.26, or has entered into a loan agreement in anticipation of the collection of the schoolhouse tax under section 297.36, only fifty percent of the property tax portion of the district cost per pupil shall be paid to the receiving district for the first three years of the transfer, unless the debt is paid before the end of the three years. If the debt is paid in less than three years from the date of the transfer or if three years pass, from the date of the transfer, without retirement of the district of residence's debt obligation, whichever date is sooner, the full amount of the district cost per pupil shall then be paid to the receiving district.~~ If a request filed under this section is for a child requiring special education under chapter 281, the request to transfer to the other district shall only be granted if the receiving district maintains a special education instructional program which is appropriate to meet the child's educational needs and the enrollment of the child in the receiving district's program would not cause the size of the class in that special education instructional program in the receiving district to exceed the maximum class size in rules adopted by the state board of education for that program. For pupils requiring special education, the board of directors of the district of residence shall pay to the receiving district the actual costs incurred in providing the appropriate special education. Quarterly payments shall be made to the receiving district. If the transfer of a pupil from one district to another results in a transfer from one area education agency to another, the sending district shall forward a copy of the request to the sending district's area education agency. The receiving district shall forward a copy of the request to the receiving district's area education agency. Any moneys received by the area education agency of the sending district for the child who is the subject of the request shall be forwarded to the receiving district's area education agency. 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 receiving district shall not send school vehicles into the district of residence of the pupil using the open enrollment option under this section, for the purpose of transporting the pupil to and from school in the receiving district, ~~unless~~. If the child meets the economic eligibility requirements, established under the federal National School Lunch and Child Nutrition Acts, 42 U.S.C. § 1751-1785, for free or reduced price lunches. ~~If the child meets those requirements,~~

the sending district shall be responsible for providing transportation or paying the pro rata cost of the transportation to a parent or guardian for transporting the child to and from a point on a regular school bus route of a contiguous receiving district unless the cost of providing transportation or the pro rata cost of the transportation to a parent or guardian exceeds the average transportation cost per pupil transported for the previous school year in the district. If the cost exceeds the average transportation cost per pupil transported for the previous school year, the sending district shall only be responsible for that average per pupil amount. A sending district which provides transportation for a child to a contiguous receiving district under this paragraph may withhold from the district cost per pupil amount, that is to be paid to the receiving district, an amount which represents the average or pro rata cost per pupil for transportation, whichever is less.

A student who has been paying tuition and attending school on or before March 25, 1989, in a district other than the student's district of residence shall be permitted to attend school in the district where the student has been paying tuition, during the 1989-1990 school year, by filing a request to use the open enrollment option under this section by August 1, 1989.

If a student has been paying tuition and attending an accredited nonpublic school during the 1988-1989 school year, which is located in a public school district other than the student's public school district of residence, and the nonpublic school discontinues the grade or school which the student would have attended during the 1989-1990 school year, after June 30, 1988, but before August 1, 1989, the student shall be permitted to attend a public school, located within the public school district where the nonpublic school was located, during the 1989-1990 school year if the receiving public school district agrees to accept the student and the student's parent or guardian files a request to use the open enrollment option under this section by August 1, 1989. The public school district where the nonpublic school was located shall count the student in the September 1989 enrollment count.

A student, whose district of residence, for the purposes of school attendance, changes ~~during the~~ by August 1, 1989 ~~1990 school year~~, shall be permitted to attend school during the 1989-1990 school year in the district in which the student attended during the 1988-1989 school year if a request to use the open enrollment option under this section is filed by August 1, 1989.

If a child, for which a request to transfer has been filed with ~~the~~ a district ~~of residence~~, has been suspended or expelled in the district ~~of residence~~, the receiving district named in the request may refuse the request to transfer until the child has been reinstated in the sending district ~~of residence~~.

~~*A laboratory school under chapter 265 shall be exempt from the provisions of this section.~~

If a request under this section is for transfer to a laboratory school, as described in chapter 265, the student, who is the subject of the request, shall not be included in the basic enrollment of the student's district of residence, and the laboratory school shall report the enrollment of the student directly to the department of education, unless the number of students from the district attending the laboratory school during the current school year, as a result of open enrollment under this section, exceeds the number of students enrolled in the laboratory school from that district during the 1988-1989 school year. If the number of students enrolled in the laboratory school from a district during the current year exceeds the number of students enrolled from that district during the 1988-1989 school year, those students who represent the difference between the current and the 1988-1989 school year enrollment figures shall be included in the basic enrollment of the students' districts of residence and the districts shall retain any moneys received as a result of the inclusion of the student in the district enrollment. The total number of students enrolled at a laboratory school during a school year shall not exceed six hundred seventy students. The regents' institution operating the laboratory school shall develop a student transfer policy designed to protect and promote the quality and integrity of the teacher education program at the laboratory school and to indicate the order in which and reasons why requests to transfer to a laboratory school shall be considered. A laboratory school may deny a request for transfer under the policy. A denial of a request to transfer under this paragraph is not subject to appeal under section 290.1.*

*Item veto; see message at end of the Act

Sec. 82. NOTIFICATION OF RECEIPT OF NONSTATE FUNDS. All constitutional and statutory offices, administrative departments, and independent agencies shall notify the department of management and the legislative fiscal bureau of any request for, approval of, or an award of federal or other nonstate funds, or of the loss of federal or other nonstate funds during the fiscal period beginning October 1, 1988, and ending September 30, 1989. The notification shall be made no later than December 15, 1989, and shall include the name of the grantor and of the funding grant, the estimated amount of funds, and the planned expenditures for the funds. The format of the notification shall be specified by the legislative fiscal bureau. This section applies to the state board of regents except that notification is not required for funds requested, approved, or awarded for individual services performed by a member of the faculty or staff at an institution under the control of the board when those services are performed on that member's behalf.

Sec. 83. Sections 261.51 through 261.53, Code 1989, are repealed.

Sec. 84. All federal grants to and the federal receipts of agencies appropriated funds under this Act not otherwise appropriated are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 85. Sections 6, 15, 22, 24, and 30 of this Act take effect upon their enactment.

Approved June 5, 1989, except those items which I hereby disapprove and which are designated as that portion of section 1, subsection 4, which is herein bracketed in ink and initialed by me; that portion of section 1, subsection 5, which is herein bracketed in ink and initialed by me; that portion of section 1, subsection 7, which is herein bracketed in ink and initialed by me; section 4 in its entirety; that portion of section 7, subsection 2, which is herein bracketed in ink and initialed by me; that portion of section 11, subsection 1, which is herein bracketed in ink and initialed by me; section 19, subsection 12, unnumbered and unlettered paragraph 5; section 19, subsection 12, unnumbered and unlettered paragraph 6; section 19, subsection 12, unnumbered and unlettered paragraph 7; section 60 in its entirety; those portions of section 19, subsections 2b, 3b, and 4b which are herein bracketed in ink and initialed by me; section 19, subsection 2b, unnumbered paragraph 2, subsection 3b, unnumbered paragraph 2, and subsection 4b, unnumbered paragraph 2; sections 22 and 23 in their entirety; section 26 in its entirety; section 30 in its entirety; section 35 in its entirety; section 69 in its entirety; and that portion of section 81 which is herein bracketed in ink and initialed by me; and section 76 in its entirety. 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 House File 774, an Act relating to the funding of, operation of, and appropriation of moneys to agencies, institutions, commissions, departments, and boards responsible for educational and cultural programs of this state, providing for the imposition of a tax, and providing effective dates.

House File 774 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 1, subsection 4. The Library Division received appropriations that exceeded my recommendations by $550,000. Given the fiscal constraints of the state's budget, some of this substantial increase must be pared back. However, I left in the budget additional funds for office equipment and to fund the statewide open access program — a program that should be our highest priority in providing library services for Iowans throughout our state. I have item vetoed an additional $150,000 for collections development. In order to help ensure an ending balance for Fiscal Year 1991, these additional ongoing expenditures can and must be eliminated.

I am unable to approve the designated portion of Section 1, subsection 5. This provision provides for an additional $67,500 to the Public Broadcasting Division to provide instructional guides to local schools. If the division needs additional funds for that purpose, appropriate fees could be charged. However, the department has provided for these instructional guides without charge or additional appropriations in the past and that would be the preferable option for the future.

I am unable to approve the designated portion of Section 1, subsection 7. This language gives the regional libraries an additional $50,000 above my recommendation for access to special collections. The regional library system in the state is well funded at the present time and additional funds, given the fiscal constraints of the state, are not required at this time.

I am unable to approve the item designated as Section 4, in its entirety. This provision authorizes the Public Broadcasting Division of the Department of Cultural Affairs to use the Iowa facilities improvement corporation to purchase ultrahigh frequency transmitters. I vetoed similar language in last year's bill because I do not plan on authorizing additional revenue bonding from the facilities improvement corporation. Such bonding, in effect, incorporates debt service in the operating budgets of state agencies which I believe is fiscally unwise and imprudent.

I am unable to approve the designated portion of Section 7, subsection 2. This language in House File 774 appropriates $200,000 of new funds for a new educational savings program. I have separately authorized the College Aid Commission to begin the development of the program. However, the concept has not yet been developed sufficiently to allow ICAC to offer any estimate as to the cost of the program. I have asked the College Aid Commission to review the program and recommend to me appropriate adjustments as I prepare my recommendations to the General Assembly next year.

I am unable to approve the designated portion of Section 11, subsection 1. This provision would require that the media services at area education agencies be administered separately. At the present time, the Department of Education is conducting a comprehensive study of the AEAs and their delivery of services. The Department should not be prevented from reviewing and, if appropriate, revising the administrative structure of the delivery of these services prior to the completion of this study.

I am unable to approve the item designated as Section 19, subsection 1a, unnumbered and unlettered paragraph 5. This language would prohibit the Board of Regents from spending funds to develop a new financial information system without approval of the Joint Education Appropriation Subcommittee. The board has no objection to providing information as required in this provision but appropriately objects to obtaining prior approval from the Joint Education Appropriation Subcommittee before beginning the development of such an information

system. The board is working closely with the Department of Revenue and Finance in the development of a system that will be compatible with that used by the state. I believe the Joint Education Appropriation Subcommittee was concerned about such compatibility. However, prior approval before a new system can be developed is an inappropriate intrusion of the legislative branch in the executive branch's responsibilities. I have asked the Board of Regents to provide the requested information to the Joint Education Appropriation Subcommittee members on this issue.

I am unable to approve the item designated as Section 19, subsection 1a, unnumbered and unlettered paragraph 6. This language in House File 774 requires a separate budget procedure for particular budget units within the Board of Regents. At the present time, the Department of Management is undertaking a comprehensive review of our budget process and we are considering the development of performance based budgets. Directing certain budget units to use a separate budget process could cause further confusion rather than clarifying the budget making decision process.

I am unable to approve the item designated as Section 19, subsection 1a, unnumbered and unlettered paragraph 7, and Section 60, in its entirety. These provisions would prohibit the State Board of Regents from using reimbursements from the institutions to assist in the funding of the board office. At the present time, the board does seek reimbursement for extraordinary expenditures such as presidential searches and organizational audits. The board needs to maintain the flexibility of conducting such special studies and functions with the assistance of the institutions. Therefore, this language cannot be approved.

I am unable to approve the designated portions of Section 19, subsections 2b, 3b, and 4b. I appreciate the fact that the General Assembly appropriated funds necessary to provide for double digit faculty salary increases at our state universities for the third year in a row. This action will greatly increase the competitiveness and the quality of our institutions and represents an extraordinary commitment by state policy makers to improve the quality of higher education in Iowa. However, the objectionable language in this subsection would severely restrict the Regents in developing faculty salary policy. The provision requires the Board of Regents to maintain the total faculty base budget despite enrollment trends or opportunities for savings or reassignment of personnel that result from the organizational audit. While the Regents ought to be required to provide an average increase in faculty salaries in the double digit range, we should not limit their flexibility in making adjustments that are essential to appropriately manage the institutions.

I am unable to approve the item designated as Section 19, subsection 2b, unnumbered paragraph 2, subsection 3b, unnumbered paragraph 2, and subsection 4b, unnumbered paragraph 2. These provisions would appear to require the approval of the Joint Education Appropriation Subcommittee in the General Assembly in the 1990 session in order to expend receipts from tuition, student fees and institutional income if the receipts differ from that currently estimated by the institutions. The institutions need to retain the flexibility to utilize additional fee or tuition income to respond to enrollment pressures. If prior approval were needed and enrollments increase, the institutions presumably would not be able to add additional faculty to teach additional classes. This limitation on needed administrative flexibility cannot be approved.

I am unable to approve the items designated as Sections 22 and 23, in their entirety. These sections of the bill appropriate $1,050,000 in Fiscal Year 1989 for library automation at the three universities. With less than a month remaining in this fiscal year, I believe it is inappropriate to make a supplemental appropriation for such a long-term project. Moreover, the provisions in this bill would require that these funds be included in the base budget of the institutions — thus incorporating what should be one-time capital expenditures into the operating budgets. While I certainly understand the need to further automate the libraries at the institutions, I believe that the additional funds provided in the Regents' operating budgets should provide for some ability to undertake further automation efforts in the future. In

addition, the budgetary flexibility that these item vetoes have provided for should assist the Regent institutions in allocating any additional receipts in this direction.

I am unable to approve the item designated as Section 26, in its entirety. This provision requires the Board of Regents to borrow money to finance energy conservation projects. The Regents have assured me they are strongly committed to an effective program of energy conservation. But a provision requiring the borrowing of funds to complete such projects is fiscally unwise. Regent institutions are in the process of completing a comprehensive engineering analysis of all buildings as required by the last General Assembly. Upon the completion of this analysis, the institutions will be able to identify energy conservation projects on a priority basis and will be developing funding alternatives to implement those improvements.

I am unable to approve the item designated as Section 30, in its entirety. This section, in effect, appropriates $500,000 of general fund money to AEA 14. I understand the special funding problems that the administrators of AEA 14 believe they are facing at the present time. Indeed, to address those concerns, I authorized additional expenditures of special needs funds within the school aid bill for that purpose. However, I believe it is inappropriate to be using unspent funds from other AEAs and additional appropriations from the general fund to further supplement the operating budget of that particular area education agency. The Department of Education is conducting a comprehensive study of AEA services and the structure of these entities. That study is due to be completed by January 1. We should not be providing this substantial increase in general funds subsidies to any particular AEA until the study has been completed and final recommendations are made by the Department of Education.

I am unable to approve the item designated as Section 35, in its entirety. This provision of House File 774 appropriates $250,000 to the Department of General Services to implement the telecommunications network. I am very pleased that the General Assembly has included in this bill a funding mechanism to build the telecommunications network for our state. I believe that action is an historic step forward in education and economic development for Iowa. However, this administration carefully reviewed the possibility of any need for additional administrative funds to develop the revised request for proposals. Recommendations were made that no additional funds were needed — the state's current staff and the expertise available within state government was deemed sufficient to meet this need. Therefore, I do not believe that the $250,000 new appropriation to the Department of General Services is necessary or appropriate at this time. In the longer term, funding may need to be provided to the department to manage the system's operations.

I am unable to approve the item designated as Section 69, in its entirety, and the designated portion of Section 81. These provisions allow the Price Laboratory School at the University of Northern Iowa to participate in open enrollment. The language also provides that if enrollment increases at the lab school as a result of open enrollment, the students will remain in the resident's district enrollment figures. The result: these students would be funded twice by the state. Such duplicate state funding for K-12 students in Iowa cannot be approved.

I am unable to approve the item designated as Section 76, in its entirety. This section of House File 774 requires the Director of the Department of Education to close the temporary classrooms being used in the Western Dubuque School District. Upon such closure, the board of that school district is allowed to levy without voter approval a building replacement property tax to replace the portable classrooms. While I understand the need to replace these classrooms, the decision to do so should remain a local matter and the method of doing so should not be mandated by the state. Moreover, voters in that district have had the opportunity to vote on bond issues related to classroom space several times. A strategy that may garner local support would be to propose a bond issue strictly limited to the replacement of the portable classrooms. Regardless, the state should not be interceding in a local bond issue and authorizing an additional property tax levy after the local voters have turned it down.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 774 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 320

APPROPRIATIONS AND OTHER PROVISIONS RELATING TO HEALTH, HUMAN RIGHTS, AND ELDER AFFAIRS

H.F. 775

AN ACT relating to and making appropriations to the civil rights commission, the department of human rights, the department for the blind, the department of elder affairs, and the Iowa department of public health.

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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	869,430
.....	FTEs	36.32

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, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	197,423
.....	FTEs	7.0

It is the intent of the general assembly that the department continue the existence of the 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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	60,371
.....	FTEs	1.5

3. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	135,613
.....	FTEs	4.0

Of the funds appropriated to the division, there is allocated an amount necessary to fund the central registry for brain injuries established pursuant to section 135.22.

4. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	329,455
.....	FTEs	4.0

Of the funds appropriated under this subsection, $50,000 shall be used to provide competitive grants to rape crisis centers. The division shall establish criteria for the application for and provision of grants, and a rape crisis center seeking a grant shall submit an application to the department for consideration. However, if House File 700, 1989 Acts, is enacted, the moneys and the grant program shall be transferred for administration by the division of victim assistance of the department of justice. If House File 700, 1989 Acts, is not enacted, the division shall retain the funds and the program.

Of the funds appropriated under this subsection, $120,000 shall be used to fund the displaced homemaker program.

5. CHILDREN, YOUTH AND FAMILIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 157,860
..... FTEs 6.0

Of the funds appropriated in this subsection, no less than $36,300 shall be spent for expenses relating to the administration of federal funds for juvenile 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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 261,932
..... FTEs 10.0

The fees collected by the division for provision of interpretation services by the division to obligated agencies shall be dispersed pursuant to the provisions of section 8.32, and shall be dedicated and used by the division for the provision of continued and expanded interpretation services.

7. STATUS OF BLACKS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 65,991
..... FTEs 1.5

8. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 215,392
..... FTEs 7.0

The criminal and juvenile justice advisory council 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 for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,353,071
..... FTEs 102.5

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, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 434,290
..... FTEs 32.0

It is the intent of the general assembly that the department employ an alternative housing coordinator and a long-term care coordinator as two of the full-time equivalent positions.

It is the intent of the general assembly that the department continue the existence of the 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 dementing illness including a determination of barriers to access; to develop

*Item veto; see message at end of the Act

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.

Of the funds appropriated under this subsection, $25,500 shall be allocated to fund the representative payee project established within the department of elder affairs.

2. For the administration of area agencies on aging:

..... $ 114,000

Of the funds appropriated to the department for administration of the area agencies on aging for the long-term care residents' advocate and the care review committees at the local area agency on aging level, a local area agency on aging shall match the funds appropriated with funds from other sources on a four-dollar to one-dollar basis.

3. For the retired Iowans community employment program:

..... $ 104,000

4. For the older Iowan's legislature:

..... $ 13,000

5. For the retired seniors volunteer program:

..... $ 34,500

Of the initial funds appropriated, $12,500 shall be used to establish the new retired seniors volunteer program project. The remaining funds appropriated under subsection 5 shall be divided equally among the programs in existence as of July 1, 1989, and shall not be used by the department for administrative purposes.

Of the amount appropriated in this subsection, following the initial expenditure of $12,500 for the establishment of one new retired seniors volunteer program project, $8,000 shall be used to increase the amount of grant funds to be distributed among retired seniors volunteer program projects.

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 reassurance, adult day care, and home repair services, including the winterizing of homes, and for the construction of entrance ramps which meet the requirements of section 104A.4 and make residences accessible to the physically handicapped. 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, $150,000, or so much thereof as is necessary, are allocated for a respite care program, administered by the department of elder affairs.

For the fiscal year beginning July 1, 1989, area agencies on aging shall expend no less than $250,000 on adult day care programs.

7. For the Alzheimer's disease support program:

..... $ 62,500

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, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 783,448
..... FTEs 54.0

2. HEALTH PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,161,148
..... FTEs 14.75

The department shall allocate from the funds appropriated under this subsection $754,500 for the fiscal year beginning July 1, 1989, 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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,944,290
..... FTEs 71.0

Of the funds appropriated under this subsection, $50,000 shall be used to provide chlamydia testing. The moneys shall be distributed on a statewide basis to areas with the highest concentrations of at-risk persons. None of the funds appropriated shall be used to defray indirect costs.

b. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,006,090
..... FTEs 4.0

It is the intent of the general assembly that the moneys appropriated under this paragraph shall be used for equipment and the training of emergency medical services personnel at the state, county, and local levels.

If a person in the course of responding to an emergency renders aid to an injured person and becomes exposed to bodily fluids of the injured person, that emergency responder shall be entitled to hepatitis testing and immunization in accordance with the latest available medical technology to determine if infection with hepatitis has occurred. The person shall be entitled to reimbursement from the emergency provider fund only if the reimbursement is not available through any employer or third-party payor.

4. PROFESSIONAL LICENSURE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 595,044
..... FTEs 13.5

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 194,003
..... FTEs 4.0

6. STATE BOARD OF MEDICAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 898,373
..... FTEs 19.0

7. STATE BOARD OF NURSING EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 721,576
..... FTEs 17.0

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 554,667
..... FTEs 12.0

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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 494,560
..... FTEs 14.0

b. For program grants:

..... $ 7,215,000

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for the governor's alliance on substance abuse:

..... $ 47,340
..... FTEs 5.0

10. HEALTH DATA COMMISSION

For the health data clearinghouse:

..... $ 375,000

11. FAMILY AND COMMUNITY HEALTH DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,226,089
..... FTEs 78.1

The department shall allocate from the funds appropriated under this paragraph at least $631,000 for the fiscal year beginning July 1, 1989, and ending June 30, 1990, for the birth defects and genetics counseling program and of these funds, $39,000 shall be allocated for a central birth defects registry program, and $296,000 shall be allocated for regional genetic counseling services contracted from the university of Iowa hospitals and clinics under the control of the state board of regents.

Of the funds appropriated under this paragraph, $49,000 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

The regional clinic located in Sioux City shall maintain a social worker component to assist the families of children participating in the clinic program.

(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, $68,000 shall be used for a specialized medical home care

*Specialty probably intended

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":

..... $ 13,000

c. For grants to local boards of health for the public health nursing program:

..... $ 2,433,200

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 $50,000 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 $50,000, 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:

..... $ 7,980,200

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 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:

..... $ 489,000

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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:*

..... *$ 770,784*

..... *FTEs 1.0*

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 $2,100, 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.

*Item veto; see message at end of the Act

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.

*The department shall determine the impact of any expansions in Medicaid eligibility provided under other Acts on the use of this program and the characteristics of persons using the program, and the need for modification of the quota system of the program.**

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, 1989, and ending June 30, 1990, the amount of $101,000, 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. The licensing boards for which general fund appropriations have been provided 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. 8. 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. 9. 1988 Iowa Acts, chapter 1277, section 7, is amended to read as follows:

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. 10. NEW SECTION. 135.22 CENTRAL REGISTRY FOR BRAIN INJURIES.

1. As used in this section, section 225C.23, and section 601K.83, "brain injury" means clinically evident brain damage or spinal cord injury resulting directly or indirectly from trauma, infection, anoxia, or vascular lesions 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

*Item veto; see message at end of the Act

by the department and other state agencies. For a patient who is not admitted to a hospital but is treated in a physician's office, 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 Glascow 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. 11. NEW SECTION. 601K.83 ADVISORY COUNCIL ON HEAD INJURIES.

1. For purposes of this section, unless the context otherwise requires:

a. "Head injury" means "brain injury" as defined in section 135.22.

b. "Council" means the advisory council on head injuries.

2. The advisory council on head injuries is established. The following persons or their designees shall serve as ex officio, nonvoting members of the council:

a. The director of public health.

b. The director of human services and any division administrators of the department of human services so assigned by the director.

c. The director of the department of education.

d. The chief of the special education bureau of the department of education.

e. The administrator of the division of vocational rehabilitation of the department of education.

f. The director of the department for the blind.

g. The commissioner of insurance.

3. The council shall be composed of a minimum of nine members appointed by the governor in addition to the ex officio members, and the governor may appoint additional members. Insofar as practicable, the council shall include persons with head injuries, family members of persons with head injuries, representatives of industry, labor, business, and agriculture, representatives of federal, state, and local government, and representatives of religious, charitable, fraternal, civic, educational, medical, legal, veteran, welfare, and other professional groups and organizations. Members shall be appointed representing every geographic and employment area of the state and shall include members of both sexes.

4. Members of the council appointed by the governor shall be appointed for terms of two years. Vacancies on the council shall be filled for the remainder of the term of the original appointment. Members whose terms expire may be reappointed.

5. The members of the council shall appoint a chairperson and a vice chairperson and other officers as the council deems necessary. The officers shall serve until their successors are appointed and qualified. Members of the council shall receive actual expenses for their services. Members may also be eligible to receive compensation as provided in section 7E.6. The council shall adopt rules pursuant to chapter 17A.

6. The council shall:

a. Promote meetings and programs for the discussion of methods to reduce the debilitating effects of head injuries, and disseminate information in cooperation with any other department, agency, or entity on the prevention, evaluation, care, treatment, and rehabilitation of persons affected by head injuries.

b. Study and review current prevention, evaluation, care, treatment, and rehabilitation technologies and recommend appropriate preparation, training, retraining, and distribution of manpower and resources in the provision of services to persons with head injuries through private and public residential facilities, day programs, and other specialized services.

c. Participate in developing and disseminating criteria and standards which may be required for future funding or licensing of facilities, day programs, and other specialized services for persons with head injuries in this state.

d. Make recommendations to the governor for developing and administering a state plan to provide services for persons with head injuries.

e. Meet at least quarterly.

f. Report on or before February 15 of each year to the governor and the general assembly on council activities, and submit recommendations believed necessary to promote the welfare of persons with head injuries.

7. The council is assigned to the division for administrative purposes. The administrator shall be responsible for budgeting, program coordination, and related management functions.

8. The council may receive gifts, grants, or donations made for any of the purposes of its programs and disburse and administer them in accordance with their terms and under the direction of the administrator.

Sec. 12. Section 601K.117, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

601K.117 INTERPRETATION SERVICES ACCOUNT.

All fees collected by the division for provision of interpretation service by the division to obligated agencies shall be deposited in a separate account within the general operating fund of the division and shall be 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. Notwithstanding section 8.33, any balance in the separate account at the end of any fiscal year, shall be retained in the account.

Sec. 13. Section 225C.22, Code 1989, is repealed.

Approved June 5, 1989, except those items which I hereby disapprove and which are designated as that portion of section 2, subsection 5 which is herein bracketed in ink and initialed by me; and section 5, subsection 11, lettered paragraph f in its entirety. 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 House File 775, an Act relating to and making appropriations to the civil rights commission, the department of human rights, the department for the blind, the department of elder affairs, and the Iowa department of public health.

House File 775 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 2, subsection 5. This provision gives the authority to the Governor's advisory council on juvenile justice to determine the appropriate staffing levels for carrying out federal and state mandates for juvenile justice. The determination of appropriate staffing levels is a key management responsibility; it is clearly not the responsibility of a policy advisory council. The advisory council could provide recommendations regarding appropriate staffing levels but the final determination should be made by the Governor and the Department of Management.

I am unable to approve the item designated as Section 5, subsection 11, lettered paragraph f, in its entirety. This provision of House File 775 appropriates $770,000 to the Department of Health for a decentralized indigent obstetrical patient program. After consultation with the Department of Health and others involved in these programs, it appears that the Medicaid expansions included in Senate File 538, which I have signed into law, would eliminate the need for the obstetrical and newborn indigent patient care program. So long as the Department of Human Services appropriately defines "tools of the trade" under the SOBRA expansions included in Senate File 538, women and newborns currently covered under the obstetrical and newborn indigent patient care program would become eligible for the Medicaid program. As a result, this appropriation in House File 775 is made unnecessary.

Unfortunately, the General Assembly did not provide full funding for the Medicaid expansions included in Senate File 538. Therefore, this particular item veto will help fund the SOBRA program.

In short, in order to avoid duplicate funding and to better ensure appropriate levels of funding for the expansion of Medicaid eligibility for women and newborns, this provision for the decentralized indigent obstetrical patient program in the Department of Health should be eliminated. Moreover, I believe the expansion of Medicaid eligibility with the accompanying federal matching funds is the most appropriate way to ensure that the health care needs are met for these vulnerable uninsured Iowans.

For the above reasons, I hereby respectfully disapprove of these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 775 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 321

APPROPRIATIONS AND OTHER PROVISIONS RELATING TO STATE REGULATORY AGENCIES AND THE PUBLIC DEFENDER

H.F. 779

AN ACT relating to and making appropriations, subject to certain conditions, to regulatory bodies of state government, including the auditor of state, the campaign finance disclosure commission, the department of employment services, the office of the state public defender, the department of inspections and appeals, the department of commerce, and the racing commission, among others, and effecting the laws enforced by and procedures utilized by such regulatory bodies, determining the ownership and control of certain property in the possession of the office of the state public defender, and imposing penalties.

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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,650,034
.....	FTEs	95.00

As a condition, qualification, and limitation, of the funds appropriated, $560,000 is allocated for 16 FTEs and necessary expenses in connection with the auditing of area community colleges; provided, however, that if 1989 Iowa Acts, House File 451, is enacted, any unexpended portion of the moneys allocated to conduct audits of area community colleges shall revert to the general fund except that the auditor may retain and expend up to $46,500, of any moneys subject to this reversion, for 5.50 FTEs and necessary expenses in connection with the implementation and administration of generally accepted accounting principles acceleration.

The auditor of state shall be reimbursed for performing examinations of the department of commerce, 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, the offices of the clerks of the district court of the judicial department, the Iowa public employees' retirement system, 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, 1989, 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, 1989.

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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	228,811
.....	FTEs	5.75

Sec. 3. There is appropriated from the general fund of the state to the department of employment services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF LABOR SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,323,948
..... FTEs 94.05

As a condition, qualification, and limitation of the funds appropriated in this section, the department shall utilize the $68,691 allocated for the contractor registration program only for that program and the two FTEs which are authorized and funded for that program, and $83,954 shall be utilized in connection with the implementation of federal superfund duties delegated or assumed by the division, for which two FTEs are authorized and funded.

As a condition, qualification, and limitation of the funds appropriated, $197,948, or so much thereof as is necessary, shall be expended for five FTEs and necessary expenses, to be employed in connection with the enforcement of the Iowa minimum wage law. Enforcement of the Iowa minimum wage law shall not begin until January 1, 1990, though moneys may be expended and positions filled prior to January 1, 1990, to adopt required rules, and for training, organization, and other preparatory purposes.

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,427,900
..... FTEs 36.95

The division shall maintain the three full-time employees hired in the fiscal year beginning July 1, 1988, and ending June 30, 1989, as directed by the general assembly, 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 continue 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.

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.

The department of employment services, the department of personnel, and the department of management shall work together to ensure that as nearly as possible all full-time equivalent positions authorized and funded for the department of employment services will be utilized during the fiscal year beginning July 1, 1989, and ending June 30, 1990, and future fiscal years, to ensure that the backlog of cases in that department will be reduced as rapidly as possible.

Sec. 4. 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, 1989, 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, 1989, and ending June 30, 1990, 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, 1989, and ending June 30, 1990, 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 $50,000 from the fund for repair of exterior brick of, and fire safety upgrades for, the state administrative office building.

b. The division may expend up to $500,500 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 Iowa administrative code, 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 $40,000 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 $1,000 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. 5. FEDERAL FUNDS APPROPRIATED FOR BUILDING PURCHASE. There is appropriated out of the funds made available to this state pursuant to section 903 of the federal Social Security Act, as amended, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, $62,500, and for the fiscal year beginning July 1, 1990, and ending June 30, 1991, $62,500, to the department of employment services for the payment of the last two of four annual payments to the Iowa public employees' retirement system for the purchase of that portion of the state administrative office building located at 1000 East Grand, Des Moines, Iowa, which is owned by the Iowa public employees' retirement system.

The moneys appropriated in this section shall not be obligated after June 30, 1991. The amount obligated pursuant to this section during any twelve-month period beginning on July 1 and ending on June 30 shall not exceed the amount available for obligation pursuant to section 903 of the federal Social Security Act, as amended, and as reflected in the accounts of the division of job service of the department of employment services and the United States department of labor.

Sec. 6. 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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

DIVISION OF JOB SERVICE

Notwithstanding section 96.7, subsection 12, paragraph "c", for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,187,600

..... FTEs 149.94

As a condition, qualification, and limitation of this appropriation, the department of employment services shall provide services throughout the fiscal year beginning July 1, 1989, and ending June 30, 1990, in all communities in which job service offices are operating on July 1, 1989. However, this provision shall not prevent the consolidation of multiple offices within the same city or the collocation of job service offices with another public agency.

The department shall provide information to the legislative fiscal bureau upon request to be used for legislative oversight of all programs operated by the department.

The department shall develop performance standards and criteria for measuring services to certain individuals including but not limited to individuals over fifty-five years of age, individuals who have drawn unemployment insurance benefits for ten weeks or longer,

handicapped individuals, females, minorities, veterans, youth, aid to dependent children recipients, and other appropriate targeted populations.

The department shall submit to the general assembly on or before October 1, 1989, a service delivery plan that will provide for all of the following:

1. Services be streamlined and limited to those specifically funded by the United States congress and the Iowa general assembly.
2. Services will continue to be available to communities which currently have a job service office.
3. A timetable and cost of implementing and disseminating automated services.
4. A cost analysis of all services provided to employers and individuals seeking work.
5. A description of the existing relationship between the department and private employment agencies.
6. Alternatives to office closings including but not limited to, group intake, increased automation, itinerant service, collocation, and flexible operating hours.
7. The feasibility of establishing employer fees for providing services not specifically funded through federal grants or by the general assembly.
8. A report of innovative employment service practices which are adaptable to Iowa's employers and Iowa's work force.

Notwithstanding section 8.33, moneys appropriated to the department of employment services, division of job service, for division approved training in 1988 Iowa Acts, chapter 1274, section 8, subsection 2, in the original amount of $1,149,209 shall not lapse or revert at the end of the fiscal year ending June 30, 1989, but the unexpended balance shall be available to the division of job service in the division approved training fund for the fiscal year beginning July 1, 1989, and ending June 30, 1990.

Sec. 7. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. GENERAL DEPARTMENT

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,124,300
..... FTEs 250.50

Of the amount appropriated, $38,700, or so much thereof as is necessary, shall be expended for one FTE and necessary expenses in connection with the administration of payment claims to court-appointed counsel for adult and juvenile indigent defense costs.

Three FTEs responsible for conducting alcoholic beverage audits shall be transferred to the alcoholic beverage division of the department of commerce.

2. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 35,500
..... FTEs 1.80

3. FOSTER CARE REVIEW BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 304,171
..... FTEs 8.50

4. 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.

*5. *LEGAL SERVICES CORPORATION. For the general operations of the legal services corporation of Iowa:*

..... *$ 150,000*

*Item veto; see message at end of the Act

*As a condition, limitation, and qualification of the funds appropriated in this subsection, the legal services corporation of Iowa shall maintain in operation all offices which were operating as of May 1, 1989, except that one office may be closed. If during the fiscal year of the appropriation the legal services corporation closes or ceases to operate more than one office of the offices which were operating as of May 1, 1989, the money appropriated in this subsection shall be immediately refunded to the general fund of the state.**

Sec. 8. There is appropriated from the general fund of the state to the office of the state public defender for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,684,000
..... FTEs 89.53

For indigent court-appointed attorney fees for adults and juveniles, notwithstanding section 232.141 and chapter 815:

..... $ 7,200,000

The department of inspections and appeals and the judicial department shall work together to provide a smooth transition for the payment of court-appointed attorney fees for indigent defense of adults and juveniles and shall jointly submit a proposal for any necessary changes in the Code, to permanently transfer this function to the office of the state public defender, by December 15, 1989.

Sec. 9. There is appropriated from the road use tax fund to the department of inspections and appeals for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 417,500
..... FTEs 11.00

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. 10. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 648,530
..... FTEs 13.50

Sec. 11.

1. 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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 679,675
..... FTEs 9.0

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.

*Item veto; see message at end of the Act

2. 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.

The professional licensing and regulation division may expend additional funds, including funds required for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for the division, and result directly from the licensing and regulation of the subject professions. 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 expenses. The amounts necessary to fund the excess expenses shall be collected from those persons being regulated or licensed which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 12. 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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	1,529,000
..... FTEs	43.50

Sec. 13. 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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	4,808,000
..... FTEs	87.86

Of the amount appropriated, $144,000, or so much thereof as is necessary, shall be expended for four FTEs, and necessary expenses, including three FTEs transferred from the department of inspections and appeals, in connection with alcoholic beverage audits.

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 shall be reconciled and any overpayment shall be returned to each division or any underpayment shall be paid by each division.

Sec. 14. There is appropriated from the banking revolving fund to the banking division of the department of commerce for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	5,256,500
..... FTEs	118.50

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 shall be reconciled and any overpayment shall be returned to each division or any underpayment shall 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. 15. 1988 Iowa Acts, chapter 1274, section 20, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any unexpended moneys from the appropriation for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the division of banking from the banking revolving fund, shall not revert to the banking revolving fund, but may be expended by the division of banking for the purchase of computer equipment to continue the automation support of field audit staff. A report on the types, quantities, and costs of equipment acquired pursuant to this paragraph shall be provided to the department of management and the legislative fiscal bureau on or before July 15, 1989.

Sec. 16. 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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	951,000
.....	FTEs	20.00

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 shall be reconciled and any overpayment shall be returned to each division or any underpayment shall 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. 17. 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, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	310,000
.....	FTEs	6.00

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 shall be reconciled and any overpayment shall be returned to each division or any underpayment shall 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 loan associations. 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 loan associations 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. 18. There is appropriated from the insurance revolving fund to the insurance division of the department of commerce for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	4,004,800
.....	FTEs	93.33

Of the amount appropriated, at least $21,128 shall be expended to hire an executive secretary for the insurance commissioner.

Of the amount appropriated, $75,000 shall be expended for the salary and reasonable and necessary expenses of the director of insurance development, who for budgetary purposes is under the division of insurance. The director of insurance development shall continue to maintain the director's office in its current location.

Of the funds appropriated, conditioned upon the enactment of Senate File 278 by the Seventy-third General Assembly, 1989 Session, the following amounts shall be added to the budget of the regulated industries unit of the securities bureau of the insurance division; $25,000 shall

be used for the salary and benefits of a full-time administrative assistant, to be responsible for assisting in the administration of chapter 523D regarding the registration of continuing care retirement communities; $1,000 shall be used for the training, travel, and other necessary expenses of the administrative assistant for the chapter 523D program; and $3,800 shall be used for equipment, supplies, and a computer for the chapter 523D administrative assistant.

It is the intent of the general assembly that the department of commerce shall transfer sixty percent of insurance nonexamination revenues received for the fiscal year beginning July 1, 1989, and ending June 30, 1990, to the general fund of the state to the extent that the remaining forty percent of nonexamination revenues available to the division exceed or are projected to exceed the division's appropriation pursuant to this Act.

Of the funds appropriated, $126,395, or so much thereof as is necessary, shall be transferred to the office of the attorney general to reimburse the office of the attorney general for two assistant attorneys general.

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 shall be reconciled and any overpayment shall be returned to each division or any underpayment shall 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. 19. There is appropriated from the utilities trust fund to the utilities division of the department of commerce for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	4,489,300
.....	FTEs	87.50

The general assembly finds that cost-effective energy efficiency is a vital goal for Iowa because Iowa produces virtually none of the energy it consumes, but pays substantial amounts for the energy it purchases from out-of-state sources. The most effective means of discovering creative and cost-effective energy efficiency program options is through a cooperative effort among consumers, utilities, and the utilities board.

Of the amount appropriated in this section, not more than $100,000 shall be expended by the utilities board to study and identify promising cost-effective energy efficiency program options. The board may retain one or more consultants in conjunction with the board's study. The board shall share the results of the study and any consulting contract with any legislative interim committee appointed encompassing similar subject matter, and that legislative interim committee shall have access to any consultant retained by the board with the full cooperation of the board. The board shall establish a cooperative effort among consumers and utilities to assist the board in identifying promising energy efficiency program options

and means to implement such options. Consumer participants may be reimbursed for actual expenses. The board shall provide to the general assembly on or before November 1, 1989, a report on the cost-effective program options identified in the cooperative board study and any recommendations of the board for legislative action.

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 shall be reconciled and any overpayment shall be returned to each division or any underpayment shall be paid by each division.

Sec. 20. There is appropriated from the racing commission fund to the racing commission for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	1,712,500
..... FTEs	30.99

The racing commission shall provide, in the budget forms for the fiscal year beginning July 1, 1990, and ending June 30, 1991, a separate line item for veterinarian services and another line item for body fluid testing of dogs and horses. These items shall also be designated in the base budget package and any decision packages in which they appear in the budget forms. Other professional and scientific services may be combined into an additional line item, but must be clearly explained in the budget narrative section of the budget forms.

Sec. 21. All federal grants to and the federal receipts of the agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 22.

1. There is created in the office of the treasurer of state for the racing and gaming commission, an excursion boat gambling revolving fund.

2. There is appropriated from the general fund of the state to the racing and gaming commission, $100,000, for deposit in the excursion boat gambling revolving fund.

3. The amount appropriated from the general fund of the state in subsection 2 is appropriated from the excursion boat gambling 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, 1991.

4. All license fees, fees, and penalties collected by the racing and gaming commission in connection with excursion boat gambling shall be deposited into the excursion boat gambling revolving fund.

5. There is appropriated from the excursion boat gambling revolving fund to the racing and gaming commission, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for administration and enforcement of the excursion boat gambling laws:

..... $	100,000
..... FTEs	2.00

Sec. 23. NEW SECTION. 13B.8A PUBLIC DEFENDER PROPERTY.

1. Notwithstanding section 13B.8, subsection 4, public property referred to in subsection 2 in the custody of a person or agency referred to in subsection 3 shall not be property of the department of inspections and appeals, but shall be devoted for the use of the department of inspections and appeals in its course of business. The department of inspections and appeals

shall only be responsible for maintenance contracts or contracts for purchase entered into by the department of inspections and appeals. Upon replacement of the property by the department of inspections and appeals, the property shall revert to the use of the appropriate county.

2. This section applies to the following property:

a. Books, accounts, and records that pertain to the operation of the public defender's offices.

b. Forms, materials, and supplies that are consumed in the usual course of business.

c. Tables, chairs, desks, lamps, curtains, window blinds, rugs and carpeting, flags and flag standards, pictures and other wall decorations, and other similar furnishings.

d. Typewriters, adding machines, desk calculators, cash registers and similar business machines, reproduction machines and equipment, microfiche projectors, tape recorders and associated equipment, microphones, amplifiers and speakers, film projectors and screens, overhead projectors, and similar personal property.

e. Filing cabinets, shelving, storage cabinets, and other property used for storage.

f. Books of statutes, books of ordinances, books of judicial decisions, and reference books, except those that are customarily held in a law library for use by the public.

g. All other personal property that is in use in the operation of the offices of the public defender.

3. This section applies to the following persons and agencies:

a. Offices of the public defender.

b. Persons who are employed by an office of the public defender.

4. Subsections 1 through 3 and 5 do not apply to electronic data storage equipment, commonly referred to as computers, or to computer terminals or any machinery, equipment, or supplies used in the operation of computers. Those counties providing computer services to the public defender shall continue to provide these services until the general assembly provides otherwise. The state shall reimburse these counties for the cost of providing these services. Each county providing computer services to an office of the public defender shall submit a bill for these services to the department of inspections and appeals at the end of each calendar quarter. Reimbursement shall be payable from funds appropriated to the department for operating expenses of the offices of the public defender and shall be paid within thirty days after receipt by the department of inspections and appeals of the quarterly billing.

5. Personal property of a type that is subject to subsections 1 through 3 shall be subject to the control of the offices of the public defender. The offices of the public defender may issue necessary orders to preserve the use of the property by the public defender. The offices of the public defender shall establish and maintain an inventory of property used by the offices of the public defender.

Sec. 24. Section 68B.7, unnumbered paragraph 2, Code 1989, is amended to read as follows:

~~No~~ A person who has served as the head of or on a commission or board of a regulatory agency or as a deputy thereof, shall not, within a period of two years after the termination of such service accept employment with that commission, board, or agency or receive compensation for any services rendered on behalf of any person, firm, corporation, or association in any case, proceedings, or application before the department with which the person so served wherein the person's compensation is to be dependent or contingent upon any action by such agency with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit, or in promoting or opposing, directly or indirectly, the passage of bills or resolutions before either house of the general assembly.

Sec. 25. Section 88.8, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner has unreviewable discretion to withdraw a citation charging an employer with violating this chapter. If the parties enter into a settlement agreement prior to a hearing, the employment appeal board shall enter an order affirming the agreement.

Sec. 26. Section 89.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. "Exhibition boiler"means a boiler which is operated in the state for nonprofit purposes including, but not limited to, exhibitions, fairs, parades, farm machinery

shows, or any other event of an historical or educational nature. An "exhibition boiler" includes steam locomotives, traction and portable steam engines, and stationary boilers of the firetube, watertube, and returntube class, model or miniature, and may be riveted, riveted and welded, or all welded construction, if used within the state solely for nonprofit purposes.

Sec. 27. Section 89.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 11. An exhibition boiler does not require an annual inspection certificate but special inspections may be requested by the owner or an event's management to be performed by the commissioner. Upon the completion of an exhibition boiler inspection a written condition report shall be prepared by the commissioner regarding the condition of the exhibition boiler's boiler or pressure vessel. This report will be issued to the owner and the management of all events at which the exhibition boiler is to be operated. The event's management is responsible for the decision on whether the exhibition boiler should be operated and shall inform the division of labor of the event's management's decision. The event's management is responsible for any injuries which result from the operation of any exhibition boiler approved for use at the event by the event's management. A repair symbol, known as the "R" stamp, is not required for repairs made to exhibition boilers pursuant to the rules regarding inspections and repair of exhibition boilers as adopted by the commissioner, pursuant to chapter 17A.

Sec. 28. Section 135C.37, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon the request of a person filing a complaint under this section, the department shall mail to the person without charge, a copy of the report of the investigation performed in response to the complaint and a copy of the most recent final findings with respect to compliance with licensing requirements on the part of the facility against which the complaint was filed.

Sec. 29. Section 476.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 17. WATER COSTS FOR FIRE PROTECTION IN CERTAIN CITIES.

a. Application. A city furnished water by a public utility subject to rate regulation may apply to the board for inclusion of all or a part of the costs of fire hydrants or other improvements, maintenance, and operations for the purpose of providing adequate water production, storage, and distribution for public fire protection in the rates or charges assessed to consumers covered by the applicant's fire protection service. The application shall be made in a form and manner approved by or as directed by the board. The applicant shall provide such additional information as the board may require to consider the application.

b. Review. The board shall review the application, and may in its discretion consider additional evidence, beyond that supplied in the application or provided by the applicant in response to a request for additional information pursuant to paragraph "a", including, but not limited to, soliciting oral or written testimony from other interested parties.

c. Notice. Written notice of a proposed rate increase shall be provided by the public utility pursuant to subsection 5, except that notice shall be provided within ninety days of the date of application. Costs of the notice shall be paid for by the applicant.

d. Conditions for approval. As a condition to approving an application to include water-related fire protection costs in the utility's rates or charges, the board shall make an affirmative determination that the following conditions will be met:

(1) That the service area currently charged for fire protection, either directly or indirectly, is substantially the same service area containing those persons who will pay for water-related fire protection through inclusion of such costs within the utility's rates or charges.

(2) That the inclusion of such costs within the utility's rates or charges will not cause substantial inequities among the utility's customers.

(3) That all or a portion of the costs sought to be included in the utility's rates or charges by the applicant are reasonable in the circumstances, and limited to the purposes specified in paragraph "a".

(4) That written notice has been provided pursuant to paragraph "c" and that the costs of the notice have been paid by the applicant.

e. Inclusion within rates or charges. If the board affirmatively determines that the conditions of paragraph "d" are or will be satisfied, the board shall include the reasonable costs in the rates or charges assessed to consumers covered by the applicant's fire protection service.

f. Written order. The board shall issue a written order within six months of the date of application. The written order shall include a recitation of the facts found pursuant to consideration of the application.

Sec. 30. Section 476.10, unnumbered paragraph 4, Code 1989, is amended to read as follows:

Whenever the board shall deem it necessary in order to carry out the duties imposed upon it in connection with rate regulation under section 476.6, investigations under section 476.3, or review proceedings under section 476.31, the board may employ additional temporary or permanent staff, or may contract with persons who are not state employees for engineering, accounting, or other professional services, or both. The costs of these additional employees and contract services shall be paid by the public utility whose rates are being reviewed in the same manner as other expenses are paid under this section. ~~There is hereby appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board to hire additional staff and contract for services under this section.~~ The board shall increase quarterly assessments specified in unnumbered paragraph two, by amounts necessary to enable the board to hire additional staff and contract for services under this section. The authority to hire additional temporary or permanent staff that is granted to the board by this section shall not be subject to limitation by any administrative or executive order or decision that restricts the number of state employees or the filling of employee vacancies, and shall not be subject to limitation by any law of this state that restricts the number of state employees or the filling of employee vacancies unless that law is made applicable to this section by express reference to this section. Before the board expends or encumbers an amount in excess of the funds budgeted for rate regulation and before the board increases quarterly assessments pursuant to this paragraph, 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 expenses exceed the funds budgeted by the general assembly to the board for rate regulation and that the board does not have other funds from which the expenses can be paid. Upon approval of the director of the department of management the board may expend and encumber funds for the excess expenses, and increase quarterly assessments to raise the additional funds.

Sec. 31. NEW SECTION. 477.9A DEREGULATED SERVICES.

A telegraph or telephone company whose services are deregulated by the board under section 476.1 may use public notice as a means of conveying terms and conditions to customers where identification of those customers is infeasible or impractical. Public notice may also be used to convey changes in terms and conditions, other than price increases or limitations of liability, to all other customers, but only if those customers were put on notice that this means would be used to convey subsequent changes. Notwithstanding section 477.7, when services are deregulated by the board under section 476.1, a telegraph or telephone company, in any contract, agreement, or by means of public notice, may reasonably limit its liability under section 477.7 in the course of providing the deregulated communications services to its customers, except for acts of willful misconduct. However, this section shall not be construed to allow a greater limitation on liability than exists in any contract or approved tariff as of the effective date of the deregulation of the services.

Sec. 32. Section 507B.4, subsection 9, paragraph f, Code 1989, is amended to read as follows:

f. Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear, or failing to include interest on the payment of claims when required under section 511.38.

Sec. 33. Section 508.14, Code 1989, is amended to read as follows:

508.14 VIOLATION BY DOMESTIC COMPANY.

Upon a failure of ~~any~~ a company organized under the laws of this state to make the deposit provided in section 511.8, subsection 16, or file the statement in the time herein stated, or to file in a timely manner any financial statement required by rule of the commissioner of insurance, the commissioner of insurance shall notify the attorney general of the default, who shall at once apply to the district court of the county where the home office of ~~such~~ the company is located for an order requiring the company to show cause, upon reasonable notice, to be fixed by the court, why its business shall not be discontinued. If, upon the hearing, no sufficient cause is shown, the court shall decree its dissolution. In lieu of a district court action authorized by this section, the commissioner may impose an administrative penalty of three hundred dollars upon the company.

Sec. 34. Section 508.15, Code 1989, is amended to read as follows:

508.15 VIOLATION BY FOREIGN COMPANY.

Companies organized and chartered by the laws of a foreign state or country, failing to file the evidence of investment and statement within the time fixed, or failing to timely file any financial statement required by rule of the commissioner of insurance, shall forfeit and pay the sum of three hundred dollars, to be collected in an action in the name of the state and paid to the treasurer of state for deposit in the general fund of the state, and their right to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with.

Sec. 35. NEW SECTION. 511.38 INTEREST ON DELAYED CLAIMS PAYMENTS.

1. When an insurance policy provides for the payment of its proceeds to a beneficiary upon the death of an individual and, without the written consent of the beneficiary, the company fails or refuses to pay the proceeds within thirty days after receipt of satisfactory proof of death, the company shall pay interest on the proceeds or any amount of the proceeds not paid within the thirty days, provided, however, if the policy requires a beneficiary to survive for a designated period after the death of the insured, the company shall pay interest on the proceeds or any amount of the proceeds not paid within thirty days after the designated period.

2. The interest owed on any amount of the proceeds of a policy under this section shall be computed from the date of receipt of the proof of death. The rate of interest shall be the higher of the following:

a. The effective rate of interest charged by the company on policy loans under section 511.36 on the date of receipt of proof of death.

b. The effective rate of interest paid by the company on death proceeds left on deposit with the company.

3. A payment of interest shall not be required under this section in any case in which the beneficiary elects to receive the proceeds under the policy by any means other than a lump sum payment.

Sec. 36. Section 514E.5, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, the association policy shall pay benefits as a primary payer in any case where benefit coverage provided under the laws of the United States, including Medicare and Medicaid, or under the laws of this state is, by rule or statute, secondary to all other coverages.

Sec. 37. Section 514G.7, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Provide coverage for skilled nursing care only, or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

Sec. 38. Section 514G.7, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. PRIOR HOSPITALIZATION — INSTITUTIONALIZATION.

a. Effective July 1, 1989, a long-term care insurance policy shall not be delivered or issued for delivery in this state if the policy does either of the following:

(1) Conditions eligibility for any benefits on a requirement of prior hospitalization.

(2) Conditions eligibility for benefits covering care provided in an institutional care setting on the receipt of a higher level of institutional care.

b. Effective July 1, 1989, a long-term care insurance policy containing any limitations or conditions for eligibility, other than those prohibited in paragraph 1, shall clearly label such limitations or conditions in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits".

c. A long-term care insurance policy advertised, marketed, or offered as containing long-term care benefits at home shall not condition receipt of benefits on a requirement of prior hospitalization.

d. A long-term care insurance policy which conditions eligibility for noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty days for which benefits are paid.

Sec. 39. Section 514G.7, subsection 7, Code 1989, is amended to read as follows:

7. OUTLINE OF COVERAGE. An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy at the time of application. ~~In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request shall deliver the outline no later than at the time of policy delivery.~~ An outline of coverage must include all of the following:

a. A description of the principal benefits and coverage provided in the policy.

b. A statement of the principal exclusions, reductions, and limitations contained in the policy.

c. A statement of the renewal provisions, including any reservation in the policy of a right to change premiums. Continuation or conversion provisions of group coverage shall be specifically described.

d. A statement that the outline of coverage is a summary of the policy issued or applied for, not a contract of insurance, and that the policy or group master policy should be consulted to determine governing contractual provisions.

e. A description of the terms by which the policy or certificate may be returned and premium refunded.

f. A description of the cost of care and benefits.

Sec. 40. 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 1986 Iowa Acts, chapter 1246, sections 724 through 761, shall continue to be accorded the hiring preferences for other positions in state departments provided by 1986 Iowa Acts, chapter 1246, section 755. This preference shall terminate on June 30, 1990.

Sec. 41. Section 31 of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 42. Section 477.9A, as enacted in this Act, is repealed effective May 1, 1990.

Approved June 5, 1989, except the item which I hereby disapprove and which is designated as section 7, subsection 5 in its entirety. My reasons for vetoing 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 779, an Act relating to and making appropriations, subject to certain conditions, to regulatory bodies of state government, including the auditor of state, the campaign finance disclosure commission, the department of employment services, the office of the state public defender, the department of inspections and appeals, the department of commerce, and the racing commission, among others, and effecting the laws enforced by and procedures utilized by such regulatory bodies, determining the ownership and control of certain property in the possession of the office of the state public defender, and imposing penalties.

House File 779 is, therefore, approved on this date with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 7, subsection 5, in its entirety. This provision makes a new appropriation of $150,000 to the Legal Services Corporation of Iowa. This program already has a budget of $2.9 million and has received modest federal funding increases in recent years. This extra state expenditure is imprudent and unnecessary. The Legal Services Corporation of Iowa is federally funded as well as receiving funds from other sources.

Given the substantial overspending of state taxpayers funds by this General Assembly, I cannot approve what is likely to be an additional long-term commitment of tax money for this purpose. Moreover, I have separately approved an appropriation increase of $140,000 above the Attorney General's recommendation for legal assistance to farmers. These funds also go to this corporation in the effort to defend indigent farmers. That substantial increase in state funds should be sufficient to maintain the operation of the corporation while the need exists.

For the above reason, I hereby respectfully disapprove this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 779 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 322

APPROPRIATIONS AND OTHER PROVISIONS RELATING TO HUMAN SERVICES, EDUCATION, CULTURAL AFFAIRS, TRANSPORTATION, PERSONNEL, AND FINANCE

H.F. 799

AN ACT relating to and making appropriations to the department of human services, state board of regents, department of cultural affairs, state department of transportation, department of personnel, and Iowa finance authority, the authorization for the issuance of revenue bonds, and providing an effective date.

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

DEPARTMENT OF HUMAN SERVICES

Section 1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For one-time emergency grants to licensed child care centers located in cities with a population of less than five thousand to be used to assist the centers in meeting staffing or other state licensing requirements, on the condition that the maximum grant is two thousand five hundred dollars:

..... $ 25,000

**2. For major maintenance projects at the institutions to correct cited violations of codes or standards, projects to bring facilities into compliance, and projects to repair or replace critical deteriorated components or equipment:*

..... *$ 483,000*

The department of human services shall expend the funds appropriated in this subsection in the following priority at the following named facilities for the major maintenance projects designated:

	FACILITY	*PROJECT*
a.	*Glenwood*	*Building 102 handicap bathrooms, replace floors*
b.	*Independence*	*Reconstruct escapes — Reynolds wings*
c.	*Mount Pleasant*	*Complete electrical redistribution wiring*
d.	*Woodward*	*Fire alarm system — chapel*
e.	*Woodward*	*Fire alarm — Linden court A/C, power plant*
f.	*Eldora*	*Reroof living units 7 and 8*
g.	*Marshalltown*	*Replace brick, seal,waterproof — Heinz hall*
h.	*Marshalltown*	*Exterior foyer — Dack building (south)*
i.	*Toledo*	*Replace domestic hot and cold water lines*
j.	*Toledo*	*Replace steam and cond. lines in tunnel*
k.	*Woodward*	*Replace roof — 12 patient living units*

3. For major maintenance projects and capital improvements at the mental health institutes and hospital-schools:

..... *$ 850,000*

The department shall fund the projects according to their designated priority need.

4. For capital improvements at the juvenile institutions:

..... *$ 500,000*

*The department shall fund the projects at Toledo and Eldora institutions according to their designated priority needs.**

5. Notwithstanding section 8.39, funds appropriated in the department for the purposes designated in subsections 2, 3, and 4 are not subject to transfer. However, nothing in this Act prohibits the department from transferring moneys from other sources to be used for the purposes designated in subsections 2, 3, and 4.

*Item veto; see message at end of the Act

*Sec. 2. *There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:*

For start-up costs associated with the development of juvenile emergency shelters and group homes for the placement of juveniles who have a high risk of the commission of a crime or a delinquent act and who need placement out-of-home and need specialized programs such as substance abuse or education programs:

..... $ *250,000**

STATE BOARD OF REGENTS

Sec. 3. BOARD OF REGENTS PROJECTS. From funds in the state treasury not otherwise appropriated that are in excess of a fiscal year ending balance deemed sufficient by the governor, based upon the June 30, 1989, fiscal year ending balance, there is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the amount in excess of the ending balance deemed sufficient by the governor, not exceeding $33,940,000, for the following projects:

1. For undergraduate education building planning at the state university of Iowa:
..... $ 1,000,000

2. For pharmacy building addition planning and pharmacy building addition construction and equipment at the state university of Iowa:
..... $ 11,200,000

3. For McLean hall remodeling at the state university of Iowa:
..... $ 1,000,000

4. For Gilman hall remodeling and equipment at Iowa state university of science and technology:
..... $ 7,040,000

5. For agronomy building equipment at Iowa state university of science and technology:
..... $ 1,000,000

6. For livestock units for swine and cattle at Iowa state university of science and technology:
..... $ 2,000,000

7. For the library addition new construction and equipment for the university of northern Iowa:
..... $ 7,000,000

8. For Wright hall remodeling at the university of northern Iowa:
..... $ 2,700,000

9. For the classroom office building equipment for the university of northern Iowa:
..... $ 1,000,000

If the ending fund balance is not deemed sufficient by the governor to fund all of the projects listed in this section, the governor shall determine, based upon the ending fund balance, which projects shall be funded and shall certify to the state board of regents and to the department of revenue and finance the projects to be funded. A project not funded under this section shall be funded under section 4 of this Act.

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 for the fiscal year beginning July 1, 1989, are sufficient to pay all other appropriations in full and are sufficient to pay the appropriations made in this section for the projects that the governor determines shall be funded.

Notwithstanding section 8.33, unobligated or unencumbered funds appropriated in this section for the fiscal year beginning July 1, 1989, and ending June 30, 1990, remaining on June 30, 1990, shall not revert to the general fund of the state until September 30, 1992. However, if a project for which the funds are appropriated is completed prior to June 30, 1992, 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.

*Item veto; see message at end of the Act

Sec. 4. BONDING AUTHORIZATION. If the excess in the ending general fund balance under section 3 of this Act is not sufficient to fund any or all of the projects listed in section 3 of this Act pursuant to the certification of the governor as provided in section 3 of this Act, the funding for the projects listed in section 3 of this Act shall be obtained using this section.

The general assembly declares that the state board of regents has met the requirements of section 262A.3 regarding the preparation and submission to the general assembly of the proposed ten-year building program for each institution of higher learning under the jurisdiction of the state board of regents, and the general assembly hereby approves that ten-year building program as submitted. The general assembly finds that the projects contained in the building program are deemed necessary for the proper performance of the instructional, research, and service functions of the institutions, pursuant to section 262A.4, and to further the educational objectives of the institutions, the general assembly authorizes the state board of regents during the fiscal year beginning July 1, 1989, to undertake, plan, construct, equip, and otherwise carry out at the institutions of higher learning under the jurisdiction of the board all of the projects listed in section 3 of this Act which are not funded under section 3 of this Act, and the general assembly authorizes the state board of regents to borrow money and to issue and sell negotiable revenue bonds in the manner provided in sections 262A.5 and 262A.6 in order to pay all or any part of the cost of carrying out the projects not funded under section 3 of this Act, and the cost of issuance of bonds, at any institution in a total amount not exceeding $33,940,000, the remaining cost of the projects to be financed by capital appropriations or by federal or other funds lawfully available. The negotiable revenue bonds shall be payable solely from and secured by an irrevocable pledge of a sufficient portion of the student fees and charges and institutional income received by the particular institution. No commitment is implied or intended by approval of the general assembly to fund any portion of the proposed ten-year building program submitted by the state board of regents beyond the projects listed in section 3 of this Act.

During the biennium which commences July 1, 1989, and which ends June 30, 1991, the maximum amount of bonds which the state board of regents expects to issue under chapter 262A pursuant to this section, unless additional bonding is authorized, is $33,940,000, all or any part of which may be issued during the fiscal year ending June 30, 1990, and if all of that amount should not be issued during that fiscal year, any remaining balance may be issued during the fiscal year ending June 30, 1991. The general assembly hereby approves the plan of financing contained in this section and authorizes the issuance of bonds under this section and chapter 262A.

The state board of regents shall present the construction budgets developed for each of the state university of Iowa projects to the legislative council for approval prior to the commencement of construction on those projects.

If the amount of bonds issued under this section for a project exceeds the actual cost of that project provided in section 3 of this Act, the amount of the difference shall be used to pay the principal and interest due on bonds issued under chapter 262A.

**Sec. 5. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:*

For asbestos removal at the state school for the deaf:

..... $ 25,000

*Notwithstanding section 8.39, funds appropriated in this section shall be used for the purposes designated and are not subject to transfer.**

*Item veto; see message at end of the Act

**DEPARTMENT OF CULTURAL AFFAIRS*

Sec. 6. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the replacement of the channel 12 transmitter of the public broadcasting division:

..... *$ 500,000*

*Notwithstanding section 8.39, funds appropriated under this section shall only be used for the purposes designated and are not subject to transfer.**

PUBLIC BROADCASTING DIVISION

Sec. 7. Notwithstanding the funding restrictions, requirements relating to the development of a request for proposal, and certification by the department of management, contained in section 18.136, if 1989 Iowa Acts, House File 774, is enacted by the general assembly, of the moneys appropriated in section 18.137, if 1989 Iowa Acts, House File 774, is enacted by the general assembly, notwithstanding the certification requirement, $600,000 may be used, if necessary, by the public broadcasting division of the department of cultural affairs, to match federal funds awarded prior to the enactment date of 1989 Iowa Acts, House File 774, for the implementation of an educational telecommunications system.

Sec. 8. Section 261.103, subsection 1, if 1989 Iowa Acts, House File 774, is enacted by the general assembly, is amended to read as follows:

1. A grant under the program may be awarded to any minority person who is a resident of Iowa, who is accepted for admission or is attending a board of regents' university or an accredited private institution, and who demonstrates financial need. Applicants who receive vouchers under section 262.92 shall be given priority in receiving grants under the program, but an applicant shall not be denied a grant because the applicant does not hold vouchers under the program in section 262.92. During the fiscal year commencing July 1, 1989, and ending June 30, 1990, grants shall be awarded to minority persons who are residents of Iowa. ~~However, if after funds appropriated are distributed to all eligible resident minority persons, funds remain unexpended, those funds may be used to provide grants under the program to nonresident minority persons.~~ For the fiscal year commencing July 1, 1990, and in subsequent years, grants shall be awarded to all minority persons, with priority to be given to those minority persons who are residents of Iowa.

Sec. 9. NATURAL HERITAGE PROMOTION. 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 amount, or so much thereof as is necessary, to support the convention of the outdoor writer's association of America in order to promote Iowa's natural heritage and state tourism:

..... $ 20,000

The department of natural resources and the department of economic development shall cooperate in the implementation of this section.

**STATE DEPARTMENT OF TRANSPORTATION*

Sec. 10. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For essential air service airport terminal improvements:

..... *$ 300,000*

In selecting projects, the state department of transportation shall give preference to projects that will assist in maintaining and attracting air service. The state department of transportation shall provide funding for as many essential air service communities as possible based on merit and need. Priority shall be given to those airports with projects closest to completion. Those airports that use moneys from this program must complete their projects in the

*Item veto; see message at end of the Act

*fiscal year beginning July 1, 1989. The state department of transportation shall notify essential air service airports of this program and make tentative selection of projects forty-five days from the effective date of this Act.**

**DEPARTMENT OF PERSONNEL*

Sec. 11. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For site purchase, planning, design, and site preparation to establish a child care center at the capitol complex:

..... $ 300,000

1. The department of personnel shall survey the state employees located at the capitol complex to determine interest in on-site child day care services. The survey shall include but is not limited to an assessment of all of the following items:

a. The number and ages of children of employees who express an intent to utilize a child care center established at the capitol complex.

b. The time of day during which child day care services are desired.

c. The work location of interested employees.

d. The potential impact of establishing child day care services at the capitol complex upon private child day care providers.

2. By October 1, 1989, the department shall report the results of the child day care survey to the state employees child care council which is created in the department of personnel. The council shall determine the level of need for a capitol complex child care center and shall monitor the planning to establish a child care center in the capitol complex. The membership of the council shall include representatives of each of the unions representing state employees and the directors of the following departments or the directors' designees: the department of general services, the department of personnel, the department of human services, the state department of transportation, and the Iowa department of public health. The council shall determine its own operating procedures.

*3. If the survey of capitol complex employees identifies an intent for twenty or more children to utilize child day care services, the department of personnel shall commence efforts to establish a child care center at the capitol complex, including commencement of the transfer of moneys appropriated in this section to the department of general services in an amount sufficient to purchase and prepare a site, develop a design, and plan for the establishment of a child care center located within the capitol complex with sufficient capacity for the number of children to be provided day care services as determined by the state employees child care council.**

**DEPARTMENT OF HUMAN SERVICES*

Sec. 12. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For outreach, recruitment, and training of new child day care providers:

..... $ 200,000

*Of the funds appropriated in this section up to $25,000 may be used to develop and distribute start-up kits for establishing child day care services. The use of the remaining funds shall include the recruitment of new child day care providers and the training of family and group day care home providers and of child care center administrators and other staff.**

**IOWA FINANCE AUTHORITY*

Sec. 13.

1. There is appropriated from the general fund of the state to the housing trust fund created pursuant to section 220.100, subsection 1, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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*Item veto; see message at end of the Act

For the programs established in section 220.100, subsection 2:

..... *$ 1,500,000*

2. As nearly as practicable, of the moneys appropriated in subsection 1, the Iowa finance authority should allocate ten percent for the homeless grant program under section 220.100, subsection 2, paragraph "a"; twenty percent for the home maintenance and repair program under section 220.100, subsection 2, paragraph "b"; thirty-five percent for the rental rehabilitation program under section 220.100, subsection 2, paragraph "c"; and thirty-five percent for the home ownership incentive program under section 220.100, subsection 2, paragraph "d". After February 1, 1990, moneys allocated to a program under section 220.100, subsection 2, may be reallocated by the authority to another program under that subsection if the other program has more need. In providing funds under the home maintenance and repair program and the home ownership incentive program, the authority shall, to the extent feasible, make funds available under the programs for purposes of pilot projects for sweat-equity housing cooperatives.

3. Of the moneys appropriated in subsection 1 that are allocated to the homeless grant program, up to thirty percent may be used for grants for operating costs of homeless shelters.

4. As nearly as practicable, of the moneys appropriated in subsection 1 that are allocated to the home maintenance and repair program, the rental rehabilitation program, and the home ownership incentive program, twenty-five percent from each program should be used to assist very low-income families and seventy-five percent from each program should be used to assist lower income families.

5. The assistance provided by the authority under the home ownership incentive program shall include, but not be limited to, the following kinds:

a. Closing costs assistance.

b. Down payment assistance.

c. Home maintenance and repair assistance.

d. Loan processing assistance through a loan endorser review contractor who would act on behalf of the authority in assisting lenders in processing loans that will qualify for government insurance or guarantee or for financing under the authority's mortgage revenue bond program.

e. Mortgage insurance program.

Not more than fifty percent of the assistance provided by the authority under the home ownership incentive program shall be provided under paragraphs "d" and "e".

6. Assistance provided under the home ownership incentive program shall be limited to mortgages under thirty-five thousand dollars, except in those areas of the state where the median price of homes exceeds the state average. In providing the assistance under the home ownership incentive program, the authority shall require substantial seller participation of not less than two percent of the mortgage amount, which participation includes, but is not limited to, home ownership maintenance funding, down payment assistance, payment of closing costs, or rehabilitation costs.

*7. The authority, in conjunction with the department of economic development, shall work with the private sector to set up workshops to educate housing sponsors on the housing programs available and to assist housing sponsors in the application process.**

Sec. 14. Section 9 of this Act, being deemed of immediate importance, takes effect upon its enactment.

Approved June 5, 1989, except those items which I hereby disapprove and which are designated as section 1, subsection 2 in its entirety; section 1, subsection 3 in its entirety; section 1, subsection 4 in its entirety; section 2 in its entirety; that portion of section 4 which is herein bracketed in ink and initialed by me; section 5 in its entirety; section 6 in its entirety; section 10 in its entirety; section 11 in its entirety; section 12 in its entirety; and section 13 in its entirety. 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 House File 799, an Act relating to and making appropriations to the department of human services, state board of regents, department of cultural affairs, state department of transportation, department of personnel, and Iowa finance authority, the authorization for the issuance of revenue bonds, and providing an effective date.

This bill appropriates funds for a number of projects and programs that had previously been vetoed in Senate File 363 — the supplemental appropriations bill. With this additional spending in Fiscal Year 1990, the legislature exceeded my budget for that year by approximately $35 million. The result: a likely state deficit budget or tax increase in Fiscal Year 1991. As a result, a substantial amount of the spending in this bill must again be vetoed in order to prevent a tax increase to support this excessive spending.

Moreover, House File 799 does include provisions to fund on a contingency basis a number of important projects that I had recommended for the Board of Regents. I believe that it is important that those projects be funded on a cash rather than on a debt-financing basis. In order to ensure that will be possible, some of the other spending included in House File 799 must be excised.

House File 799 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 1, subsection 2, in its entirety. This item appropriates approximately $483,000 to the Department of Human Services for various projects at its institutions. I already approved approximately $500,000 for this purpose in Senate File 363. Moreover, the absolute emergency needs that the institutions face can be addressed with already appropriated funds or through performance of duty authority granted to the Executive Council.

I am unable to approve the item designated as Section 1, subsection 3, in its entirety. This provision in the bill appropriates $850,000 to the Department of Human Services for major maintenance and capital improvements at the Mental Health Institute's hospital and schools. I previously vetoed an identical appropriation in Senate File 363 and must veto this item again because of the excessive spending included in the legislature's budget.

I am unable to approve the item designated as Section 1, subsection 4, in its entirety. This subsection appropriates $500,000 to the juvenile institutions that are part of the Department of Human Services. I previously authorized $600,000 to be used at Eldora to renovate and update the student housing building. This is the most critical need for the department and, given the fiscal constraints of this state, is the only project that can be funded at this time.

I am unable to approve the item designated as Section 2, in its entirety. This provision in the bill appropriates $250,000 to the Department of Human Services for the development of juvenile emergency centers and group homes. I understand the importance of providing alternative facilities for juveniles and have approved an appropriation for detention facilities in House File 785. This appropriation overlaps that provision and, therefore, is not approved.

I am unable to approve the designated portion of Section 4. This provision in House File 799 would require the State Board of Regents to present construction budgets for State University of Iowa projects to the legislative council for approval prior to the beginning of the construction of any project. Such a requirement is a clear encroachment on executive branch authority to manage state government. It would be inappropriate for the legislative council to be involved in the minute details of each construction project.

I am unable to approve the item designated as Section 5, in its entirety. This provision provides $25,000 to the School for the Deaf for a capital project. I vetoed a similar provision in Senate File 363. Given the substantial increase in the budget provided to the special schools, any relatively small emergency needs of those institutions should be able to be met within their operating budgets.

I am unable to approve the item designated as Section 6, in its entirety. This section appropriates $500,000 to the Department of Cultural Affairs to replace the Channel 12 transmitter for the Public Broadcasting System. A similar provision was vetoed in Senate File 363 and limited state funds do not allow for its approval at this time.

I am unable to approve the item designated as Section 10, in its entirety. Section 10 appropriates $300,000 of general funds for essential air service airport terminal improvements. I have approved $250,000 from the State Aviation Trust Fund to continue these airport terminal improvement projects. However, I believe it is inappropriate to begin the funding of these projects from the general fund and the priority in the long term should be on the critical needs of the runways for many of our smaller airports throughout the state.

I am unable to approve the item designated as Section 11, in its entirety. This provision appropriates $300,000 to the Department of Personnel for the establishment of a child care center in the capitol complex. I understand and support efforts to provide appropriate child care options for employees of state government. That is why we incorporated into our collective bargaining agreement an option that allows employees to designate, on a pre-tax basis, a portion of their benefits to be used for the child care provider of their choice. This provides a substantial benefit to many of our state employees and provides for a greater flexibility in the selection of child care providers. As a result, I believe that $300,000 for this purpose is unnecessary and inappropriate at this time.

I am unable to approve the item designated as Section 12, in its entirety. This section appropriates $200,000 to the Department of Human Services for recruitment of new child day care providers. This is the same provision that I vetoed in Senate File 363. I have separately approved in Senate File 541 an appropriation increase of $200,000 for start-up grants, fire safety, equipment, and training for new child care centers. This also includes authorization to recruit new child care providers. As a result, this appropriation would appear to duplicate the funding approved in Senate File 541 and cannot be approved.

I am unable to approve the item designated as Section 13 in its entirety. Section 13 appropriates $1.5 million to the Iowa Housing Finance Authority for new housing programs. Over $5 million is available to the Iowa Housing Finance Authority in Fiscal Year 1990 for housing programs — $3.6 million above the Fiscal Year 1989 funding level. The $1.5 million appropriation included in this bill does not provide for any additional housing programs beyond those already receiving funding through the lottery appropriations that I had recommended. Therefore, this general fund appropriation is rendered unnecessary, particularly given the fiscal constraints of the state's general fund.

In short, the $4.9 million vetoed in House File 799 represents excessive or duplicative spending similar to that vetoed in Senate File 363. Moreover, the reasons for many of the vetoes are similar — without trimming this spending from the state's general fund, we could force the state into a deficit position in Fiscal Year 1991.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 799 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 323

NATURAL RESOURCE COMMISSION RULE
ON MULTIUSE TRAIL FUNDING NULLIFIED
S.J.R. 3

A JOINT RESOLUTION to nullify an administrative rule of the natural resource commission relating to the funding of multiuse trail projects and providing an effective date.

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

Section 1. 571 Iowa administrative code, rule 24.7, subrule 3, paragraph b, is nullified.

Sec. 2. This joint resolution, deemed of immediate importance, takes effect upon passage by a majority of all members of each house of the general assembly.

Effective February 20, 1989

CHAPTER 324

RULE ON INTERMEDIATE CARE FACILITIES
FOR MENTALLY RETARDED NULLIFIED
S.J.R. 10

A JOINT RESOLUTION to nullify administrative rules of the department of inspections and appeals relating to intermediate care facilities for the mentally retarded and providing an effective date.

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

Section 1. 481 Iowa administrative code, rule 64.3, subrule 1, paragraph f, and subrule 2, paragraph a, are nullified.

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

Effective May 1, 1989

CHAPTER 325

CONSTITUTIONAL AMENDMENT TO STRIKE DISQUALIFICATION FOR DUELING
H.J.R. 5

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa removing the disqualification from office for parties to a duel.

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 5 of Article I of the Constitution of the State of Iowa is repealed.

Sec. 2. The foregoing proposed amendment to the Constitution of the State of Iowa is referred to the General Assembly to be chosen at the next general election for members of the General Assembly, and the Secretary of State is directed to cause the amendment to be published for three consecutive months before the date of that election as provided by law.

CHAPTER 326

RATIFICATION OF AMENDMENT TO UNITED STATES CONSTITUTION REGARDING CONGRESSIONAL COMPENSATION

H.J.R. 7

A JOINT RESOLUTION ratifying a proposed amendment to the Constitution of the United States to provide for a delay in an increase in compensation to members of congress until an intervening election of representatives has occurred.

WHEREAS, The First Congress of the United States of America, at its first session, sitting in New York, New York, on September 25, 1789, in both houses, by a constitutional majority of two-thirds, has proposed an amendment to the Constitution of the United States of America in the following words:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled two-thirds of both Houses concurring, that the following (Article) be proposed to the legislatures of the several states, as (an Amendment) to the Constitution of the United States, . . . which (Article), when ratified by three-fourths of said legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz;

"(An Article) in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

"ARTICLE

"No law, varying the compensation for the services of the Senators and Representatives, shall take effect until an election of Representatives shall have intervened."

WHEREAS, Article V of the Constitution of the United States allows the ratification of the proposed amendment to the United States Constitution by the General Assembly of the State of Iowa; and

WHEREAS, The proposed amendment to the Constitution of the United States has already been ratified by the Legislatures of the following States in the years indicated: Maryland in 1789; North Carolina in 1789; South Carolina in 1790; Delaware in 1790; Vermont in 1791; Virginia in 1791; Ohio in 1873; Wyoming in 1978; Maine in 1983; Colorado in 1984; South Dakota in 1985; New Hampshire in 1985; Arizona in 1985; Tennessee in 1985; Oklahoma in 1985; New Mexico in 1986; Indiana in 1986; Utah in 1986; Montana in 1987; Connecticut in 1987; Arkansas in 1987; Wisconsin in 1987; Georgia in 1988; West Virginia in 1988; and Louisiana in 1988; and

WHEREAS, Article V of the Constitution of the United States does not state a time limit on ratification of an amendment submitted by Congress, and the First Congress specifically did not provide a time limit for ratification of the proposed amendment; and

WHEREAS, The United States Supreme Court has ruled in Coleman v. Miller, 307 U.S. 433 (1939), that an amendment to the United States Constitution may be ratified by States at any time, and Congress must then finally decide whether a reasonable time had elapsed since its submission when, in the presence of certified ratifications by three-fourths of the States, the time arrives for the promulgation of the adoption of the amendment; NOW THEREFORE,

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

That the foregoing proposed amendment to the Constitution of the United States is hereby ratified and consented to by the State of Iowa and the General Assembly thereof; and

BE IT FURTHER RESOLVED, That the Governor of the State of Iowa forward certified copies of this resolution over the seal of the State of Iowa to the Archivist of the United States, and to the presiding officers of the Senate and House of Representatives of the United States.

BE IT FURTHER RESOLVED, That the General Assembly of the State of Iowa urges the State Legislatures of those States which have not done so to follow Iowa in ratifying the proposed amendment and that, as an incentive for them to do so, copies of the foregoing preamble and resolution be transmitted to those State Legislatures.

CHAPTER 327

EQUAL RIGHTS AMENDMENT PROPOSED
H.J.R. 12

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa relating to the equality of rights of men and women under the law.

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

Section 1. The following amendment to the Constitution of the State of Iowa is proposed.

Section 1 of Article I of the Constitution of the State of Iowa, is amended to read as follows:

RIGHTS OF PERSONS. SECTION 1. All men and women are, by nature, free and equal, and have certain inalienable rights — among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness. Neither the State nor any of its political subdivisions shall, on the basis of gender, deny or restrict the equality of rights under the law.

Sec. 2. The foregoing proposed amendment to the Constitution of the State of Iowa is hereby referred to the general assembly to be chosen at the next general election for members of the general assembly, and the secretary of state is directed to cause the same to be published for three consecutive months before the date of that election as provided by law.

CHAPTER 328

PETITION TO VACATE OR MODIFY JUDGMENT

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, 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 253(a), attached as Exhibit "A" and issued on this date.

Pursuant to Iowa Code section 602.4202(2), this change is to take effect May 1, 1989.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
January 31, 1989

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the second day of February, 1989, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

253. Petition, notice, trial.

(a) Petition. A petition for relief under R.C.P. 252 must be filed in the original action within one year after the rendition of the judgment or order involved. It shall state the grounds for relief, and, if it seeks a new trial, show that they could not have been discovered in time to proceed under R.C.P. 236 or 244, and were discovered afterwards. Unless the pleadings in the original action alleged a meritorious action or defense the petition shall do so. It shall be supported by affidavit as provided in R.C.P. 80~~"b"~~(c).

* * * * *

CHAPTER 329

USE OF DEPOSITION OF EXPERT OR HEALTH CARE PRACTITIONER

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, 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 attached as Exhibit "A".

Pursuant to Iowa Code section 602.4202(2), this change is to take effect June 1, 1989.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
March 217, 1989

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the twenty-third day of March, 1989, 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 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.; or

(d) For any purpose, if it was taken of an expert witness specially retained for litigation; or the deponent was a health care practitioner offering opinions or facts concerning a party's physical or mental condition.

(e) 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.

CHAPTER 330

PAYING MINOR'S SHARE FROM PARTITION SALE

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, 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 297, attached as Exhibit "A" and issued on this date.

Pursuant to Iowa Code section 602.4202(2), this change is to take effect August 1, 1988.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
May 23, 1988

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the twenty-fourth day of May, 1988, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

297. Paying small sums. Whenever a minor, having no legal guardian, is entitled to proceeds of a partition sale, not in excess of ~~one~~ four thousand dollars, the court may order the referee discharged of all liability therefor, by paying them to the minor's parent or natural guardian, or the person with whom ~~he~~ the minor resides, for the use of such minor, and taking a receipt therefor.

CHAPTER 331

DISCOVERY OF EXPERTS, SIGNED ANSWERS

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, 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 125(a), attached as Exhibit "A" and issued on this date.

Pursuant to Iowa Code section 602.4202(2), this change is to take effect September 1, 1988.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
June 23, 1988

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the fifth day of July, 1988, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

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~~ the answers were required to be ~~answered~~ signed by the expert and they were not so ~~answered~~ signed, the party may object on that basis and move for an order compelling discovery. An objection based on the failure of such ~~interrogatories~~ answers to be ~~answered~~ signed by the designated expert shall be asserted within thirty days of service of such answers; otherwise the objection is waived.

* * * * *

CHAPTER 332

PRELIMINARY HEARING BEFORE MAGISTRATE, PRIVATE; ALIBI DEFENSE NOTICE

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF CHANGES IN THE IOWA RULES OF CRIMINAL 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, the Supreme Court of Iowa has prescribed and hereby reports on this date to the Secretary of the Legislative Council amendments to Iowa Rules of Criminal Procedure 2(4)(d) and 10(11)(a), attached as Exhibit "A" and Exhibit "B" respectively.

Pursuant to Iowa Code section 602.4202(2), these changes are to take effect May 1, 1989.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
January 31, 1989

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the second day of February, 1989, the Report of the Supreme Court pertaining to the Iowa Rules of Criminal Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

Rule 2. Proceedings before the magistrate.

* * * * *

4. Preliminary hearing. The defendant shall not be called upon to plead and the magistrate shall proceed as follows:

* * * * *

d. Private hearing. Upon defendant's request and after making specific findings on the record that: (1) there is a substantial probability that the defendant's right to a fair trial will be prejudiced by publicity that closure would prevent and, (2) reasonable alternatives to closure cannot adequately protect the defendant's fair trial rights, ~~T~~the magistrate ~~must also, upon request of the defendant,~~ may exclude from the hearing all persons except the magistrate, the magistrate's clerk, the peace officer who has custody of the defendant, a court reporter, the attorney or attorneys representing the state, a peace officer selected by the attorney representing the state, the defendant, and the defendant's counsel.

* * * * *

EXHIBIT "B"

Rule 10. Motions and pleadings.

* * * * *

11. Notices of defendant.

a. Alibi. A defendant who intends to offer evidence of an alibi defense shall, within the time provided for the making of pretrial motions or at such later time as the court shall direct, file written notice of such intention. The notice shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom the defendant intends to rely to establish such alibi. In the event that a defendant shall file such notice the prosecuting attorney shall file written notice of the names and addresses of the witnesses the state proposes to offer in rebuttal to discredit the defendant's alibi. Such notice shall be filed ~~not less than~~ within ten days after filing of defendant's witness list, or within such other time as the court may direct.

* * * * *

CHAPTER 333

NOTICE TO CREDITORS

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF PROBATE 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, the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council an amendment to Iowa Rule of Probate Procedure 7, attached as Exhibit "A" and issued on this date.

Pursuant to Iowa Code section 602.4202(2), this change is to take effect September 1, 1988.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
June 28, 1988

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the fifth day of July, 1988, the Report of the Supreme Court pertaining to the Iowa Rules of Probate Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

[NEW]

*Rule 7. Notice to creditors.

All notices required to be published by Iowa Code sections 633.230, 633.304, and 633.305 shall likewise be sent by ordinary mail to all known or readily ascertainable creditors, except creditors whose claims will be paid or satisfied prior to the filing of the personal representative's final report. Notwithstanding the four month limitation specified in Iowa Code section 633.410, creditors will be allowed not less than thirty days from the mailing of the notice in which to file a claim. Proof of service of the required notice** shall be filed with the clerk of court as required by Iowa Code section 633.47.

This rule shall apply to all estates pending on or after its effective date.

*See chapter 334 herein

**When the notice is mailed more than ~~four~~ three months following the date of the second publication of the notice required by sections 633.230, 633.304, or 633.305, it shall also include a notification that the creditors will be allowed not less than thirty days from the mailing of the notice in which to file a claim.

CHAPTER 334

NOTICE TO CREDITORS – STRICKEN

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF PROBATE PROCEDURE } REPORT OF THE SUPREME COURT

TO: MS. DIANE BOLENDER, ACTING SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202, the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council that existing Iowa Rule of Probate Procedure 7 is hereby stricken, effective July 1, 1989. This action is being taken because of amendments to Iowa Code sections 633.35, 633.230, 633.304, 633.305, 633.309, 633.410 and 633.434 which will become effective on July 1, 1989. See attached Senate File 275* as approved by Governor Branstad on April 20, 1989.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
May 24, 1989

ACKNOWLEDGMENT

I, the undersigned, Acting Secretary of the Legislative Council hereby acknowledge delivery to me on the twelfth day of June, 1989, the Report of the Supreme Court pertaining to the Iowa Rules of Probate Procedure.

/s/ Diane Bolender
Acting Secretary of the Legislative Council

*See chapter 35 herein

ANALYSIS OF TABLES

CHAPTER NUMBERS OF THE 1989 IOWA ACTS AND JOINT RESOLUTIONS

SENATE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
14	240	201	105	408	134
31	241	202	18	410	69
38	5	203	80	412	111
52	71	213	147	416	112
56	205	215	259	419	297
59	12	216	81	423	175
71	145	218	94	426	138
76	62	220	216	428	157
82	82	223	206	434	207
83	44	224	155	435	38
86	203	225	58	441	286
88	209	229	59	442	70
89	3	231	95	444	60
90	63	233	156	449	278
91	4	253	96	450	210
96	23	256	200	459	162
105	24	260	97	462	295
110	64	266	148	466	199
111	173	272	227	470	242
112	83	275	35	474	280
113	6	276	36	475	113
117	104	278	217	479	126
118	161	289	305	482	61
119	284	291	260	485	127
120	34	295	222	486	128
121	84	300	98	488	281
122	154	317	45	490	129
123	306	318	106	491	160
124	67	339	46	494	130
125	1	343	99	497	202
128	19	346	100	498	114
129	65	349	201	500	39
130	86	360	47	502	288
132	174	361	267	506	25
141	296	363	307	508	163
152	20	364	101	512	204
153	250	365	107	515	176
154	251	366	261	517	315
155	85	367	102	519	282
157	266	369	309	520	308
158	16	371	136	521	310
159	21	373	103	522	224
167	146	386	137	524	293
169	57	389	108	525	139
170	158	391	159	526	177
174	79	395	109	531	317
176	66	397	40	532	303
179	17	402	37	534	115
185	294	406	110	536	302
186	285	407	287	537	268

CHAPTER NUMBERS OF THE 1989 IOWA ACTS AND JOINT RESOLUTIONS—Continued

SENATE FILES—Continued

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
538	304	540	283	546	298
539	228	541	318		

SENATE JOINT RESOLUTIONS

No.	Acts Chapter
3	323
10	324

CHAPTER NUMBERS OF THE 1989 IOWA ACTS AND JOINT RESOLUTIONS—Continued

HOUSE FILES

File No.	Acts Chapter
6	87
9	13
13	41
17	14
20	165
59	195
69	7
71	262
72	2
88	237
98	172
123	121
124	238
127	221
133	8
140	234
141	191
146	248
163	273
165	88
166	239
190	9
194	10
195	11
196	140
198	192
199	289
201	48
234	257
241	132
254	75
255	144
256	76
270	52
271	276
272	196
273	180
292	15
293	235
301	26
313	299
319	53
329	77
331	208
332	27
343	197
344	243
355	274
367	78
371	89
372	72
373	291
375	28
379	122
380	29
384	123
399	54
402	169
403	166
404	22
418	30
420	55
430	141
432	142
447	131
448	218
451	264
475	32
477	244
480	90
490	231
496	183
506	93
513	170
522	215
529	181
533	143
535	135
542	124
549	219
550	220
551	182
552	68
556	253
572	167
573	187
575	49
578	249
579	275
581	149
585	178
596	150
598	125
623	188
628	116
631	42
637	117
641	223
643	254
644	300
645	133
647	73
650	151
655	33
660	152
662	179
663	184
665	74
666	31
668	153
669	193
670	91
672	226
674	194
675	189
678	171
679	118
684	92
686	258
687	119
688	229
690	230
692	269
693	50
698	56
699	51
700	279
703	301
706	270
709	120
717	43
721	213
722	245
723	246
728	214
729	164
734	198
735	168
740	263
745	247
751	277
753	272
755	190
758	252
764	292
765	271
769	236
770	232
771	233
772	316

CHAPTER NUMBERS OF THE 1989 IOWA ACTS AND JOINT RESOLUTIONS – Continued

HOUSE FILES – Continued

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
774	319	780	225	791	212
775	320	782	211	792	186
776	255	784	185	794	265
777	256	785	314	795	313
778	311	789	312	799	322
779	321	790	290		

HOUSE JOINT RESOLUTIONS

No.	Acts Chapter
5	325
7	326
12	327

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989

Code Chapter or Section	Acts Chapter
2	298,§3
2.10(1)	303,§13
2.10(2)	302,§10
2.10(3)	303,§13
2.10(6)	303,§13
2.10(7)	303,§13
2.40	303,§14
2.45	298,§1
2.46(2)	298,§2
5.4	296,§1
6.6	136,§1
7E.5(1t)	83,§1
7E.6(1a)	303,§15
7E.6(2)	303,§16
7E.6(3)	296,§2;303,§16
7E.6(8)	296,§3
8	298,§4
8.6	298,§5
8.6(1)	284,§1
8.22(1)	298,§6
8.31	309,§6
8.33	284,§2
8.34	284,§3
8.35A(1)	284,§4
9A.11(1)	83,§2
10A.101(3)	231,§1
10A.104	231,§3,4
10A.104(2)	231,§2
10A.105	231,§5
10A.106	231,§7
10A.106(5)	231,§6
10A.202(1)	83,§3;231,§9
10A.202(1g)	231,§8
10A.302	231,§10,12
10A.302(4)	231,§11
10A.701	231,§35
11.6	264,§1
11.9	264,§2
11.18	264,§10
11.19	264,§3
12	120,§1;234,§10,11; 236,§8
12.31	234,§1
12.32(1)	234,§2
12.32(3)	234,§2
12.33(2)	234,§3
12.33(3)	234,§3
12.34	234,§4
12.35	234,§5
12.36	234,§6
12.37	234,§7
12.38	234,§8
12.43	234,§9
13	156,§1;279,§1
13B	51,§2;321,§23
13B.4	51,§1
13B.9(3)	83,§4
13B.10(2)	83,§5
13B.10(4)	83,§5
15	220,§1-8;236,§9
15.108(1d)	258,§12
15.108(2b)	196,§1
15.108(9a)	209,§1
15.203	219,§1
15.225(1d)	28,§1
15.227(1b)	28,§2
15.228	28,§4
15.228(2)	28,§3
15.229	28,§5
15.230	28,§6
15.247(3)	83,§6
15.251	270,§1
15.252	270,§2
15.253	270,§3
15.254	270,§3
15.255	270,§3
15.256	270,§3
15.257	83,§87;270,§3
15.281	301,§1
15.282	301,§2
15.283	301,§3
15.283(4)	83,§7
15.284(2)	301,§4
15.284(5)	301,§5
15.285	301,§8
15.285(1)	199,§1
15.285(2)	301,§6
15.285(5)	301,§7
15.286	301,§15
15.286(1)	301,§9
15.286(2)	83,§8;301,§10
15.286(3)	301,§11
15.286(4a)	247,§1
15.286(4b)	83,§9; 301,§12,13
15.286(5)	301,§14
15.287	301,§16
15.288	301,§17
17A.5(2)	83,§10
17A.6(2)	296,§4
17A.23	83,§11
18	272,§21,22; 319,§33,34
18.3	76,§1
18.6	76,§2;272,§19
18.7	61,§1
18.12	76,§3;298,§28
18.18	272,§20
18.115	76,§4
18.115(4)	297,§1
18.133	319,§31
18.134	319,§32
18.160	76,§10
18.161	76,§10
18.162	76,§10
18.163	76,§10
18.164	76,§10
18.165	76,§10
18.166	76,§10
18.167	76,§10
18.168	76,§10
18.169	76,§10
19.29	315,§25
19.34	315,§26
19A.3(21)	60,§1
19A.19	124,§1
20.4(2)	296,§5
20.4(9)	158,§3
20.11(4)	296,§6
20.11(5)	296,§6
20.11(6)	296,§7
20.11(7)	296,§7
20.11(8)	296,§7
20.11(9)	296,§7
20.11(10)	296,§7
20.11(11)	296,§7
20.17(4)	296,§8
21	73,§2

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989—Continued

Code Chapter or Section	Acts Chapter
21.2(1)	73,§1
22.2	189,§1
22.7	311,§22
22.7(2)	194,§1;304,§102
24.14	83,§12
25A.2(1)	83,§13
25A.14	291,§7
28	180,§1;258,§13-21
28.51	258,§25
28.52	258,§25
28.53	258,§25
28.54	258,§25
28.55	258,§25
28G.3	83,§14
29.1	204,§1
29B.2	82,§1
29B.14(2a)	82,§2
29B.14(2b)	82,§3
29B.14(2c)	82,§4
29B.18(2c)	82,§5
29C.20(1)	315,§27
37.9	296,§9
37.10	296,§10
37.11	296,§96
37.12	296,§96
37.13	296,§96
37.14	296,§96
37.19	296,§96
38.5	319,§36
43	136,§12,17
43.4	136,§2
43.6(1)	136,§3
43.6(2)	136,§3
43.11	136,§4
43.15(1)	136,§5
43.15(3)	136,§6
43.16	136,§7
43.21	136,§8
43.22	136,§9
43.23	136,§10
43.24(1a)	136,§11
43.24(1b)	136,§11
43.24(1d)	136,§11
43.30	136,§13
43.45	136,§14
43.48	136,§15
43.54	136,§16
43.67	136,§18
43.73	136,§19
43.76	136,§20
43.77(3)	136,§21
43.77(4)	136,§21
43.78(2)	136,§22
43.78(3)	136,§22
43.78(4)	215,§1
43.79	136,§23
43.123	83,§15
44.4	136,§24
44.9	136,§25
44.9(1)	136,§25
44.9(2)	136,§25
44.11	136,§26
45.1(1)	136,§27
45.3	136,§28
46.12	18,§1
46.14	212,§1
46.20	136,§29
46.21	136,§30
47.2	136,§31
47.6(1)	136,§32
48	144,§1,2
48.31	136,§33
49.7	296,§11
49.8(6)	136,§34
49.20	121,§1
49.23	136,§35
49.31	136,§36
49.37	136,§37
49.44	136,§38
49.48	136,§39
49.53	136,§40
49.58	136,§41
49.75	136,§42
49.107(8)	136,§43
50.12	136,§44
50.13	136,§45
50.14	136,§75
50.19	136,§46
50.22	136,§47,48
50.24	136,§49
52.5	136,§50
52.32(2)	136,§51
53	136,§53
53.18	136,§52
53.39	136,§54
53.40	136,§55
53.41	136,§56
53.44	136,§57
54.5	136,§58
56.6(1e)	107,§1
64	153,§2
64.6	76,§5
64.11	83,§16
64.15	153,§1
68B.7	321,§24
69	215,§4
69.8(3)	215,§2
69.8(4)	215,§3
69.12	136,§59
69.12(1a)	136,§60
69.12(1b)	136,§61
69.13(2)	136,§62
74	319,§37
77	50,§14
77.3	83,§17
78.1(1)	296,§12
78.2(7)	296,§13
79.1	303,§17
79.28	124,§2
79.29	124,§3
80.18	317,§23
80.25A	67,§19
80.29	83,§87
80.30	83,§18
80.31	83,§87
80A.7	112,§1
80B	62,§3
80B.11	62,§2
80B.11(1)	62,§1
80B.13(1)	62,§4
80B.13(3)	62,§4
80B.13(4)	62,§4
80B.13(5)	62,§4
80B.13(6)	62,§4
85.35	60,§2
85.61(2)	89,§1;218,§1
85.61(6)	89,§2
85.61(14)	89,§3
85.61(15)	89,§3
85.61(16)	89,§3
85.65	33,§1

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989—Continued

Code Chapter or Section	Acts Chapter
86.2	60,§3
87.4	83,§19
88.8(3)	321,§25
88B	38,§10
88B.1(4)	38,§1
88B.1(6)	38,§1
88B.2	38,§2
88B.4	38,§3
88B.5(2)	38,§4
88B.6	38,§5
88B.7	38,§6
88B.8	38,§7
88B.9	38,§8
88B.10	38,§9
89.2	321,§26
89.3	321,§27
89B.8(3)	100,§1
91	26,§1
91C.7	254,§1
91C.8(2)	254,§2,3
93	297,§3
93.7	152,§1;297,§2
93.14	312,§5
96.3(9c)	11,§1,2
96.7(7b)	296,§14
96.8(4a)	296,§15
96.11(7)	117,§1
96.19	117,§2
96.31	135,§51
97A.12	228,§1
97B.7(2b)	83,§20
97B.39	228,§2
98.22(1)	251,§1
98.37	251,§2
98.44(3)	251,§3
99B.1(6)	231,§13
99B.1(7)	231,§13
99B.1(16)	231,§14
99B.1(20a)	231,§15
99B.1(20c)	231,§15
99B.2(2)	231,§16
99B.2(4)	231,§16
99B.2(5)	231,§16
99B.6	67,§21
99B.6(1)	67,§20
99B.6(1j)	231,§17
99B.7(1c)	231,§18
99B.7(1d)	231,§19
99B.7(1m)	231,§19
99B.7(3b)	231,§20
99B.7(3c)	231,§21
99B.9(1j)	231,§22
99B.9A	231,§23
99B.10(1)	231,§24
99B.13	231,§25
99B.14	231,§26
99B.15	67,§22
99B.17	231,§27
99B.19	231,§28
99B.20	231,§29
99D	216,§10
99D.2(3)	67,§23
99D.5(1)	67,§24;83,§21; 231,§30
99D.5(5c)	67,§25
99D.6	231,§31
99D.7(8)	231,§32
99D.11(6)	216,§1
99D.12(2)	216,§3
99D.12(2a)	216,§2
99D.13	216,§5
99D.13(2)	216,§4
99D.14	216,§6
99D.15	216,§9
99D.15(1)	216,§7
99D.15(2)	216,§8
99E.18(3)	83,§22
99E.31(2b)	304,§408
99E.32	314,§8
99E.32(1)	314,§2
99E.32(1a)	314,§1
99E.32(1b)	314,§1
99E.32(2a)	314,§3
99E.32(3)	314,§4
99E.32(4)	314,§5
99E.32(5)	314,§7
99E.32(5a)	314,§6
99E.32(5b)	314,§6
99E.32(5j)	314,§6
101	131,§3-11,60
103A	39,§3
103A.10(2b)	39,§1
103A.12	39,§2
103A.24	254,§4
104A.7	247,§2
106	244,§41
106.52	102,§1
109	237,§4
109.38(2)	87,§1
109.90	83,§23
109.95	90,§1
109B.4(1)	192,§1
109B.4(2)	192,§2
109B.4(6h)	119,§1
109B.11(1)	192,§3
109B.12(1)	192,§4
110	237,§5
110.1(2)	237,§1
110.1(5)	90,§2
110.1(6h)	238,§1
110.7	237,§2
110.8	237,§3
110.24	74,§1;87,§2,3
110.24(1)	87,§2
110.24(2)	87,§2
110.24(3)	87,§2
110.24(4)	87,§2
111.85	311,§35
111.85(8)	218,§2
111A	236,§10
111A.4(2)	191,§1
111A.4(3)	191,§1
111A.4(7)	239,§1
111A.5	88,§1
111E.4	135,§52
116.3(1)	56,§1
116.9	56,§3
116.11	56,§2
117	292,§4
117.8	292,§1
117.14	292,§2
117.27	292,§3
117.34(5)	29,§1
117.34(9)	29,§1
117.34(11)	83,§24
122	93,§6
122.1	93,§1
122.2	93,§2
122.3	93,§3
122.4	93,§4
122.5	93,§5

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989 — Continued

Code Chapter or Section	Acts Chapter
122A.1	83,§25
122B.1(2)	181,§1
123.3(12b)	161,§1
123.22	161,§2
123.27(2)	161,§3
123.29	161,§6
123.29(3)	161,§4
123.29(4c)	161,§5
123.32(3)	161,§7
123.37	252,§1
123.46	225,§10
123.49(2a)	67,§26
123.50	252,§2
123.58	264,§4
123.124	221,§1
123.125	221,§2
123.127	221,§3
123.130	221,§4
123.134(1)	221,§5
123.135(1)	221,§6
123.135(5)	252,§3
123.136	221,§7
123.137	221,§8
123.138	221,§9
123.139	221,§10
123.142	221,§11
123.180(2)	161,§8
123.180(6)	252,§4
123.181(3)	252,§5
125	283,§1
125.2(3)	197,§21
125.7(3)	243,§1
125.8	243,§6
125.13(2a)	243,§2
125.14	243,§3
125.44	243,§4,5
125.55	264,§5
135	178,§1;304,§702; 320,§10
135.11(19)	304,§103
135.46(2h)	83,§26
135.93	122,§1
135C.2	269,§1
135C.2(3)	115,§1
135C.14(8)	241,§1,2
135C.37	241,§3;321,§28
135C.38(1)	241,§4
135C.39	241,§5
135D.22(3)	190,§1
135D.26(2)	260,§1
135D.27(2)	260,§2
136.2	83,§27
136B.1	224,§1
136B.2(2)	224,§2
136B.3	224,§3
136B.4	224,§4
137	141,§1
139	154,§1
139A	249,§1
141	69,§1;223,§6
141.6(3)	223,§1
141.10	223,§3
141.10(1)	223,§2
141.22	223,§5
141.22(4)	223,§4
141.22(6)	296,§16
141.24(1)	223,§7
145.3	23,§2
145.3(3h)	164,§1
145.3(4d)	23,§1
145.6	23,§3
147.1(8)	89,§4
147.1(9)	89,§5
147.32	3,§3
147.76	83,§28
147.80(14)	240,§1
147.99	197,§22
147A.1	89,§6
147A.4	89,§7
147A.5(1)	89,§8
147A.5(3)	89,§8
147A.6	89,§9
147A.7(1)	89,§10
147A.8	89,§11
147A.9	89,§12
147A.10	89,§13
147A.11	89,§14
147A.12(1)	89,§15
149.3	43,§1
153.14(1)	63,§1
155A.12(9)	197,§23
157	240,§4
157.2	240,§2
157.5	240,§3
157.14	3,§1
158.14	240,§5
158.15	3,§2
159	188,§1;195,§2; 208,§1
159.5(7)	83,§29
159.5(8)	83,§29
159.5(12)	83,§29
159.5(14)	106,§1
159.6(8)	83,§30;197,§24
159.6(11)	83,§30
162.3*	296,§17
162.5*	296,§17
162.6	15,§1
162.6*	296,§17
162.7	15,§2
162.7*	296,§17
162.8	296,§18
162.9*	296,§17
162.10*	296,§17
166C	280,§17
169.14(8)	296,§19
172B.3(2b)	202,§1
172C	311,§24
172C.4(2)	311,§23
172D.1(2)	83,§31
173.16	311,§25
175.17	175,§1
179.5A	137,§1
185C	198,§14
185C.1	198,§3
185C.1(2)	198,§1
185C.1(10)	198,§2
185C.7	198,§4
185C.8	198,§5
185C.13	198,§6
185C.15	198,§7
185C.16	198,§8
185C.21	198,§9
185C.22	198,§10
185C.23	198,§11
185C.24	198,§12
185C.25	198,§13
185C.26	198,§15
185C.27	198,§16
185C.28	198,§17
185C.29	198,§18

*Affirmed and reenacted

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989—Continued

Code Chapter or Section	Acts Chapter
185C.32	198,§19
185C.33	198,§20
189.2(1)	197,§25
189.14	151,§1
190.1(68)	151,§2
190B.8(1)	83,§32
192A.30	45,§1
196A.18	137,§2
196A.19	137,§3
203	197,§31
203A.1	197,§31
203A.2	197,§31
203A.3	197,§31
203A.4	197,§31
203A.5	197,§31
203A.6	197,§31
203A.7	197,§31
203A.8	197,§31
203A.9	197,§31
203A.10	197,§31
203A.11	197,§31
203A.12	197,§31
203A.13	197,§31
203A.14	197,§31
203A.15	197,§31
203A.16	197,§31
203A.17	197,§31
203A.18	197,§31
203A.19	197,§31
203A.19(2)	83,§33
203A.20	197,§31
203A.21	197,§32
203A.21(3)	197,§26
204.204(2)	109,§1
204.204(9)	109,§2
204.210(5a)	109,§3
204.210(5b)	109,§3
204.210(5c)	109,§3
204.210(5d)	109,§3
204.210(5e)	109,§3
204.210(5f)	109,§3
204.212	109,§4
204.401(1)	225,§11
204.401(2)	225,§11
204.406	225,§12
204.410	225,§13
204.413	225,§14
204.414	225,§32
205.11	197,§27
205.12	197,§28
205.13	197,§29
206	127,§1
206.5	296,§20
214A.1(4)	75,§1
214A.2(1)	75,§2
214A.3	75,§3
214A.4	75,§4
214A.5	75,§5
214A.6	75,§6
214A.7	75,§7
214A.8	75,§8
214A.10	75,§9
214A.16	296,§21
214A.18	131,§64
217	178,§2,3;285,§1
217.3(4)	283,§18
217.11	283,§19
217.34	250,§1
218.85	284,§5
218.92	83,§34
220	131,§12;267,§10; 301,§19-21;314,§9
220.6(2)	302,§11
225C.20	283,§20
225C.22	320,§13
226	283,§21
229	275,§2
229.1(2)	275,§1
229.11	275,§3
229.12	275,§4
229.16	275,§5
229.23(1)	275,§6
229.25(3)	275,§7
230A.16(3)	264,§6
232	169,§2-10
232.2	169,§1;229,§4; 230,§2
232.2(1)	229,§1
232.2(6)	229,§3
232.2(6a)	229,§2
232.2(6b)	230,§1
232.2(6c)	230,§1
232.2(6h)	230,§1
232.68	230,§3
232.68(4)	24,§1;89,§16
232.68(6)	230,§4
232.69	265,§40
232.69(1a)	230,§5
232.69(1b)	89,§17;230,§5
232.71	230,§13;283,§22
232.71(1)	230,§6
232.71(2)	230,§7
232.71(3)	230,§8
232.71(5)	230,§10
232.71(6)	230,§9
232.71(7)	230,§11
232.71(11)	230,§12
232.78(1)	230,§14
232.78(1a)	230,§14
232.79(1)	230,§15
232.79(1a)	230,§15
232.88	229,§5
232.89(3)	283,§24
232.90	230,§16
232.92	230,§17
232.104(1)	229,§6
232.114	230,§18
232.116(1)	229,§11
232.116(1b)	229,§7
232.116(1c)	229,§8
232.116(1d)	229,§9
232.116(1e)	229,§9
232.116(1f)	229,§10
232.116(2)	229,§12
232.117	230,§19
232.117(5)	229,§13
232.141	283,§23
234.6	206,§2
234.11	209,§2
234.39	166,§1
235.3(6)	19,§1
235A.15(2c)	283,§25
235A.15(2d)	65,§1
235A.18(2)	230,§20
235A.19(2)	230,§21
235B.1(7a)	24,§2
235B.1(7b)	24,§3
236.2(5)	279,§2
236.2(6)	279,§3
236.5(1)	85,§1
236.9	279,§4

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989 — Continued

Code Chapter or Section	Acts Chapter
236.12(1c)	85,§2
236.15	279,§5
236.16	279,§6
236.17	279,§28
236.18	279,§28
236A.1(1)	194,§2
236A.1(2)	194,§2
236A.1(7)	194,§2
237.3(2a)	283,§26
237.8(1)	283,§27
237.13(5)	178,§4
237.15(4)	296,§22
237.16	296,§23
237.20(1)	64,§1,2
237.20(2)	64,§3
237.21(2)	64,§4
237A.1(7a)	206,§3
237A.15	283,§28
237A.22	206,§4
242	283,§29
244	283,§30
246.310	142,§1
246.503(4)	80,§1
246.508	46,§1
246.706	9,§1
248A	316,§21
249A.2	104,§1
249A.3	104,§2,4
249A.3(1)	304,§202
249A.3(6)	104,§3
249A.4	104,§5;304,§203
249A.4(8)	37,§1
249A.6(1)	111,§1
249D	178,§5;304,§303
249D.33	241,§6
249D.58(1)	52,§1
250.6	248,§1
252A.3(1)	166,§2
252A.3(2)	166,§2
252A.6(11)	166,§3
252B.9	283,§31
252C.2(2)	166,§4
252C.2(3)	166,§4
252C.4(1)	179,§1
252C.4(4)	166,§5
252C.5	179,§2
252C.10	166,§8
253.3	214,§1
255.24	319,§38
255A.14	83,§35
256	225,§15-17; 236,§11;319,§41
256.7	8,§1;206,§5; 265,§22
256.7(3)	210,§1;265,§19
256.7(6)	210,§2
256.7(8)	210,§3
256.7(9)	265,§20
256.7(10)	265,§21
256.7(11)	265,§21
256.9	155,§2;206,§6
256.11(1)	265,§23; 319,§39,40
256.11(2)	265,§23
256.11(4)	278,§1
256.11(5f)	265,§24
256.11(5g)	210,§4
256.11(5h)	278,§2
256.11(7)	210,§5
256.11(9A)	265,§26
256.11(9b)	265,§25
256.11A(5)	210,§6
256.16	265,§27
256.17	265,§28
256.17(5)	265,§29
256.18	265,§40
256.19	265,§40
256.21	135,§53
256.30	265,§40
256.31	265,§43
256A.2	206,§7
256A.3	135,§55
256A.3(4)	206,§8
256A.3(5)	135,§54
256A.3(5e)	206,§9
257*	135,§135
258	278,§5
258.3A(3)	265,§30
258.4	278,§4
258.4(5)	265,§31
258.4(6)	265,§31
258.4(7)	265,§31;278,§3
258.5	265,§32
258.6	265,§33
258A.1(1m)	83,§36
258A.2	292,§5
259.1	1,§1
260	265,§4
260.1	265,§1
260.2	265,§2
260.3	265,§3
260.5	265,§5
260.6	265,§6
260.7	265,§7
260.8	265,§8
260.9	265,§9
260.10	265,§11
260.11	265,§12
260.12	265,§13,43
260.14	265,§43
260.15	265,§43
260.19	265,§43
260.20	265,§43
260.21	265,§43
260.23	265,§43
260.25	265,§14
260.25(1)	265,§14
260.25(5)	265,§14
260.25(6)	265,§14
260.25(7)	265,§14
260.25(8)	265,§14
260.25(9)	265,§14
260.27	265,§43
260.28	265,§43
260.31(1)	265,§15
260.31(2)	265,§16
260.33	265,§17
260.34	265,§18
260A	135,§134
261	300,§4,9, 10,13-16,20-25; 319,§51,53-57
261.1(3)	83,§37
261.1(6)	300,§1
261.2	300,§2
261.9(5c)	319,§42
261.12(1b)	319,§43
261.12(2)	300,§3
261.17(3)	319,§44
261.18	319,§45
261.19	319,§46

*Code 2001

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989 – Continued

Code Chapter or Section	Acts Chapter
261.25	319,§48
261.25(1)	319,§47
261.25(2)	319,§47
261.25(3)	319,§47
261.35(4)	300,§5
261.35(5)	300,§5
261.36	300,§26
261.37(1)	300,§6
261.37(5)	300,§6
261.37(7)	300,§6
261.38(2)	300,§7
261.39	300,§26
261.40	300,§26
261.42	300,§8
261.45	265,§41;300,§11
261.46	300,§12
261.51	265,§40,42; 319,§83
261.52	265,§42;319,§83
261.53	319,§83
261.54	300,§17;319,§49
261.72	300,§26
261.81	300,§18;319,§50
261.82	319,§52
261.84	300,§26
261.84(3)	300,§19
261.85	319,§58
262	297,§4;319,§61-65
262.9	265,§40;272,§23; 319,§59
262B.4(2)	258,§22
263	319,§67
263A	319,§68
265.6	135,§56
266	319,§70-72
268	319,§73
268.4	77,§1
272A	265,§43
273.2	135,§57
273.3(2)	135,§58
273.3(5)	265,§34
273.3(11)	265,§34
273.3(12)	135,§58
273.5(6)	135,§59
273.9	135,§60
273.12	135,§61
273.13	135,§62
274.37	135,§63
275.12(5)	135,§64
275.14	135,§65
275.20	135,§66
275.23A(3)	296,§24
275.31	135,§67
275.33(2)	135,§68
275.55	135,§69
275.56	265,§40
275.59	265,§40
277.2	135,§70
277.4	136,§63
278.1	135,§72
278.1(7)	135,§71
278.2	30,§1;136,§64
279	135,§76-79
279.7	136,§65
279.12	265,§40
279.13	265,§40
279.19A	265,§40
279.19B	265,§35,42
279.26	135,§73
279.28	83,§38
279.38	264,§7
279.43	135,§136
279.45	135,§74
279.46	135,§75
279.49	206,§10;265,§40
280	71,§1;155,§1
280.3	210,§7
280.4(4)	135,§80
280.13A	135,§81
280.16	12,§3
280A.11	136,§66
280A.15(2)	136,§67
280A.23(1)	278,§6
281.2	265,§41
281.2(4)	135,§82
281.8	135,§83
281.9(2)	135,§84
281.9(4)	135,§84
281.9(9)	135,§84
281.15(8)	296,§25
282.1	210,§8
282.3(1)	135,§85;210,§9
282.3(2)	265,§36
282.4	210,§10
282.6	210,§11
282.7(2)	278,§7
282.7(3)	135,§86
282.18	12,§1
282.19	319,§74
282.24(1)	135,§87
282.28	135,§88
282.31(1a)	135,§89
282.31(3)	135,§90
283A.9	135,§91
285.2	135,§92
286A.2(3)	135,§93
286A.2(4)	135,§93
286A.2(5)	135,§93
286A.14(1)	135,§94
290.1	12,§4
290.5	210,§12
291.13	135,§95
294.2	265,§43
294.3	265,§37
294A.2(1)	135,§96
294A.2(2)	135,§96
294A.2(3)	265,§38
294A.2(4)	265,§38
294A.2(5)	265,§38
294A.6	5,§1
294A.9	135,§97;265,§40
294A.10	265,§40
294A.11	135,§136
294A.14	5,§2;135,§98
294A.15	5,§3;265,§40
294A.16	5,§4-6
294A.19	5,§7;319,§75
294A.22	5,§8,9;135,§100
294A.24	135,§136; 265,§40
294A.25	265,§40
294A.25(1)	135,§101
294A.25(5)	135,§102
296.7	135,§103
297	135,§104
297.5	135,§136
297.36	135,§105
298	135,§107-109,112
298.1	135,§106
298.9	135,§110
298.10	135,§111

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989 – Continued

Code Chapter or Section	Acts Chapter
298.16	135,§113
298.17	135,§136
299.1	265,§41
299.24	296,§26
301.7	214,§9
301.30	135,§114
302.1A(2)	319,§77
302.1A(3)	319,§78
303	78,§2;297,§5
303.4	78,§1
303.7	78,§3
303.8(1a)	78,§4
303.8(1b)	78,§4
303.8(1c)	78,§4
303.8(1d)	78,§4
303.9	78,§5
303.11	78,§6
303.12	78,§7
303.13	78,§8
303.14	78,§9
303.15	78,§10
303.16(5e)	78,§11
303.16(5f)	78,§11
303.16(5g)	78,§11
303.16(7)	236,§12; 319,§79
303.16(8a)	78,§12; 236,§13
303.16(8b)	236,§14
303.34	145,§1
303.92(3)	235,§1
303B.3	136,§68
304A.21(3)	76,§6
304A.25	76,§7
304A.29(1)	76,§8
306.4(3)	134,§1
306.9	134,§2
306A.5	83,§39
306C	317,§25
306C.16	317,§24
307.21(4)	272,§24
307.29	4,§3
307.36	134,§3
307A.2(14)	134,§4
307B.9	4,§1
307B.23(1)	4,§2;6,§1
307B.23(2)	6,§2
310.10	293,§8
312	293,§14
312.1	293,§9
312.2	293,§12,13
312.2(1)	293,§10
312.2(2)	293,§10
312.2(3)	293,§10
312.2(4)	293,§10
312.2(9)	246,§1
312.2(12)	246,§2
312.2(14)	293,§11
312.16	293,§15
313	134,§5
313.21	134,§6
313.42	134,§7
314	246,§6;311,§26; 317,§29,30
314.5	134,§8
314.13	246,§3
314.20	246,§4
314.21	246,§5;317,§28
315.4	293,§16
316.1	20,§5
316.1(2)	20,§1
316.1(3d)	20,§2
316.1(6)	20,§3
316.1(8)	20,§4
316.2(3)	20,§6
316.3	20,§7
316.4	20,§8
316.5	20,§9
316.6	20,§10
316.7	20,§11
316.8	20,§12
316.9(4)	20,§13
316.10	20,§21
316.11	20,§21
316.12	20,§14
316.13	20,§15
316.14	20,§16
317.5	246,§7
317.11	246,§8
317.13	246,§9
317.18	246,§10
317.19	246,§11
317.25	193,§1
321	84,§2
321.1	34,§1
321.1(2b)	83,§40
321.1(2d)	83,§41
321.1(43)	118,§1
321.21	32,§1
321.23(4)	247,§3
321.24	185,§1
321.31(2)	185,§2
321.34	317,§31
321.34(5a)	17,§1
321.34(5b)	296,§27
321.34(7)	27,§1;247,§4
321.39(5)	83,§42
321.50(1)	260,§3
321.52(4)	185,§3
321.52(4b)	296,§28
321.123(1)	296,§29
321.130	296,§30
321.134	185,§4
321.153	185,§5
321.166(6)	247,§5
321.178(1)	266,§1
321.180(1)	265,§39
321.190(1)	317,§32
321.194	266,§2
321.195	317,§33
321.196	296,§31
321.210	247,§6
321.211	273,§1;317,§34
321.213	296,§32
321.216	84,§1
321.218	83,§43
321.275	184,§1
321.288	296,§33
321.299	296,§34
321.323	296,§35
321.358	247,§7
321.375	210,§13
321.376	222,§1
321.393	83,§44
321.407	296,§96
321.450	70,§1,2;186,§1
321.457(3)	34,§4,5
321.457(3b)	34,§2
321.457(3d)	34,§3
321.463	200,§1,2
321.484	247,§8

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989—Continued

Code Chapter or Section	Acts Chapter
321.555(1b)	296,§36
321A.3(1)	296,§37; 317,§35
321A.3A(2)	317,§36
321A.17(5)	266,§3
321E.19	273,§2
321E.30	83,§45
321G.1	244,§3
321G.1(2)	244,§1
321G.1(4)	244,§2
321G.1(5)	244,§2
321G.1(6)	244,§2
321G.1(7)	244,§2
321G.1(8)	244,§2
321G.1(15)	244,§2
321G.2	244,§4
321G.3	244,§5
321G.4	244,§6
321G.5	244,§7
321G.6	244,§8-11
321G.7	102,§2;244,§12
321G.8	244,§13
321G.9	244,§14
321G.9(1)	244,§15
321G.9(2)	244,§16
321G.9(2b)	244,§16
321G.9(3)	244,§17
321G.9(3d)	244,§17
321G.9(4)	244,§18,19
321G.9(4d)	244,§18
321G.9(6)	244,§20
321G.9(7)	244,§21
321G.10	244,§22
321G.11	244,§23
321G.12	244,§24
321G.13	244,§25,26
321G.13(7)	244,§25
321G.13(8)	244,§25
321G.13(10)	244,§25
321G.13(11)	244,§25
321G.15	244,§27
321G.16	244,§28
321G.17	244,§29
321G.18	244,§30
321G.19	244,§31
321G.20	244,§32
321G.21(1)	244,§33
321G.21(3)	244,§33
321G.21(6)	244,§33
321G.21(8)	244,§33
321G.21(9)	244,§33
321G.21(10)	244,§33
321G.22	244,§34
321G.23(1)	244,§35
321G.23(4)	244,§35
321G.24(1)	244,§36
321G.24(5)	244,§36
321G.25	244,§37
321G.26	244,§38
321G.27	244,§39
321G.28	244,§40
321J.13(1)	83,§46
321J.17	317,§37
322.9	273,§3
322.24	273,§4
322A.6	273,§5
322A.17	273,§6
322B.6	273,§7,8
322C.6	273,§9
323A.2(1c)	83,§47
323A.2(2)	83,§47
324.17(7)	251,§5
324.4	251,§4
324.36(2)	251,§6
324.65	251,§7
324.67	251,§8
324.68	251,§9
324A	6,§7
325.11	273,§10
325.13(5)	273,§11
325.17	273,§12
325.19	273,§13
325.21	273,§14
325.25	273,§15
326.11	317,§38
327.16	273,§16
327A.4	273,§17
327A.14	273,§18
327C.8	273,§19
327C.12	273,§20
327C.17	273,§21
327C.19	273,§22
327C.20	273,§23
327C.25	273,§24
327C.26	273,§25
327C.28	273,§26
327C.29	273,§27
327D.53	273,§28
327D.66	57,§1,2
327D.72	57,§3
327D.83	273,§29
327D.85	273,§30
327D.89	273,§31
327D.90	273,§32
327D.128	273,§33
327F	201,§1
327G.12	273,§34
327G.16	273,§35
327G.17	273,§36
327G.32	39,§4,5;273,§37
327G.62	273,§38
327G.65	273,§39
330.23	182,§1
330A	182,§8,9
330A.3	182,§2
330A.4	182,§12
330A.5	182,§3
330A.6(1c)	182,§4
330A.7(1)	182,§6
330A.6(2)	182,§5
330A.7(2)	182,§6
330A.8	182,§7
331.209(5)	296,§38
331.301	101,§1
331.306	136,§69
331.307(4)	150,§1
331.307(5)	150,§2
331.307(9)	150,§3
331.307(10)	150,§3
331.307(12)*	150,§4,9
331.322(3)	215,§5
331.382(1h)	20,§17
331.427(1)	83,§48
331.441(2b)	189,§2
331.485	126,§2
331.486	126,§2
331.487	126,§2
331.488	126,§2
331.489	126,§2
331.490	126,§2
331.491	126,§2

*Inadvertently omitted in 1987 Code Supplement and 1989 Code

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989—Continued

Code Chapter or Section	Acts Chapter
331.512(12)	135,§115
331.609	36,§1
331.756(40)	197,§30
331.805(3)	81,§1
341A.5	187,§1
347.7	304,§704
349.17	214,§2
356	159,§1
357B	255,§2
357B.5	255,§1
357E.3(1)	53,§1
358A.10	55,§1
359.8	83,§49
359.43	149,§1
362.4	136,§70
364	297,§6
364.5	264,§8
364.12	261,§1
364.22(4)	150,§5
364.22(5)	150,§6,7
364.22(9)	150,§8
364.22(10)	150,§8
364.22(12)	150,§8
368.1(10)	98,§1
368.1(11)	299,§1
368.5	98,§2
368.7	299,§2
368.11	299,§3
368.20(2)	22,§1
372.2(1)	39,§6
372.2(2)	39,§6
372.2(5b)	39,§7
372.9(3)	39,§8
372.13(2b)	136,§71
372.13(8)	39,§9
376.4	136,§72
380.6(2)	39,§10
384.1	296,§39
384.12(1)	203,§1
384.24(3j)	189,§3
384.24(3n)	182,§10
384.51	39,§11
386.7(3)	83,§50
400.2	21,§1
400.8(1)	187,§2
400.11	187,§3
400.17	187,§4
403.17(20)	299,§4
404.2(3)	2,§1
411.13	228,§3
420.207	296,§40
421	251,§10
421.16	284,§6
421.17(21)	250,§2
421.17(26)	250,§3
421.27	6,§3
421.31	284,§7
421.39(1)	284,§8
421.40	284,§9
422	172,§1;268,§6; 285,§4
422.3(5)	285,§2
422.4	268,§1
422.5	268,§3
422.5(1k)	251,§11;268,§2
422.5(6)	228,§4
422.5(7)	228,§5;296,§41
422.6	251,§12
422.7	175,§2;228,§7; 249,§2;251,§13; 268,§4;285,§3
422.7(12)	225,§18,19
422.7(12a)	225,§18
422.7(12b)	225,§18
422.7(12c)	225,§18
422.7(14)	228,§6
422.9(6)	135,§116;268,§5
422.11	251,§38
422.11A	251,§14
422.12(1)	296,§42
422.13(1)	251,§15
422.14(1)	251,§16
422.16(11a)	6,§4;251,§17
422.16(12)	6,§5
422.16(14)	251,§18
422.21	268,§7,8
422.25(7)	251,§19
422.33	285,§5
422.33(1)	251,§20
422.33(2)	251,§21
422.33(6)	251,§22
422.35	175,§3
422.35(6)	225,§20,21
422.35(6a)	225,§20
422.35(6b)	225,§20
422.35(6c)	225,§20
422.36(1)	251,§23
422.45	147,§1;259,§1
422.45(18)	232,§1
422.45(22b)	304,§602
422.45(27)	272,§26
422.51(3)	251,§24
422.52	232,§2;251,§25
422.60	285,§6
422.61(1)	285,§7
422.69	236,§15
422.73	285,§8
422.85	251,§26
422.86	251,§27
422.91	251,§28
422.92	251,§29
422A.1	251,§30;294,§1
422B.1	276,§1
422B.1(2)	146,§1
422B.8	276,§2
422B.9	276,§3
422B.10(1)	277,§1
422B.10(2)	277,§2
423.6(1)	174,§1
423.13	251,§31,32
425.2	256,§1
425.7(3)	251,§33
425.11(1a)	256,§2
425.17(4)	233,§1
426.9	296,§96
426A.2	83,§51
426A.6	251,§34
427.1(10)	296,§43
427.1(12)	296,§44
427.1(13)	296,§44
427.1(15)	296,§43
427.1(16)	296,§43
427.1(19)	296,§44
427.1(21)	296,§43
427.1(28)	296,§43
427.1(29)	296,§43
427.1(30)	296,§44
427.1(35)	296,§43
427.3(5)	296,§45
427.5	296,§46
427.8	296,§47

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989—Continued

Code Chapter or Section	Acts Chapter
427.13	296,§48
427.16	296,§96
427B	131,§30-32
428.1(4)	296,§49
428.3	296,§96
428.4	296,§50,51
428.8	296,§96
428.10	296,§52
428.12	296,§96
428.16	296,§96
428.17	296,§96
428.18	296,§96
428.19	296,§96
428.20	296,§53
428.21	296,§96
428.23	296,§54
428.35(6)	296,§55
428.36	296,§56
428A.1	271,§1
428A.2	271,§2
430A.6	296,§57
432.7	296,§58
433.11	296,§59
435	6,§7
441.10	296,§60
441.17(2)	296,§61
441.17(10)	296,§61
441.19	296,§62
441.19(1)	296,§62
441.20	296,§96
441.21(1a)	296,§63
441.21(1b)	176,§1
441.21(1c)	296,§63
441.24(1)	296,§64
441.26	296,§65
441.35(1)	296,§66
441.45	296,§67
442.2	135,§118
442.2(1)	135,§117
442.9A	135,§119
442.12	135,§120
442.13(14)	83,§52
442.15	251,§35
442.39	135,§121
442.39(2)	135,§121
442.39(4)	135,§121
442.39A	135,§122
443.2	296,§68
445.36(2)	214,§3
445.39	214,§4
446.9(1)	214,§5
446.9(2)	214,§5
447.9	66,§1
447.12	66,§2
450.22	251,§36
450.37(2)	6,§6
450.94	285,§9
451.5	251,§37
453.1(1)	39,§12
455	126,§2
455.223	83,§53
455A	236,§2-7;311,§27
455A.1	236,§1
455A.5(6)	72,§1
455A.6(6)	72,§2
455A.6(6b)	296,§69
455B	131,§40;242,§1;245,§1;272,§27,33
455B.105(4)	72,§3
455B.173(6)	125,§1
455B.190	286,§1
455B.291(9)	83,§54
455B.302	272,§28
455B.304	272,§29
455B.305(2)	272,§30
455B.305(3)	272,§30
455B.305(4)	272,§30
455B.305(5)	272,§30
455B.306	272,§32
455B.306(1)	272,§31
455B.306(2)	272,§31
455B.306(3)	272,§31
455B.306(4)	272,§31
455B.307(3)	281,§1
455B.471	131,§35
455B.471(3)	131,§33
455B.471(5)	131,§34
455B.474(1)	131,§36
455B.474(2a)	131,§37
455B.477	131,§39
455B.479	131,§38
455B.481	242,§2
455B.484	242,§4
455B.484(9)	242,§3
455B.489	272,§41
455C	44,§1;272,§37
455C.1(5)	272,§34
455C.2(1)	272,§35
455C.3	272,§36
455C.4(3)	161,§9
455E.11(2b)	311,§28
455E.11(2c)	272,§38
455E.11(2d)	131,§41
456	126,§2
457	126,§2
458	126,§2
459	126,§2
460	126,§2
461	126,§2
462	126,§2
463	126,§2
464	126,§2
465	126,§2
466	126,§2
467	126,§2
467A.3(14)	83,§55
467A.3(15)	83,§55
467A.4(1)	83,§56;106,§2
467A.4(2)	106,§2
467A.5(3)	136,§73
467A.7(15)	83,§57
467A.10	106,§3
467A.13	83,§58
467A.42(2a)	106,§4
467A.42(2b)	106,§4
467A.44	106,§5
467A.45	106,§6
467A.46	106,§7
467A.48(1)	106,§8
467A.48(2)	106,§8
467A.53	83,§59
467B.1	83,§60
467B.2	83,§61
467B.3	83,§62
467B.5	83,§63
467B.10	83,§64
467F.4	236,§16
467F.4(2)	236,§16
470.7	315,§28
472	20,§19,20
472.42	20,§18

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989—Continued

Code Chapter or Section	Acts Chapter
474.1	296,§70
474.5	297,§8
474.9	296,§71
475A.3	158,§1
475A.4(2)	158,§2
476	95,§1;103,§2-14;297,§12,13
476.1A	297,§9
476.1B(1)	297,§10
476.3(1)	59,§1
476.3(2)	97,§1
476.6	148,§1;321,§29
476.6(7)	58,§1
476.10	103,§1;296,§72;321,§30
476.33(1)	97,§2
476.52	297,§11
477	321,§31,42
477B	157,§1
477B.3(1)	168,§1
477B.3(3)	168,§2
477B.6	168,§3
477B.7	168,§4
477B.7(1)	168,§6
477B.7(1a)	168,§5
478A.7	297,§14
491	288,§187,188
491.1	83,§65;288,§186
496A	288,§195
496A.101	287,§3
496A.101(1)	287,§1
496A.101(2)	287,§2
496A.142(1)	83,§66
496B.8(4)	180,§2
504A.6	288,§189
504A.9	171,§1,2
504A.32	171,§3
504A.67	288,§190
504A.69	171,§4
504A.70	171,§5
504A.73	171,§6
504A.77	171,§7
504A.79	171,§8
504A.85(8)	171,§9
504A.85(13)	171,§10
504A.87(3)	171,§11
507B.4(9f)	321,§32
507D.3	76,§9
508.12	288,§191
508.14	321,§33
508.15	321,§34
508C.3(3e)	83,§67
509.3	164,§2
509.5(2)	83,§68
511	311,§30;321,§35
511.8	83,§69
511.8(10b)	311,§29
511.15	83,§87
511.26	83,§70
512.7	83,§71
514.7	164,§3
514.21	164,§4
514A.1	83,§72,73
514B.1(2)	164,§5
514C	289,§1
514E.1(2)	304,§1003
514E.2	304,§1005
514E.2(2)	304,§1004
514E.2(12)	304,§1006
514E.5(2)	321,§36
514F.1	164,§6
514G.7(2)	321,§37
514G.7(4)	321,§38
514G.7(7)	321,§39
515	227,§1-15
515.1	288,§192
515.99	288,§193
515.150(1a)	16,§1
515B.2(4)	83,§74
515B.12	296,§73
521.1	83,§75
523A.2(1a)	257,§1
524	172,§3
524.103	257,§3
524.103(5)	257,§2
524.107	319,§80
524.107(2)	257,§4
524.217(1)	257,§5
524.217(2)	257,§5
524.217(4)	257,§5
524.217(5)	257,§5
524.217(7)	257,§5
524.225	257,§6
524.302	257,§8
524.302(10)	257,§7
524.814	257,§9
524.901	49,§1;257,§15
524.901(1b)	257,§10
524.901(1f)	257,§11
524.901(1g)	257,§12
524.901(3c)	257,§13
524.901(3i)	257,§14
524.904(3b)	257,§16
524.906	257,§33
524.907	257,§17
524.1005	257,§18
524.1102	257,§20
524.1102(1)	257,§19
524.1103(2)	257,§21
524.1103(3)	257,§22
524.1201	257,§23
524.1202(2a)	172,§2
524.1202(3)	257,§24
524.1419	257,§25
527.2	86,§7
527.2(1)	86,§1
527.2(2)	86,§2
527.2(5)	86,§3
527.2(8)	86,§4
527.2(10)	86,§5
527.2(11)	86,§6
527.4	86,§11
527.4(1)	86,§8
527.4(2)	86,§9
527.4(3)	86,§10
527.5	86,§14
527.5(2)	86,§12
527.5(9b)	86,§13
527.8(1)	86,§15
527.9(2e)	86,§16
533.4(5)	94,§1
533.24	296,§74
535.12(1)	257,§26
535.12(4)	257,§26
535B	133,§10
535B.1	133,§3
535B.1(1c)	133,§1
535B.1(4)	133,§2
535B.2	133,§4
535B.2(11)	133,§5
535B.2(12)	83,§76

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989—Continued

Code Chapter or Section	Acts Chapter
535B.3(3)	133,§6
535B.4(7)	133,§7
535B.9	133,§8
535B.11	133,§9
536.2	257,§27
536.16(1)	257,§28
536A.7	257,§29
536A.23(2)	295,§1
536A.30(1)	257,§30
537.1302	68,§1
537.2402(3)	295,§2
537.2501	68,§3
537.2501(1)	68,§2
537.2501(1f)	296,§75
537.2502	68,§4
537.3605(8)	128,§1
537.3608	128,§2
537.3621	128,§3
537.6201(2)	68,§5
537.6202(1)	68,§6
537.6203	68,§7
537.7102(1)	128,§4
537.7103(3a)	296,§76
537A.4	231,§34
542.1(9)	143,§1001
542.2	143,§101
542.3(4a)	143,§201
542.3(4b)	143,§301
542.3(4c)	143,§401
542.3(5a)	143,§202
542.3(5b)	143,§302
542.3(5c)	143,§402
542.5	143,§701
542.9	143,§101
542.10	143,§101
542.13	143,§101
542.15(7)	143,§403
542.16	143,§601
542.18	143,§1201
542A.7	143,§101
543.1(18)	143,§1101
543.1(25)	143,§1002
543.3	143,§501
543.4	143,§101
543.4(3)	143,§502
543.6	143,§702
543.6(1)	143,§801
543.6(3)	143,§802
543.6(4b)	143,§303
543.6(5b)	143,§304
543.7(7)	143,§803
543.10	143,§101
543.15	143,§804
543.24	143,§602
543.39	143,§1102
543A.1(1)	143,§901
543A.1(10)	143,§902
543A.3	143,§905
543A.3(1)	143,§903
543A.3(2)	143,§903
543A.3(4)	143,§904
543A.4	143,§906
543A.5(1)	143,§907
543A.6	143,§908
545.102(4)	288,§194
547	92,§1
547.1	102,§3
547.2	102,§4
547.3	102,§5
554.1201(5)	113,§54
554.1201(14)	113,§54
554.1201(20)	113,§54
554.5114(2)	113,§55
554.8102	113,§1
554.8103	113,§2
554.8104	113,§3
554.8105	113,§4
554.8106	113,§5
554.8107	113,§6
554.8201	113,§8
554.8202	113,§9
554.8203	113,§10
554.8204	113,§11
554.8205	113,§12
554.8206	113,§13
554.8207	113,§14
554.8208	113,§15
554.8301	113,§16
554.8302	113,§17
554.8303	113,§18
554.8304	113,§19
554.8305	113,§20
554.8306	113,§21
554.8307	113,§22
554.8308	113,§23
554.8309	113,§24
554.8310	113,§25
554.8311	113,§26
554.8312	113,§27
554.8313	113,§28
554.8314	113,§29
554.8315	113,§30
554.8316	113,§31
554.8317	113,§32
554.8318	113,§33
554.8319	113,§34
554.8320	113,§35
554.8401	113,§37
554.8402	113,§38
554.8403	113,§39
554.8404	113,§40
554.8405	113,§41
554.8406	113,§42
554.9103	113,§46
554.9103(3a)	113,§45
554.9105(1i)	113,§47
554.9203(1)	113,§48
554.9203(4)	257,§31
554.9302(1f)	113,§49
554.9304(1)	113,§50
554.9304(4)	113,§50
554.9304(5)	113,§50
554.9305	113,§51
554.9309	113,§52
554.9312(7)	113,§53
556.8	287,§4
556.11	287,§5
556.18(1)	287,§6
561.22	153,§3
566.19	83,§77
567	311,§32
567.3(3d)	311,§31,33
584	163,§1
598.17	296,§77
598.21(4)	166,§6
598.21(8)	102,§6
600.6	140,§1
600.13	140,§2
600.16(2)	102,§7
601A.2	205,§1
601A.8(1)	205,§2

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989—Continued

Code Chapter or Section	Acts Chapter
601A.8(2)	205,§2
601A.8(3)	205,§2
601A.12	205,§3,4
601E	247,§20
601E.6(1)	27,§2
601G.9	296,§78
601J.5(3d)	273,§40
601K	320,§11
601K.1	83,§78
601K.32	209,§3
601K.33(5)	296,§79
601K.40	209,§4
601K.98	264,§9
601K.114(2)	54,§1
601K.117	320,§12
601L.3	272,§39
601L.3(11)	83,§79
602	262,§1
602.1209(6)	19,§2
602.1216	136,§74
602.1301(2a)	316,§19
602.1505	40,§1
602.3105	296,§80
602.3201	296,§81
602.3203(5)	296,§82
602.6302	114,§1
602.6305(2)	114,§2; 212,§2;296,§83
602.6403	212,§4
602.6403(1)	114,§3
602.6403(2)	212,§3
602.6403(4)	114,§4
602.6404(2)	114,§5; 212,§5
602.6603(8)	110,§1
602.7103(1)	296,§84
602.8102	178,§6
602.8102(21)	50,§13; 83,§80
602.8103(3)	160,§1
602.8105(1a)	207,§1
602.8105(1m)	83,§81
602.8105(4)	287,§7
602.8106(4)	293,§17
602.9109	228,§8
602.9203(2b)	162,§1
602.9204	162,§2
613A.1(1)	83,§82
613A.4	291,§8
613A.7	135,§123
613A.10	135,§124
617.13	83,§83
618	214,§7,8
618.16	214,§6
622.84	230,§22
624.23(2)	102,§8
626.80	123,§1
631.6	83,§84
633	178,§7,11,14,16,17
633.31(2a)	207,§2
633.31(2b)	207,§2
633.31(2c)	207,§2
633.31(2f)	207,§2
633.31(2i)	207,§2
633.31(2k)	207,§2
633.31(2"l")	207,§2
633.35	35,§1
633.63(2)	257,§32
633.63(3)	178,§8
633.230	35,§2
633.273	130,§1
633.304	35,§3
633.305	35,§4
633.309	35,§5
633.336	111,§2
633.410	35,§6
633.434	35,§7
633.477	35,§8
633.557	178,§9
633.561(2)	178,§10
633.572	178,§12
633.575(2)	178,§13
633.591	178,§15
633.651	178,§21
633.672	178,§18
633.673	178,§19
633.679	178,§20
635.1	25,§1
635.2	25,§2
635.7	25,§3
635.8	25,§4
635.9	25,§5
635.13	25,§6
635.14	25,§7
654A	108,§7
654A.4(2)	108,§2
654A.6	108,§3
654A.11	108,§4
654A.13	108,§5
654A.14	108,§6
655.2	253,§1
663A.3	96,§1
668	138,§1
675.25	166,§7
682.23(4)	296,§85
692.2(1)	10,§1;283,§32
692.2(6)	10,§2
702.11	138,§2
702.17	105,§1;296,§86
707.6A(1a)	211,§1
708	41,§1
708.7	226,§1
709	105,§2
709.4	138,§3
710	116,§1
714	47,§1
714.1(7)	170,§1
714.16(2a)	93,§7
714.16(2h)	129,§1
714.18(1)	240,§6
714.19(9)	240,§7
714.25	296,§87
725.7(2)	296,§88
725.12	48,§1
725.13	67,§27
725.15	67,§28
727.11	296,§89
728	263,§4,5
728.1(8)	263,§1
728.4	263,§2
728.12	263,§3
801.4(7)	182,§11
804.21(1)	83,§85
805.6(1c)	296,§90
805.6(3)	167,§1
805.7(2)	296,§91
805.8(2)	84,§3;184,§3
805.8(2h)	184,§2
805.8(2s)	247,§19
805.10(1)	296,§92
808A.1	265,§40

CHAPTERS AND SECTIONS AMENDED OR REPEALED

CODE 1989—Continued

Code Chapter or Section	Acts Chapter
811.1(1)	138,§4
811.1(2)	138,§5
901.2	156,§2
901.4	279,§7
904A	282,§4
904A.1	282,§1
904A.3	282,§2
904A.4	282,§3
904A.5	282,§6
904A.6	282,§7
904A.7	282,§15
905	316,§20
906.4	156,§3
906.5	282,§8
907.3	296,§93
908.4	282,§9
908.5	282,§10
908.6	282,§11
908.7	282,§12
908.10	282,§13
910.4	13,§1
910A	279,§9,13
910A.1(3)	279,§8
910A.5A	279,§10
910A.6(5)	279,§11
910A.7	279,§12
910A.8	279,§14
910A.9	279,§15,16
910A.10(1)	279,§17
910A.10(1a)	279,§17
910A.10(2)	279,§18
910A.14(1)	230,§23
910A.14(2)	230,§24
912	279,§21
912.1(1)	279,§19
912.1(2)	279,§20
912.1(6)	279,§19
912.4(2)	279,§22
912.4(4)	279,§22
912.4(5)	279,§22
912.6	279,§24
912.6(3)	279,§23
912.7(1a)	279,§25
912.7(2b)	279,§26
912.7(2c)	279,§26
912.7(3)	279,§27
912.7(4)	279,§27

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION

New chapter and section numbers are subject to change when codified

Code Chapter or Section	Acts Chapter
2.47A	298,§3
8.3A	298,§4
8.7*	304,§902
8.39A*	298,§8
12.21	120,§1
12.45*	298,§9
12.45	234,§10
12.46*	298,§10
12.46	234,§11;236,§8
12.47*	298,§11
12.48*	298,§12
12.49*	298,§13
12.50*	298,§14
12.51*	298,§15
12.52*	298,§16
12.53*	298,§17
12.54*	298,§18
12.55*	298,§19
12.56*	298,§20
12.57*	298,§21
12.58*	298,§22
12.59*	298,§23
12.60*	298,§24
12.61*	298,§25
12.62*	298,§26
12.63*	298,§27
13.10	156,§1
13.25	279,§1
13B.8A	321,§23
13B.11	51,§2
15.273	236,§9
15.291	220,§1
15.292	220,§2
15.293	220,§3
15.294	220,§4
15.295	220,§5
15.296	220,§6
15.297	220,§7
15.298	220,§8
18.12A*	298,§29
18.20	272,§21
18.21	272,§22
18.136	319,§33
18.137	319,§34
18B.1	258,§1
18B.2	258,§2
18B.3	258,§3
18B.4	258,§4
18B.5	258,§5
18B.6	258,§6
18B.7	258,§7
18B.8	258,§8
18B.9	258,§9
18B.10	258,§10
18B.11	258,§11
21.10	73,§2
28.149	180,§1
28.151	258,§13
28.153	258,§14
28.154	258,§15
28.155	258,§16
28.156	258,§17
28.157	258,§18
28.158	258,§19
28.158A	258,§20
28.159	258,§21
30.1	204,§2
30.2	204,§3
30.3	204,§4
30.4	204,§5
30.5	204,§6
30.6	204,§7
30.7	204,§8
30.8	204,§9
30.9	204,§10
30.10	204,§11
30.11	204,§12
30.12	204,§13
43.29	136,§12
43.56	136,§17
48.21	144,§1
48.22	144,§2
53.21	136,§53
64.15A	153,§2
69.14A	215,§4
74.9	319,§37
77A.1	50,§1
77A.2	50,§2
77A.3	50,§3
77A.4	50,§4
77A.5	50,§5
77A.6	50,§6
77A.7	50,§7
77A.8	50,§8
77A.9	50,§9
77A.10	50,§10
77A.11	50,§11
77A.12	50,§12
80B.11A	62,§3
80E.1	225,§1
80E.2	225,§2
80E.3	225,§3
88B.13	38,§10
91.6	26,§1
91D.1	14,§1
91E.1*	304,§403
91E.2*	304,§404
91E.3*	304,§405
93.13A	297,§3
99D.27	216,§10
99F.1	67,§1
99F.2	67,§2
99F.3	67,§3
99F.4	67,§4;139,§1
99F.5	67,§5
99F.6	67,§6;231,§33
99F.7	67,§7;139,§2-5
99F.8	67,§8
99F.9	67,§9;139,§6
99F.10	67,§10
99F.11	67,§11;139,§7
99F.12	67,§12;139,§8
99F.13	67,§13
99F.14	67,§14
99F.15	67,§15;139,§9
99F.16	67,§16
99F.17	67,§17
100B.1	132,§1
100B.2	132,§2
100B.3	132,§3
100B.4	132,§4
100B.5	132,§5
101.12	131,§3
101.101	131,§4
101.102	131,§5

*Item vetoed

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION—Continued

Code Chapter or Section	Acts Chapter
101.103	131,§6
101.104	131,§7
101.105	131,§8
101.106	131,§9
101.107	131,§10
101.108	131,§11
103A.25	39,§3
106.34A	244,§41
109.40	237,§4
110.25	237,§5
111A.12	236,§10
117.54	292,§4
117B.1	290,§1
117B.2	290,§2
117B.3	290,§3
117B.4	290,§4
117B.5	290,§5
117B.6	290,§6
117B.7	290,§7
117B.8	290,§8
117B.9	290,§9
117B.10	290,§10
117B.11	290,§11
117B.12	290,§12
117B.13	290,§13
117B.14	290,§14
117B.15	290,§15
117B.16	290,§16
117B.17	290,§17
117B.18	290,§18
117B.19	290,§19
120.1	274,§1
120.2	274,§2
120.3	274,§3
120.4	274,§4
120.5	274,§5
122.7	93,§6
125.75A	283,§1
135.13	304,§702
135.22	320,§10
135.39A	178,§1
135H.1	283,§2
135H.2	283,§3
135H.3	283,§4
135H.4	283,§5
135H.5	283,§6
135H.6	283,§7
135H.7	283,§8
135H.8	283,§9
135H.9	283,§10
135H.10	283,§11
135H.11	283,§12
135H.12	283,§13
135H.13	283,§14
135H.14	283,§15
135H.15	283,§16
135H.16	283,§17
135J.1	291,§1
135J.2	291,§2
135J.3	291,§3
135J.4	291,§4
135J.5	291,§5
135J.6	291,§6
137.16	141,§1
139.43	154,§1
139A.11	249,§1
141.23A	69,§1;223,§6
157.16	240,§4
159.24A	195,§2
159.32	188,§1;208,§1
166D.1	280,§1
166D.2	280,§2
166D.3	280,§3
166D.4	280,§4
166D.5	280,§5
166D.6	280,§6
166D.7	280,§7
166D.8	280,§8
166D.9	280,§9
166D.10	280,§10
166D.11	280,§11
166D.12	280,§12
166D.13	280,§13
166D.14	280,§14
166D.15	280,§15
166D.16	280,§16
172C.6	311,§24
185C.25A	198,§14
203B.1	197,§1
203B.2	197,§2
203B.3	197,§3
203B.4	197,§4
203B.5	197,§5
203B.6	197,§6
203B.7	197,§7
203B.8	197,§8
203B.9	197,§9
203B.10	197,§10
203B.11	197,§11
203B.12	197,§12
203B.14	197,§13
203B.15	197,§14
203B.16	197,§15
203B.17	197,§16
203B.18	197,§17
203B.19	197,§18
203B.20	197,§19
203B.21	197,§20
206.33	127,§1
217.38	285,§1
217.40	178,§2
217.43	178,§3
220.107	314,§9
220.134	301,§19
220.135	301,§20
220.136	301,§21
220.140	267,§10
220.202	131,§12
226.9A	283,§21
229.1A	275,§2
232,Div.XI	169,§11
232.175	169,§2
232.176	169,§3
232.177	169,§4
232.178	169,§5
232.179	169,§6
232.180	169,§7
232.181	169,§8
232.182	169,§9
232.183	169,§10
242.17	283,§29
244.16	283,§30
248A.7	316,§21
249D.24	304,§303
249D.60	178,§5
256.33	236,§11;319,§41
256.40	225,§15
256.41	225,§16
256.42	225,§17
257.1	135,§1
257.2	135,§2

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION – Continued

Code Chapter or Section	Acts Chapter
257.3	135,§3
257.4	135,§4
257.5	135,§5
257.6	135,§6
257.7	135,§7
257.8	135,§8
257.9	135,§9
257.10	135,§10
257.11	135,§11
257.12	135,§12
257.13	135,§13
257.14	135,§14
257.15	135,§15
257.16	135,§16
257.17	135,§17
257.18	135,§18
257.19	135,§19
257.20	135,§20
257.21	135,§21
257.22	135,§22
257.23	135,§23
257.24	135,§24
257.25	135,§25
257.26	135,§26
257.27	135,§27
257.28	135,§28
257.29	135,§29
257.30	135,§30
257.31	135,§31
257.32	135,§32
257.33	135,§33
257.34	135,§34
257.35	135,§35
257.36	135,§36
257.37*	135,§37
257.38	135,§38
257.39	135,§39
257.40	135,§40
257.41	135,§41
257.42	135,§42
257.43	135,§43
257.44	135,§44
257.45	135,§45
257.46	135,§46
257.47	135,§47
257.48	135,§48
257.49	135,§49
258.16	278,§5
260.4	265,§4
261.20	300,§4
261.43	300,§9
261.44	300,§10
261.47	300,§13
261.48	300,§14
261.49	300,§15
261.50	300,§16
261.81A	319,§51
261.86	300,§20
261.87	300,§21
261.88	300,§22
261.89	300,§23
261.90	300,§24
261.91	300,§25
261.101	319,§53
261.102	319,§54
261.103	319,§55;322,§8
261.104	319,§56
261.105	319,§57
262.69A	297,§4
262.81	319,§61
262.82	319,§62
262.91	319,§63
262.92	319,§64
262.93	319,§65
263.8B	319,§67
263A.13	319,§68
266.20	319,§70
266.39A	319,§71
266.39B	319,§72
268.3	319,§73
279.51	135,§76
279.52	135,§77
279.53	135,§78
279.54	135,§79
280.21	71,§1;155,§1
297.35	135,§104
298.2	135,§107
298.3	135,§108
298.4	135,§109
298.14	135,§112
298.14*	319,§76
303.5	78,§2
303.81A	297,§5
306C.24	317,§25
307D.1	293,§1
307D.2	293,§2
307D.3	293,§3
307D.4	293,§4
307D.5	293,§5
307D.6	293,§6
307D.7	293,§7
312.3A	293,§14
313.2A	134,§5
314.22	246,§6;317,§29
314.23	311,§26
314.24	317,§30
321.216A	84,§2
321L.1	247,§9
321L.2	247,§10
321L.3	247,§11
321L.4	247,§12
321L.5	247,§13
321L.6	247,§14
321L.7	247,§15
321L.8	247,§16
321L.9	247,§17
321L.10	247,§18
327F.38	201,§1
330A.9	182,§8
330A.10	182,§9
330B.1	213,§1
356.49	159,§1
357B.8	255,§2
364.23	297,§6
364.24	297,§7
421.10	251,§10
422.11B	285,§4
422.12B	268,§6
422.63A	172,§1
424.1	131,§13
424.2	131,§14
424.3	131,§15
424.4	131,§16
424.5	131,§17
424.6	131,§18
424.7	131,§19
424.8	131,§20
424.9	131,§21
424.10	131,§22
424.11	131,§23
424.12	131,§24

*Item vetoed

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION—Continued

Code Chapter or Section	Acts Chapter
424.13	131,§25
424.15	131,§26
424.16	131,§27
424.17	131,§28
424.18	131,§29
427B.18	131,§30
427B.19	131,§31
427B.20	131,§32
455A.8	311,§27
455A.15	236,§2
455A.16	236,§3
455A.17	236,§4
455A.18	236,§5
455A.19	236,§6
455A.20	236,§7
455B.116	242,§1;272,§27
455B.314	272,§33
455B.490	131,§40;245,§1
455C.15	44,§1
455C.16	272,§37
455D.1	272,§1
455D.2	272,§2
455D.3	272,§3
455D.4	272,§4
455D.5	272,§5
455D.6	272,§6
455D.7	272,§7
455D.8	272,§8
455D.9	272,§9
455D.10	272,§10
455D.11	272,§11
455D.12	272,§12
455D.13	272,§13
455D.14	272,§14
455D.15	272,§15
455D.16	272,§16
455D.17	272,§17
455D.18	272,§18
455G.1	131,§42
455G.2	131,§43
455G.3	131,§44
455G.4	131,§45
455G.5	131,§46
455G.6	131,§47,63
455G.7	131,§48,63
455G.8	131,§49
455G.9	131,§50;307,§46
455G.10	131,§51,62
455G.11	131,§52,61
455G.11A	131,§53
455G.12	131,§54
455G.13	131,§55
455G.14	131,§56
455G.15	131,§57
455G.16	131,§58
468	126,§2
472.54	20,§19
472.55	20,§20
476.62	297,§12
476.63	297,§13
476.67	103,§2
476.68	103,§3
476.69	103,§4
476.70	103,§5
476.71	103,§6
476.72	103,§7
476.73	103,§8
476.74	103,§9
476.75	95,§1;103,§10
476.76	103,§11
476.77	103,§12
476.78	103,§13
476.79	103,§14
477.9A	321,§31,42
477B.9	157,§1
491.101A	288,§187
491.101B	288,§188
493B.101	288,§1
493B.102	288,§2
493B.120	288,§3
493B.121	288,§4
493B.122	288,§5
493B.123	288,§6
493B.124	288,§7
493B.125	288,§8
493B.126	288,§9
493B.127	288,§10
493B.128	288,§11
493B.129	288,§12
493B.130	288,§13
493B.135	288,§14
493B.140	288,§15
493B.141	288,§16
493B.142	288,§17
493B.201	288,§18
493B.202	288,§19
493B.203	288,§20
493B.204	288,§21
493B.205	288,§22
493B.206	288,§23
493B.207	288,§24
493B.301	288,§25
493B.302	288,§26
493B.303	288,§27
493B.304	288,§28
493B.401	288,§29
493B.402	288,§30
493B.403	288,§31
493B.501	288,§32
493B.502	288,§33
493B.503	288,§34
493B.504	288,§35
493B.601	288,§36
493B.602	288,§37
493B.603	288,§38
493B.604	288,§39
493B.620	288,§40
493B.621	288,§41
493B.622	288,§42
493B.623	288,§43
493B.624	288,§44
493B.624A	288,§45
493B.625	288,§46
493B.626	288,§47
493B.627	288,§48
493B.628	288,§49
493B.630	288,§50
493B.631	288,§51
493B.640	288,§52
493B.701	288,§53
493B.702	288,§54
493B.703	288,§55
493B.704	288,§56
493B.705	288,§57
493B.706	288,§58
493B.707	288,§59
493B.720	288,§60
493B.721	288,§61
493B.722	288,§62
493B.723	288,§63
493B.724	288,§64

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION—Continued

Code Chapter or Section	Acts Chapter
493B.725	288,§65
493B.726	288,§66
493B.727	288,§67
493B.728	288,§68
493B.730	288,§69
493B.731	288,§70
493B.740	288,§71
493B.801	288,§72
493B.802	288,§73
493B.803	288,§74
493B.804	288,§75
493B.805	288,§76
493B.806	288,§77
493B.807	288,§78
493B.808	288,§79
493B.809	288,§80
493B.810	288,§81
493B.811	288,§82
493B.820	288,§83
493B.821	288,§84
493B.822	288,§85
493B.823	288,§86
493B.824	288,§87
493B.825	288,§88
493B.830	288,§89
493B.831	288,§90
493B.832	288,§91
493B.833	288,§92
493B.840	288,§93
493B.841	288,§94
493B.842	288,§95
493B.843	288,§96
493B.844	288,§97
493B.850	288,§98
493B.851	288,§99
493B.852	288,§100
493B.853	288,§101
493B.854	288,§102
493B.855	288,§103
493B.856	288,§104
493B.857	288,§105
493B.858	288,§106
493B.901	288,§107
493B.902	288,§108
493B.1001	288,§109
493B.1002	288,§110
493B.1003	288,§111
493B.1004	288,§112
493B.1005	288,§113
493B.1006	288,§114
493B.1007	288,§115
493B.1008	288,§116
493B.1009	288,§117
493B.1020	288,§118
493B.1021	288,§119
493B.1022	288,§120
493B.1101	288,§121
493B.1102	288,§122
493B.1103	288,§123
493B.1104	288,§124
493B.1105	288,§125
493B.1106	288,§126
493B.1107	288,§127
493B.1108	288,§128
493B.1201	288,§129
493B.1202	288,§130
493B.1301	288,§131
493B.1302	288,§132
493B.1303	288,§133
493B.1320	288,§134
493B.1321	288,§135
493B.1322	288,§136
493B.1323	288,§137
493B.1324	288,§138
493B.1325	288,§139
493B.1326	288,§140
493B.1327	288,§141
493B.1328	288,§142
493B.1330	288,§143
493B.1331	288,§144
493B.1401	288,§145
493B.1402	288,§146
493B.1403	288,§147
493B.1404	288,§148
493B.1405	288,§149
493B.1406	288,§150
493B.1407	288,§151
493B.1420	288,§152
493B.1421	288,§153
493B.1422	288,§154
493B.1423	288,§155
493B.1430	288,§156
493B.1431	288,§157
493B.1432	288,§158
493B.1433	288,§159
493B.1440	288,§160
493B.1501	288,§161
493B.1502	288,§162
493B.1503	288,§163
493B.1504	288,§164
493B.1505	288,§165
493B.1506	288,§166
493B.1507	288,§167
493B.1508	288,§168
493B.1509	288,§169
493B.1510	288,§170
493B.1520	288,§171
493B.1530	288,§172
493B.1531	288,§173
493B.1532	288,§174
493B.1601	288,§175
493B.1602	288,§176
493B.1603	288,§177
493B.1604	288,§178
493B.1620	288,§179
493B.1621	288,§180
493B.1622	288,§181
493B.1701	288,§182
493B.1702	288,§183
493B.1703	288,§184
493B.1704	288,§185
511.8A	311,§30
511.38	321,§35
514C.4	289,§1
515.161	227,§1
515.162	227,§2
515.163	227,§3
515.166	227,§4
515.167	227,§5
515.168	227,§6
515.169	227,§7
515.170	227,§8
515.171	227,§9
515.172	227,§10
515.173	227,§11
515.174	227,§12
515.175	227,§13
515.176	227,§14
515.177	227,§15
523D.1	217,§1
523D.2	217,§2

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION—Continued

Code Chapter or Section	Acts Chapter
523D.3	217,§3
523D.4	217,§4
523D.5	217,§5
523D.6	217,§6
523D.7	217,§7
523D.8	217,§8
523D.9	217,§9
523D.10	217,§10
524.1213	172,§3
528.1	267,§1
528.2	267,§2
528.3	267,§3
528.4	267,§4
528.5	267,§5
528.6	267,§6
528.7	267,§7
528.8	267,§8
528.9	267,§9
533C.1	183,§1
533C.2	183,§2
533C.3	183,§3
533C.4	183,§4
533C.5	183,§5
533C.6	183,§6
533C.7	183,§7
533C.8	183,§8
533C.9	183,§9
533C.10	183,§10
533C.11	183,§11
533C.12	183,§12
533C.13	183,§13
533C.14	183,§14
535B.16	133,§10
547.6	92,§1
554.8108	113,§7
554.8321	113,§36
554.8407	113,§43
554.8408	113,§44
567.8A	311,§32
584.5	163,§1
601K.83	320,§11
602.6110	262,§1
618.17	214,§7
618.18	214,§8
626B.1	173,§1
626B.2	173,§2
626B.3	173,§3
626B.4	173,§4
626B.5	173,§5
626B.6	173,§6
626B.7	173,§7
626B.8	173,§8
633.27A	178,§7
633.562	178,§11
633.576	178,§14
633.633A	178,§16
633.633B	178,§17
645.1	99,§1
645.2	99,§2
645.3	99,§3
654A.15	108,§7
668.15	138,§1
708.10	41,§1
709.14	105,§2
710.11	116,§1
714.7A	47,§1
728.14	263,§4
728.15	263,§5
808B.1	225,§22
808B.2	225,§23
808B.3	225,§24
808B.4	225,§25
808B.5	225,§26
808B.6	225,§27
808B.7	225,§28
808B.8	225,§29
808B.9	225,§30
904A.4A	282,§4
904A.4B	282,§5
905.13	316,§20
906.18*	316,§25
908.9A*	316,§27
910A.2	279,§9
910A.7A	279,§13
912.2A	279,§21

*Item vetoed

CHAPTERS AND SECTIONS REFERRED TO

Table includes new chapter and section numbers as well as those in the **1989 CODE**; new numbers are subject to change when codified

Code Chapter or Section	Acts Chapter
2.10	293,§6
2.10(2)	315,§3
2.12	293,§6;298,§3
2.32	135,§30,120;293,§4
4.1	288,§15
7E.2B	296,§94
7E.4	296,§94
7E.6	131,§45;135,§30,120;225,§2,3;265,§5;320,§11
7E.6(1a)	206,§7
8	319,§36
8.2(5)	316,§2;320,§7;321,§7,11,14,16-18
8.3A	298,§3,5,6,28
8.3A(2b)	298,§3
8.6(1)	284,§5
8.6(13,14)	298,§3
8.22A	135,§8
8.23	282,§6
8.32	320,§2
8.33	5,§6;68,§7;216,§5;236,§6;258,§11;264,§1;272,§15;300,§24;304,§1106,1108;305,§1;307,§16,17,19,32,36;311,§1,9,10;313,§6;314,§7;315,§32;316,§1,4,17;317,§17,18,22,37;319,§1,6,11,19,24,34;320,§12;321,§6;322,§1
8.36	9,§1
8.39	307,§6,13,14,19,24,36,38,39;308,§1,2;311,§6;314,§8;318,§1;322,§1
8.41	310,§1,2-7,9,10,15
8.55	315,§23
10A	231,§3;250,§2;273,§8,9,40;296,§19
10A.202	231,§7
10A.302	231,§7
10A.402	231,§7
10A.502	231,§7
11	258,§17
11.5A	307,§43
11.6	264,§3,5-9
11.6(4)	264,§2
11.18	264,§3-9
12.30	258,§20
12.34	234,§10
13.10	156,§2,3
13A.1(4)	225,§7
13B.8(4)	321,§23
15.241	83,§6
15.246	308,§2
15.247	308,§2
15.255	319,§11
15.281	301,§19
15.282	301,§19
15.283	301,§19
15.283(4)	301,§8
15.284	301,§19;314,§9
15.285	301,§19;314,§9
15.286	301,§19
15.287	301,§19,20;307,§45;308,§3
15.295	220,§3,4
15.296	220,§1
15.297	220,§1
15.298	220,§1
17A	26,§1;38,§7,9,10;50,§7;58,§1;62,§3,4;67,§4;83,§56;91,§1;106,§2;108,§4,6;131,§6,8,10,25;135,§30,31,42,76,120;143,§908;154,§1;196,§1;197,§16;204,§6;217,§10;220,§3;223,§1;225,§3;227,§2;231,§32;234,§11;247,§16;250,§1;257,§6;258,§4,9,14;265,§2,13,22;266,§2;267,§9;270,§2;272,§7;273,§1,7-9,14,22,40;274,§2;279,§21;283,§10,15;289,§1;291,§4;296,§6,28,78;300,§10-12;301,§21;310,§1-7,9,10;311,§24,32;317,§25;318,§19;320,§11;321,§27
17A.2(7)	268,§7
17A.2(7g)	311,§16
17A.2(9)	20,§13
17A.4	115,§1;283,§34;318,§30
17A.4(2)	131,§45;304,§1115;318,§30
17A.5	83,§56;115,§1
17A.5(2b)	131,§45;304,§1115;318,§30
17A.10	252,§1
17A.18	131,§17
17A.18(3)	131,§17
17A.31	319,§19
18.3(1)	297,§1
18.5	258,§6
18.6	272,§23,24,39;318,§12
18.9	315,§10
18.12(9)	315,§8
18.12(11)	315,§9
18.12(15)	298,§3
18.16	315,§8
18.18	272,§23,24,39
18.20	272,§23,24,39
18.57	315,§10
18.115(4)	297,§4
18.119	315,§10
18.133(3,4)	319,§33
18.134	319,§34
18.136	319,§34;322,§7
18.136(10,11)	319,§32
18.137	322,§7
18A	315,§8
18B.3	258,§1
18B.5	258,§23
18B.5(1a-j)	258,§23
18B.7	258,§8,9
18B.8	258,§1
18B.10	258,§8,9
18B.11	258,§1
19.9	252,§1
19.34	315,§28
19A	60,§3;231,§2;258,§4,14;282,§5;300,§22;302,§11;303,§2;317,§13,15

CHAPTERS AND SECTIONS REFERRED TO—Continued

Code Chapter or Section	Acts Chapter
19A.3(5)	303,§2
19A.9(2)	303,§2
20	258,§4,14;302,§2; 303,§1-3,14
21	236,§7;315,§2
21.5	143,§906
22	67,§12;73,§2; 108,§5;225,§6; 231,§5;242,§1;315,§2
22.1	242,§1
22.7	103,§5;143,§906; 220,§4,9;242,§1
23	131,§47
23A	319,§19
24	135,§7
24.17	135,§7
25A	143,§501,502; 258,§4,14;300,§22;316,§4
25A.2	143,§501,502
28.120(5,6)	308,§2
28.148	314,§4
28.151	258,§16
28.157	258,§16,20
28.158	258,§16
28E	98,§1;131,§12,46; 135,§108;168,§2,4; 204,§6;264,§1;272,§31; 291,§2;319,§33
29A.33	317,§5
29B.14	82,§1
29B.33	82,§1
29C	204,§10
30.2	204,§1
30.7	204,§6
30.8	204,§6
30.9	204,§6
37	264,§1
38	319,§1
39.17	136,§37
39.22	136,§37
43.53	136,§16
43.66	136,§18
43.67	136,§16
47.6	39,§8
48.3	136,§47
48.6	144,§2
50.12	136,§45
50.19	136,§55,56
50.48	136,§17
50.48(2)	136,§17
53.17	136,§48,57
56.2	67,§6
64	153,§3
64.6	76,§2
69	131,§45
69.11	136,§62
69.13	215,§5
69.13(2)	215,§4
69.14	215,§5
69.14A	215,§1-3,5
69.16	258,§15,21; 265,§3;293,§4;304,§1004
69.16A	246,§6; 258,§15,21; 265,§3;293,§4;304,§1004
69.19	135,§30,120;204,§3; 225,§2,3;282,§1;293,§5; 296,§23
74	131,§47
74A	131,§47
75	131,§47
76.10	319,§37
77A.3	50,§10
77A.3(2)	50,§6
79.20	302,§2
80.15	83,§18
80.27	225,§6
80.28	225,§6
80.29	225,§6
80.30	225,§6
80.31	225,§6
80.33	225,§6
80.34	225,§6
80B.3(3)	225,§6
80B.11(5)	317,§2
80E.3	225,§3
85	317,§14,16
85.61(14-16)	89,§1
91A	5,§9;14,§1
91E.2	304,§407
93.7(9)	83,§47
93.11	312,§1
93.11(3)	312,§4,5
96	218,§2;300,§22; 321,§4
96.4	321,§4
96.7(2b,3b)	296,§15
96.7(12c)	321,§6
96.13(3)	321,§4
96.19(6a)	300,§22
96.31	135,§109
97A	83,§18;228,§7; 300,§22;317,§7,8,10
97A.5(11)	315,§16
97B	228,§7
97B.61	315,§16
98.29	251,§10
98.35	301,§22
98.46	251,§10
99B	67,§2;231,§3
99B.7(3b)	67,§6
99B.11	231,§27
99D	67,§2
99D.5	67,§1
99D.12	216,§11
99D.13	311,§2
99D.14	317,§8
99D.15	216,§13
99D.17	317,§8
99D.18	317,§8
99D.22	216,§4;311,§2
99D.27	216,§4
99E	67,§2
99E.10	270,§1;318,§25,28
99E.10(1a)	67,§11;139,§7
99E.31(3a)	314,§4
99E.31(5c)	270,§1
99E.32(1)	225,§6;306,§5
99E.32(5a)	270,§1
99F	67,§19,21,22, 26-28
99F.1(5)	139,§5
99F.4	67,§10
99F.4(2)	67,§17
99F.4(4)	139,§5
99F.7	67,§1,8,10
99F.9	67,§7,15
99F.9(2)	139,§5
99F.9(4)	67,§15
99F.11	67,§10
100B.2	132,§5
100B.3	132,§5
101.101	131,§60
101.102	131,§60

CHAPTERS AND SECTIONS REFERRED TO—Continued

Code Chapter or Section	Acts Chapter
101.103	131,§60
101.104	131,§60
101.105	131,§60
101.105(1)	131,§9
101.106	131,§8,60
101.106(5)	131,§10
101.107	131,§9,60
101.108	131,§60
104A.4	320,§4
106	72,§1
106.52	311,§7
107	72,§1
107.17	236,§6
108	72,§1
108A	72,§1
109	72,§1
109.38	237,§2,3
109A	72,§1
110	72,§1
110.1(2e,f)	237,§4
110.27	237,§2,3
110A	72,§1
110B	72,§1
111	72,§1
111.85	311,§35
111B	311,§27
111D	72,§1
111E.4	236,§6
112	72,§1
116	67,§13
117.20	183,§2
117.54	292,§2
120.2	274,§4
122.6	93,§5
123.3	67,§4,21
123.3(12b)	67,§21
123.49	139,§1
123.53	321,§13
123.59	252,§2
125	275,§8
125.2	319,§74
125.75	283,§1
125.82(5)	275,§8
125.83	275,§8
135	283,§7
135.1	27,§1,2
135.22	320,§2,11
135.63	269,§1
135B	231,§3;283,§7,33
135B.9	241,§3
135B.33	304,§702
135C	74,§1;217,§1; 231,§3;283,§7
135C.2	241,§3,4
135C.14(8)	115,§1
135D.1	314,§4
135D.26	260,§2
135D.26(2b)	260,§2
135H	283,§25,32,35
135H.6(5)	283,§36
135H.11	283,§13
135J	291,§7,8
135J.1	291,§7,8
137.2	291,§1
140.3	230,§5
141.6(3d)	223,§2,4
141.8	69,§1
141.22	69,§1
141.23(3)	223,§1
147	279,§24
147.1	89,§1
147.1(7,8)	89,§2
147.80	240,§4
147.161	89,§16
147A	83,§28
147A.1	89,§1,2
147A.6	89,§16
148	27,§1,2;83,§28; 105,§1;230,§3;247,§10; 283,§2;300,§16
148A	83,§28
148B	83,§28
148C	83,§28,36;105,§1; 319,§19
148D	83,§28
149	83,§28;247,§4,10
150	27,§1,2;83,§28; 105,§1;247,§10
150A	27,§1,2;83,§28; 105,§1;230,§3;247,§10; 279,§24;283,§2;300,§16
151	83,§28;247,§4,10; 296,§86
152	83,§28;105,§1; 164,§1,4,6
152.1	164,§2,3,5
152A	83,§28
153	83,§28
153A	83,§28
154	83,§28
154A	83,§28
154B	83,§28; 279,§21,23,24
154C	83,§28;279,§21
155	83,§28
155A	83,§28
156	83,§28
157	83,§28;240,§5
157.5	240,§2
158	83,§28
158.14(2)	240,§2
162	216,§10
162.2	216,§10
166D.3	280,§2
166D.4	280,§3
166D.5	280,§8
166D.7(2)	280,§10
166D.8	280,§5
166D.12	280,§2
167	280,§9
170	231,§3
170A	231,§3
170B	231,§3
170C	231,§3
172B	280,§2
172C	311,§30;319,§71
172C.1	108,§2;288,§181; 311,§30
172C.4(2c)	311,§24
173.1	216,§5
174	288,§182,186
174.1	216,§5
175.2	258,§1
175.12	175,§1
175.17(10)	175,§2,3
176	288,§182,186
185C.5	198,§5
185C.6	198,§5
185C.7	198,§5
185C.8	198,§4,9,12
185C.15	198,§13
185C.16	198,§13
185C.17	198,§13
185C.18	198,§13

CHAPTERS AND SECTIONS REFERRED TO—Continued

Code Chapter or Section	Acts Chapter
185C.19	198,§13
185C.20	198,§13
185C.24	198,§5,7
185C.25	198,§12
185C.25A	198,§12,13
185C.26	198,§12,16
189	197,§27,29
190.1	151,§1
191A	231,§3
192.13	313,§1
196A	137,§1
198	197,§19
200	311,§4
202	83,§30
203	197,§22-24,27-29
203A	83,§30;197,§23,25
203A.2(3)	197,§21
203A.4	197,§26
203A.7	197,§30
203A.21	197,§32
203B	197,§22-25,27-29,32
203B.2(7)	197,§21
203B.3	197,§4
203B.4	197,§26
203B.5(2)	197,§3
203B.6(1)	197,§3
203B.7	197,§30
203B.10	197,§11
203B.10(1,4,7,8,9b,9c, 11,12,16)	197,§11
203B.12	197,§3,6
203B.13	197,§3,6
203B.14(1)	197,§14
203B.18	197,§3
204	83,§30;197,§27; 316,§21
204.101(6)	225,§24,26
204.401(1b,d)	225,§13
204.401(1c,e,f)	225,§14
204A	83,§30
206	311,§4
206.2	313,§4
217.11	318,§6
217.12	318,§6
217.30	283,§14
218.96	318,§18
220	131,§43
220.1	314,§4
220.1(3,4)	301,§11
220.26	258,§20
220.27	258,§20
220.28	258,§20
220.28(4)	301,§19
220.100	314,§4
220.100(2b,2c)	301,§3; 314,§4
220.103	314,§9
220.104	314,§9
220.105	314,§9
220.106	314,§9
220.134	301,§20-22
220.135	301,§21
220.140	267,§11
222.60	318,§23
222.78	166,§1
225C.7	318,§21
225C.20	318,§23
225C.21	217,§1
225C.23	320,§10
225C.26	269,§1
225C.28	318,§23
225C.42	318,§22
229	275,§8
229.14	275,§5
229.14(2,3)	275,§5
229.15(3,4)	83,§34
230.15	166,§1
232	74,§1;275,§8; 283,§2,7
232.62	169,§4
232.68(3b)	230,§9
232.69	283,§14
232.73	230,§9
232.90	169,§7
232.90(2)	230,§12
232.96	229,§11
232.102	229,§6,9,11
232.141	321,§8
232.141(1b)	283,§24
232.141(2)	318,§17
232.141(2b)	283,§24
232.141(8d)	283,§23
232.142(3)	314,§4; 318,§15
232,Div.XI	169,§11
232.182	169,§10
232A	99,§3;316,§14
234.11	318,§24
234.35(2-4)	166,§1
234.36	166,§1
234.42	169,§10
235A.13(9)	230,§13; 283,§22
236	165,§3;279,§1
236.2(1)	194,§2
236A.1(1)	279,§23,24
237	283,§7
237.1(7)	304,§602
237.3(2a)	283,§5,7,33,34
237.8(2)	10,§1;283,§32
237.13	318,§12
237.15	166,§1
237.21	283,§14
237A	206,§10
237A.12(1)	206,§10
237A.13	318,§6
239	304,§202;307,§10; 318,§1,8
239.5(2)	318,§1
239.21	318,§8
246,Div.IX	225,§19,21
246.908	316,§5
248A	282,§3
249.1	304,§202
249A	111,§2;283,§34; 304,§502;318,§1;319,§19
249A.3(2g)	304,§203
249A.4(12)	304,§1101
249C	318,§8
249D.42	241,§4
249D.44	241,§6
250.3	248,§1
250.16	47,§1
252.22	283,§23
252.23	283,§23
252.43	318,§5
252B	316,§14
252C.2	166,§6
252C.4	166,§6
252C.10	166,§4,5
252D	11,§1
255	319,§19
255.24	319,§19
255A.5	304,§203

CHAPTERS AND SECTIONS REFERRED TO—Continued

Code Chapter or Section	Acts Chapter
256.7	135,§31
256.7(9)	319,§41
256.7(13,14)	206,§10
256.11	278,§4;296,§26
256.11(4)	278,§5
256.11(5h)	278,§5
256.23	319,§11
256.33	236,§6;319,§11
256A	135,§57,76; 206,§12
256A.3	135,§76
256A.3(6)	319,§18
257	135,§52,53,56,58,60, 79,82-85,92,94,100, 106,114,115
257.1	135,§3,34
257.2	135,§62,74,92, 93,96,114
257.3	135,§69
257.4	135,§2,31
257.6	135,§13,65,68,83
257.6(4)	135,§9,10
257.7	135,§111
257.8	135,§41,46,76, 93,97,98
257.9	135,§2,50
257.10	135,§2,50,87
257.11	135,§12,81,86
257.13	135,§6,16,56
257.14	135,§19
257.16	135,§5,13,15, 17,20,56,88-90,100
257.18	135,§27,29
257.19	135,§21
257.21	135,§29,79,107, 112,116
257.22	135,§29,79,107
257.23	135,§29,79,107
257.24	135,§29,79,107
257.25	135,§29,79,107; 296,§26
257.26	135,§29,79,107
257.27	135,§96
257.28	135,§33
257.29	135,§112,116
257.30	135,§32,94
257.31	135,§8,30,32,120
257.32	135,§31
257.35	135,§100
257.36	135,§5,8
257.37	135,§60,61
257.42	135,§42
257.43	135,§42
257.44	135,§42
257.45	135,§42
257.46	135,§42
257.47	135,§42
257.48	135,§42
257.49	135,§42
257A	135,§76
258	278,§2,6;319,§11
258.16	278,§7
258A	290,§5,12,17
258A.3(2e)	290,§17
259A	283,§37
260	206,§10;265,§22,34
260.9	265,§34,37
260.33	265,§29
261.9(5)	300,§21; 319,§54
261.18	319,§8
261.19	319,§8,45
261.20	300,§2
261.25	300,§4
261.45	300,§14;319,§7
261.46	319,§7
261.81	319,§51
261.81A	319,§9,50
261.85	319,§9
261.88	319,§7
261.90	300,§22,23,25
261.101	319,§59,64
261.102	319,§62,65
261.103	319,§65
261.104	319,§65
261.105	319,§65
262	298,§30
262.7(1-3)	300,§21
262.9(20)	319,§19
262.28	307,§43
262.82	319,§65
262.92	319,§55,56,65
262A	322,§4
262A.3	322,§4
262A.4	322,§4
262A.5	322,§4
262A.6	322,§4
262B	258,§16;314,§5
262B.5	258,§17
265	12,§1
266.39B	319,§19
266.39B(2)	319,§71
272A	265,§35;319,§11
273	135,§36
273.3(12)	135,§9,10
273.7A	135,§11,121
274	135,§2
275	135,§31,107
275.18	135,§5
275.20	135,§5
275.32	135,§91
278.1(7)	135,§63,64,66,73, 91,105
278.1(8,9)	30,§1
279.10(1,4)	135,§17
279.13	265,§2;300,§14
279.14	300,§14
279.15	300,§14
279.16	300,§14
279.17	300,§14
279.18	300,§14
279.19	300,§14
279.26	12,§1;135,§107; 319,§81
279.43	135,§33
279.46	135,§109
279.49	135,§54;206,§3,6; 318,§6
279.51(2)	135,§55
279.52	135,§78
279.53	135,§77,79
279.54	135,§78,112,116
280.2	265,§1
280.4	135,§31
280.15	135,§11,31
280.16	12,§4
280A	220,§1;258,§7; 319,§11
280A.2	319,§11
280A.2(10)	300,§21
280A.23(1)	278,§5
280B	270,§1;319,§11,29
280C.6	314,§4
280C.8	314,§8

CHAPTERS AND SECTIONS REFERRED TO – Continued

Code Chapter or Section	Acts Chapter
281	12,§1;135,§36
281.9	135,§6,11,31
281.9(4)	135,§50
282	266,§2
282.7	5,§1
282.10	135,§11
282.11	135,§11
282.12	135,§11
282.18	12,§4;135,§6;266,§2
285.1	12,§1
286A	135,§31
290.1	12,§1
294	5,§1
294.2	265,§37
294A	319,§11
294A.3	135,§97
294A.9	135,§101
294A.14	5,§3;135,§101;319,§17
294A.16	135,§126
294A.25(1)	319,§16
296.7	135,§109,123
297.36	12,§1;135,§104,107;319,§81
298.2	135,§31,63,64,66,73,105,112,116
298.4	135,§51,103,124
298.10	135,§31
298.14	135,§19,24,26,29,78,107
298.16	135,§109
299.5	210,§9
301.1	319,§11
302.1	319,§3
302.1A	319,§3
303.16	236,§6;314,§7
303.18	319,§1,2,3
303.77	319,§41
303B	319,§31,32
306	293,§8
306.43	134,§5
306B	317,§25
306C	317,§25
306C.13(8)	317,§25
306C.14	317,§25
306C.16	317,§25
306C.18	317,§25
306C.24	317,§24
307.29	4,§1,2
307.47	317,§15
307A.2	293,§16
307B.23(3)	4,§1
312.3(2)	293,§14
313.2A	134,§4
313.5	293,§6
314.20	246,§5
314.21	236,§6;246,§1,2,6,12
314.22	246,§3,5,8
314.22(5-8)	317,§28
315.4(1-3)	293,§13
316	20,§17,18
316.1	20,§18-20
316.1(2a)	20,§8
316.1(3d)	20,§1
316.4	20,§18
316.4(1)	20,§1,2
316.4(2)	20,§1
316.5	20,§12,18
316.5(1)	20,§10
316.6	20,§12,18
316.7	20,§1
316.7(3c)	20,§12
316.8	20,§9,15,18
316.9	20,§19
316.10	20,§16,17
316.11	20,§17
317.1	313,§4
321	225,§10
321.1(2)	244,§41
321.1(77)	317,§36,43
321.34(5a)	17,§1
321.34(7)	247,§9,10
321.105	247,§10
321.109(1)	317,§31
321.127(1)	32,§1
321.166(6)	247,§9
321.180	266,§2
321.184	266,§2
321.194	266,§3
321.216(7,8)	84,§3
321.234A	244,§13-15,25
321.275(1-8)	184,§2
321.275(9)	184,§3
321.449	186,§1
321A.3A	317,§11
321G	72,§1
321G.6	244,§5
321G.7	311,§7
321J	296,§37
321J.2	296,§32
321J.3	296,§32
321J.4	296,§32
321J.17	307,§12;316,§1;320,§6
321L	247,§8,18
321L.1	247,§1,2,4
321L.2	247,§3,5,12,18
321L.2(1)	247,§11
321L.4	247,§6,18
321L.4(2)	247,§14
321L.5	247,§9,12,15
321L.5(3)	247,§2
321L.6	247,§9,12,15
321L.8	247,§10,12
323	83,§3
324	315,§18
324,Div.I	251,§7
324.3	293,§12
324,Div.II	251,§7
324.64	251,§10
324.77	315,§18
324.79(1-3,5)	311,§8
324.84	311,§8
327C.2	20,§18
327H.18	317,§22
330.17	182,§1
330.18	182,§1
330.19	182,§1
330.20	182,§1
330A.5	182,§9
330A.8(16)	182,§11
331.305	215,§4
331.306	67,§7;215,§4
331.430(2)	301,§17
331.602(1)	288,§13
331.604	131,§23
331.802(3j)	320,§5
347	264,§1
347.7	304,§704
347.30	304,§704
347A	264,§1
357	307,§45

CHAPTERS AND SECTIONS REFERRED TO—Continued

Code Chapter or Section	Acts Chapter
357A	307,§45;308,§3
357B.3	255,§1
358A.6	131,§30
358B	319,§31,32
359.42	149,§1
362.3	131,§30
362.5	21,§1
364.23	297,§8
368	98,§3
368.11(13)	299,§2
384	177,§1
384.1	255,§2
384.4(2)	301,§17
384.15(7b)	317,§3,9
384.37	135,§108
384,Div.VI	301,§21
392	182,§1
400	300,§22
400.8	187,§3
405.1	83,§12
405A	83,§12,48
405A.2	135,§9
411	228,§7;315,§16
411.5	315,§16
411.5(12-14)	315,§16
421	131,§13;296,§13
421.7	131,§22,28
421.17(21)	250,§1
421.27	131,§28
421.31(10)	284,§5
422.3	48,§1;67,§1;83,§9;183,§2
422,Div.II	175,§1
422.5	135,§21
422.5(1a-k)	285,§4
422.8	268,§6
422.9(1)	268,§7
422.10	135,§21;268,§6
422.11	135,§21,116;251,§11,12,14,35;268,§6
422.11A	135,§116;251,§11;268,§6
422.12	135,§21;268,§6
422.20	135,§22
422.21	135,§23
422.22	135,§22
422.23	135,§22
422.24	135,§22
422.25	135,§22
422.26	135,§22
422.27	135,§22
422.28	135,§22;251,§10
422.29	135,§22
422.30	135,§22
422.31	135,§22
422,Div.III	175,§1
422,Div.IV	319,§25
422.42	268,§4
422.51(2)	251,§30
422.54	251,§10
422.63	285,§6
422.68	135,§22
422.72	131,§24;135,§22
422.73	135,§22
422.74	135,§22
422.75	135,§22
422.85	251,§27
422.100	83,§48
424	131,§42,46,49,50
424.3	131,§14,19,21
424.3(5)	131,§27
424.6	131,§20
424.7	131,§44
424.11	131,§50,54
424.13	131,§22
425.1	205,§4
427.1(9)	294,§1
427A.1	296,§56
427A.1(1e)	176,§1
427A.13	319,§11,13
427B.3(a-e)	299,§3
427B.18	131,§32
428.3	296,§62
428.16	296,§40,44
428.17	296,§40
428.18	296,§40
428.19	296,§40
428.20	296,§40
428.21	296,§40
428.22	296,§40
428A.2(19,20)	271,§1
432	288,§193
435.5	6,§3
435.9	6,§1
441.20	296,§62
442	135,§14,15,28,33,52,53,56,58,60,75,82-85,92,94,100,106,114,115
442.2	135,§69
442.2(1)	135,§3
442.4	135,§65,68,83,96
442.4(6)	12,§1
442.5	135,§92,114
442.5(2)	135,§111
442.6	135,§93
442.7	135,§8,60,93
442.8	135,§50
442.9	135,§9,10,50
442.9(1a)	135,§87
442.9A	135,§5
442.12	135,§94,133
442.14(2)	135,§127
442.15	135,§112
442.21	135,§9,10,14,23
442.25	5,§6;135,§100
442.26	5,§6;135,§56,88-90,100
442.27	135,§60,61
442.27(12)	135,§96
442.28	135,§56
442.39	135,§11,81,86,122
442.39(2)	135,§11,122
442.39(4)	135,§11,122
442.39A	135,§12,121
445	131,§50
446	131,§50
446.9(1,3)	66,§1
447	131,§50
448	131,§50
450B.3	285,§9
453.7	149,§1;236,§5,6;272,§15;311,§9;321,§4
455	126,§2
455A	311,§9,13
455A.2	272,§1
455A.18	236,§1,6,8,15
455A.19	236,§5,7,10,13
455A.19(1)	236,§11

CHAPTERS AND SECTIONS REFERRED TO—Continued

Code Chapter or Section	Acts Chapter
455A.19(1a)	311,§14
455A.19(1b)	311,§9
455B	72,§2;125,§1; 131,§46;296,§69
455B.116	272,§15
455B.171	286,§1,2
455B,Div.IV	272,§15
455B.301	272,§3
455B.301A	272,§5,15,28
455B.302	272,§31
455B.306	272,§15,30
455B.471	131,§4,54
455B.473(5)	131,§41
455B.479	131,§41,49
455B.481	272,§5
455B.483	311,§25
455B.490A*	272,§31
455C	72,§2
455D	272,§15
455D.1	272,§44
455D.2	272,§44
455D.3	272,§31,44
455D.4	272,§44
455D.5	272,§44
455D.6	272,§44
455D.7	272,§44
455D.8	272,§44
455D.9	272,§44
455D.10	272,§44
455D.11	272,§44
455D.11(6)	272,§15,44
455D.12	272,§44
455D.13	272,§44
455D.14	272,§44
455D.15	272,§6,44
455D.16	272,§22-24,39,44
455E	72,§2
455E.8(6)	312,§1
455E.11	272,§27
455E.11(2b)	311,§6
455E.11(2e)	312,§1
455F	72,§2
455G	131,§12-14,18,19, 38,39
455G.1	131,§18
455G.2	131,§14,57
455G.3	131,§19,26, 39,41,44
455G.8	131,§44
455G.9	131,§15,27,44
455G.9(3)	131,§15
455G.10	131,§44
455G.11	131,§44,49
455G.11(6)	131,§61
455G.11(7)	131,§11,58
455G.12	131,§44,49
455G.15	131,§50,51
463	126,§2
467A	106,§9;188,§1; 311,§1
467A.4(2)	106,§1
467A.7(17,19)	311,§1
467A.47	311,§1
467A.48	311,§1
467D	83,§30,56;106,§2
467D.2(1)	83,§13,82
467D.3	83,§56;106,§2
467E	83,§30,56;106,§2
467F	83,§30,56;106,§2
467F.4	236,§6
468	126,§2
470.7	315,§26
472.14	20,§6
472.45	20,§19
476	20,§18;319,§33
476.1	95,§1;321,§31
476.62	297,§8-10
476.73	103,§1
476.74	103,§14
476.75	103,§14
476.76	103,§13,14
476.77	103,§13
476A	296,§71
476A.6(4)	148,§1
477.7	321,§31
477B	317,§5
479	20,§18
479A	296,§70,71
491	288,§132,182
491.33	288,§193
492	288,§182
493	288,§182
493B	288,§186,192
493B.120	288,§8,181
493B.121	288,§3
493B.123	288,§181
493B.124(3)**	288,§6
493B.141	288,§15
493B.202	288,§116
493B.301	288,§29
493B.401	288,§19, 154,166
493B.401(2b)	288,§31
493B.402	288,§29, 166,190
493B.403	288,§29, 166,190
493B.502***	288,§182
493B.502	288,§181
493B.502(2,3)	288,§13
493B.503	288,§8
493B.503(1)	288,§13
493B.504	288,§153-155
493B.601	288,§37
493B.602	288,§36
493B.604	288,§132
493B.620,	288,§42
493B.621	288,§40,42
493B.625(2)	288,§39,47
493B.625(3)	288,§47
493B.626(2)	288,§48
493B.627	288,§47
493B.640	288,§38,130
493B.702	288,§55
493B.703	288,§54,56,57
493B.704	288,§79
493B.705	288,§111,115, 123,130,146
493B.705(3)	288,§54
493B.707	288,§54,56,57
493B.720	288,§176
493B.724	288,§62
493B.725	288,§66,111
493B.726	288,§111
493B.727	288,§65
493B.728	288,§65
493B.730	288,§70
493B.731	288,§62
493B.801	288,§88
493B.806	288,§74,76
493B.807(2)	288,§81
493B.820	288,§88
493B.821	288,§88
493B.822	288,§88

*Section 455D.3 probably intended
**Inadvertently numbered as section 493A.124(3)
***Probably intended

CHAPTERS AND SECTIONS REFERRED TO—Continued

Code Chapter or Section	Acts Chapter
493B.823	288,§88
493B.824	288,§88
493B.830	288,§88,92
493B.832	288,§19,89
493B.833	288,§91,106
493B.840(3)	288,§15
493B.850	288,§106
493B.851	288,§101-103, 105,106,180
493B.851(4)	288,§102
493B.851(4a)	288,§106
493B.851(5)	288,§106
493B.852	288,§102, 104-106,180
493B.853	288,§106,180
493B.854	288,§104, 106,180
493B.855	288,§101,106
493B.856	288,§98,106
493B.857	288,§106
493B.902	288,§191,193
493B.1002	288,§88, 123,124
493B.1003	288,§115
493B.1004	288,§123
493B.1006	288,§115
493B.1101	288,§127
493B.1102	288,§127
493B.1103	288,§121, 122,127,132
493B.1104	288,§127,132
493B.1105	288,§127
493B.1302	288,§131, 134-136
493B.1320	288,§131,144
493B.1320(2)	288,§56
493B.1321	288,§131, 136,144
493B.1322	288,§56,131, 134,137,140,144
493B.1322(2c)	288,§137
493B.1323	288,§131, 139,144
493B.1324	288,§131, 144
493B.1325	288,§131, 141,142,144
493B.1326	288,§131, 138,144
493B.1327	288,§131, 139,142-144
493B.1328	288,§131, 139,141,143,144
493B.1330	288,§144
493B.1403(1c,d)	288,§148
493B.1405	288,§153,159
493B.1406	288,§151, 153,159
493B.1407	288,§153,159
493B.1420	288,§153
493B.1421	288,§152,154
493B.1430	288,§28, 157,159
493B.1503	288,§164
493B.1504	288,§166
493B.1506	288,§31,163
493B.1508	288,§172,181
493B.1509	288,§8,172
493B.1510	288,§173,174
493B.1520	288,§170
493B.1530	288,§173
493B.1531	288,§170,172
493B.1601(5)	288,§176
493B.1602	288,§177
493B.1602(1)	288,§176, 178
493B.1602(2)	288,§178
493B.1602(2c)	288,§177
493B.1602(3)	288,§60, 178
493B.1620	288,§175
493B.1622	288,§8,11,33, 152,168,175
493B.1622(2)	288,§3
493B.1704	288,§50
494	288,§182
495	288,§182
496	288,§182
496A	288,§132,185,186
496A.4A	172,§3
497	288,§182
498	288,§182
499	288,§182,186
499A	288,§182,186
502	131,§55
504	7,§1;288,§182; 311,§23
504.2	7,§1
504.8	7,§1
504A	258,§4,14; 288,§182,186;308,§3; 311,§23
504A.6	288,§190
504A.7	288,§189,190
504A.9	171,§3
504A.30	93,§1
504A.73	171,§3
504A.83	171,§2,3,6
504A.84	171,§2,6
505	131,§55
506	131,§55;288,§186
507	131,§55
507A	131,§55
507B	131,§55
507B.7	227,§14
507C	131,§55
507D	131,§55
508	131,§55;227,§4; 288,§186
508A	131,§55;227,§4
508B	131,§55
508C	131,§55
509	131,§55;227,§4; 289,§1;304,§1004
509.3(8)	164,§4
509A	131,§55;227,§4; 302,§2;303,§14
509B	131,§55
510	83,§65-72,74,75; 131,§55;288,§186
511	131,§55
511.8(10b)	311,§30
511.36	321,§35
511.38	321,§32
512	131,§55;288,§186
512.43	83,§71
512A	131,§55
513	131,§55
514	131,§55;227,§4; 288,§186;289,§1; 304,§1004

CHAPTERS AND SECTIONS REFERRED TO—Continued

Code Chapter or Section	Acts Chapter
514A	131,§55;227,§4; 289,§1;304,§1004
514B	131,§55;227,§4; 289,§1
514C	131,§55
514D	131,§55
514E	131,§55;304,§407
514F	131,§55
514G	131,§55
514G.4	289,§1
515	131,§55;288,§108,186
515.134	227,§14
515.161	227,§14
515.162	227,§14
515.163	227,§14
515.166	227,§5,14
515.167	227,§5-7,14
515.168	227,§5,14
515.169	227,§5,14
515.170	227,§5,14
515.171	227,§5,14
515.172	227,§14
515.173	227,§10,14
515.174	227,§14
515.175	227,§14
515.176	227,§14,15
515A	131,§55;288,§186
515B	131,§55,56
515C	131,§55
515D	131,§55
515E	131,§55
516	131,§55
516A	131,§55
516B	131,§55
516C	131,§55
517	131,§55
517A	131,§55
518	131,§55;288,§186
518A	131,§55;288,§186
518B	131,§55
519	131,§55;288,§186
519A	131,§55
520	131,§55
521	131,§55
521A	131,§55
522	131,§55
523	131,§55
523A	131,§55
523B	131,§55
523C	131,§55
523D	321,§18
523D.3	217,§2,6
523D.3(1b,c)	217,§6
524	68,§5;288,§182,186
524.103	258,§1
524.103(19)	236,§8
524.224	257,§6
524.226	257,§6
524.312	172,§3
524.614	172,§3
524.803(1f)	257,§19
524.906	257,§16,17,31
524.1005	257,§3,32
524.1101	172,§3
524.1201	172,§3
524.1202	172,§3
524.1202(2)	172,§3
524.1202(2a,c,d)	172,§3
524.1213	172,§1
524.1701	257,§4
524.1702	257,§4
524.1802	172,§3
527.4(3d)	86,§6,7
527.5(7)	86,§1
527.11	86,§1
527.12	86,§1
528.7	267,§2
528.7(2c)	267,§6
533	68,§5;236,§8; 288,§182,186
533.1	258,§1
533C.2(2)	183,§13
533C.3(1)	183,§4
533C.4	183,§3,6
533C.4(5)	183,§3
533C.5(6)	183,§4
533C.9	183,§11
533C.9(1)	183,§4
533C.12	183,§11
534	68,§5;236,§8; 288,§182,186
534.102	258,§1
534.507	257,§4
535A.1	267,§2
535B.3	133,§3,4
535B.11	253,§1
536	68,§5
536A	68,§5;86,§10
537	68,§7;300,§6
537.3604(8)	232,§1,2
537.3605(9)	128,§2
537.6113(3)	68,§7
537,Art.7	128,§3
542	143,§702,905,906
542.9	143,§301,302
542.12	143,§908
542.16	143,§906
543	143,§701,906
543.2	143,§303,304
543.6	143,§1102
543.14	143,§908
543.24	143,§906
543A.3	143,§907
545	180,§1
547.1	92,§1
553	316,§1
554	301,§20
554.3509	50,§9
554.4403	68,§2
554.8104	113,§40
554.8301	113,§1,17,35,52
554.8301(1)	113,§17
554.8302	113,§1,35,52
554.8302(4)	113,§16
554.8306	113,§23
554.8308	113,§1,4,27
554.8312(2)	113,§38
554.8312(3,6)	113,§21
554.8313	113,§1,16,35
554.8313(1)	113,§36
554.8313[1c,d(i),g]	113,§17
554.8313(1h-j)	113,§36
554.8321	113,§35,48, 49,53
554.8402(4)	113,§39
554.8403	113,§43
554.8403(4)	113,§19, 43,44
554.8405(1)	113,§40
554.8408	113,§1,4,8,39
554.8408(3,6,7)	113,§39
554.9105	113,§1
554.9207	113,§36

CHAPTERS AND SECTIONS REFERRED TO—Continued

Code Chapter or Section	Acts Chapter
554.9304	113,§35
554.9305	113,§35
556	46,§1;216,§4; 287,§2,7
556.6	287,§1
556.8	287,§7
556.18	287,§3,8
561.16	153,§1,2
567.1	304,§1106
567.3(3d)	311,§32
598.16	165,§3
598.21	165,§3
598.21(4)	166,§1-5,7
598.21(8)	166,§1
598.22	11,§1,2;166,§1
598.23	11,§1,2;166,§1
598.41	165,§3
598A	165,§3
600.6(5)	140,§2
600.8(1,2)	10,§1; 283,§32
601E	247,§8
601E.1	247,§1,2,4
601E.6	247,§3,5,6
601K.2	83,§79
601K.83	320,§10
602	303,§4
602.1302(3)	316,§14
602.1401	40,§1
602.6302	114,§4; 316,§14
602.6306(2)	150,§3,8
602.6401	114,§1,4; 316,§14
602.6403	114,§1
602.6403(1)	114,§6
602.6403(4)	114,§1,6
602.6603(4)	296,§81
602.8105(4)	287,§8
602,Art.9	228,§7
602.9116	315,§16
602.9204	162,§1
602,Art.10	287,§5
613.16	99,§3
617.10	163,§1
617.11	163,§1
617.12	163,§1
617.13	163,§1
617.14	163,§1
617.15	163,§1
622.69	273,§3
624.23	283,§23
626	131,§23
626B.3	173,§2
626B.4	173,§3
627	153,§1,2
631.1(1)	150,§3,8
631.13	150,§3,8
633	25,§3;178,§5
633.47	333,Exh."A"
633.63	78,§3,5
633.230	25,§6; 333,Exh."A"
633.304	25,§6; 333,Exh."A"
633.305	333,Exh."A"
633.410	333,Exh.'A'
633.554	178,§11
633.562	178,§9
633.568	178,§14
633.576	178,§12,15
633.627	178,§7
633.633A	178,§6
633.633B	178,§6
633.650	178,§4
633.651	178,§4
635.2(5)	25,§4
635.13	25,§4
654.15(2)	79,§1
654A.1	108,§3
659	155,§1
663A.2(6)	96,§2
675.1	166,§7
675.24	166,§7
679	165,§3
702.17	263,§4
704.1	71,§1
709	194,§2
709.1	138,§1
709.2	210,§13
709.3	210,§13
709.4	210,§13
709.4(1)	138,§4,5
709.4(2c)	138,§2
709.4(3)	138,§4,5
709.8	210,§13
709.10	320,§6
714	99,§2,3;208,§1
714.16	93,§5;274,§4; 316,§1
714.16(2a)	93,§5
724	316,§21
724.1	225,§11
725.1	210,§13
725.2	210,§13
725.3	210,§13
725.7	67,§15
726	194,§2
728	194,§2
730.5	139,§1
801.4	182,§7
808.14	231,§33
808B.1	225,§26
808B.2	225,§26
808B.3	225,§26
808B.4	225,§26
808B.4(1-3)	225,§26
808B.6	225,§26
814.5(2)	225,§26
815	321,§8
901.7	316,§5
902.9(1,3,4)	225,§11
903A.3	96,§2
904A.1	282,§14
904A.5	282,§9
906	225,§19,21
906.5	282,§13
906.17	316,§5
907	225,§19,21
907A.1	225,§19,21
908	51,§2
910	99,§3
910A.10(1a)	282,§8
912	279,§1
912.7(2b,c)	279,§22

SESSION LAWS AMENDED OR REPEALED IN ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION

ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION

File	Acts Chapter
Senate File 59,§1(ch 12)	319,§81
Senate File 112,§8(ch 83)	301,§10
Senate File 112,§9(ch 83)	301,§12
Senate File 124,§4(ch 67)	139,§1
Senate File 124,§6(ch 67)	231,§33
Senate File 124,§7(ch 67)	139,§2-5
Senate File 124,§9(ch 67)	139,§6
Senate File 124,§11(ch 67)	139,§7
Senate File 124,§12(ch 67)	139,§8
Senate File 124,§15(ch 67)	139,§9
Senate File 201,§1(ch 105)	296,§86
Senate File 442,§2(ch 70)	186,§1
Senate File 498[§2](ch 114)	296,§83
House File 447[§50](ch 131)	307,§46
House File 552,§2(ch 68)	296,§75
House File 723,§5(ch 246)	317,§28
House File 774[§55](ch 319)	322,§8

ACTS OF THE SEVENTY-SECOND GENERAL ASSEMBLY, 1988 SESSION

Chapter	Acts Chapter	Chapter	Acts Chapter	Chapter	Acts Chapter
1019,§21,23,24	293,§18	1274,§17	307,§3	1277,§7	320,§9
1182,§6	83,§86	1274,§20	321,§15	1278,§19	317,§41
1215,§1,12	17,§1	1274,§23	307,§4	1278,§44	317,§42
1249,§21	283,§33	1274,§25	307,§5	1281,§6	307,§34;
1266,§5	210,§15	1275,§14	315,§32		312,§6
1272,§1(2a)	307,§27	1276,§1(1)	307,§7	1284,§9	307,§20
1272,§1(4)	307,§29	1276,§11	307,§8	1284,§11	307,§21
1272,§1(4a)	307,§28	1276,§17	307,§9	1284,§34(1)	309,§2
1272,§5(4)	307,§33	1276,§21	307,§10	1284,§54(1c)	306,§1
1274,§16	307,§2	1277,§6	307,§12	1284,§55	306,§2
				1284,§55(2)	306,§3

ACTS OF THE SEVENTY-SECOND GENERAL ASSEMBLY, 1987 REGULAR SESSION

Chapter	Acts Chapter
207,§3	210,§14
224,§80	31,§1
230,§8	307,§34;312,§6
232,§10(6)	317,§42
233,§204(5)	311,§21

SESSION LAWS AMENDED OR REPEALED IN ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION—Continued

ACTS OF THE SEVENTY-FIRST GENERAL ASSEMBLY, 1986 SESSION

Chapter	Acts Chapter
1096,§12	234,§12;315,§34
1214,§29	108,§1
1245,§2064	296,§94
1246,§505(7)	311,§20
1246,§755*	321,§40
1249,§4	307,§34;312,§6

ACTS OF THE SEVENTY-FIRST GENERAL ASSEMBLY, 1985 SESSION

Chapter	Acts Chapter
33,§129	298,§31

ACTS OF THE SIXTY-NINTH GENERAL ASSEMBLY, 1982 SESSION

Chapter	Acts Chapter
1162,§14	296,§95

*Reenacted

SESSION LAWS REFERRED TO IN ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION

ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION

File	Acts Chapter
Senate File 38,§6(ch 5)	135,§126
Senate File 124(ch 67)	139,§5,10;314,§8
Senate File 278(ch 217)	321,§18
Senate File 363(ch 307)	311,§10
Senate File 500(ch 39)	273,§37
House File 20(ch 165)	316,§16
House File 451(ch 264)	321,§1
House File 535(ch 135)	225,§17
House File 686(ch 258)	314,§5
House File 700(ch 279)	316,§1;320,§2
House File 706,§1(ch 270)	319,§11
House File 769(ch 236)	311,§9,10,14,35;314,§4
House File 774(ch 319)	322,§7

ACTS OF THE SEVENTY-SECOND GENERAL ASSEMBLY, 1988 SESSION

Chapter	Acts Chapter
1083,§1,2	32,§1
1130	319,§18
1161,§20	316,§17
1215,§1,12	17,§1
1271	316,§3
1271,§6(1a-h)	316,§8
1271,§14	316,§7,12
1274,§8(2)	321,§6
1276,§3,4	307,§6
1276,§8(2)	318,§33
1276,§12	307,§6
1276,§14(1)	318,§23
1276,§25	307,§6
1278,§9	317,§36
1284,§1(2)	319,§1
1284,§1(8)	319,§6
1284,§34	319,§15
1284,§34(1,2)	319,§15
1284,§52(1b)	319,§24
1284,§53	306,§4
1284,§53(1)	309,§4
1285*	83,§15

ACTS OF THE SEVENTY-SECOND GENERAL ASSEMBLY, 1987 REGULAR SESSION

Chapter	Acts Chapter
141,§8	258,§23,24
228,§7	319,§5
230,§8	307,§34
233,§408(2a)	304,§802
234,§304(2)	316,§4

*1988 Acts presumed

SESSION LAWS REFERRED TO IN ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION—Continued

ACTS OF THE SEVENTY-FIRST GENERAL ASSEMBLY, 1986 SESSION

Chapter	Acts Chapter
1238,§59	135,§8
1245,§2046	309,§1
1246,§2(102,103)	319,§5
1246,§206	269,§1
1246,§402	316,§8
1246,§501(1e)	311,§1
1246,§724-761	321,§40
1246,§755	321,§40
1249,§4	307,§34

ACTS OF THE SEVENTY-FIRST GENERAL ASSEMBLY, 1985 SESSION

Chapter	Acts Chapter
249,§9	318,§23

ACTS OF THE SIXTY-NINTH GENERAL ASSEMBLY, 1981 REGULAR SESSION

Chapter	Acts Chapter
9,§6,7	158,§1

IOWA CODES AND SUPPLEMENT REFERRED TO IN ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION

Code	Section	Acts Chapter
1987, 1987S	331.307(12)	150,§9
1987	442.2(2)	135,§9
1991	442	135,§2

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO – Continued

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO—Continued

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO – Continued

CODE OF FEDERAL REGULATIONS REFERRED TO

	Acts Chapter
10 C.F.R. pt. 50, appendix A	131,§42
21 C.F.R. §312.1	197,§12
29 C.F.R. §1910.1200	100,§1
40 C.F.R. pt. 280	131,§47
40 C.F.R. §280.20	131,§52
40 C.F.R. §280.21	131,§52
40 C.F.R. §280.90	131,§42
40 C.F.R. §280.91	131,§42
40 C.F.R. §315-82	297,§1
40 C.F.R. §600.002	297,§1
40 C.F.R. pt. 281	131,§47
42 C.F.R. subpart D	283,§33
42 C.F.R. §441.150-441.156	283,§7,33,34
42 C.F.R. §442.311	241,§1
42 C.F.R. §483.10, 483.12, 483.13, 483.15	241,§1
49 C.F.R. §177.804	186,§1

RULES OF CIVIL PROCEDURE REPORTED BY IOWA SUPREME COURT

Rule	Acts Chapter
125(a)	331,Exh."A"
144	329,Exh."A"
253(a)	328,Exh."A"
297	330,Exh."A"

RULES OF CIVIL PROCEDURE REFERRED TO

Rule	Acts Chapter
56.1	66,§1;150,§1,5
60	150,§1,5
60.1	150,§1,5
80"b"	328,Exh."A"
80(c)	328,Exh."A"
380	83,§85

RULES OF CRIMINAL PROCEDURE REPORTED BY IOWA SUPREME COURT

Rule	Acts Chapter
2(4)(d)	332,Exh."A"
10(11)(a)	332,Exh."B"

RULES OF CRIMINAL PROCEDURE REFERRED TO

Rule	Acts Chapter
12(2)(b)	230,§24

RULES OF EVIDENCE REFERRED TO

Rule	Acts Chapter
804(a)	230,§24

RULES OF PROBATE PROCEDURE REPORTED BY IOWA SUPREME COURT

Rule	Acts Chapter
7	333,Exh."A";334

PROPOSED AMENDMENTS TO THE CONSTITUTION OF THE STATE OF IOWA IN ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION

Article	Section	Acts Chapter
I	1	327
I	5	325

PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES IN ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION

		Acts Chapter
Congressional compensation	Ratified	326

VETOED BILLS

Senate File 46
House File 5
House File 459
House File 537
House File 713

ITEM VETOES

IOWA ADMINISTRATIVE CODE REFERRED TO IN ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION

IOWA ADMINISTRATIVE CODE RULES NULLIFIED IN ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 SESSION

INDEX

References are to chapters and sections of the Acts. Numerals and letters in parentheses indicate subsections and paragraphs.

NOTES

NOTES

NOTES

NOTES